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August 9, 2011

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Dear Nancy and Cynthia:

The National Association of Clean Water Agencies (NACWA) read with great interest your July 28, 2011 letter to the U.S. Conference of Mayors (USCoM). NACWA has been working closely with the USCoM on their affordability/consent decree work and believes the time is right for EPA, States, and municipal clean water agencies to work together on a new approach under the Clean Water Act (CWA) to regulatory prioritization. Through its *Money Matters . . . Smarter Investment to Advance Clean Water™* campaign, an effort led by George Hawkins, General Manager of DC Water, NACWA has developed a final working draft of legislation that offers an approach we believe constitutes a starting point for important discussions with your offices.

NACWA particularly appreciated the following statement in your letter:

"EPA recognizes that municipalities face numerous challenges in meeting their new water quality goals and that it is imperative to focus resources first on those projects that will have the greatest environmental benefit. We would like to work directly with you, your members and municipalities to find common ground on an approach that allows municipalities to evaluate all of their CWA related requirements and develop a comprehensive plan to meet those requirements."

I believe the ongoing economic downturn, highlighted by recent market turmoil, points to the need for a new approach to CWA implementation. The current mindset that everything is a top priority implicitly means that nothing is a priority — a paradigm that if left unchanged jeopardizes the present gains made, as well as any future gains, under the CWA.

In line with this, NACWA has attached its final working draft of its regulatory prioritization legislation entitled, *The Water Quality Improvement and Investment Prioritization Act*, for your review and for future discussion. The legislation, which NACWA views as a starting place for discussion, sets forth a process under the CWA to prioritize regulations to maximize water quality benefit and account for changed circumstances that merit a re-ordering of compliance schedule priorities. The legislation ensures there can be no backsliding or roll backs under the CWA and provides for the full application of anti-degradation requirements.

The legislation advances an approach that allows municipalities to apply to their State regulatory agency with a compliance schedule priority plan based on one or more changed circumstances set forth in the legislation.

The legislation also ensures a strong and primary role for EPA as well as a central role for States in both the development of the process as well as in the review of municipal systems' applications. The ideas in the legislation could also be adopted by EPA without Congressional action.

NACWA has worked with numerous stakeholder groups on the legislation — including the Association of State & Interstate Water Pollution Control Administrators (ASIWPCA), the American Public Works Association (APWA), and the Water Environment Federation (WEF) — and hopes to work closely with EPA as this effort unfolds.

We would like EPA's candid input into our regulatory prioritization approach and look forward to working with you. I think we can agree, as a starting point, that where everything is deemed a top priority, ultimately nothing is — and this problem will only result in negative environmental and water quality impacts. My staff will be in touch shortly to discuss a meeting time. I look forward to continuing to work with you on our shared water quality goals.

If you have any questions, please contact me or Adam Krantz at akrantz@nacwa.org or 202/833-4651.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk".

Ken Kirk
Executive Director