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October 1, 2010

**Charles Lee**

Director of the Office of Environmental Justice

U.S. Environmental Protection Agency

Ariel Rios Building

1200 Pennsylvania Avenue, NW

Mail Code: 2201A

Washington, DC 20460

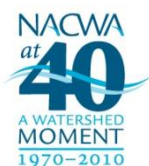
Via Electronic Mail: [lee.charles@epa.gov](mailto:lee.charles@epa.gov)

Dear Mr. Lee:

The National Association of Clean Water Agencies (NACWA) appreciates this opportunity to provide comments to the Office of Environmental Justice (OEJ) regarding development of the U.S. Environmental Protection Agency's (EPA) Draft Plan EJ 2014. Representing nearly 300 of the nation's publicly owned treatment works (POTWs), NACWA is the leading advocate for the clean water utility community and provides an important municipal perspective to the timely and important discussion surrounding environmental justice (EJ) issues.

NACWA is committed to improving water quality across the nation and to exploring innovative ideas that will achieve the original goals of the Clean Water Act (CWA). NACWA is also supportive of EPA's recent efforts to increase the focus on EJ issues and believes true environmental progress cannot be achieved in this country unless it is shared in equitably by all. However, NACWA is concerned that EPA has not sufficiently considered the affordability challenges facing many urban communities around the nation as the Agency elevates EJ considerations as a key policy focus. In particular, NACWA believes the need for a new approach to making financial capability and affordability determinations has not been adequately addressed in EPA's recent Plan EJ 2014.

Our nation's clean water and stormwater utilities will be required to spend hundreds of billions of dollars in the coming decades to address wet weather concerns, nutrient issues, biosolids management, and water quality standards — in addition to reinvesting in existing infrastructure. Many EJ communities are finding it difficult, especially under the current economic circumstances, to afford the increased water and sewer rates that will come along with these new environmental mandates. The simple fact is that municipalities throughout the country continue to invest in their systems but face a regulatory landscape where



everything is a priority and economics are an afterthought. NACWA believes it is important for the federal government to partner with local governments and clean water utilities to improve water quality through revised affordability guidelines. This will allow municipalities to make the needed investments to improve water quality, the environment, and public health for all communities in a sustainable manner.

While NACWA believes increased federal funding is critical to achieving national water quality objectives and is an EJ issue, so too is the affordability issue. As part of its focus on EJ considerations, EPA should revisit its affordability criteria and how it determines what a community can or cannot afford under the CWA.

Specifically, EPA's 1997 document, *Combined Sewer Overflows — Guidance for Financial Capability Assessment and Schedule Development*, is woefully out of date and the current emphasis on EJ concerns offers an excellent opportunity for revisions.

NACWA has long argued that EPA must begin to look at the affordability issue more broadly and holistically. It is not reasonable to assume that communities can afford to pay 2 percent of their median household income for combined sewer overflow control while also dealing with the implementation of sanitary sewer overflows, total maximum daily loads, stormwater control, nutrient control and emerging contaminants, climate change mitigation and adaptation, and the many other environmental issues with which municipalities must contend. The current EPA affordability approach leads to an indefensible position that everything and anything is affordable — a situation that, as the recent economic downturn has made clear, is not and cannot be the case, particularly for EJ communities already facing significant economic pressures. Moreover, the issue of affordability must be looked at within the context of maximizing environmental benefit to all within a community in return for their investment.

NACWA requests that EPA's OEJ take into consideration affordability concerns when developing Plan EJ 2014 and accelerating compliance and enforcement initiatives. Please feel free to visit our [Money Matters — Smarter Investment to Advance Clean Water webpage](#) to learn more about NACWA's efforts on this key issue. Again, NACWA appreciates the opportunity to provide input into this effort by EPA. Please contact me at [ngardner-andrews@nacwa.org](mailto:ngardner-andrews@nacwa.org) or 202/833-3692 if you have any questions.

Sincerely,



Nathan Gardner-Andrews  
General Counsel