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Ken Kirk

October 16, 2014

Dan Engelberg, Director

Water Evaluations

Office of Program Evaluation

US Environmental Protection Agency, Office of Inspector General

1200 Pennsylvania Avenue, NW

Washington, DC 20460

Re: Project No. OPE-FY14-0045, Municipal Sewer Systems – Consent Decree Progress and Challenges

Dear Director Engelberg:

The National Association of Clean Water Agencies (NACWA) is aware of the above-referenced project by the Office of Inspector General (OIG). NACWA represents the nation's municipal clean water utilities, including publicly-owned treatment works (POTWs) that treat wastewater and municipal separate storm sewer system (MS4) utilities that manage urban stormwater. NACWA's nearly 300 member agencies provide the majority of the U.S. population with reliable sewer service and collectively treat and reclaim over 18 billion gallons of wastewater each day.

NACWA requests the opportunity meet with OIG as it researches and evaluates EPA's consent decree program for municipal sewer systems. Many NACWA members are currently under federal consent decree or enforcement order to address municipal sewer system overflows, and accordingly NACWA has a unique perspective to offer OIG in its investigation into the effectiveness of EPA's municipal wet weather enforcement programs. NACWA has spent significant time and resources over the last two decades studying and analyzing the consent decree program, including assembling the most comprehensive collection of municipal wet weather consent decrees in an online library. Given this wealth of knowledge and expertise, NACWA can provide a helpful perspective to OIG as part of the ongoing investigation. While we understand OIG staff have already begun to conduct interviews of certain NACWA member utilities around the country, we also request the opportunity to meet with OIG personnel here in Washington to provide our valuable insights on this important issue.

Our understanding is that the stated objective of OIG's work is "to determine what results the major municipal stormwater improvement programs have had on compliance and environmental quality" by addressing two questions:

- How are selected municipalities implementing consent decrees issued under the EPA's enforcement initiative to keep raw sewage and contaminated

stormwater out of the nation's waters, and are they achieving milestones and anticipated outcomes?

- What opportunities exist for the EPA to improve the efficiency and effectiveness of its tracking of the progress of consent decree implementation and outcomes?

NACWA shares EPA's desire to ensure the overall effectiveness of the federal consent decree program, and we appreciate OIG conducting research and evaluation on this critical question. At the same time, we believe the ultimate metrics of success for federal consent decrees – and whether individual communities under decree are achieving milestones and anticipated outcomes – need to include a broad examination not only of environmental benefits but also of the economic and social impacts of these enforcement programs on local communities.

While the desired outcomes of EPA's enforcement initiatives are environmental protection and water quality improvement, these goals must be achieved in a way that is cost-effective and recognizes the very real economic challenges facing communities across the nation. EPA has taken significant steps in recent years to recognize these challenges, most notably in the Agency's adoption of the Integrated Planning Framework, and NACWA encourages OIG to embrace this more holistic view of enforcement efforts as part its ongoing research.

The OIG audit will have a direct impact on NACWA's public agency members either through their participation in the audit or as a result of the final report. Thus, we encourage OIG to consider input from NACWA to ensure that the investigation takes into account the most appropriate factors to best gauge the success of EPA's municipal wet weather enforcement program.

Thank you for your consideration of these issues. If you have any questions, please contact Nathan Gardner-Andrews at 202/833-3692 or ngardner-andrews@nacwa.org, or Amanda Waters at 202/530-2758 or awaters@nacwa.org.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk". The signature is stylized with a large "K" and a cursive "Kirk".

Ken Kirk
Executive Director

CC: Cynthia Giles, Assistant Administrator, Office of Enforcement and Compliance Assurance
Ken Kopocis, Deputy Assistant Administrator, Office of Water