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Ken Kirk

December 11, 2007

The Honorable Barbara Boxer
U.S. Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510-6175


Dear Chairman Boxer,

The National Association of Clean Water Agencies (NACWA) appreciates your ongoing leadership and commitment to the nation's water quality and commends the committee for holding a hearing on "The Clean Water Act following the recent Supreme Court decisions in *Solid Waste Agency of Northern Cook County* and *Rapanos-Carabell*." As the leading advocacy organization representing the nation's municipal wastewater treatment agencies, NACWA values the opportunity to work with you and the committee to address confusion regarding the jurisdictional scope of the Clean Water Act (CWA) caused by these decisions.

As you may know, Chairman James Oberstar (D-Minn.) of the House Transportation and Infrastructure (T&I) Committee has agreed to address NACWA's concerns with the House version of the legislation, H.R. 2421, by agreeing to include the regulatory exemption for man-made waste treatment systems as found in the EPA and Army Corps of Engineers' regulatory definition of "waters of the United States" (40 CFR 122.2, 33 CFR 328) as the legislation moves forward. In addition to this, NACWA also outlined several other concerns in its attached letter to Chairman Oberstar. NACWA would like to support S. 1870 and believes it can do so once these issues are addressed in the manner agreed to with regards to the House bill, H.R. 2421.

NACWA applauds your continuing leadership on this issue and looks forward to working with you and the committee as S. 1870 moves forward.

Sincerely,



Ken Kirk
Executive Director

Cc. Senator Feingold, Senator Inhofe, Senator Lautenberg, Ken Kopocis, Eric Olsen, Bettina Poirier, Dan Rosenberg

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November 2, 2007

The Honorable James L. Oberstar
House Committee on Transportation and Infrastructure
Rayburn House Office Building 2165
Washington, D.C. 20515

Dear Chairman Oberstar,

The National Association of Clean Water Agencies (NACWA) appreciates your ongoing leadership and commitment to the nation's water quality and values the opportunity to work with you to address ongoing clean water challenges. As the leading advocacy organization representing the nation's municipal wastewater treatment agencies, NACWA supports the concepts and framework of your legislation, the *Clean Water Restoration Act of 2007* (H.R. 2421).

Recent U.S. Supreme Court rulings in *Solid Waste Agencies of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers* (2001) and *Rapanos v. U.S. and Carabel v. U.S. Army Corps of Engineers* (2006) have created confusion regarding the jurisdictional scope of the Clean Water Act (CWA). These decisions have the potential to delay important permitting decisions and encourage more legal challenges.

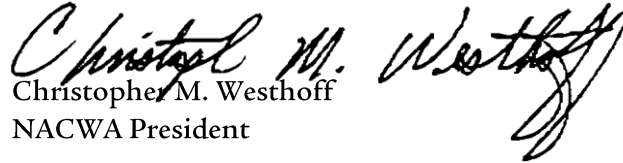
H.R. 2421 seeks to rectify this situation by removing the term "navigable" from the definition of waters of the United States and return jurisdictional waters to their status before these Supreme Court decisions.

NACWA raised concerns that H.R. 2421, as originally drafted, did not include provisions, found in the EPA and Army Corps of Engineers regulatory definition of "waters of the United States" (40 CFR 122.2, 33 CFR 328), exempting manmade wastewater treatment systems. Without this exemption, NACWA members were concerned that certain components of their treatment systems, including some conveyance ditches, treatment lagoons, and manmade and effluent-dominated impoundments that are not currently covered would be subject to the National Pollutant Discharge Elimination System (NPDES) permit requirements. In addition, some members expressed concern that the bill would cover some stormwater management techniques that fall outside the waste treatment exemption and interfere with their efforts to control this source of pollution. As such, we understand and request that the record reflect that manmade stormwater retention and conveyance structures are included in this exemption. In addition, we also understand that your legislation is not intended to affect the jurisdictional concerns

regarding groundwater in any way and would like this to be reflected in the record as well.

Thank you for agreeing to incorporate into the legislation the regulatory exemption for waste treatment systems and for your willingness to work with us on potential measures to address stormwater. NACWA looks forward to working with you and the committee to advance the goals of the Clean Water Act in the future.

Sincerely,


Christopher M. Westhoff
NACWA President