UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
WATER

September 15, 2006

Alexandra Dapolito Dunn
General Counsel
National Association of
Clean Water Agencies (NACWA)
1816 Jefferson Place, NW
Washington, DC 20036

Re: Kern County Biosolids Ban

Dear: Ms. Dunn

The National Association of Clean Water Agencies ("NACWA") and the California Association of Sanitation Agencies ("CASA") have asked the Office of Water ("OW") for a statement of its views on the recently enacted ban on land application of biosolids in Kern County, California. OW has reviewed the Kern County ban on land application and offers the following comments.

Recognizing that there are a variety of successful methods for management of solid residuals, §405(d)(1) of the Clean Water Act calls for regulations that specify factors to be taken into account in determining the measures and practices applicable to each such use and disposal and that identify concentrations of pollutants which interfere with each such use and disposal. In response, EPA developed the 40 CFR Part 503 regulations, which are implemented through the National Pollutant Discharge Elimination System (NPDES) Program. The Part 503 regulations establish minimum requirements for three use and disposal options for biosolids – land application, surface disposal, and incineration – all based on best available science. EPA believes that all three of these methods, including biosolids land application, when conducted in accordance with the Part 503 requirements are protective of human health and the environment.

The Part 503 regulations allow localities to set requirements on land application that are additional to, or more stringent than, the Part 503 requirements. (40 CFR 503.5) EPA supports localities that seek to impose additional or more stringent safeguards regarding land application of biosolids in their communities. States and localities have the right to make decisions based on local needs involving site specific limits but should ensure that all affected parties are included in the decision making process. Site specific permits issued by EPA or the states, and local ordinances often have added requirements that include extended setbacks from property lines or well heads, advance notification of land

application activities, and onsite monitoring of land application practices and reporting to or by local agencies. These and other requirements have worked well to improve land application practices and manage potential nuisance conditions.

Kern County in particular has played an active role in regulating land application of biosolids. Kern County's prior biosolids ordinance, Chapter 8.05 of the Kern County Code, provided detailed requirements for land application activities, most of which were focused on operational and site controls, testing, monitoring and inspections. Kern County also mandated that biosolids land applied in the County meet rigorous trace metal limits and pathogen reduction standards essentially equivalent to the Class A, exceptional quality (EQ) standards under Part 503. EPA, through its Region IX Office, consulted with Kern County officials as they developed the County's biosolids ordinance in the late 1990s and offered advice on numerous subjects.

Wastewater agencies across the country have widely relied upon land application as a method for managing biosolids. Specifically, well over fifty percent of the total volume of biosolids produced in the United States is currently land applied. Land application of biosolids is thus clearly an important option for municipalities to have, and EPA believes that it should be available to all municipalities wherever possible as an option for biosolids management. The application of biosolids to farmland serves to help meet several important environmental goals, including improving soil and preserving increasingly scarce landfill capacity for wastes not appropriate for recycling. EPA, state agencies, and local wastewater authorities and their contractors have developed considerable experience with land application practices, extending back to the 1970s. Published research and major scientific reviews by EPA, the Water Environment Research Foundation, and others, in addition to the results of successful land application systems across the country, continue to demonstrate that the practice, when conducted in compliance with the Part 503 requirements, is protective of public health and the environment.

EPA appreciates the opportunity to comment on this important issue.

Sincerely,

James A. Hanlon
Director
Office of Wastewater Management