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Consent Decree Negotiations – What Works and What Doesn't

NACWA Wet Weather CD Workshop

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Find your story and tell it

- 5 W's – who, what, where, when and why
- Must be accurate and supportable
- Be prepared to tell it over and over – educate
- Use your story to shape your outcome
- Don't forget the “other children”

Tailor to your community's needs

- One size fits one
- Build the case for what will work in your system and community to:
 - Reduce SSOs
 - Minimize CSO impacts
 - Control storm water
 - Address EJ concerns
- Sets the stage for dealing with model language

Be a team

- Present a unified front, always
 - Government as a family
- Have a leader and let them lead
- Understand everyone's role
 - At the table
 - In the background
- Carnegie Hall – over prepare and practice
- Get comfortable saying “no”

Build and use your leverage

- Government has a big stick, but....
- Demonstrate willingness to litigate
- Get ahead and stay ahead
 - Have an “investment” approach
- Be clear about what you can and cannot live with - articulate the principles of your position
 - Reasonable, fair, makes sense to community, solves issues
- Creates power for dealing with model language

Know the history and basis

- CDs are generational
- Government positions & interpretations evolve
- Insist on the most favored nation discussion
- Understand the “why” of government’s position
 - E.g., “Excessive I&I”
 - E.g., Regional concerns/emphasis
- Know what is important and what is negotiable

Innovate

- Develop new tools to deal with immovable government positions
 - The genesis of SEPS
 - Maximizing certainty and flexibility
 - Recipes for complex work
 - Modification language
 - Adaptive management principles
- Create options to standard boilerplate

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Questions?
Thank you!

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