

CLEAN WATER ADVOCATE

Tom Sigmund, Chair of the NACWA/WERF/WEF Utility of the Future Task Force and Executive Director of Green Bay's NEW Water, will speak at NACWA's 2013 Winter Conference, February 3-6, in Miami, Fla. In his remarks, Sigmund will outline how the soon-to-be released water resources utility of the future Blueprint for Action will inform, complement, and build upon NACWA's existing advocacy agenda.



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A Clear Commitment to America's Waters



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NACWA

National Association of
Clean Water Agencies
1816 Jefferson Place, NW
Washington DC 20036-2505

p 202.833.2672 f 202.833.4657
info@nacwa.org · www.nacwa.org

EPA Makes the Right Call on Addressing Nutrients from Clean Water Agencies

The U.S. Environmental Protection Agency (EPA) issued a strongly-worded denial December 14 of the Natural Resources Defense Council's (NRDC) 2007 petition that sought to modify the secondary treatment regulations to include nutrient removal. Citing the technical constraints and costs associated with uniform national limits, EPA's December 14 letter denying the petition reaffirms the Agency's preference for controlling nutrient discharges from POTWs through site specific water quality-based permitting.

TAF Supported Advocacy Pays Dividends

This decision is a major victory for the clean water community that will save publicly owned treatment works (POTWs) tens of billions of dollars annually, even based on EPA's conservative, "lower end" cost estimates. NACWA, supported by its Targeted Action Fund (TAF), has led the advocacy efforts on this issue since 2007 and encouraged the Agency to take the exact steps laid out in the December 14 denial.

NRDC's petition contained two key requests. First, the petition argued that EPA had not met

its statutory duty under Clean Water Act (CWA) Section 304(d)(1) to periodically publish information on the degree of effluent reduction attainable through the application of secondary treatment, and that such a document needed to be published. On this point EPA agreed with NRDC and plans to publish a report with updated information on the performance of secondary treatment. The Agency underscored that the "technology that formed the basis for EPA's secondary treatment regulations...is not designed to remove nutrients", a key argument that NACWA has made since 2007. EPA has committed to providing NRDC (and other stakeholders) the "Secondary Treatment Performance Report" in early 2013.

Nutrient Limits "Not Warranted"

The second portion of NRDC's petition requested that EPA establish nutrient limits as a part of the generally applicable secondary treatment regulations. Citing careful consideration of the information and arguments presented by NRDC - and NACWA's letters and follow-up data and information submittals - EPA determined that "it is not

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NACWA Active on Stormwater Litigation, Regulatory Advocacy

NACWA has been busy in recent weeks advancing the Association's stormwater advocacy agenda in both the legal and regulatory arenas, contributing to a key victory in the courtroom and providing additional input to the U.S. Environmental Protection Agency as it develops a post-construction stormwater rule.

Federal Court Strikes Down "Flow TMDL," Embraces NACWA Position

The municipal stormwater community won a significant legal victory Jan. 3 when a federal district court ruled that EPA's use of stormwater flow as a pollutant surrogate in stormwater total

maximum daily loads (TMDLs) is illegal under the Clean Water Act (CWA). The decision in Virginia DOT, et al. v. EPA clearly found that stormwater flow by itself cannot be considered a "pollutant" under the CWA, and therefore EPA's efforts to use flow as a pollutant surrogate when developing TMDLs is improper. Among the highlights of the decision, the court expressly ruled that the CWA language limiting EPA's TMDL authority to actual pollutants is unambiguous, noting that "EPA's authority does not extend to establishing TMDLs for nonpollutants as surrogates for pollutants."

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Winter Conference to Highlight Innovation and Ingenuity

NACWA's 2013 Winter Conference, *Tomorrow's Clean Water Utility...Is the Future Already Here?*, February 3-6, in Miami will provide an opportunity to explore some of the existing innovations and leading-edge practices that are already helping shape the future of clean water. Early adopters are creating success stories and identifying regulatory and economic roadblocks to innovation that will no doubt confront other utilities. The Winter Conference will highlight the successes and ongoing efforts to address the challenges and begin to make the business case for utilities.

As the future of the clean water community dawns, NACWA, along with the Water Environment Federation (WEF) and the Water Environment Research Foundation (WERF) – collaborators in convening the Winter Conference – are completing an effort to help facilitate the transition to the utility of the future by identifying the barriers and incentives for innovation and compiling a Blueprint for Action. Speakers during the Conference will provide insight into the Blueprint effort, key drivers, and next steps for each of the organizations involved.

Along with Innovation, Energy & Resiliency to Receive Attention

Energy-related efforts continue to garner much of the attention among the early adopters. Recognizing that wastewater contains



more energy than is required to treat it, some utilities are now striving to become net-energy producers. As some work to generate electricity themselves, others are generating alternative gas products including compressed natural gas for power production or vehicle use. Conference speakers will discuss how their energy projects, together with the use of traditional renewables like solar, wind and even hydropower, are 'plugging into clean water's future'.

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The 113th Convenes and Work Gets Immediately Underway

The 113th Congress was sworn-in January 3 and will deal immediately with fiscal and budget issues as it decides whether and by how much to lift the debt ceiling, how much the government should spend for the remainder of this fiscal year, and what to do about automatic spending cuts due to take effect March 1. All of these decisions will be made before April.

As part of the workload the 113th Congress is considering disaster relief for victims of Hurricane Sandy, including money to help communities and businesses rebuild. The House of Representatives passed its \$50 billion Hurricane Sandy relief package on January 15. The legislation contains \$600 million for wastewater and drinking water utilities in New York and New Jersey to undertake measures to build resiliency toward, and mitigate against, extreme wet weather events and other natural disasters. It is the first time the House has approved funding for resiliency work for these sectors, and is an important recognition of the critical services wastewater and drinking water utilities provide. The House bill came close to equaling the aid package passed by the Senate late in the 112th Congress. Now that the 113th Congress has convened, the options for the Senate include taking up the House package, or pursuing their own bill.

Congress' vote on this package may reveal how it will approach other important infrastructure investments.

Key Leadership Announced

There are new Republican leaders for the key Congressional committees with jurisdiction over clean water issues for the 113th Congress. Congressman Bill Shuster (R-PA) will now Chair the House Transportation & Infrastructure Committee (T&I), replacing John Mica (R-FL); and Senator David Vitter (R-LA) will become Ranking Member of the Senate Environment & Public Works Committee (EPW), replacing James Inhofe (R-OK). Both are viewed as somewhat more moderate than their predecessors on environmental matters and Senator Vitter comes from a State with many pressing clean water challenges. The Democratic leadership will remain the same with Congressman Nick Rahall (D-WV) returning as Ranking Member on House T&I and Senator Barbara Boxer (D-CA) remaining Chair of EPW. Congressman Bob Gibbs (R-OH) will remain Chairman of the House Water Resources & Environment Subcommittee and though not yet confirmed, Congressman Tim Bishop (D-NY) is anticipated to remain Ranking Member. Both Members are strong supporters of infrastructure investment in

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NACWA Applauds TAF Champions

Whether it is tens of billions of dollars saved annually as a result of the U.S. Environmental Protection Agency's (EPA) refusal to modify the secondary treatment regulations to include nutrient removal – or an estimated \$300 million that will states and municipalities will not need to spend because a federal court struck down EPA's use of a 'flow TMDL' for stormwater – NACWA's Targeted Action Fund (TAF) offers an incredible return on investment and ensures the effectiveness of the Association's advocacy on behalf of its members. The following Association members understood that their contribution to NACWA's TAF would make a difference, and were generous in their support. NACWA applauds these members and extends the opportunity to both agencies and affiliates to support the FY 2013 TAF.

Alexandria Renew Enterprises, VA
 Anchorage Water & Wastewater Utility, AK
 Bayshore Regional Sewerage Authority, NJ
 Central Contra Costa Sanitary District, CA
 Central Davis Sewer District, UT
 Charlotte Mecklenburg Utilities, NC
 City & County of Honolulu
 Department of Environmental Services, HI
 City of Augusta Utilities Department, GA
 City of Bellingham, WA
 City of Dallas Water Utilities, TX
 City of Greeley Water and
 Sewer Department, CO
 City of Greensboro Water Resources
 Department, NC
 City of Huntsville, TX
 City of Little Rock Wastewater Utility, AR
 City of Olathe, KS
 City of Pueblo Wastewater Department, CO
 City of Rochester Water
 Reclamation Plant, MN
 City of Santa Barbara, CA
 City of Tacoma Public
 Works Department, WA
 Clean Water Services, OR
 Columbus Water Works, GA
 Delaware County Regional Water Quality
 Control Authority, PA
 Delta Diablo Sanitation District, CA
 Detroit Water & Sewerage Department, MI
 Dvirka & Bartilucci Consulting Engineers

Downers Grove Sanitary District, IL
 East Baton Rouge Sewerage Commission, LA
 East Bay Municipal Utility District, CA
 Fairfax County Wastewater
 Management Program, VA
 Gary Sanitary District, IN



Greater Peoria Sanitary District, IL
 NEW Water, WI
 Gulf Coast Waste Disposal Authority, TX
 Hallsdale Powell Utility District, TN
 Independence Water Pollution
 Control Department, MO
 JEA (Electric, Water & Sewer), FL
 Jefferson County Public Service District, WV
 Johnson County Wastewater, KS
 Kansas City Water Department, MO
 King County Department of Natural
 Resources and Parks, WA
 Knoxville Utilities Board, TN
 Littleton/Englewood Wastewater
 Treatment Plant, CO

Los Angeles County Department of
 Public Works, CA
 Marion County Utilities, FL
 Metro Wastewater Reclamation District, CO
 Metropolitan Sewer District of
 Greater Cincinnati, OH
 Metropolitan St. Louis Sewer District, MO
 Milwaukee Metropolitan
 Sewerage District, WI
 Montgomery Water Works &
 Sanitary Sewer Board, AL
 Northeast Ohio Regional Sewer District, OH
 Philadelphia Water Department, PA
 Pierce County, PW&U, Surface
 Water Management, WA
 Pima County Regional Wastewater
 Reclamation Department, AZ
 Pine Bluff Wastewater Utility, AR
 Platte Canyon Water and
 Sanitation District, CO
 Renewable Water Resources, SC
 Rock River Water Reclamation District, IL
 Sewerage & Water Board of
 New Orleans, LA
 The Metropolitan District, CT
 Toho Water Authority, FL
 Upper Blackstone Water Pollution
 Abatement District, MA
 Upper Trinity Regional Water District, TX
 Western Lake Superior Sanitary District, MN
 Western Virginia Water Authority, VA

To support NACWA's Targeted Action Fund, via voluntary contribution, please contact NACWA's Managing Director, Finance
[Meredith Ristic](#) 202-533-1804. 📞

2013 Winter Conference

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But how is the clean water community supposed to make sense of the technologies and options available to them in meeting the needs of the future? As the demands of wastewater treatment regulations and related environmental requirements drive the clean water community toward more innovative technologies, and as the number of potential technologies continues to grow, the utility community will need to find ways to identify those technologies that present the most viable solutions. At the same time, resource constrained technology developers are looking for investment, but need to demonstrate not only the technical capabilities but the market potential of their products. Combine those two ingredients with venture capitalists looking for the right investment and the clean water community could stand to reap the benefits. The Winter Conference will provide participants with multiple perspectives on reducing the risk associated with innovation and how we can better stack the deck for success.

The recent devastation caused by Superstorm Sandy, which did not spare the clean water community, has provided a glimpse of the challenges that lay ahead for the clean water community. While future changes in the climate are clearly a driver, extreme weather events, aging infrastructure challenges, security threats, and water resource availability, among other drivers, are already impacting utility decision-making. During a panel session that will serve to tee up NACWA's 2013 Summer Conference & 43rd Annual Meeting, speakers will discuss the challenges ahead and what is being done to shore up utility resiliency.

The Conference agenda, registration information for the conference and hotel, and additional information can be found on [NACWA's website](#).

Social Media & Clean Water Utilities – Case Studies and Best Practices

Wednesday, February 13, 2013, 2:00 – 3:00 PM ET

Are you like many of your utility colleagues – knowing that social media could add value to your agency, but not quite sure where to begin or what to do with it? Social media represents both an opportunity and a challenge for public clean water utilities. It can easily appear to be both an invaluable tool to showcase the essential services you bring to your community – and a seemingly endless foray into the unknown.

Join your clean water colleagues as we showcase current examples of utilities that have implemented social media – and focus on both the challenges they faced in implementation and the opportunities they see for its future use. In this web seminar, you will learn

through their experiences, and walk away with invaluable tips, tricks, and tested ideas to embark on – or improve – your own social media program.



Whether you are part of a small, medium or large utility, one thing is for sure – your rate payers are using social media – and there is no reason you shouldn't be too! We invite you to engage key members of your staff in this unique and important offering for the NACWA member cost of \$200/utility. Registration is available on [NACWA's website](#).

Legislative Outlook

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clean water utilities.

NACWA Priorities Front & Center

NACWA will continue to push its member's priorities – reminding Members of Congress of the important public health, economic and job creation benefits continued investments in clean water infrastructure have for our local communities and for the nation as a whole; advancing an affordability agenda that includes codification of the Integrated Planning initiative launched last year by the Environmental Protection Agency (EPA) and establishing better regulatory tools for managing wet weather; advancing an innovations agenda that provides policy incentives for greater use of green infrastructure and resource recovery technologies; and, promoting

watershed-based approaches to meeting water quality challenges such as water quality trading and better management of agricultural nutrient run-off. The Association expects that many of these priorities will be well-received by fiscally-conscious members interested in ensuring that ratepayer dollars are spent wisely and getting the most environmental benefits from the investments that utilities are being asked to make.

The 113th Congress will face many important challenges and while it's too early to tell how they will confront these challenges, NACWA is hopeful that its message and policy proposals will resonate.

NACWA Continues to Expand Social Media Presence, Outreach

Have you checked out NACWA's blog, *The Water Voice*, yet? It's a great way to stay on top of emerging issues and NACWA's advocacy work, all in the context of how developments are affecting the clean water community. The blog format also invites participation and contributions by readers in the ongoing discussions.

The *Water Voice* can be found on the home page of NACWA's website. Two recent posts provided a thoughtful analysis of [accomplishments](#) in clean water community in 2012 and a look ahead to what might be [expected for 2013](#).

To participate in these and other blog post discussions, readers can post comments or sign up to receive [automatic updates](#) as articles are posted. And don't forget to follow NACWA on [Twitter](#) and

[Facebook](#), both of which great ways to follow developments in the clean water community as they occur. ■



EPA Makes Right Call

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warranted at this time to revise the secondary treatment regulations to establish new effluent limitations for nutrients." The Agency further stated that the need to control nutrients at POTWs is a "highly site-specific matter...that not all POTWs nationwide need to meet minimum technology-based limits for nutrients to protect water quality...and that many POTWs would incur high costs" that would be unnecessary to meet water quality standards.

In denying the NRDC petition, EPA points to the CWA and associated legislative history to underscore its broad discretion to determine whether to revise the existing definition of secondary treatment. As it has done in denying similar petitions in the past, Agency also points to its continuing efforts to implement the water quality-based provisions of the CWA as further rationale against uniform national standards.

Billions Saved Annually

In addition to the underlying statutory and legal rationale, EPA outlines a number of technical and cost-related reasons for denying NRDC's petition. While NRDC's petition argues that minor retrofits could achieve significant reductions in nutrients, EPA's denial letter notes a number of flaws in NRDC's analysis and assumptions. EPA finds that "many POTWs would require significant upgrades to their existing technologies...in order to install nutrient removal technologies." NACWA, through its TAF, provided extensive data and information on these technical issues over the last several months, including two of the references cited in the denial letter. Noting that costs to small POTWs would be significantly higher per pound of nutrient removed than at larger POTWs, EPA's letter estimated that the annual cost to incorporate advanced nutrient removal – just for the 33 percent of plants with a flow of at least 0.5 million gallons per day –

would be between \$5 and \$12 billion annually.

NACWA will continue to track the reaction to EPA's denial, as well as any developments in NRDC's lawsuit that sought to compel EPA to respond to the petition. NRDC could file another lawsuit to challenge the validity of EPA's denial. NACWA believes that if such a challenge were filed, EPA would defend its denial decision, as it is doing in a similar case regarding the Mississippi River. The Association is prepared to move aggressively with legal advocacy to ensure the clean water community's perspective is represented in any future case. ■



Stormwater Litigation

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Supported by the Association's Targeted Action Fund (TAF), NACWA filed a brief in the litigation supporting the TMDL challenge and arguing that use of flow as a surrogate in stormwater TMDLs is inappropriate. NACWA has been advocating on this issue for a number of years, and such a strong federal court ruling against the use of flow TMDLs is an important win for municipal stormwater utilities. The decision is not only positive from a legal perspective but will also result in significant cost savings, as the state and municipal plaintiffs initiating the lawsuit estimated that compliance with the challenged TMDL could have cost over \$300 million. The ruling echoes many of the arguments made by NACWA in its brief.

NACWA Supports Members in Stormwater Fee Litigation

In a related stormwater legal development, NACWA filed two briefs over the past month in support of municipal utility members defending stormwater fee programs. The Association NACWA submitted a brief in December with the Missouri Supreme Court on behalf of the Metropolitan St. Louis Sewer District (MSD), and another with an Ohio state appellate court in early January in support of the Northeast Ohio Regional Sewer District (NEORS). The briefs endorse the use of impervious surface as an appropriate and valid billing method for stormwater charges, and argue that such an approach represents the industry norm. The briefs also contend that municipal stormwater charges based on

impervious surface properly qualify as valid utility fees and are not impermissible taxes. Both briefs were funded through NACWA's Targeted Action Fund (TAF) and signify the Association's continued advocacy commitment on stormwater fee issues.

Additional Input Provided to EPA on Stormwater Rule

Also in December, NACWA submitted a pair of letters to EPA regarding the Agency's ongoing efforts to develop a national post-construction stormwater rule. The first letter provided a summary of NACWA's current thinking regarding the anticipated rulemaking, including comments on key elements under consideration for inclusion in the rule such as stormwater retention performance standards for new development and redevelopment projects, expansion of federal regulatory stormwater jurisdiction, and retrofits for areas of existing impervious surface. The second letter, which was signed by a coalition of municipal and local government organizations, was a follow-up to a meeting NACWA hosted in November with EPA staff to discuss progress on the rule.

Additional information on NACWA's legal activities involving stormwater can be found on the Association's [Litigation Tracking web page](#), while additional information on regulatory developments can be found on the [Stormwater Management page](#).



Mark Your Calendar for These Upcoming Events!

February 3 - 6	Winter Conference <i>Tomorrow's Clean Water Utility... Is the Future Already Here?</i> Hyatt Regency Miami Miami, FL	April 21 - 24	National Environmental Policy Forum Washington Marriott Washington, DC
February 13 2:00 - 3:00 PM	Social Media and Clean Water Utilities- Case Studies and Best Practices Web Seminar	May 15 - 17	National Pretreatment & Pollution Prevention Workshop DoubleTree by Hilton Portland Portland, OR
April 3	Region 10 Integrated Planning Workshop Portland, OR	July 14 - 17	Summer Conference & 43 rd Annual Meeting <i>Managing & Financing the Resilient Clean Water Utility</i> Hilton Cincinnati Netherland Plaza Cincinnati, OH

Visit www.nacwa.org/meetings to register and find the most up-to-date information on upcoming conferences!