

EXECUTIVE COMMITTEE

PRESIDENT

David R. Williams

Director of Wastewater

East Bay Municipal

Utility District

Oakland, CA

VICE PRESIDENT

Suzanne E. Goss

Government Relations Specialist

JEA (Electric, Water & Sewer)

Jacksonville, FL

TREASURER

Julius Ciacia, Jr.

Executive Director

Northeast Ohio Regional

Sewer District

Cleveland, OH

SECRETARY

Karen L. Pallansch

General Manager

Alexandria Sanitation

Authority

Alexandria, VA

PAST PRESIDENT

Jeff Theerman

Executive Director

Metropolitan St. Louis

Sewer District

Saint Louis, MO

EXECUTIVE DIRECTOR

Ken Kirk

September 30, 2011

Honorable Lisa P. Jackson

Administrator

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, DC 20460

Dear Administrator Jackson:

I write to you today regarding a matter of urgent importance to the nation's urban communities and other municipalities.

On May 24, 2011, the National Association of Clean Water Agencies (NACWA) submitted a petition for reconsideration and stay of the EPA action titled "Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Sewage Sludge Incineration Units," 76 Fed. Reg. 15372 (Mar. 21, 2011) (the "SSI Rule"). NACWA filed a supplemental letter to our petition on June 27, 2011. The SSI Rule establishes various emission limitations and other requirements under Clean Air Act (CAA) section 129 applicable to sewage sludge incinerators (SSIs) operated at municipal wastewater treatment plants.

On August 31, 2011, EPA staff from the Office of Air and Radiation and the Office of General Counsel informed NACWA via conference call that the Agency intends to deny significant portions of our petition for reconsideration as well as our request for an administrative stay of the rule. Among the major core issues we were told the Agency plans to deny is our request that EPA properly regulate SSI emissions under CAA section 112, as directed by Congress in the CAA, instead of under section 129. We were also told that EPA continues to review our reconsideration request on a specific technical issue outlined in our petition. To date we have not received any type of formal, written response to any of the issues raised in our reconsideration petition.

Given the significant negative impact that the SSI Rule will have in major urban areas all across the country as outlined in our May 24 and June 27 submissions, we request that EPA re-evaluate its plans to deny our reconsideration petition. In particular, we request that EPA re-evaluate its decision to regulate SSIs under CAA section 129 instead of under section 112, as directed by Congress in recognition of

the unique and important role that public wastewater treatment utilities play in protecting the environment and public health in their communities. Unlike other emissions sources that are currently fighting to exempt themselves from certain CAA requirements, we are not asking to avoid CAA regulation. Quite the opposite, we are simply asking that urban communities with SSIs be regulated under the appropriate section of the CAA as Congress intended.

To give you a sense of how many urban areas will be negatively affected by the SSI Rule, attached please find a list of all the communities in the United States that currently rely on SSIs to safely and effectively manage the solids left over from the wastewater treatment process. Many of these communities are the same ones that have provided instrumental support for the Clean Water Act (CWA) over the years and have played a critical role in the CWA's successes. Yet EPA's decision to regulate SSIs under the inflexible requirements of CAA section 129 – a legally challengeable action – will unnecessarily cost these same communities hundreds of millions of dollars at a time of severe economic distress. The reality is that EPA could just as easily continue to regulate SSIs under CAA section 112 and CWA section 405 as it has always done with no negative environmental impact while at the same time protecting urban communities from unnecessary economic impact and preserving the Agency's traditional partnership with cities on clean water issues.

NACWA would be happy to meet with you or your staff to discuss these issues in more depth, as well as to discuss our request for reconsideration of the SSI Rule. Our May 24 petition lays out a path that we believe allows EPA to legally and defensibly stay and reconsider the final SSI rule and we strongly encourage the Agency to pursue that option. The nation's urban municipalities have been strong partners with EPA for nearly 40 years in pursuing environmental protection, and we look forward to building on this record of success and to continued work with the Agency on this important issue.

Please do not hesitate to contact me at kkirk@nacwa.org or 202/833-2672 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk".

Ken Kirk
Executive Director

Attachments

CC: Bill Daley, White House Chief of Staff
Nancy Sutley, Chair, White House Council on Environmental Quality
Jacob Lew, Director, White House Office of Management and Budget
Cass Sunstein, Administrator, OMB Office of Information and Regulatory Affairs
Avi Garbow, Deputy General Counsel, EPA
Gina McCarthy, Assistant Administrator, EPA Office of Air and Radiation
Nancy Stoner, Acting Assistant Administrator, EPA Office of Water
Bob Perciasepe, Deputy Administrator, EPA

Communities Operating Sewage Sludge Incinerators in the United States

Alaska

Anchorage
Juneau
Wrangell

California

Martinez
Palo Alto

Connecticut

Cromwell
Hartford
Naugatuck
New Haven
Waterbury
West Haven

Georgia

Atlanta
Savannah
Smyrna

Iowa

Cedar Rapids
Dubuque

Indiana

Indianapolis

Kansas

Kansas City

Louisiana

New Orleans

Massachusetts

Fitchburg
Lynn
Millbury

Maryland

Berlin
Upper Marlboro

Michigan

Ann Arbor
Battle Creek
Detroit
Flint
Pontiac
Port Huron
Trenton
Warren
Ypsilanti

Minnesota

Saint Paul

Missouri

Independence
Kansas City

St. Louis

North Carolina

Asheville
Concord
McLeansville

New Hampshire

Manchester

New Jersey

Atlantic City
Bridgewater
Camden
Lincoln Park
Parsippany
Princeton
Union Beach
Waldwick
Wayne
West Deptford Township

New York

Albany
Auburn
Beacon
Buffalo
Glen Falls
Mechanicville
New Rochelle
Orangeburg
Ossining
Oswego
Port Chester
Port Washington
Rochester
Schenectady
Tonawanda
Utica
West Babylon

Ohio

Canton
Cincinnati
Cleveland
Columbus
Cuyahoga Heights
Eastlake
Euclid
Lockbourne
Youngstown

Pennsylvania

Chester
Colmar
Erie
Hazelton

Leechburg

Norristown

Pittsburgh

Tyrone

Wilkes-Barre

Willow Grove

Puerto Rico

Santurce

Rhode Island

Cranston
Woonsocket

South Carolina

Charleston
Columbia
North Charleston

Virginia

Blacksburg
Hopewell
Lorton
Newport News
Norfolk
Virginia Beach
Williamsburg
Woodbridge

Washington

Anacortes
Bellingham
Edmonds
Lynnwood
Vancouver

Wisconsin

DePere
Green Bay

West Virginia

Huntington