

CLEAN WATER ADVOCATE

Andrew Sawyers, Director of the Office of Wastewater for the U.S. Environmental Protection Agency will be the keynote speaker of a December 16 web seminar co-hosted by NACWA and WEF on new changes to the Clean Water State Revolving Fund.



A Clear Commitment to America's Waters



OCTOBER/NOVEMBER 2014

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Winter Conference to Highlight Collaborations with Non-Traditional Partners

NACWA's Winter Conference, *Heading Upstream: Ushering in an Era of Collaboration for Water Quality Gains*, will shine the spotlight on the importance of engaging non-traditional partners – or even ‘strangers’ – in collaborative work to improve water quality and protect the environment.

A keynote address by internationally-respected expert on business strategy and innovation, and best-selling author, Alan Gregerman, will kick-off the Association's 2015 Winter Conference, February 1-4 in Charleston, South Carolina. Gregerman's inspiring presentation, based on his best-selling book, *The Necessity of Strangers*, will examine the power of connecting with new and different people as the real key to innovation, collaboration, and greater business and personal success.

The conference will also feature NACWA members who are undertaking partnerships with their agricultural neighbors to both achieve water quality benefits in their watersheds and save ratepayers money. In 1972, with passage of the Clean Water Act (CWA), Congress set as a goal the restoration and maintenance of the chemical, physical and biological integrity of the Nation's waters, yet only provided a limited number of tools, focused primarily on the municipal point source community, to achieve it. Fast forward forty years, it has become apparent that without greater flexibility in meeting permit limits and more meaningful participation of nonpoint sources of pollution, the goals of the CWA will never fully be realized although its force will still be felt by the point sources.

Collaborations that Achieve Water Quality Goals & Ratepayer Savings Featured

The municipal water and wastewater community is beginning to carve a new path for addressing water quality impairments by heading upstream and working with private landowners to install conservation

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2014 Midterms Change Landscape on Capitol Hill

Contrary to the views of most pundits, pollsters and campaign strategists, the 2014 election cycle turned out to be a wave election that looked more like the 2010 midterms rather than the nail-biter that most expected. Republicans expanded their majority in the House by thirteen votes and gained the majority in the Senate by at least seven (possibly nine) seats, changing the Congressional landscape for a second time in eight years.

What NACWA members might expect to see under a Republican Congress will begin to emerge over the coming days and weeks and may

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Affordability, Integrated Planning Continue to Play Central Role in Clean Water Policy Discussions

As the dust settles from the mid-term elections, questions abound over the potential fallout for the U.S. Environmental Protection Agency (EPA) and its regulatory programs now that Republicans have control of Congress. But while some high profile rules such as the proposed Waters of the U.S. Rule will come under fire, much of EPA's agenda will be unaffected. And for clean water utilities, even if there were no new rules released from EPA in the next two years, there is already plenty to manage. Affordability challenges will continue to mount and the role of the *Integrated Planning Framework* in helping to prioritize mandated investment will likely play an increasingly important role.

November Meeting Features Utility Perspectives

In an effort to maintain a productive dialogue on affordability issues, NACWA hosted a meeting on November 4 with representatives from several public water and wastewater utilities, as well as staff from the Association of Metropolitan Water Agencies (AMWA), the American Water Works Association (AWWA), the Water Environment Federation (WEF) and the National League of Cities (NLC), to discuss the issue of affordability and the financial capacity of clean water utilities to meet their Clean Water Act mandates. Dave Rager, NACWA Board Member and Executive Director of the Northern Kentucky Sanitation District No. 1 in Ft. Wright, Ky., provided an overview of the work on affordability his utility is doing as it strives to meet its requirements under a federal consent decree. Rager and his team have been employing many of the new approaches to assessing the affordability of clean water spending that NACWA, WEF, AWWA and others have studied over the past several years. These approaches are intended to provide a more refined picture than median household income. Discussions during the meeting focused on what level of burden associated with clean water spending is considered 'affordable'; ways to offset impacts on low income

populations, including potential federal subsidy programs; opportunities for Congress to provide a more rational approach to address financial capability challenges; and, other areas where the water sector could work together to advance this issue.

Financial Capability Framework Anticipated

Discussions at the meeting also reflected on the role of EPA's forthcoming *Financial Capability Framework*, expected to be released later this year – and the recent report by the Environmental Financial Advisory Board, which recommends a number of significant changes to EPA's current approach to evaluating financial capability. NACWA is preparing a brief summary of the discussion and will make that available to its membership soon. NACWA and the other water sector groups plan to discuss next steps with the goal of having some concrete direction and message by Water Week 2015 in April.

Federal Dollars to Help Utilities Move Forward

On the integrated planning front, five communities benefitted from NACWA's efforts to promote and support EPA's *Integrated Planning Framework*, with the Agency announcing in October that two NACWA members, the City of Springfield, Mo. and the Onondaga County Department of Water Environment Protection, N.Y., along with the Cities of Burlington, Vt., Durham, N.H. and Santa Maria, Calif. were selected as recipients of a total of \$335,000 of technical assistance to help develop integrated plans. The announcement came after nearly two years of NACWA advocacy urging Congress and EPA make funding available to support development of these plans. Currently, the House of Representatives has proposed an additional \$2 million in FY15 for another round of awards and the Association is working to

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Proposed Dental Amalgam Separator Rule Would Substantially Affect POTWs

After several years of delays, the U.S. Environmental Protection Agency's (EPA) proposed a Dental Amalgam Separator Rule on October 22 that, if finalized, would establish pretreatment standards for the over 100,000 dental offices that place or remove amalgam fillings. Clean water agencies (also known as publicly owned treatment works or POTWs) with pretreatment programs would be required to ensure the compliance of the dental offices in their service areas, potentially creating a substantial burden on these utilities.

Under the rule, dental offices that place or remove amalgam would be required to install separators certified to achieve a 99% reduction of total mercury according to the 2008 ISO 11143 standard. Dental offices would also be required to comply with two best management practices (BMPs): preventing scrap amalgam from being flushed down the drain,

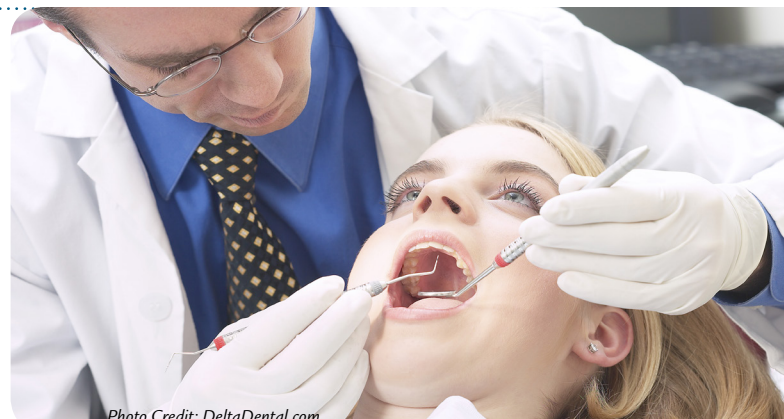


Photo Credit: DeltaDental.com

and cleaning chair-side traps at least weekly with approved cleaners. A one-time baseline report and initial compliance report must be prepared by the dental offices, as well as annual certification statements. Dental offices that already have separators installed could continue using these separators until ten years after the effective date of the final rule.

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Affordability, Integrated Planning CONTINUED FROM PAGE 2

ensure the Senate accepts the House recommendation in final negotiations over EPA's FY15 budget.

Though integrated planning has, thus far, been primarily used as a tool for communities negotiating consent decrees, ample opportunity exists for integrated plans to be used in coordination with Clean Water Act permits. In fact, EPA's technical assistance is focused on just this issue. In New Jersey, where 21 communities will soon receive combined sewer overflow (CSO) permits for the first time, integrated planning is being used on the ground floor of that state's efforts to require development of long-term control plans (LTCP). In an effort to ensure its members and other utilities in New Jersey fully understand integrated planning and its opportunities, the Association partnered with the Association of Environmental Authorities of New Jersey (AEANJ) to co-

host an *Integrated Planning Workshop* on October 23 in Newark for public agencies across the Garden State. Over 35 attendees benefitted from expert insight and frank discussion with the state regulators, as well as EPA Region 2, and EPA Office of Water and Office of Enforcement & Compliance Assurance staff.

The discussion around the *Integrated Planning Framework* has begun to change the way EPA, both policy and enforcement staff, view their interactions with the municipal clean water community. It is reshaping the command and control approaches of the past into more collaborative discussions, with the clean water utility firmly in the driver's seat on investment priorities and schedule. NACWA and its members will continue to nurture this evolving relationship and utilize integrated planning to recast the way Clean Water Act goals are met. 🌊

Web Seminar to Examine CWSRF Changes

NACWA and the Water Environment Federation (WEF) will host a web seminar on Tuesday, December 16, from 1:00 to 2:00 pm EST to discuss important changes to the Clean Water State Revolving Fund (CWSRF).

[Registration](#) for the *Revisions to Clean Water State Revolving Fund Program and EPA Guidance to States* web seminar is complimentary.

The CWSRF received a significant make-over this year by Congress in the reauthorization package for the Water Resources Reform & Development Act (WRRDA). Over the course of the winter and spring NACWA actively urged Congress and the Administration to demonstrate their commitment to the CWSRF as a core investment tool for municipal wastewater agencies. Key provisions in the WRRDA bill reflected this work by extending the CWSRF loan repayment period

to 30 years; enabling economically distressed communities to receive more affordable financing; and incentivizing investments for projects related to energy efficiency, water efficiency, reuse, and sustainable infrastructure practices. The U.S. Environmental Protection Agency (EPA) issued [guidance](#) to states in September on implementation of the new statutory revisions, many of which went into effect on October 1. Municipal borrowers across the country will be impacted by these changes and there is much to learn and understand.

The December 16 web seminar will include participation by Andrew Sawyers, Director of the Office of Wastewater and former CWSRF Administrator for the State of Maryland. He will discuss EPA's recent [guidance](#) to the states – and how states are likely to implement these changes. Sawyers will also discuss how these changes may impact clean water utilities. Plan today to attend this important offering. 🌊

Dental Amalgam CONTINUED FROM PAGE 2

Rule Creates New Classification for Dental Offices

The proposed rule would revise the General Pretreatment Regulations to create a new classification of categorical industrial user (CIU), the "Dental Industrial User" (DIU). The oversight required by clean water agencies of DIUs would be less onerous than required for CIUs classified as Significant Industrial Users (SIUs). For example, clean water agencies must conduct annual inspections and sampling of SIUs, as well issue a permit or other control mechanisms, which would not be requirements for DIUs. If a DIU does not maintain compliance, however, it must be treated as an SIU by the utility or other control authority (which is the state or EPA region for dentists discharging to POTWs without pretreatment programs). Significant noncompliance would be triggered if a DIU was 45 days late with its annual report, requiring the clean water agency to initiate enforcement action, and the DIU would become an SIU if compliance was not achieved within 90 days.

Costs Dramatically Underestimated, Potential Benefit Small

EPA estimates that the annual cost of the rule would be \$44 to \$49 million, to achieve a reduction of only 860 lbs. of mercury discharged by clean water agencies into waters of the U.S. NACWA believes that EPA's cost estimate for the rule is too low, since the cost for public utilities and

other control authorities is dramatically underestimated. NACWA also believes that the amount of mercury actually removed due to the rule would be even lower, since EPA underestimates the current mercury removal efficiency of POTWs and neglects to consider the falling numbers of amalgam fillings that are placed and removed due to improved oral health and the use of resin fillings.

NACWA has communicated with EPA on multiple occasions about the issues associated with a dental amalgam separator rule, and the Association is planning to provide extensive comments on the proposed rule. NACWA's Pretreatment & Pollution Prevention Committee met on November 6 to discuss the rule, and committee members continue to overwhelmingly believe that the rule is not necessary and will create a significant burden to clean water agency pretreatment programs.

NACWA will be conducting a national survey of POTWs to obtain up-to-date information on mercury removal efficiencies and other information that will help to assess the impact of the rule. Comments on the proposed rule are currently due December 22, but NACWA and the American Dental Association (ADA) have submitted a joint request for a 60-day extension of the comment period. 🌊

Legal Hot Topics Web Seminars Return

NACWA is pleased to announce the return of its popular Legal Hot Topics Web Seminar series. With a schedule of one web seminar per quarter in FY 2015, this series is offered free of charge to NACWA members and provides clean water utilities – and the attorneys that represent them – with the latest insights and analysis on key clean water legal issues. Topics covered during past seminars include nutrients;



biosolids; stormwater; construction law; and, Clean Water Act jurisdiction – and an equally diverse and informative set of topics is anticipated for the coming year.

The series of legal web seminars for FY 2015 will be held on the following dates and times:

- December 10, 2014, 2:00 - 3:00 PM ET
- March 18, 2015, 2:00 - 3:00 PM ET
- June 17, 2015, 2:00 - 3:00 PM ET
- September 16, 2015, 2:00 - 3:00 PM ET

The December 10 web seminar will feature discussion of recent developments under federal law that give clean water utilities greater protections for security vulnerability assessments, and will include an examination of evolving legal issues under the Combined Sewer Overflow Control Policy impacting municipal utilities. Topics for future webinars will be announced closer to the event dates. Be sure and mark your calendars now for these exciting offerings, and keep an eye on your email inbox and on NACWA's homepage for more information about registration. 📧

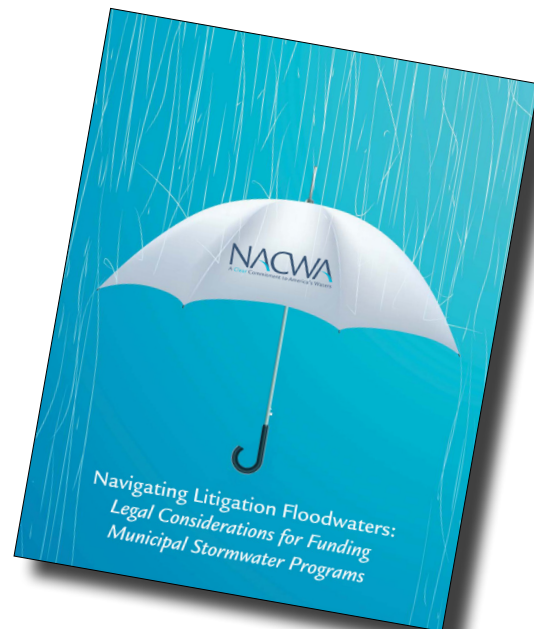
White Paper to Help Utilities Weather Stormwater Challenges

On November 20, NACWA will release *Navigating Litigation Floodwaters: Legal Considerations for Funding Municipal Stormwater Programs* during its National Clean Water Law Seminar. The white paper provides analysis on the types of legal issues impacting stormwater funding programs – and presents an overview of trends that are emerging based on the outcomes of key cases.

In the absence of a federal rule, the U.S. Environmental Protection Agency (EPA) has turned its focus to strengthening local stormwater programs, and more onerous requirements will likely arise on a permit-by-permit basis. More revenue and rate increases will be needed to comply with these complex and costly regulatory requirements. This environment of rising rates makes the stormwater program landscape ripe for legal challenges.

When opposition to a fee program reaches the courts, there is always the potential that a program or fee could be struck down, leaving a utility legally responsible to comply with the Clean Water Act (CWA) yet unable to administer and fund the program. It is imperative that stormwater utilities do their “legal homework” – including all relevant laws and previous cases on point in their respective state – to ensure the best chance of success for a fee program. *Navigating Litigation Floodwaters* will help by equipping members with critical knowledge and tools to inform and prepare utilities that are creating, implementing, or defending a stormwater program, utility or fee.

The Association hopes to supplement this valuable member resource with a more detailed, state-by-state analysis of the issue in the future. NACWA looks forward to continued aggressive advocacy to defend these fee programs and ensure their long-term viability. Following its release, the white paper will be available for download on NACWA's [Publications](#) page and is free of charge to Association members. 📧



The Power of Membership

NACWA members represent the heart and soul of the organization. In September, Association President, Karen Pallansch invited all NACWA members to showcase their affiliation by including the [Proud Member of NACWA logo](#) on their website or listing the Association as a key partner in their clean water efforts. If your utility has downloaded the Proud Member of NACWA logo, NACWA wants to know. Please send links to membership@nacwa.org. Furthering NACWA's reach, the Association is pleased to welcome a new Corporate Affiliate:

[Dunrobin & Associates, LLC](#)

Represented by Beth Sutherland, Managing Member

Dunrobin Associates, LLC assists sewer and water districts with program and project management for projects that involve compressed time schedules and limited budgets. Among their areas of expertise is developing programs that ensure compliance with federal and state laws when acquiring rights-of-way and corridors using advanced acquisition procedures.



In its 45th year celebrating the *Power of Association*, NACWA encourages members to increase their engagement in the Association through e-communications; participation on committees; the Association's online community - *Engage™*; and, attendance at conferences and events. It's easy to add additional staff to your membership, simply forward their name, title, and e-mail address to Christian Howard at choward@nacwa.org.



Pictured: Brad Adams as Mr. Dingle the Victor Valley Wastewater Reclamation Authority's (VVWRA) mascot; Jeff Rigney, VVWRA Commissioner, County of San Bernardino; Russ Blewett, VVWRA Commissioner, City of Hesperia; Logan Olds, VVWRA General Manager; Mike Bushey, Southern California Edison Director, Government, Institutions and Agriculture Business Customer Division Southern California Edison Company; Scott Nassif, VVWRA Commissioner, Town of Apple Valley; Juan Josse, Chief Technology Officer, Anaergia; Amy Olsen, Account Manager, Water Segment, Southern California Edison; Dr. Andrew Benedek, Owner Anaergia; Jim Kennedy, VVWRA Commissioner, City of Victorville; Congressman Colonel (ret.) Paul Cook; John Kemmerer, Associate Director Water Division, U.S. EPA Region 9; Arnold Ramirez, Project Manager, Anaergia; Robert Coromina, IT Supervisor VVWRA; Gabriel Taylor, Advisor to Commissioner David Hochschild, California Energy Commission.

Utility of the Future in Action

On September 26, 2014, Representative Col. Paul Cook (R-CA), a member of the U.S. House of Representatives and one of the first Members of Congress to join the Clean Water Caucus, participated in the ribbon cutting ceremony for the Victor Valley Wastewater Reclamation Authority's (VVWRA) new "first-of-its-kind" Omnivore biogas production system. The plant's existing infrastructure was retrofitted to triple the biogas production rate and increase the facility's energy self-sufficiency. Achievements such as these are great examples of how NACWA members are adopting innovative technologies and approaches as envisioned by the Water Resources Utility of the Future (UOTF) initiative - and getting their members of Congress involved in the national effort, as well. Learn more about the UOTF on NACWA's website.

Winter Conference CONTINUED FROM PAGE 1

practices that tackle a variety of water quality issues including temperature, nutrients and pathogens. They are also working collaboratively with other point sources to achieve beneficial pollutant reductions watershed-wide. Examples of these collaborations are occurring across the country and are achieving their desired water quality goals at a much reduced costs for ratepayers. At the same time, many in the agricultural community understand that through collaboration with the municipal community, they can tap into technical and financial capabilities that they may not have on their own to help them improve conservation performance of their operations.

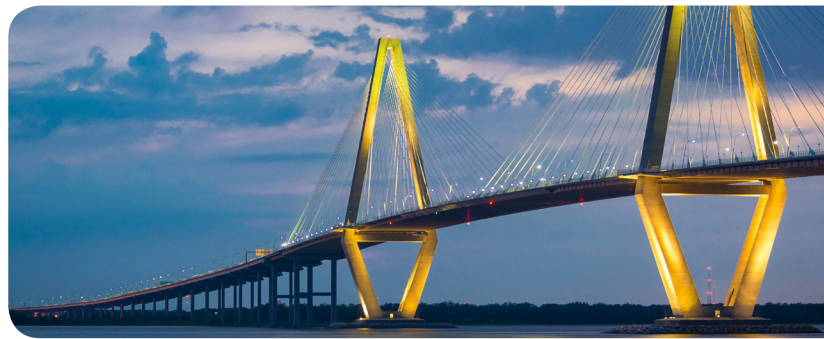
NACWA's Winter Conference will spotlight these collaborations, and invite participants from both the municipal wastewater sector and private landowners to discuss and share their experiences about how these collaborations have worked and how they can serve as models for other communities. Specific panel discussions examine:

- Wisconsin's Adaptive Management approach to incentivize collaboration between municipal point sources and agricultural producers;
- Partnerships that are saving ratepayers billions, such as New

York City's source water protection program;

- New projects just getting underway, including projects recently selected for USDA's Regional Conservation Partnership Program; and,
- Successful state water quality trading programs that are being modeled elsewhere.

Clean water utilities that are looking for new models for achieving water quality and watershed restoration for their ratepayers are encouraged to come to Charleston and learn about these exciting devel-



Mid-Term Elections CONTINUED FROM PAGE 1

not be entirely clear until well into this next session of Congress. We do, however, know – more or less – who will be in key leadership positions. Senator Mitch McConnell (R-KY) won re-election and was elected incoming Majority Leader in the Senate, and Representative John Boehner (R-OH) will remain Speaker of the House with Representative Kevin McCarthy (R-CA) remaining as House Majority Leader. Democrats re-elected Harry Reid (D-NV) as incoming Senate Minority Leader, though also elevated Senator Elizabeth Warren (D-MA), a champion of progressive causes, to a newly-created leadership post. Representative Nancy Pelosi (D-CA) is running unopposed to remain House Minority Leader and is expected to receive support from her caucus.

Environment-Focused Committees See Leadership Changes

There will also be changes in key committee leadership slots that impact environment-related issues in both the House and the Senate. In the House, Democrats lost three key members who held important leadership positions over environmental-related committees. Retiring Congressman Jim Moran, Ranking Member of the House Appropriations Subcommittee overseeing the Environmental Protection Agency's budget will be replaced by Representative Betty McCollum (D-MN). Congressmen Nick Rahall (D-WV) and Clean Water Caucus Co-Chair Tim Bishop (D-NY), Ranking Members of the House Transportation & Infrastructure Committee and the Water Resources & Environment Subcommittee, respectively, lost their re-election bids. Representative Peter DeFazio (D-OR) will likely become the top Democrat on the Committee, though it is un-

clear who will emerge as Bishop's replacement. There are several members who could receive the post, including Representative Grace Napolitano (D-CA) and Representative Donna Edwards (D-MD).

In the Senate, Senator Lisa Murkowski (I-AK) will likely assume the role of Chair of the Appropriations Subcommittee on Interior & EPA, while Senators Jim Inhofe (R-OK) and John Boozman (R-AR) will likely assume the gavels for the Senate Environment & Public Works Committee and Water & Wildlife Subcommittee, respectively, while Senators Barbara Boxer (D-CA) and Ben Cardin (D-MD) will likely assume the role of Ranking Members of those committees.

Impact on Water Issues Unclear

How these leadership changes impact water-related issues is unclear at this point. Many Republicans have made EPA's Waters of the U.S. rule and the Clean Power Plant rule top priorities for push-back and have proposed policy riders on appropriations bills to strip EPA of any ability to move forward with them. Though this current Congress completed work on a major water infrastructure package, *The Water Resources Reform & Development Act*, and included a new water infrastructure investment program, the Water Infrastructure Finance & Innovation Act (WIFIA), neither the House nor Senate FY15 spending proposal included WIFIA implementation money. The upcoming Congress will also deal with a large transportation re-authorization package which expires in May and will require a major infusion of new revenues to meet investment needs. 