

## Attachment D

### FY 2009 Critical Issues Action Initiative

In FY 2009, the day-to-day operations of NACWA will be supported in the preliminary General Fund Budget by a 3.5% dues increase for Public Member Agencies and Public Affiliates, an updated dues structure for Corporate Affiliates, and a 5.5% dues increase for Legal Affiliates. Beyond the day-to-day, it is becoming increasingly clear that legislative, regulatory and legal activities will challenge traditional ways of doing business and place increasing pressures on clean water utilities across the country. Public policy will be actively and aggressively moving forward in the areas of nutrients, climate change, pharmaceuticals, watershed management, infrastructure sustainability and security – and clean water agencies must not only have a seat at the table, but they must also be prepared to effectively and articulately fashion the future of clean water in this country. The potential financial and operational impact on NACWA member agencies is great – and the significant benefits from a targeted advocacy agenda on these issues cannot be understated.

The necessary level of engagement for the Association will, of course, have a price tag. These costs, however, will be dwarfed by the financial impact on public clean water utilities if NACWA is unprepared or under-prepared to defend its member's interests. With this in mind, the Association's Board of Directors has endorsed the *Critical Issues Action Initiative* which follows. It identifies specific projects, estimates their costs, and quantifies their potential benefit to NACWA Member Agencies. Whether you call it 'bang for the buck' or 'economy of scale', we believe that – with the support of clean water agencies – NACWA can generate the data and provide the expertise and analysis needed to ensure your interests are effectively represented. The potential benefits of this level of targeted action are great – and the potential consequences of inaction – both financial and environmental – are significant.

We hope your utility will respond affirmatively to our request to voluntarily support the FY 2009 *Critical Issues Action Initiative* based upon the recommended minimum funding levels provided at the conclusion of this document.

### Proposed Initiative – Nutrient Legal Analysis and Control Evaluation

Estimated Funding: \$60,000

NACWA has identified the need to outline a set of strong technical and legal arguments against the modification of the definition of secondary treatment to address nutrient discharges at clean water agencies. To compliment this analysis, NACWA would develop a set of action-oriented recommendations detailing why the current nutrient problem will not be solved until nonpoint sources of nutrients can be fully controlled and how those controls should be developed. NACWA's arguments would focus on how the rush to require across the board reductions in nutrients at point sources contradicts the intent of the Clean Water Act, would result in very little water quality benefit, and would lead to more environmental harm due to the energy, chemical, and water intensive processes that are now considered the best technological solutions for removing nutrients.

### Benefits to the Membership

It is now clear that in the coming months the question of whether the definition of secondary treatment for clean water agencies should address nutrients will be the subject of litigation at the national level. A legal analysis of the original secondary treatment requirements, a detailed review of the Congressional record on the intent behind the Clean Water Act requirements, and an outline of potential legal arguments against modifying the definition of secondary treatment will provide NACWA and its members with information critical to preventing a wholesale rewriting of the treatment requirements for clean water agencies.

NACWA's members would also benefit from a critical comparative analysis of the costs associated with nutrient control for both point and nonpoint sources. Investment in nonpoint source controls will in most cases achieve greater reductions at less cost – and add the numerous ancillary benefits that come along with nonpoint source control options. The opportunities for clean water agencies to make these arguments in their own watersheds and a discussion of the growing concerns over climate change and the increased power and chemical usage associated with technological solutions for nutrients will also be provided.

### Background

Recent events at the regional and national level have intensified NACWA's focus on the issue of nutrient pollution. The most critical developments were the Natural Resources Defense Council (NRDC) petition for rulemaking seeking revisions to the definition of secondary treatment to address nutrients and the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) letter on technology-based approaches. Much of the effort to control nutrient pollution continues to rely heavily on point source contributions, namely wastewater treatment plants, to achieve the bulk of the necessary reductions. With EPA now working to respond to the NRDC petition, the battle lines are being drawn for major litigation that will seek to revise the secondary treatment requirements for the nation's clean water agencies to address nutrients. What is still missing from the current national dialogue on nutrient pollution is a true recognition of the disproportionately large contribution of nutrients from nonpoint sources. The Farm Bill, which contains funding for controlling pollution from nonpoint sources, does provide opportunities. Its subsidies and other support programs that will result in increased farm acreage being dedicated to corn and the additional fertilizers that are necessary to support that crop, however, present additional challenges.

### Proposed Initiative – Climate Change Primer/Tapping the Carbon Market

Estimated Funding: \$50,000

In FY 2009, NACWA proposes to create a Climate Change Primer designed to help municipal clean water utilities better understand how emerging climate change legislation and regulation will affect their operations. The primer would include information on both cost-saving practices and potential new revenue sources through carbon exchanges and other mechanisms.

### Benefits to the Membership

This Primer will save NACWA members money by helping them understand how they will be affected by new climate change initiatives and will also help utilities discover the potential for new sources of revenue by engaging in emerging carbon credit markets. The Primer will better educate clean water utilities about these issues and potential sources of new revenue, specifically outlining the impacts recent legislation and

initiatives will have on member agencies and outlining the significant opportunities available for members. These opportunities include the ability under a likely federal cap-and-trade system for clean water utilities to capture many of the greenhouse gases they produce, such as methane, and earn credits which could then be sold on a carbon market like the Chicago Climate Exchange. The Primer will address the regulatory and legal issues a utility should consider when looking at entering the carbon market, as well as providing technical information on how utilities can capture their emissions in a way that allows them to generate carbon credits.

### Background

Climate change issues continue to gain increased attention at the state, regional, and national levels. From the federal perspective, the first major piece of climate change legislation is expected to be debated on the floor of the U.S. Senate in June, and all of the remaining presidential candidates have made climate change a central theme in their campaigns, setting the stage for significant federal climate change action next year. From the state and regional perspective, many states have taken even more aggressive legislative and regulatory actions on climate change and some have formed regional groups to broaden the impact of their actions. However, as climate change issues gain increased attention at all levels of government, many clean water agencies may be unaware of how these new initiatives will affect their operations and of the many challenges and opportunities presented in the new climate change framework. It is vital that clean water utilities become better educated about these issues and engage in the ongoing discussion to ensure that their interests are protected. Publication of the NACWA Climate Change Primer will be a key element in helping the Association's membership benefit from developments in the climate change arena.

### Proposed Initiative: Greenhouse Gas Emissions Inventory Review

Estimated Funding: \$20,000

This effort would serve to develop more comprehensive arguments for revising the U.S. Environmental Protection Agency's (EPA) annual *Inventory of U.S. Greenhouse Gas Emissions and Sinks*. This would involve collecting more detailed nitrogen loading information, establishing more detailed justification for changing the methane emissions data, and responding to questions EPA raises regarding the Association's recommendations.

### Benefit to Members

The project may lead to lower estimates of greenhouse gas emissions from wastewater treatment in the *Inventory*, which may ultimately save NACWA members from being subjected to unnecessary regulations to curb emissions.

### Background

EPA's annual *Inventory of U.S. Greenhouse Gas Emissions and Sinks* is currently used only for information purposes, but may become a part of regulatory actions in the future as concern about climate change continues to increase at all levels of government. Under a now-completed Targeted Action Fund (TAF) project, NACWA reviewed the two most recent *Inventories*, for the years 2005 and 2006. The wastewater treatment category, which includes municipal and industrial wastewater for all types of treatment processes, was listed as the sixth largest source of nitrous oxide and the seventh largest source of methane in both of these *Inventories*. NACWA submitted comments on both of these *Inventories*, explaining why the wastewater

treatment estimates are currently too high, and has met with EPA to discuss the comments and EPA's estimation methods.

For the 2006 *Inventory*, NACWA included in its comments a summary of nitrogen loading data for 48 U.S. wastewater treatment facilities. The nitrogen loading level leads directly to the estimation of the nitrous oxide emissions in the *Inventory*, and NACWA's data and standard industry values for nitrogen loading are less than half the value currently used by EPA. EPA agrees that the data provided by NACWA provides an initial basis for reconsidering the nitrous oxide emissions estimates, but more detail will be needed before EPA can deviate from the internationally-accepted emissions methodology. EPA has stated a willingness to continue working with NACWA on reviewing relevant data and considering revisions to the *Inventory* that would lead to more accurate emissions estimates for wastewater treatment. This project would provide that data and further justification for *Inventory* revisions.

### **Proposed Initiative – Peer Review – Pharmaceuticals in the Water Environment** Estimated Funding: \$100,000

NACWA is proposing to convene a peer review panel to develop a fact-based assessment regarding pharmaceuticals in the water environment, in coordination with partners from the drinking water community. An action-oriented report, outlining a series of recommendations to guide the efforts of the water sector on this issue, would result from this process.

#### **Benefits to the Membership**

The report would be immediately useful to NACWA member agencies, the national advocacy efforts of the Association, and the broader water sector. A similar effort conducted in the early 1990s relating to biosolids was instrumental in significantly influencing the ultimate content and structure for the Part 503 regulations. NACWA believes that having a single, water sector action plan on pharmaceuticals in the water environment would be a valuable tool for working with the press, the U.S. Environmental Protection Agency (EPA), and Capitol Hill, and provide the membership with a clear understanding of this complex issue.

#### **Background**

Recent press coverage has focused the nation's attention on this issue, which the water sector has been closely tracking for years. The presence of trace levels of pharmaceuticals in the nation's drinking water supply has garnered more scrutiny now that our analytical capabilities can detect these substances at the parts per billion and parts per trillion levels. Concentrations are low and researchers have ruled out any short-term human health impacts, but the presence of the contaminants over the long-term and the potential impacts on aquatic life in source waters remain the subject of significant ongoing research.

Through a series of in-person meetings and conference calls, the expert panel would review and discuss existing research, policy, and public opinion on the issue of pharmaceuticals in drinking water and the broader water environment. The panel would consist of researchers, policymakers, academics and representatives from the water utility, pharmaceutical, and medical communities. The peer review panel would develop an action report to provide the water sector a clear statement of existing knowledge on the subject and a set of recommendations or 'road map' for establishing a coordinated water sector approach to further addressing the issue.

## **Proposed Initiative – Product Stewardship Institute Dialogue on Pharmaceuticals**

**Estimated Funding: \$20,000**

NACWA is proposing to this effort ensure that the Product Stewardship Institute's dialogue on unused pharmaceuticals and take back programs is a success, and that commitments are obtained from each stakeholder to develop a national program for managing unused pharmaceuticals.

### **Benefits to the Membership**

Over the next few years clean water agencies will increasingly be looked to as a possible solution for controlling the level of pharmaceuticals in the environment. Having a national program for the collection of unused pharmaceuticals would allow widespread participation without requiring individual communities to develop and commit resources to their own programs. The communication this dialogue will foster among the various stakeholders, including the pharmaceutical industry, will be extremely valuable both for establishing a take back program and for ensuring that these key stakeholders have established lines of communication to address future issues that are likely to arise relating to pharmaceuticals in the environment.

### **Background**

With the increasing focus being placed on the presence of emerging contaminants, including pharmaceuticals, in municipal wastewater effluent, many of NACWA's members have begun to develop their own programs for encouraging the proper handling of unused pharmaceuticals. These efforts are targeted at preventing the flushing of these waste pharmaceuticals into the sewer system. In some cases, members have developed their own collection programs or have integrated pharmaceuticals into existing hazardous waste collection programs.

The Product Stewardship Institute, a national non-profit organization that has successfully led efforts to develop national collection programs for other wastes, is convening interested stakeholders for a series of four dialogue meetings on the possible development of a national take back program for pharmaceuticals. NACWA has already supported this effort with a \$5,000 contribution in 2008, but believes support of an additional \$20,000 is warranted. The four dialogue meetings are expected to cost a total of \$100,000 and NACWA believes that a significant commitment of \$20,000 from the clean water community would ensure the Institute meets its ultimate goal.

## **Proposed Initiatives – Viable Watershed Strategy Outreach**

**Estimated Funding: \$30,000**

NACWA has identified the need to develop outreach publications to ensure that its members, key stakeholders and national policymakers are fully aware of the need for a national watershed approach. Activities would include a study demonstrating how the two key policies inherent in a watershed approach – cost-effectiveness and net environmental benefit – can form the basis for a viable watershed strategy.

### **Benefits to Membership**

NACWA members would be the primary beneficiaries of a viable watershed approach. Such an approach would afford public agencies the opportunity to invest in areas that will achieve the maximum environmental benefit. Additionally, only a watershed approach can bring all parties to the table and assess

responsibility for water quality impairments — including agriculture, air deposition, construction sites, etc. — and address such pollution based on each contributor's impacts.

### Background

NACWA's Strategic Watershed Task Force released, last year, its *Recommendations for a Viable and Vital 21<sup>st</sup> Century Clean Water Policy* making key long-term and short-term recommendations toward an implementable watershed approach. Following up on this important document, the Task Force is working on an outline of a Watershed Act, incorporating the recommendations from the report. As this effort progresses, it is increasingly clear that the "command and control" nature of the Clean Water Act is incapable of meeting 21<sup>st</sup> century challenges. Also, NACWA members, and the industry as a whole, has become more aware of the fact that "water is water" and that the "silo" approach for wastewater, drinking water, and stormwater management must be broken down to meet increasingly complex water quality and quantity challenges. As our knowledge of the many sources of water pollution improves, it is clear that only a watershed approach can meet the next generation of challenges and these proposed watershed initiatives will make sure the clean water community's voice is heard.

### Proposed Initiative – Sustainable Infrastructure

Estimated Funding: \$50,000

This initiative would create a website for a targeted campaign on behalf of increased federal clean water funding. Funds would also be used to help populate the website with key tools – making the site as a unique forum for a coalition of utilities that will help communicate the importance of infrastructure funding to key members of Congress and local stakeholders. Each utility in the coalition would have a point person to help coordinate activities at the local level in support of increased federal clean water funding.

### Benefits to the Membership

The primary benefit of this campaign is increased federal funding for water and wastewater infrastructure to help address repair and replacement, as well as increasingly costly mandates. On a more practical level, the website can serve as a repository for materials wastewater treatment utilities can use to enhance their advocacy, including model letters to members of Congress from utility executives or local officials and information on generating media attention. The website will also offer a unique forum for a coalition of utilities to share strategies and messages that work. These utility coalition members would engage in monthly conference calls to get updates on legislative activities and could receive updates through the website as well. The coalition would also play a vital role in encouraging public television stations and local cable channels to air "Liquid Assets," the Penn State University documentary on the water and wastewater infrastructure crisis, generate local editorial board support, and do outreach to the public and local business groups, garnering a broader awareness and support for the vital work of clean water utilities.

### Background

As activity heats up to push for a federal recommitment to clean water, both in the upcoming presidential and congressional elections and in the 111<sup>th</sup> Congress that will be seated next year, this new initiative will provide a strong tool to help utilities articulate the needs and concerns of the clean water community. Discussion on Capitol Hill has focused on increased investment through several vehicles: reauthorizing the clean water state revolving loan fund (CWSRF); the development of a federal infrastructure bank; the

creation of a national capital budget similar to those that exist at the state level to ensure infrastructure investment; and also work toward the introduction of a clean water trust fund bill. Legislation is expected to be introduced this year on behalf of a trust fund and the Association must continue to provide leadership on this and other federal funding initiatives. The next Congress will be pivotal with regard to new funding initiatives and NACWA needs to be prepared to help push funding legislation through the process.

### **Proposed Initiative: Advocacy Paper on Chlorine Gas and Other Chemicals versus “Inherently Safer Technologies”**

Estimated Cost: \$20,000

NACWA has identified the need for an advocacy paper that would provide detailed explanations for the technical, financial, and security factors which utilities must consider when choosing a chemical process, particularly for disinfection. For example, while switching from chlorine gas to UV disinfection decreases use of chemicals, it requires more electricity, a stable power source, and clear effluent that is free of fats, oils, and greases.

#### **Benefits to Members**

Successful advocacy to preserve local choice of disinfection and other treatment methods will protect utilities from mandatory conversion to inherently safer technologies. It is essential that each facility be allowed to individually consider disinfection method and other chemical use, considering all relevant factors, and make the most appropriate choice for their community.

#### **Background**

Water and wastewater treatment facilities are exempted from the current Chemical Facilities Anti-Terrorism Standards (CFATS); however, the current CFATS sunset in 2009 and Congress is considering new legislation that does not exempt water sector utilities. New legislation may also require utilities to switch from chlorine gas and other chemical use to “inherently safer technologies” (IST).

NACWA worked with other water sector associations to survey drinking water and wastewater utilities about their security procedures regarding chlorine gas and other chemicals, and the information collected from the survey has been valuable in showing that utilities are already taking proactive security measures. NACWA continues to advocate for water utilities to remain exempt from security regulations that apply to other chemical facilities and to have disinfection method and other treatment technologies remain a matter of local choice. However, more detailed information is needed to demonstrate to Congress, the Department of Homeland Security (DHS), and the U.S. Environmental Protection Agency (EPA) that switching from chlorine gas or other chemicals to IST can be extremely difficult technically and financially, without significant security benefits. Since this issue affects all water sector utilities, NACWA may be able to involve other sector associations in the project, leading to a unified water sector message on chlorine gas and inherently safer technologies.

### **Advocacy & Litigation to Play Important Roles**

Estimated Funding: \$50,000

All of the preceding *Critical Issues Action Initiative*, whether on behalf of chemical security, the watershed approach, climate change, or nutrients will demand key additional legislative advocacy support. NACWA

anticipates that the 111<sup>th</sup> Congress and a new Administration at the U.S. Environmental Protection Agency (EPA) will warrant increased proactive and reactive advocacy activity. Additionally, NACWA will need to be actively engaged in litigation to protect its member's interests and ensure that the clean water community is not forced to spend billions of dollars on unnecessary treatment technologies or overly regulated biosolids disposal. Involvement in litigation affecting the interests of our members is a key component to NACWA's advocacy, and FY 2009 promises to be active year in the nation's courts on clean water issues – in particular with regard to nutrients and biosolids. NACWA will need to stand ready to represent the interests of our members.

### Moving the FY 2009 Critical Issues Action Initiative Forward

When totaled, the projects identified in the *Critical Issues Action Initiative* call for \$400,000 in funding. These funds will be raised through the **voluntary** support of NACWA Member Agencies coupled with \$100,000 in FY 2009 Targeted Action Funds and a transfer of up to \$100,000 from operating reserves. The *Initiative* complements projects underway and anticipated to be funded through the Association's Targeted Action Fund and significantly strengthens NACWA's ability to effectively represent its member's interests.

The following **voluntary** minimum level of support is requested in support of the *FY 2009 Critical Issues Action Initiative*. FY 2009 dues invoices, forwarded to the membership in mid-September, will offer the option of including your support for the *Critical Issues Action Initiative* as part of your FY 2009 total dues payment – as well as the option to pay membership dues only.

We hope you will join your colleagues in moving this important initiative forward. Thank you, in advance, for your support.

#### FY 2009 CRITICAL ISSUES ACTION INITIATIVE FUNDING

Service Area Population	Recommended Minimum
≥ 5,000,000	\$10,000
≥ 2,000,000	\$7,500
≥ 1,000,000	\$5,000
≥ 500,000	\$2,500
≥ 250,000	\$1,250
≥ 100,000	\$625
≥ 50,000	\$375
≥ 25,000	\$250
< 25,000	\$125