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May 24, 2013

Assistant Attorney General

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U.S. Department of Justice

P.O. Box 7611

Washington, DC 20044-7611

Submitted via E-Mail to pubcomment-ees.enrd@usdoj.gov

Re: United States v. Seattle, Washington;

D.J. Ref. No. 90-5-1-1-10066

The National Association of Clean Water Agencies (NACWA) is pleased to provide these comments in support of the proposed consent decree in *United States, et al. v City of Seattle* (W.D. Wash., Civ. No. 2:13-cv-00678). NACWA is a national advocacy organization working on behalf of the nation's publicly owned wastewater and stormwater utilities, with nearly 300 municipal member agencies nationwide including the City of Seattle. NACWA's members are true environmental leaders, working on the front lines every day to protect the environment and public health, improve water quality, and serve their communities.

NACWA commends Seattle, the U.S. Department of Justice (DOJ), and the U.S. Environmental Protection Agency (EPA) for negotiating an innovative consent decree that will achieve tangible environmental benefits while also being responsive to the needs of Seattle's citizens. NACWA is especially supportive of the decree's language on integrated planning, modification due to changes in financial circumstances, and capacity, management, operation, and maintenance (CMOM) issues, and believes the approaches outlined in the document could serve as valuable models for other communities seeking to address similar issues in future enforcement discussions. The proposed agreement provides a rational path forward that will allow Seattle to prioritize its wet weather investments while also ensuring the city's ratepayers receive meaningful water quality improvements in return.

The integrated planning approach recently endorsed by EPA is a critical tool in providing more flexibility and smarter investment for communities under wet weather consent decrees. NACWA has been a leading advocate for integrated planning, and is pleased to see such clear language in the proposed decree embracing the approach and recognizing its value in helping municipal governments meet their Clean Water Act obligations. This language demonstrates a clear commitment from DOJ and EPA to support integrated planning as a way to achieve clean water goals in a smarter, more cost-effective way. The environmental, economic, and social benefits of this approach will be evident to the city and its citizens for decades to come.

May 24, 2013

Page 2 of 2

Seattle has already taken important steps in developing a robust integrated plan, and NACWA looks forward to continued support of the city as it works to be a leader in this area.

NACWA also is very pleased with and supportive of the decree's language allowing revision of the priority and sequencing of projects under certain conditions, as well as the ability to request an extension of certain deadlines due to adverse changes in the city's financial circumstances or other financial issues. These provisions not only ensure that investments made under the decree will be done in the most responsible, prioritized fashion, but also acknowledge that future financial considerations not currently foreseeable may necessitate additional time to meet all of the decree's obligations.

Seattle has long been a leader in responsible collection system and asset management policies, and the CMOM Performance Program Plan outlined in the proposed decree appropriately reflects the city's commitment to effectively addressing sanitary sewer overflow (SSO) concerns. NACWA strongly supports the performance based, adaptive management approach contained in the CMOM plan. By addressing CMOM through use of asset management principles and risk assessment, the proposed decree allows the city to deal with SSO issues through prioritization based on actual maintenance, rehabilitation and repair needs of the system and not through arbitrarily established metrics. NACWA believes this type of performance-based CMOM plan will ultimately provide faster, more effective and more cost-efficient reductions in SSOs.

NACWA appreciates the opportunity to provide these comments on the proposed decree, and encourages its approval by the court as quickly as possible. If you have any questions about these comments or would like to discuss them further, please do not hesitate to contact me at ngardner-andrews@nacwa.org or 202-833-3692.

Sincerely,

A handwritten signature in black ink, reading "Nathan Gardner-Andrews". The signature is written in a cursive, flowing style.

Nathan Gardner-Andrews
General Counsel