

TAF Project Overview and Status Report Current to June 4, 2008

Air Quality and Climate Change

Review of EPA Greenhouse Gas Emission Estimate for POTWs

In FY 2007, \$5,000 from the TAF and \$5,000 from the GARRF was used to retain a consultant to review the estimation methods for wastewater treatment emissions used by EPA in its annual *Inventory of U.S.*

Greenhouse Gas Emissions and Sinks. Although the current inventory is only used for information purposes, the increasing attention given to climate change at all levels of government may make the *Inventory* more significant to regulatory actions in the future. With wastewater treatment listed as the sixth largest source of nitrous oxide and the seventh largest source of methane in the most recent *Inventory*, clean water agencies could potentially be targeted for greenhouse gas controls.

NACWA's review of the *Inventory* found that the estimates for wastewater treatment emissions are too high, due to conservative factors used in the calculations. NACWA outlined its concerns in comments on the expert review draft of the 2005 *Inventory* and in revised comments on the public review draft. For its comments on the 2006 *Inventory*, NACWA collected nitrogen loading data from 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. This project is complete, although a new TAF project will likely be proposed to continue collecting more detailed emissions information for revising the estimation methods used in the *Inventory*.

Biosolids Management

Biosolids Management: Options, Opportunities & Challenges – A NACWA Handbook

\$52,000 (FY 2004 & FY 2005) was allocated to this publication. \$5,000 (FY 2006) in General Legal funds also were expended to complete editing of this publication. NACWA released the *Handbook* to the membership in early September 2006. The resource provides useful background on biosolids management and on federal and state biosolids programs, and addresses key regulatory and legal developments in the areas of biosolids land application, incineration, distribution and marketing, landfilling, and selected other management approaches. The publication also includes an accompanying on-line *e-Library*. This project is complete and no additional funding is proposed.

Facility and Collection Systems

Financial Capability and Affordability Advocacy Effort

The NACWA Board approved \$10,000 from the TAF in FY 2006 and an additional \$10,000 in FY 2007 to further develop the recommendations and concepts outlined in NACWA's White Paper on *Financial Capability and Affordability in Wet Weather Negotiations*. Since that *White Paper* was released, it has received significant attention from EPA and the Environmental Financial Advisory Board. Most recently, during the NACWA/Wet Weather Partnership CSO Workshop in Chicago, Ben Grumbles, Assistant Administrator for EPA's Office of Water, referenced the *White Paper* and how it would factor into the Agency's decision-making process as it worked to 'revise' the 1997 document, *Combined Sewer Overflows - Guidance for Financial Capability Assessment and Schedule of Development*.

This is a critical guidance document that is referenced in nearly every federal consent decree where the affordability of the proposed controls is questioned. NACWA has advocated for years, most recently in its *White Paper*, that EPA's affordability considerations must be more holistic, and consider more than just CSOs or SSOs in a vacuum. This new TAF effort was intended to influence EPA's efforts to potentially revise the 1997 guidance, though it also provides valuable guidance to the membership on negotiating financial capability conditions. The final compilation of new resources was distributed to the membership on December 11, 2007 via *Regulatory Alert* 07-06. This effort is now complete and no FY 2008 funds have been allocated to this project.

Issue Paper on Working with Satellite Communities

The NACWA Board of Directors approved \$20,000 in FY 2008 TAF funding to develop an issue paper on working with satellite communities. Many NACWA members working to control sanitary sewer overflows, infiltration and inflow, or other flow related issues, have experienced a number of challenges when communicating with satellite communities that are responsible for maintaining their own collection systems. The issue paper will outline the various challenges associated with these interactions and explore how regional authorities and other utilities working with satellite communities can improve their interactions with these communities and better address the entire collection system. Several clean water agencies have already successfully engaged their satellite communities through voluntary incentive programs, the imposition or allocation of flow limits, and education programs on better system management, and the paper will feature case studies on those approaches. NACWA's contractor for this effort is nearing completion of the initial draft and will highlight one of the case studies during the 2008 Summer Conference in Anchorage. The final paper will be made available to the NACWA membership via the NACWA website.

Development of Wet Weather Water Quality Standards

The NACWA Board approved \$10,000 in FY 2008 to retain a consultant to develop a strategy for establishing wet weather water quality standards. Under current EPA guidance, unrealistic low-flow data, such as EPA's recommended lowest one day flow in 10 years or the lowest average seven consecutive day low flow in 10 years, become design flows for sizing treatment plants, developing waste load allocations, and developing water quality-based effluent limitations. This problem is compounded when designing

appropriate treatment options and discharge limits for discharges that occur during wet weather, which by their nature are occurring at times of peak flows rather than low flows. Although Congress has asked EPA to address this issue, especially with reference to combined sewer overflows, EPA has not seriously considered new guidance for setting water quality standards. This TAF project will fund development of an issue paper that will describe the nature of the problem, including the historic development of water quality standards and how standards are set now. The paper will serve as the background document for a workshop of current and former EPA officials and select NACWA for developing recommendations and consensus on a plan for establishing wet weather water quality standards, with preliminary planning for the workshop also funded by this project. This project is ongoing, with a draft of the issue paper expected by the NACWA Summer Conference.

Collection System Core Practices

The NACWA Board approved \$10,000 in FY 2008 funding to support an ongoing effort to develop consensus or core practices for municipal sanitary sewer collection systems. Since August of 2007, members of NACWA's Facility & Collection System Committee have been working in collaboration with representatives from the Water Environment Federation (WEF) and the Water Environment Research Foundation (WERF) to explore the possibility of developing a set of industry consensus practices for the management of municipal sanitary sewer collection systems that could be formally accepted by the water sector organizations and used nationally to provide much needed consistency.

Since August, the NACWA/WEF/WERF workgroup has met on several occasions to discuss the scope, length, and format for the practices. Currently there is general agreement that the capacity, management, operations and maintenance or CMOM concept, which has been embraced by EPA and many states, provides an excellent starting point from which to craft the practices. A small workgroup is currently working to outline the draft practices document for consideration by collaborating organizations. Once the workgroup has reached agreement on a draft outline for the practices document, the workgroup is interested in engaging a broad group of stakeholders, including representatives from the environmental activist community, in the development and/or review of the practices to ensure buy-in before the practices are released. The TAF funding will be used to convene at least one facilitated discussion with this stakeholder group to solicit input.

Legislative/Regulatory Policy

National Biosolids Partnership

No Congressional funds will be made available for the National Biosolids Partnership (NBP) in Fiscal Year (FY) 2008. NACWA and the Water Environment Federation (WEF) are seeking to obtain discretionary funding in FY 2008 for the NBP from EPA and have already begun a strong advocacy push for congressional funding in FY 2009. The NBP Steering Committee has taken steps to ensure the sustainability of the Partnership and its programs during this interim period. NACWA will continue to utilize the services of an advocacy firm to supplement the lobbying efforts of NACWA and WEF to secure FY 2008 EPA funding and FY 2009 Congressional funding. Proposed funding for FY 2009 is the same as in previous years, \$15,000 from NACWA's Targeted Action Fund and \$15,000 from WEF.

Advocacy Support – Legislative/Regulatory Initiatives

NACWA utilizes the services of an advocacy firm to support the Association's efforts to advance its legislative and regulatory priorities. This is an ongoing expenditure with total approved funding of \$72,000 for FY 2008 and proposed funding of \$72,000 for FY 2009.

Water Infrastructure Network (WIN)

NACWA's financial contribution to WIN's FY 2008 budget is funding the services of an advocacy firm to advance the coalition's legislative goals. WIN is working with the leadership in Congress to advance clean water funding initiatives and to reintroduce clean water trust fund legislation in the 110th Congress. WIN is an ongoing expenditure with total funding of \$25,000 approved for FY 2008 and \$25,000 proposed for FY 2009.

Government Affairs Rapid Response Fund

The *Government Affairs Rapid Response Fund* (GARRF) provides NACWA with the ability to quickly respond to non-legal, time-sensitive issues. In FY 2008, the GARRF is already supporting continuing our advocacy on peak excess flow and sewage sludge incineration issues, as well as a scientific review of EPA's draft Greenhouse Gas Emission Inventory, among other key initiatives. The Board approved \$40,000 for the GARRF for FY 2008 activities. The proposed FY 2009 request of \$50,000 will be used to undertake time-sensitive priority projects to maximize the success of NACWA's key advocacy efforts. The requested amount is an increase over FY 2008 funded total of \$40,000, although an additional \$10,000 was placed into the Fund from NACWA revenue, which was used to support the joint NACWA/WEF/American Public Works Association (APWA) Clean Water Advocacy Center at WEFTEC. \$10,000 is expected to be used to support the advocacy center again in FY 2009.

Litigation/Legal Issues

General Legal Support

\$50,000 (FY 2008) is allocated to this line item. Thus far, \$13,022 of the funds has been expended on a variety of legal matters, including advocacy efforts on the wet weather peak flows policy, membership in the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) legal committee, litigation expenses related to the BEACH Act case, and legal work related to sewer sludge incinerator regulation. This line item is expected to be fully expended by the end of FY 2008. \$50,000 is being requested for this line item in the FY 2009 TAF budget.

Catskills Case (*Amicus* Brief)

This case concerning interbasin water transfers is now complete as a result of the U.S. Supreme Court's ruling in February 2007 that it would not accept the case for review. NACWA has expended all of the funds allocated in this line item. NACWA continues to await EPA's release of a final water transfer rule, which is expected in the coming weeks.

ELG Case (Intervention)

NACWA has spent a total of \$37,000 from the TAF since FY 2004 (plus \$15,800 in General Legal Support funds) on this significant litigation involving a challenge to EPA's actions under the Clean Water Act 304(m) effluent limitation guidelines (ELG) program. NACWA's participation helped lead to a key litigation victory in October 2007 when the U.S. Court of Appeals for the Ninth Circuit released a decision affirming EPA's current implementation of the ELG program, echoing the position taken by NACWA in its brief. The court released a revised opinion on May 23, reaffirming and broadening its earlier ruling and resulting in a complete victory on all of the issues NACWA raised in its brief. All funds allocated for this line item have been expended and no additional funds are currently allocated for FY 2008. A request for additional funds is not anticipated at this time but may be necessary if the case is appealed from the Ninth Circuit to the U.S. Supreme Court.

Healdsburg Case (*Amicus* Brief)

NACWA expended a total of \$1,500 (approved FY 2004, paid FY 2005) to contribute to the *City of Healdsburg (City) v. Northern California River Watch amicus curiae* brief. In the case, a federal district court held that the City, a NACWA member agency, needs an NPDES permit to discharge to its wastewater treatment percolation pond because the pond is connected to a "water of the United States" via groundwater. NACWA filed a joint brief in the appeal with the California Association of Sanitation Agencies (CASA) and the Association of California Water Agencies (ACWA). An unfavorable decision was released by the Ninth Circuit in August 2006. NACWA and other groups filed letters in September 2006 supporting the City's request for a rehearing, but the court denied rehearing in August 2007. The City unsuccessfully appealed the Ninth Circuit ruling to the U.S. Supreme Court for review in February 2008. This litigation item is now complete.

District of Columbia Stormwater Appeal

NACWA has expended a total of \$24,030 since 2005 on this appeal of a stormwater permit for the District of Columbia. \$12,232 of this amount has come from the TAF, while the other expenditures have come from \$11,798 in contributions from the National League of Cities (NLC), the National Association of Flood & Stormwater Management Agencies (NAFSMA), the Wet Weather Partnership (WWP), the West Virginia Municipal League (WVML), and the Virginia Municipal League (VML). The case was nearing a settlement last year but negotiations broke down in October 2007. As a result, EPA rescinded the controversial portions of the permit but is expected to reissue a new permit that will not contain numeric stormwater effluent limits. This will likely cause the environmental groups to challenge the permit once again, initiating a new round of litigation. \$2,000 in FY 2008 funds is currently allocated for this matter, of which \$988 has been spent. Additional TAF funds will likely be needed when the new permit is issued. NACWA will also approach its municipal partners in this case regarding additional contributions.

SD #1 *Amicus* Brief (CWA-SDWA Interplay)

\$15,180 is allocated in FY 2008 funds to participate as *amicus curiae* in this case involving the interplay between the CWA and the SDWA, *City of Cincinnati, OH (Greater Cincinnati Water Works (GCWW)) v. Sanitation*

District No. 1, KY (SD No. 1). The case focuses on a challenge by GCWW to a new wastewater treatment plant constructed by SD No. 1 located upstream from the GCWW drinking water plant. The parties have agreed to enter mediation in an attempt to resolve the dispute and the litigation is currently on hold. Accordingly, only \$263 has been expended thus far in FY 2008. If mediation fails, the remaining TAF allocation will be available for NACWA to support SD No. 1 in continued litigation.

DC WASA CSO Permit Appeal (*Amicus* Brief)

NACWA expended a total of \$12,000 in TAF funds (FY 2005 – FY 2008) to participate with the Combined Sewer Overflow Partnership (now the Wet Weather Partnership (WWP)) in the District of Columbia Water and Sewer Authority's (DCWASA's) Phase II CSO permit appeal before the US Environmental Appeals Board (EAB). This case focused on whether DCWASA's Phase II permit should include a compliance schedule for implementation of the city's long-term control plan as well as a compliance schedule for the implementation of stringent new nutrient limits. The EAB released a favorable decision in this case in March 2008, ordering EPA to reissue the permit with a compliance schedule for both the long-term control plan and the new nitrogen limits. No additional funds are requested at this time but may be necessary once the revised permit with the new compliance schedules is issued.

Minnesota Pre-TMDL Permitting Case (*Amicus* Brief)

A total of \$10,000 in FY 2006 funds was expended on a motion and *amicus curiae* brief for NACWA's successful involvement in *Cities of Annandale and Maple Lake (Cities) NPDES/SDS Permit Issuance* before the Minnesota Supreme Court. The court issued a favorable decision in May 2007, endorsing the position advocated by NACWA and ruling that the Minnesota Pollution Control Agency (MPCA) may use an "offset" analysis when issuing a National Pollutant Discharge Elimination System (NPDES) permit for a new wastewater treatment plant discharging into an impaired water body. The court's ruling represents a significant victory for ensuring that states have the power to make NPDES permitting decisions that are both equitable and environmentally sound. This litigation matter is now closed.

Total Maximum "Daily" Load Case (*Amicus* Brief & Technical Work)

NACWA's expended a total of \$17,500 in FY 2007 TAF funds (plus \$1,250 from General Legal Support and \$1,250 from the GARRF) to create a suitability analysis/technical study in the wake of the 2005 decision from U.S. Court of Appeals for the D.C. Circuit that all total maximum daily loads (TMDLs) must specify daily pollutant loadings. The document helps to evaluate how different pollutants such as nutrients, bacteria, and mercury could be expressed to accommodate the court's ruling and was released at the 2008 *Winter Conference* in Phoenix. This line item is now fully expended and the project is complete.

Ohio Phosphorus Case (*Amicus* Brief)

NACWA's Board has approved \$5,000 (FY 2006) for the Association to work with the Association of Ohio Municipal Wastewater Agencies (AOMWA) on an *amicus curiae* brief in a case the City of Salem, OH (City) will file to challenge EPA's September 2005 approval of phosphorus TMDLs for several Ohio rivers. These TMDLs were developed in an inappropriate manner and are now the source of stringent phosphorus

effluent limitations in wastewater NPDES permits. No funds have yet been expended in this litigation as NACWA and AOMWA are waiting for the City to initiate the litigation, which is not expected until a ruling on a related issue from a state administrative board.

Arizona NPDES Case (*Amicus* Brief)

\$15,000 in FY 2007 funds was expended in January 2007 for the Association to file an *amicus curiae* brief with the U.S. Supreme Court in *U.S. EPA v. Defenders of Wildlife*, an important case involving the Clean Water Act and how it may be affected by the Endangered Species Act. NACWA filed a brief in the case to ensure that the Court considered the municipal utility voice and because of the ramifications an improper extension of the ESA to cover CWA activities could have on clean water agencies. The Court released a positive ruling in June 2007 which echoed many of the arguments made in the NACWA brief. All funds in this line item have been expended and this litigation is now complete.

BEACH Act Case (Intervention)

NACWA's Board approved \$25,000 in additional FY 2008 TAF money at its January 2008 meeting to continue the Association's involvement in *Natural Resources Defense Council (NRDC) v. EPA*, a legal challenge over EPA's failure to establish new recreational water quality criteria as required by the *Beaches Environmental Assessment and Coastal Health Act (BEACH Act)*. These funds are in addition to the \$30,000 already expended from the FY 2007 TAF budget on this litigation. \$20,581 of the allocated FY 2008 funds has already been spent on preparing and arguing NACWA's *Motion for Summary Judgment*. The court recently released an order granting NACWA's motion and the parties are now involved in substantive settlement negotiations. Depending on the outcome of the current settlement discussions, additional funds for this case may be requested in July at the *2008 Summer Conference*. These funds would be necessary to sustain NACWA's participation in a trial which would occur in late July if settlement talks fail.

Security Publication Rewrite

NACWA expended \$50,000 from the FY 2007 TAF for a rewrite/update of the Association's 2001 publication *Legal Issues in a Time of Crisis Checklist*. The new publication, titled *Protecting Water Resources Infrastructure From Security Threats in a Modern World: The Emerging Legal Framework*, was completed in December 2007 and distributed to the membership. The new handbook provides wastewater utilities, water utilities, and public works directors with a description of key environmental and related legal issues relevant in times of heightened security and will serve as both a practical manual and guidebook for security related issues. NACWA's costs were offset by \$30,000 in contributions from the partner organizations in this project, the Association of Metropolitan Water Agencies (AMWA), the American Public Works Association (APWA), and the Water Environment Federation (WEF). This project is now complete.

Washington State Stormwater Case (*Amicus* Brief)

NACWA's Board approved a total of \$15,000 (\$5,000 FY 2007 TAF and \$10,000 FY 2008 TAF) for the Association to participate in an appeal of MS4 permits issued by Washington State. Thus far, \$2,370 has been spent preparing and filing initial paperwork and on preliminary drafting NACWA's *amicus curiae* brief.

NACWA was requested to file a brief on behalf of a municipal coalition of Washington State cities, including a number of NACWA members, on the issue of whether a requirement to comply with state water quality standards in MS4 permits is mandated in the federal Clean Water Act (CWA). The National Association of Flood & Stormwater Management Agencies (NAFSMA) joined NACWA on the brief, which was filed in January 2008. The administrative board issued a preliminary ruling in March endorsing NACWA's position and holding that the CWA does not require strict compliance with state water quality standards in MS4 permits.

The balance of the remaining approved TAF money will be dispersed within the next few months when the remaining invoice for the *amicus* brief is paid. Additionally, NACWA is anticipating a \$3,500 contribution towards the cost of the brief from NAFSMA. Further requests from the TAF for this line item are not expected at this time but may be necessary depending on future developments in the case.

Oregon Compliance Schedule Case

The NACWA Board approved in December 2007 via electronic ballot \$10,000 (FY 2008) for the Association's participation in *Northwest Environmental Defense Center v. U.S. Environmental Protection Agency (EPA)*, an important piece of litigation challenging the use of compliance schedules in NPDES permits issued by the State of Oregon. The Association's participation in the case is at the request of NACWA's Oregon members and the Oregon Association of Clean Water Agencies (ORACWA). NACWA was recently informed by ORACWA that the parties are currently in settlement negotiations and was advised to hold off on intervening in the litigation pending the outcome of settlement discussions. The NACWA Board at its May 2008 meeting approved contributing the previously approved \$10,000 from the FY 2008 TAF directly to ORACWA for assistance with their legal costs even if NACWA does not formally join the case. ORACWA has not yet requested such financial assistance but it expected to do so in the coming weeks.

San Jacinto River Authority WET Appeal

The NACWA Board approved via electronic ballot on March 14 the Association's participation in an appeal by member agency the San Jacinto River Authority (SJRA) of an NPDES permit with Whole Effluent Toxicity (WET) limits. SJRA is appealing the permit in part because EPA Region VI inappropriately federalized an existing state permit and included the contested WET provisions. NACWA agreed to participate in the case due in part to the overreach of federal permitting authority and also because of concerns over the testing methods used by EPA to establish the WET limits. The Board approved up to \$7,500 in FY 2008 TAF funds for this case and collaboration in the litigation with the Western Coalition of Arid States (WESTCAS), which agreed to match any NACWA funds. However, shortly after the Board's vote, NACWA learned that EPA had withdrawn the contested WET limits in the permit, making the appeal moot. NACWA has since facilitated a meeting held in May between SJRA representatives and EPA Headquarters staff to further discuss the WET issue and how it might be addressed when the permit is reissued. NACWA stands ready to further assist SJRA if a new appeal is necessary over the reissued permit.

***Pinto Creek* Supreme Court Appeal In Progress**

Work is currently underway on a brief NACWA will file with the U.S. Supreme Court in *Friends of Pinto Creek v. U.S. EPA*, an appeal from the U.S. Court of Appeals for the Ninth Circuit. The case involves a Circuit Court ruling that placed severe restrictions on when NPDES permits can be issued to new discharges to impaired waters, even when such discharges would be “offset” by actions intended to result in a net environmental gain or water quality improvement for the waterbody. This decision is in direct conflict with the *Cities of Annandale and Maple Lakes* decision, where the Supreme Court of Minnesota upheld the use of an offset analysis. NACWA had filed an amicus brief in the *Annandale* case supporting the use of such an offset analysis and is concerned that the *Pinto Creek* ruling could negatively impact Association members in the Ninth Circuit and other parts of the country. The NACWA Board approved Association participating in this case at its May 2008 meeting. NACWA will be jointly filing its brief to the Supreme Court with the California Association of Sanitation Agencies (CASA). Approximately \$6,000 from the FY 2008 General Legal fund will be contributed towards preparation of the brief, including \$5,000 for drafting and approximately another \$1,000 for printing and filing costs. CASA will also be making a financial contribution to the brief, which will be filed with the Supreme Court in early July.

Pretreatment and Pollution Prevention

NACWA/EPA 50 POTW Study Effort

Over the last few years, NACWA has advocated for an update of the 1982 EPA study on the fate and transport of priority pollutants in POTWs. Also known as the 50 POTW study, the work is still relied on for its removal efficiency figures when POTWs are developing local limits. To facilitate the Pretreatment and Pollution Prevention Committee’s efforts to build on an existing EPA sampling effort and update the 50 POTW study, the Board approved \$15,000 in FY 2006 and \$10,000 in FY 2007 for contractor support as NACWA continued its discussions with EPA. NACWA, EPA, the contractor, and the chairs of the Pretreatment and Pollution Prevention Committee began discussing approaches for collaboration at the October 2006 Pretreatment Workshop. The contractor prepared a feasibility study for the collaborative removal efficiency study, including issues to address and potential next steps. Since EPA has now limited their existing sampling effort and has no intentions of updating the 50 POTW, the contractor has prepared a draft clarification memo for EPA to issue that would assist POTWs in states that require use of the 50 POTW Study data in lieu of more reliable options. NACWA plans to meet with EPA in July to discuss the draft memo and determine if the Agency can finalize and release the memo. \$10,500 of the FY2006 budget was allocated for the contractor work on the feasibility study and clarification memo, and the remaining Board-approved funds, intended for the cooperative effort with EPA, will likely be returned to the TAF.

Utility Management

***CleanWater Central*™**

NACWA continues to manage the *CleanWater Central*™ database. Created in 1999, the *CleanWater Central*™ database serves as a central hub for future data collection activities, such as the *Financial Survey* and *NACWA Index*, and as a repository for information vital to the wastewater treatment community. NACWA and WERF completed the beta test of the system on June 30, 2003 and launched the database during the NACWA 2003 Summer Conference in Boston. This is an ongoing project with expenditures for database

administration each year. Total funding proposed for this effort in FY 2009 is \$12,200. Two related projects, described below, will be coordinated with ongoing *CleanWater Central™* management activities.

CleanWater Central™ Technical Survey

NACWA has received commitments from WERF and WEF to collaborate on a 'Technical Survey' to complement the data reported in NACWA's triennial *Financial Survey*. The dedicated Technical Survey will provide a more detailed snapshot of the physical assets and operations of clean water utilities nationwide than currently captured in NACWA's *Financial Survey* and will reduce the scope of the *Financial Survey*, so that it will only include relevant financing and utility management information. The Technical Survey, as it is currently envisioned, will also provide the primary means for substantially increasing the available information in the *CleanWater Central™* database.

As proposed, this new Technical Survey will be conducted on a triennial basis on a cycle opposite to NACWA's *Financial Survey*. The survey will collect new information in the areas of collection systems (e.g., rehab and replace rates) and programmatic information that is not already captured, such as the scope of existing pretreatment programs, and more. Given the importance of the information that will be collected in the Technical Survey to the *CleanWater Central™* database and the industry as a whole, NACWA believes that WERF subscribers and WEF members will also benefit from participation in the design and execution of the survey. WEF and WERF have committed equal contributions of \$15,000 to the effort. NACWA's Board approved NACWA's contribution to this effort in January 2007 in the amount of \$15,000 in FY 2007 funds. NACWA, WEF, and WERF have now executed a Memorandum of Understanding to guide work on the Technical Survey and the related Strategic Analysis effort (see description below).

CleanWater Central™ Strategic Analysis

NACWA's Board of Directors approved \$10,000 from the TAF in May 2007 to conduct a Strategic Analysis of the *CleanWater Central™* database. The analysis will evaluate the strengths and weaknesses of CWC to help chart a successful course for the future. As envisioned, this Strategic Analysis will include an analysis of the external competitive, economic, political, legal/regulatory, technological and socio-cultural forces potentially impacting broader CWC usage, as well as an examination of potential target markets for this type of information and competing systems already on the market. The analysis would examine current CWC marketing objectives and performance. The Analysis would also assess the strengths and weaknesses of the existing system for reaching new target markets and achieving broader use, including, but not limited to, current quantity and scope of the information in the database and the database's current technological capabilities. NACWA believes that the Strategic Analysis can best be conducted by an experienced contractor and has estimated its total cost to be \$30,000. WERF and WEF have committed to contribute equal shares of \$10,000 and a Memorandum of Understanding is now in place. A contractor has been selected to conduct the Strategic Analysis and a kickoff conference call is planned for June 2008.

Service Charge Index and Peak Performance Awards

FY 2009 funds in the amounts of \$2,750 and \$10,000 are being proposed to enable the Association to conduct its annual NACWA *Service Charge Index Survey* (NACWA *Index*) and Peak Performance Awards

program, respectively. These are critical annual activities that had historically been funded through the General Fund. Since FY 2006 these vital projects have been funded from the TAF. Total approved funding for FY 2008 is \$10,000 for the Peak Performance Awards program and \$2,500 for the NACWA *Service Charge Index* survey. The final 2007 NACWA *Index* is now posted on the Association's website and the Peak Performance Awards will be presented at the 2008 Summer Conference in Anchorage.

ISO Wastewater Management Services Standard Support

With the support of the Targeted Action Fund (TAF), NACWA has been involved in an effort led by the International Organization for Standardization (ISO) to develop standards for the water sector since 2004. As a member of the U.S. delegation, NACWA representatives participated in several Technical Committee and workgroup-level meetings to ensure the final standards did not conflict with current best practices in the U.S. Like most ISO standards, the 24500 series standards that were finalized in November 2007 are voluntary. They were crafted to be as globally relevant as possible and are, therefore, fairly general. Some countries have decided to formally adopt these standards and although the U.S. has not yet decided whether to adopt them, U.S. utilities can choose to adhere to the standards. The final standards are available for purchase from ISO. Since 2004, NACWA has spent \$45,000 on this effort. During its meeting in November, the ISO Technical Committee leading up the development of the 24500 series standards voted to form new workgroups on asset management and crisis management, which will include security issues. These workgroups will meet once a year for the next three years to determine whether there is sufficient interest and information to consider pursuing standards in these areas. NACWA's Board of Directors voted in February to approve \$7,000 in additional TAF funding (from the FY2008 budget) to enable NACWA representatives to participate in this year's planned workgroup meetings. NACWA's Utility Management and Security and Emergency Preparedness Committees will revisit this issue early next year to determine if additional funding is necessary for continued participation in the workgroup activities.

Asset Management Handbook Update

NACWA, AMWA and the Water Environment Federation (WEF) conducted a joint effort to develop an updated asset management guide to benefit the clean water community, and the membership of each organization. *Implementing Asset Management – A Practical Guide* is a companion publication to the *Asset Management Handbook* prepared in 2002. The *Practical Guide* includes the fundamentals of asset management extracted from the *Handbook*, along with step-by-step guidance and worksheets to help utilities successfully implement asset management processes. A total of \$25,000 in FY 2006 funds was approved for NACWA's contribution to this effort. The final publication was released on June 8, 2007 and the three organizations are now working together to market the document.

Mid-Level Management Training Assessment

The *Water & Wastewater Leadership Center* at the University of North Carolina – Chapel Hill is a resounding success and there is now a renewed emphasis on exploring the concept of mid-level management training in greater depth. To determine whether there are existing offerings in this area the NACWA Board approved \$15,000 in FY 2006 funds to, in collaboration with WEF, secure the services of a contractor to fully explore

and document the universe of existing relevant training that may meet the need we have identified. The final report from this effort was issued in January 2008. The assessment identified a need for more training at the mid-level manager level and identified some of the key characteristics that training should possess. NACWA and WEF are now working to outline their possible next steps with regard to mid-level manager training. This was a one-time contribution and no FY 2009 funds have been proposed for this project.

National Institute for Utility Management Feasibility Study/Concept Paper

The Board approved \$7,000 in FY 2006 for NACWA to work with WEF and WERF to explore the feasibility of a joint national institute for utility management (NIUM). Each of the three organizations contributed equal shares to conduct the feasibility study. The final study report evaluates the need for such an institute in the national marketplace of the water industry; assesses the marketing potential and the financial viability of the institute; and provides an initial business plan and financial targets to help the sponsoring organizations better evaluate the creation of an institute. In February, NACWA's Executive Committee approved a set of recommended next steps for work on the NIUM. NACWA, WEF, and WERF are now working to develop a survey to be distributed to the members of each organization to further refine the concept of a virtual institute that will, among other things, serve as a clearinghouse for existing products and services from the three organizations. This was a one-time contribution and no FY 2009 funds have been proposed for this project.

Asset Management Workshop Curriculum Development

With the release of *Implementing Asset Management – A Practical Guide*, NACWA, WEF, and AMWA are now working to market the *Guide* and explore ways to increase exposure to the new and innovative risk-based concepts that it describes. In collaboration with AMWA (WEF declined to participate), NACWA is working to develop a workshop curriculum that could be used by NACWA or AMWA to conduct workshops based on the new document. The NACWA Board of Directors approved \$13,500 in FY 2008 TAF funding to cover half of the curriculum development costs. AMWA's Board has also approved \$13,500 in funding. The consultant who developed the *Practical Guide* is now working on the curriculum, which will be suitable for both in-person workshops and a series of web seminars, with an anticipated completion date of July 2008.

NACWA 2008 Financial Survey

Published every three years, the *Financial Survey* has consistently proven itself to be a valuable resource for NACWA member agencies as they evaluate financing options and consider rate adjustments. The 2008 survey is now underway. A total of \$55,000 was budgeted for this effort in FY 2007 and FY 2008, which will cover all survey development, as well as all data collection and complete analysis. Additional TAF funding of \$20,000 is being proposed in the FY 2009 budget request for the design and printing costs associated with the final survey report. The 2008 *Financial Survey* final report will be released at NACWA's 2009 Winter Conference.

Water Quality

Participation in the Federal Water Quality Coalition

TAF funds support NACWA's continued associate membership in 2008 in the Federal Water Quality Coalition (FWQC). The FWQC provides NACWA with leveraging opportunities and information on a number of important water quality issues, including mercury, total maximum daily loads, and permitting. NACWA approved \$15,000 in annual dues to the Coalition for FY 2008 and is proposing the same amount for FY 2009.

Dental Amalgam Separator Study

This project was a three-year study to examine the changes in mercury concentrations in wastewater influent, effluent, and biosolids at five POTWs in the U.S. and Canada. Each of the five main study facilities had already implemented regulations requiring dental clinics to install amalgam removal equipment. The Hampton Roads Sanitation District volunteered its laboratory to conduct the analyses at cost for the duration of the study. The first sampling event took place in July 2003 and sampling concluded in June 2006. Total approved funding for this project was \$90,000 over three years. The final report from this study is now available. No FY 2008 or FY 2009 funds are proposed for this effort.

Methylmercury Report Review

These funds are being used in support of a joint project with the California Association of Sanitation Agencies (CASA) and the Federal Water Quality Coalition (FWQC) (total project funding of \$45,000) to hire a consultant to conduct a technical review of a U.S. Fish and Wildlife Service report entitled, "Evaluation of the Clean Water Act Section 304(a) Human Health Criterion for Methylmercury: Protectiveness for Threatened and Endangered Wildlife in California." The report makes a number of assumptions that potentially mischaracterize methylmercury's behavior in aquatic ecosystems. Following a final round of revisions, the review is now complete. A total, one-time NACWA contribution of \$15,000 was approved for this effort in FY 2004. No FY 2008 or FY 2009 funds are being proposed for this effort and the remaining project funds have been returned to the TAF.

Use Attainability Analysis (UAA) Handbook

NACWA conducted this project jointly with the Water Environment Research Foundation (WERF), as WERF subscribers also identified UAAs as an important topic deserving of attention. This joint NACWA/WERF project involved updating WERF's 1997 resource *A Suggested Framework for Conducting UAAs and Interpreting Results* and republishing WERF's *Comprehensive UAA Technical Reference*. The final joint publication was sent to the NACWA membership in February 2006. Building on the successful document, NACWA and WERF jointly hosted a two-part web seminar in June and July of 2006 to highlight the document and to further explore some of its most critical concepts. A total of \$40,000 in FY 2005 was originally approved for NACWA to develop and provide the policy, non-technical input to this joint effort. An additional \$8,500 was approved in February 2005 for this effort to fund, in part, the design and printing for the final product. This project is complete and no additional funds have been allocated in FY 2007 or FY 2008.

Watershed Initiatives Support

NACWA designated \$20,000 for contractor support of NACWA's watershed initiatives in FY 2007. A Strategic Watershed Task Force was formed to explore regulatory and legislative solutions to persistent clean water issues that present challenges for clean water agencies today. The Task Force released a report, *Recommendations for a Viable and Vital 21st Century Clean Water Policy*, on the 35th anniversary of the Clean Water Act, October 18, 2007. The report detailed the opportunities provided by a watershed approach to water quality issues, the obstacles faced in implementing a watershed approach, and set of short-term and long-term recommendations for overcoming these obstacles and improving water quality using a watershed approach. The report was used as the basis of Congressional testimony given by Chris Westhoff on October 18, 2007, to the House Committee on Transportation and Infrastructure, and has continued to serve as the basis for discussion of watershed issues, including during the January 4, 2008 summit between the officers of NACWA, the Water Environment Federation (WEF), the Association of Metropolitan Water Agencies (AMWA), the American Water Works Association (AWWA), the National Rural Water Association (NRWA), and the National Association of Water Companies (NAWC). The report is also being used by the contractor and the Task Force in a new project to complete a draft 21st Century Watershed Act, one of the long-term recommendations contained in the report. The draft Act is scheduled for completion before the NACWA 2008 Summer Conference.

Temperature Model Update Project

The NACWA Board of Directors approved a one-time contribution of \$10,000 in FY 2007 to assist NACWA members in the Pacific Northwest in a joint effort with the U.S. Geological Survey (USGS) to expand an existing temperature model and tool to evaluate the impacts of different sources of thermal loads to the Willamette River and assess the efficacy of trading thermal loads for meeting regulatory obligations and improving water quality. The model was initially used by the Oregon Department of Environmental Quality to develop total maximum daily load waste load allocations for thermal discharges to the Willamette. The resulting allocations are very stringent and will directly impact the nine NACWA member agencies covered by the TMDL. Work has already begun on expanding the model to ensure it accurately reflects the temperature and flow effects of upstream reservoirs and dams and includes non-point thermal loads. NACWA's contribution is being used to further support the continued collaborative effort among the affected NACWA members and the USGS. Ultimately, the expanded model will help the NACWA members in developing effective and reasonable regulatory compliance strategies and will also be of use to other NACWA members outside the Pacific Northwest region.

National Water Quality Monitoring Council Conference

The NACWA Board of Directors approved \$10,000 in FY 2008 TAF funds to co-sponsor the 2008 National Conference of the National Water Quality Monitoring Council (NWQMC or Council). The Council, a subgroup of the Advisory Committee on Water Information (ACWI), a Federal Advisory Committee on which NACWA has served for more than seven years, has a broad mandate that encompasses water quality monitoring and assessment, including considerations of water quality and water quantity. The purpose of the NWQMC is to provide guidance and technical support to government agencies and the private sector to improve water quality monitoring in the United States. NACWA first co-sponsored the conference in 2006.

The 2006 National Conference was attended by more than 650 professionals from federal, state, and local government, as well as academia and private industry.

The 6th National Monitoring Conference was held May 18-22, 2008 in Atlantic City, New Jersey and provided an outstanding opportunity for all interested stakeholders to participate in technical programs and training, share successes, discuss issues, and network with colleagues in the water monitoring community. This was a one-time contribution and no additional funds have been proposed for this project.

Product Stewardship Dialogue

The NACWA Board of Directors approved \$5,000 in FY 2008 funding to support the Product Stewardship Institute's efforts to initiate a dialogue on the issue of unused pharmaceutical wastes. The Product Stewardship Institute, a national non-profit organization that has successfully led efforts to develop national programs for other wastes, is working to convene four dialogue meetings to begin the negotiations among the various parties on the possible development of a national take-back program for unused pharmaceuticals. Members of the Emerging Contaminants Workgroup who have already initiated their own collection or take-back programs have been involved with the Institute's efforts and strongly support the development of a national program that would allow other utilities to participate and provide a consistent, nationwide approach. The first of the dialogue meetings will take place in Sacramento, California on June 19-20.

Other Issues

Water for People

In FY 2006 NACWA approved an annual contribution of funds in the amount of \$5,000 for Water for People. The proposed FY 2009 TAF budget includes this coming year's contribution. Water for People helps people in developing countries improve their quality of life by supporting the development of locally sustainable drinking water resources, sanitation facilities and health and hygiene education programs. NACWA's Executive Committee recently selected Steve Pearlman, NACWA Board Member and Director of Environmental Services for the Metro Wastewater Reclamation District in Denver Colorado as the Association's representative on the Water for People Board of Directors.

The Aspen Institute

NACWA's Board of Directors approved \$25,000 in FY 2007 funds to support The Aspen Institute in its efforts to initiate a *Dialogue on Sustainable Water Infrastructure*. The Aspen Institute has made solid progress organizing the *Dialogue on Sustainable Water Infrastructure*, and NACWA has helped ensure that two Association Board Members are participating, Dick Lanyon with the Metropolitan Water Reclamation District of Greater Chicago and Kevin Shafer with the Milwaukee Metropolitan Sewerage District. NACWA's Executive Director, Ken Kirk, provided a presentation in advance of the first meeting to the participants to help inform the dialogue. The Aspen Institute is planning a total of three meetings – the first took place in May and two future meetings are planned for September and December. A final report with the findings and recommendations from the *Dialogue* is anticipated soon after the final December meeting and will be a helpful tool to further inform the 111th Congress and the incoming Administration of the nation's water infrastructure needs.

WaterReuse Foundation Collaborative Project

The NACWA Board of Directors approved \$15,000 in FY 2008 funding to contribute to a collaborative project with the WaterReuse Foundation. The WaterReuse Foundation has identified the inconsistent use of confusing and sometimes misleading terminology within the water, wastewater, and water reuse communities as a major impediment to broader public acceptance of water reuse. The term 'emerging contaminants', which NACWA uses to describe the growing list of chemicals and other substances found in small concentrations in wastewater, is a prime example of the disparate terminology currently being used. Others within the water sector have begun to use other terms like microconstituents and trace organics, all to describe the same group of substances. This has led to confusion among members of the industry and will no doubt lead to a confused public. The WaterReuse Foundation Board voted earlier this year to commit \$100,000 to a collaborative project to explore the broader issue of industry terminology, to evaluate whether a common set of terms and definitions could be established, and to better understand the public's perception of the use of certain terms throughout the entire water sector.

The Foundation Board has estimated the total project cost at \$175,000 and has now secured all of the necessary funding. A Project Advisory Committee comprised of representatives from each of the contributing organizations, including NACWA, has been formed and is now awaiting the response to a Request for Proposals.

WERF Communication Project

The NACWA Board of Directors approved \$20,000 in FY 2008 to support a collaborative effort being led by the Water Environment Research Foundation (WERF) to develop guidance for clean water agencies on effective risk communication practices, public perception issues and media message effectiveness with a primary focus on emerging contaminant issues. Given the extensive media coverage that the presence of emerging contaminants in the nation's waters has received, there is an interest in ensuring clean water agencies are familiar with the basic principles and practices that will help them communicate with their communities on the health and environmental risks associated with these contaminants.

The final deliverable from the project will provide an analysis of effective communication practices, case studies where communication strategies have worked well and where public perceptions were effectively overcome, and recommendations on developing messages, diagnosing risk communication deficiencies, and addressing these in future communication. WERF solicited contributions of \$20,000 from both NACWA and the Water Environment Federation and has involved the WaterReuse Foundation (WRF) in the ongoing discussions. WRF is pursuing similar work relating to the use of common terminology within the water sector, to which NACWA has committed TAF funds. WRF and WERF have committed to coordinating these efforts to minimize any overlap between the two projects.