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Ken Kirk

March 5, 2008

The Honorable Bennie Thompson
Chairman
House Homeland Security Committee
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Peter King
Ranking Member
House Homeland Security Committee
U.S. House of Representatives
Washington, D.C. 20510

Dear Chairman Thompson and Ranking Member King:

The National Association of Clean Water Agencies (NACWA) very much appreciates your holding a hearing Feb. 26 on the draft *Chemical Facility Anti-Terrorism Standards Act of 2008*. Our organizations represent the interests of the nation's public wastewater treatment agencies, which serve more than 80 percent of the sewered population in the United States.

While we fully understand and respect your interest in ensuring the strongest protections possible for chemical facilities and the communities near them, we continue to believe that public wastewater treatment agencies should not be included in the legislation you are currently considering.

As publicly owned agencies, we differ significantly from the private entities that are the primary focus of the bill currently before the committee. Specifically, our member agencies were created to meet the rigorous requirements of a *federal* law – the *Clean Water Act* – which establishes very clear guidelines on how we must manage our operations to ensure public health and environmental safety. Because we provide a federally regulated service – not a product – to ensure the protection of public health and the environment, security of these facilities is already a top priority. Wastewater treatment plants have spent significant resources to secure their facilities precisely because they understand the consequences of not doing so. These facilities understand the significance of guarding against outside threats – whether from terrorist attack, natural disaster, or vandalism – that could hinder their ability to operate 24 hours a day, seven days a week.

The wastewater community has devoted significant resources to ensure the security of their facilities. Since the September 11 terrorist attacks, these efforts have been accelerated. Utilities have worked in collaboration both with the U.S. Environmental Protection Agency (EPA) and the newly formed Department of Homeland Security (DHS) to develop methods for assessing plant vulnerabilities and to formulate plans to address security concerns. NACWA developed its own suite of vulnerability self-assessment tools (VSAT™) that was distributed broadly for use by wastewater and drinking water agencies. NACWA also worked with DHS to develop its chlorine gas decision tree to help utilities assess the feasibility of switching to an alternative treatment method. The actions taken by the water sector to address security concerns has been held up as a model for other industrial sectors, and our members continue to make strides in this area. Many of our members have voluntarily switched from the use of chlorine gas to alternative disinfection methods, while others have decided it more prudent to harden their facilities. Our agencies have worked with DHS to undertake extensive training and technical assistance efforts on homeland security, and nearly all have prepared, conducted, and submitted vulnerability assessments and emergency response plans to EPA.

It is precisely for these reasons that Congress exempted utilities covered under the *Clean Water Act* and *Safe Drinking Water Act* from the CFATS requirements issued last year by DHS. Certainly, these reasons are as valid now as they were a year ago. NACWA would be happy to discuss this critical issue further with you or others as this issue progresses. As public health agencies, we take our fiduciary responsibilities toward the public very seriously, and clearly, we share the same objective of protecting public health and the environment in our communities. We appreciate your time and attention to this matter.

Sincerely,

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

Ken Kirk
Executive Director
NACWA