

Mr. Tracy Mehan
Assistant Administrator for Water
U.S. Environmental Protection Agency
4101, Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

**Re: EPA Clarification of Secondary Treatment Rule
Application to Peak Excess Flow Treatment Facilities**

Dear Mr. Mehan:

Johnson County, Kansas, has historically utilized peak excess flow treatment facilities (PEFTFs) as a means of dealing with wet weather flows which would otherwise exceed the capacity of the sewer system and discharge untreated wastewater to the receiving waters. The use of PEFTFs has been extremely effective in minimizing the direct human exposure to untreated overflows. Studies undertaken by Johnson County document the advantages of using such facilities, as referenced in EPA's report entitled *Performance of Peak Excess Flow Treatment Facilities Serving Sanitary Sewer Collection Systems* (Oct. 14, 1999), which was referred to in EPA's draft SSO regulation. As in our case, PEFTFs are a cost effective, practical solution to overflow concerns.

We understand that the State of Pennsylvania and EPA Region III are advocating a position that, although never set forth in EPA's draft regulation or in any existing regulation, would (1) require as a national standard that all discharges from a PEFTF be subject to biological treatment and (2) in effect preclude less restrictive percent removal requirements authorized by the current secondary treatment rules for non-biological facilities. We strongly object to the concept that biological treatment be required for all PEFTF discharges or that the approval of modified percent removal limitations require such techniques under current rules.

Like other municipalities throughout the country, Johnson County uses biological treatment to address its day-to-day wastewater treatment needs. These facilities perform quite well and are consistent with secondary rule objectives. The existing rules, however, never addresses how to process infrequent peak flows and, in fact, the rules contain no short-term limitations on plant performance or restriction on treatment options to address such conditions. Consequently, a wide range of design alternatives have been used to effectively process peak flows while maintaining good treatment under normal operating conditions.

As discussed in various EPA SSO documents, biological treatment is typically infeasible for addressing intermittent flows and would perform no better than physical/chemical treatment under peak flow conditions. Consequently, the EPA SSO FACA group addressing PEFTFs identified a series of technologies, mostly

physical/chemical, as the most cost effective means for treating infrequent events. EPA never suggested that PEFTFs must provide biological treatment. Moreover, it has been a long-standing Clean Water Act interpretation that publicly owned treatment works (POTWs) were not restricted in the choice of treatment process as long as applicable effluent limitations were being met. Thus, mandating biological treatment for all flows would be a major regulatory change and preclude a range of innovative technologies now available to address peak wet weather flows.

EPA's March 2, 2001 letter to Congressman Gekas makes it clear that the secondary treatment regulations do not mandate any specific type of treatment process that must be used nor do they preclude non-biological facilities from receiving adjusted percent removal limitations. Interpreting the secondary rule to achieve the opposite result is untenable. To require Johnson County's PEFTFs to utilize biological treatment will waste millions in existing infrastructure improvements and effectively preclude the use of PEFTFs, thereby promoting the discharge of raw sewage during peak rain events – a concern that we had made significant progress in preventing.

Therefore, we strongly urge you to reaffirm EPA's practice of allowing non-biological treatment at PEFTFs and the reasonable approval of modified percent removal limitations, as specified in the letter to Cong. Gekas. To require otherwise would be a step backward in environmental protection.

Sincerely,

Douglas L. Smith
Wastewater Administrator

cc: John Metzler, Chief Engineer
John O'Neil, Operation and Maintenance Director
Roger Tarbutton, Assistant County Counselor