

CLEAN WATER ADVOCATE

Marian Orfeo was elected NACWA President for 2008-2009 on July 16. Orfeo is the Director of Planning & Coordination for the Massachusetts Water Resources Authority in Boston, Mass.



A Clear Commitment to America's Waters

August-September 2008

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NACWA Work on Affordability Leads to Proposed Legislative Fix

Since 2005, with the release of its white paper *Financial Capability and Affordability in Wet Weather Negotiations*, NACWA has aggressively pursued changes in the approach used by the U.S. Environmental Protection Agency (EPA) to determine the financial capability of communities to implement combined and sanitary sewer overflow control programs. Federal government negotiators have historically relied on prescriptive formulas and simple thresholds, such as percent of median household income, to determine whether the cost and schedule for a particular program will present an unreasonable burden on a community. Although EPA's own guidance on the issue, the 1997 *Combined Sewer Overflows — Guidance for Financial Capability Assessment and Schedule Development*, provides for some flexibility, those provisions are largely ignored during negotiations. EPA had expressed interest in updating its 1997 guidance, but has not moved forward to do so.

Clean Water Affordability Act Introduced
Together with key members from Ohio,



where the affordability issue is now front and center, NACWA worked with the offices of Sens. George Voinovich (R-Ohio) and Sherrod Brown

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NACWA Legal Advocacy Results In BEACH Act Settlement

NACWA achieved a significant litigation success on August 8 when a settlement agreement was reached in *Natural Resources Defense Council (NRDC) v. U. S. Environmental Protection Agency (EPA)*, a case involving a legal challenge over EPA's failure to develop new recreational water quality criteria as required by Congress in the *Beaches Environmental Assessment and Coastal Health Act (BEACH Act)*. The settlement, agreed to by all parties to the litigation including NACWA, NRDC, Los Angeles County and EPA, requires the Agency to conduct the necessary scientific studies and develop new recreational water quality criteria by 2012. EPA will also solicit stakeholder input during the development process. This agreement ensures that EPA will have sufficient

time to develop the new criteria and that NACWA and other key stakeholders will have an opportunity to participate in the criteria development, achieving the Association's two primary goals for participating in the litigation.

Deadlines Set, Stakeholder Input Ensured

The terms of the settlement agreement provide that EPA will complete the necessary scientific studies to develop new recreational water quality criteria by December 2010 and will publish the resulting criteria in the Federal Register no later than October 2012. EPA has committed to carry out a number of specific studies during the study period, including efforts to

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Marian Orfeo Elected NACWA President for 2008-2009

Marian Orfeo was elected NACWA President for 2008-2009 by the Association's Board of Directors on July 16. Orfeo is the director of planning & coordination, Massachusetts Water Resources Authority, Boston, Mass., where she has been responsible for system master planning, strategic business planning, and performance management reporting since 1994. As a frequent speaker on critical issues, and an active and engaged member of the Association's Board of Directors, Orfeo has distinguished herself within the clean water community.

The Board also approved the slate of other NACWA officers: for 2008-2009: Vice President, Kevin Shafer, executive director of the Milwaukee Metropolitan Sewerage District, Milwaukee, Wis.; Treasurer, Jeff Theerman, executive director, Metropolitan St. Louis Sewer District, Mo.; and Secretary, David Williams, director of wastewater, East Bay Municipal Utility District, Calif.

NACWA Welcomes New Board Members

During the Annual Association Business meeting, NACWA's membership elected two individuals as new members of its Board of

Directors. Tim Haag, director of utility services and planning, Emerald Coast Utilities Authority, Fla. was elected to represent Region 4. Region 9's representation on the Board will now include Adel Hagekhalil, assistant director, Bureau of Sanitation, City of Los Angeles, Calif.

NACWA also congratulates the following board members who were elected to new terms: Raymond Marshall, executive director, Narragansett Bay Commission, R.I. (Region 1); James G. Mueller, director, facilities planning & design, New York City Department of Environmental Protection, N.Y. (Region 2); George D. Barnes, deputy commissioner, City of Atlanta Department of Watershed Management, Ga. (Region 4); Richard Lanyon, general superintendent, Metropolitan Water Reclamation District of Greater Chicago, Ill. (Region 5); Larry Patterson, director of operations and water resources, Upper Trinity Regional Water District, Texas (Region 6); Steve Pearlman, director of environmental services, Metro Wastewater Reclamation District, Colo. (Region 8); Daniel Thompson, division manager, City of Tacoma Public Works Department, Wash. (Region 10); and, Mark Yeager, utility services manager, City of Albany, Ore. (Region 10).

NACWA Extends Appreciation to Dedicated Service of Outgoing Board Members

NACWA would also like to extend its thanks and appreciation to its outgoing Board members for their committed service to the Association. Those leaving the NACWA Board are Billy Turner, president, Columbus Water Works, Ga. (Region 4); Ray Orvin, executive director, Western Carolina Regional Sewer Authority, S.C. (Region 4); and, Chris Westhoff, assistant city attorney and public works general counsel for the City of Los Angeles, Calif. (Region 9).

Hagekhalil Recognized for Committee Leadership

NACWA's active and engaged committees help the Association develop positions on environmental policy, craft legislation, and work with the U.S. Environmental Protection Agency (EPA) on regulatory initiatives. NACWA would like to extend its thanks and appreciation to Adel Hagekhalil, outgoing Co-Chair, Facility & Collection Systems Committee. We are pleased to report, however, that in addition to his service to the Association as a newly-elected Board Member, Hagekhalil will also continue as the Collection System Issue

NACWA Officers for 2008-2009



Marian Orfeo
NACWA President
Director of Planning & Coordination
Massachusetts Water Resources
Authority, Mass.



Kevin Shafer
NACWA Vice President
Executive Director
Milwaukee Metropolitan Sewerage
District, Wis.



Jeff Theerman
NACWA Treasurer
Executive Director
Metropolitan St. Louis Sewer
District, Mo.



David Williams
NACWA Secretary
Director of Wastewater
East Bay Municipal Utility District,
Calif.

Leader on the Committee.

Marking committee transitions, are Bennett Horenstein, manager, environmental services, East Bay Municipal Utility District, CA, recently appointed Co-Chair of NACWA's Facility & Collection Systems Committee and Barbara Biggs, government affairs officer, Metro Wastewater Reclamation District, Colo. who has joined the leadership of the Water Quality Committee as Vice Chair. ♦

New Board Members



⌘ **Tim Haag**, director of utility services and planning, Emerald Coast Utilities Authority, Fla., and **Adel Hagekhalil**, assistant director, Bureau of Sanitation, City of Los Angeles, Calif., are the newly elected members of NACWA's Board of Directors

2009 Water & Wastewater Leadership Center Now Accepting Applications

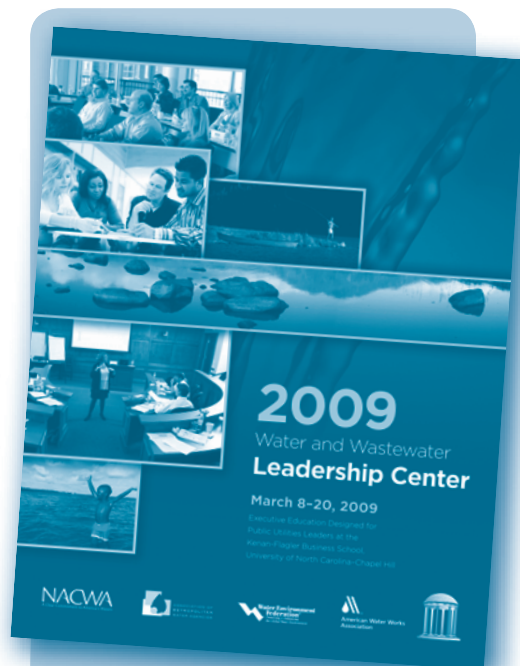
The Water & Wastewater Leadership Center is currently accepting applications for its 2009 session, March 8 – 20, 2009, at the Kenan-Flagler Executive Education Center on the campus of the University of North Carolina at Chapel Hill. The deadline for applications is Dec. 12, 2008. With only 30 openings, space is limited, and those interested in attending are encouraged to submit their applications early.

Developed in 2000 as a joint venture with the Association of Metropolitan Water Agencies (AMWA), the American Water Works Association (AWWA), and the Water Environment Federation (WEF), the Center was created with the goal of preparing current and future water and wastewater utility leaders to address the range of management challenges utilities face in today's competitive environment.

To date more than 200 individuals have benefited from this exceptional executive education program. This one-of-a-kind professional development program is specifically designed to increase the leadership and management skills among water and wastewater utility CEO's, general managers, senior managers, and upper level management.

Students will enhance their decision-making skills, and learn to lead confidently and think strategically. As a 12-day residential leadership development program, the Center offers a unique opportunity for unlimited peer networking, a personal assessment of your leadership skills, and targeted curriculum that focuses on effective and efficient management practices. With its state-of-the-art facilities and exceptional faculty, the Leadership Center is consistently commended for the value it brings to its graduates and to the management of water and wastewater utilities.

Apply today! To obtain an application to the Leadership Center or for additional information, visit NACWA's website (<http://www.nacwa.org/leadershipcenter>) or contact Kelly Brocato at 202/833-1449 or kbrocato@nacwa.org. ♦



"The Water and Wastewater Leadership Center at UNC Chapel Hill provided a fantastic venue to learn about the business aspect of our profession from an incredible group of professors. It also provided a forum for interactions with top-level water and wastewater managers from across the nation; and we still contact one another for input and advice. My Kenan-Flagler experience encouraged me to look within myself and set a course for continued self-improvement, and as a result I have become a better leader."

— **Ross E. Schlobohm, P.E.**

2004 Leadership Center Alumni Program Alumnus

2003 Leadership Center Residential Program Alumnus,

Former Director of Interceptor Systems, Hampton Roads Sanitation District, VA.

Law Seminar Promises Exciting, Engaging Program

Planning is well underway for NACWA's 2008 *Developments in Clean Water Law Seminar*, scheduled for November 12-14 at the Fairmont Hotel in Washington D.C. The Nation's capital is sure to be buzzing after the November elections, so come and join your clean water colleagues as we analyze the impacts of the elections and discuss a series of critical legal issues facing the municipal wastewater community.

Among the topics to be addressed during the seminar are the emerging legal issues surrounding nutrient controls, including recent petitions and lawsuits calling for the federal government to establish numeric limits for nutrients on both national and regional levels. Clean water enforcement issues will also take center stage, with an analysis of the most recent trends in consent decrees and advice on how clean water utilities can best navigate through the mine field of enforcement actions. We will also look ahead to the new Presidential administration and new Congress with an eye towards how the outcome of the elections may



affect the clean water community. Climate change, green infrastructure and emerging contaminants are other issues that will be addressed during the *Seminar*.

CLE Credits Offered

As in past years, Continuing Legal

Education (CLE) credits will be available, and we will also be adding an ethics component to the CLE offering this year. An agenda and registration information for the *Seminar* will soon be posted on the NACWA website at www.nacwa.org. Plan to join us for this compelling seminar! ♦

NACWA Legal Advocacy Results In BEACH Act Settlement

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determine appropriate indicators for new water quality criteria that will be protective of public health and based on robust scientific data. Under the terms of the agreement EPA has agreed to conduct studies in a variety of different geographic regions across the country as well as beaches affected by different forms of water contamination. Additionally, the agreement commits EPA to validate and publish a rapid test method for the new or revised criteria by October 2012. The rapid test method will be based on indicators deemed appropriate by the Agency during the research period and will be validated through an inter-laboratory study.

Another important element of the settlement agreement is the opportunity for stakeholder input during the scientific study period and criteria development pro-

cess. The agreement requires EPA to convene a number of stakeholder workshops during the research period for interested parties to offer input during criteria development, as well as an Experts Scientific Workshop to review the data collected during the scientific study period and determine if there are additional studies required to develop scientifically valid recreational water criteria. These opportunities for stakeholder input were a key request made by NACWA during settlement discussions will help ensure that criteria development process is transparent and based on sound science.

This settlement represents a significant victory for NACWA and its members by ensuring that the municipal utility voice will be heard during the development of new recreational water quality criteria. The agree-

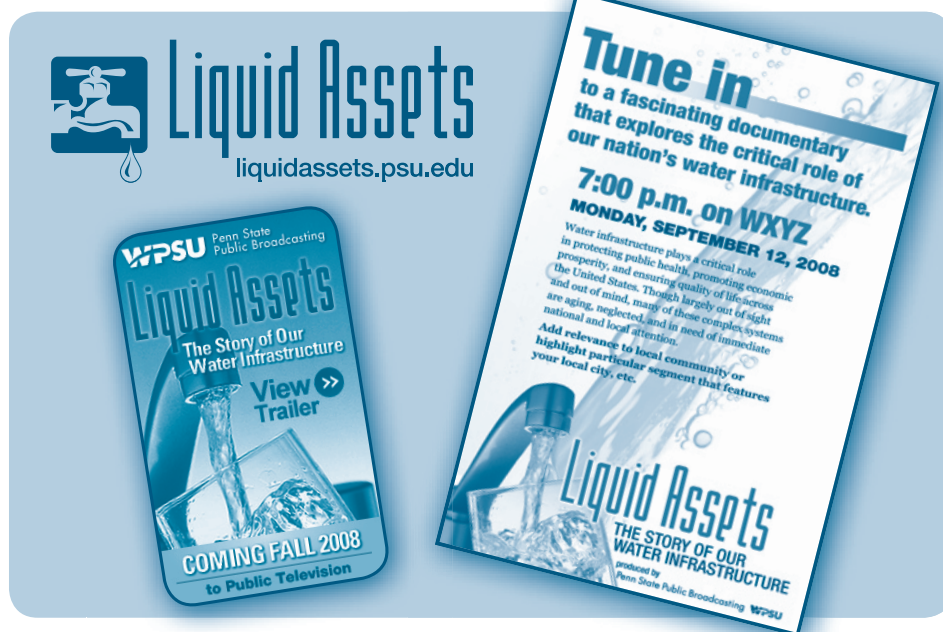
ment provides NACWA with a key stakeholder role in development of the new criteria and provides EPA with sufficient time to carry out the necessary studies to create scientifically valid standards. NACWA involvement in this process will protect its members from the publication of criteria based on potentially flawed science that could result in unnecessary increased regulatory or financial requirements. NACWA looks forward to working with EPA, NRDC and others over the coming years to develop new criteria that are protective of public health and the environment and scientifically sound. Additional information regarding the settlement is available in *Legal Alert 08-05*, and a copy of the settlement agreement along with other documents related to the case can be found on the *Litigation Tracking* page of NACWA's *Member Pipeline*. ♦

NACWA Intensifies Efforts to Promote *Liquid Assets*

NACWA has been playing a major role in outreach efforts to publicize the release of *Liquid Assets: The Story of Our Water Infrastructure* and to encourage local Public Broadcasting System (PBS) stations to air the documentary this fall. The 90-minute film, produced by Penn State Public Broadcasting (PSPB), premiered Sept. 9 at the Newseum in Washington, D.C. NACWA has been working with PSPB, and other organizations that provided financial support for the documentary including the Water Environment Federation (WEF), the American Society of Civil Engineers (ASCE), the Associated General Contractors (AGC) to organize the premiere and to promote *Liquid Assets* at the community level.

Documentary Focuses on Infrastructure Crisis

Liquid Assets bills itself as a “a public media and outreach initiative that seeks to inform the nation about the critical role that our water infrastructure plays in protecting public health and promoting economic prosperity.” The documentary film includes interviews with the heads of several NACWA member agencies, mayors, and




others who detail the pending crisis cities face regarding their aging and crumbling water and wastewater infrastructure. In addition, the initiative provides a community toolkit with sample letters encouraging PBS stations to air *Liquid Assets*; guides for organizing community events and forums for discussing and publicizing the

water infrastructure challenge; and other marketing tools. NACWA anticipates that having the documentary aired as broadly as possible will bolster its advocacy efforts to boost federal funding for water and wastewater infrastructure.

To learn more about *Liquid Assets*, please visit <http://www.liquidassets.psu.edu>. 



« Thomas Sigmund (far right), executive director of the Green Bay Metropolitan Sewerage District (GBMSD), discussed a host of ongoing and emerging challenges facing his utility at a NACWA Utility Executives Perspectives Luncheon on August 26 at NACWA's National Office. In particular, Sigmund focused on the move by state and federal regulatory agencies' toward increasingly stringent phosphorous standards and the need for an approach that will address nonpoint, primarily agricultural, sources of pollution. GBMSD is also grappling with legacy pollution issues from prior industrial activity and the challenges of determining responsibility and liability for water quality improvements. He noted that for a medium-sized utility like Green Bay, the costs of ramped up regulatory and legal activity must be passed on to cash-strapped households who have difficulty paying the higher rates needed to address these issues. Sigmund also offered his support for more federal funding and a trust fund with grants that can be distributed equitably.

NACWA's Utility Executive Luncheons are informal sessions that feature a presentation by a utility executive about the specific local water quality challenges their agencies are facing and, perhaps more importantly, the innovative solutions they are using to meet those challenges. These discussions offer a unique opportunity for NACWA staff and our friends at other organizations to learn about the important work the nation's clean water agencies do every day and to ask basic questions that they may not feel comfortable asking in other, more formal settings. 

Winter Conference Examines Rising Capital Costs



▲ NACWA's 2009 Winter Conference, *Controlling Chaos: Managing Rising Capital Costs*, will be held February 3-6, 2009, at the Westin Buckhead Atlanta in Atlanta, Georgia.

Mark your calendars now for NACWA's 2009 Winter Conference, *Controlling Chaos: Managing Rising Capital Costs*, February 3-6, 2009, at the Westin Buckhead Atlanta in Atlanta, Ga. Building on the discussions from NACWA's 2007 Winter Conference, NACWA's 2009 Winter Conference will explore the implications of rapidly rising capital cost and the ways in which utilities and other industries are working to improve their capital project management.

Capital costs are rising due to regulatory initiatives, growth and the need to replace or repair post-World War II collection systems and early construction grant facilities. At the same time, construction costs are increasing due to rapid escalation of the price of materials. Demand for

materials is rising as multiple sectors of the economy enter rebuilding booms, and shortages in skilled construction workers, along with many other factors, are combining to put more pressure on capital budgets. With capital costs already comprising more than half of the typical clean water agency's budget, these upward trends present the clean water community with a growing challenge. Additional funding support is clearly needed, but there are other paths to improvement. NACWA's 2009 Winter Conference will highlight the tools and programs currently available to help utilities improve the management of their existing capital programs, helping to stretch existing resources and make capital programs more efficient. Look for more details about the conference program in the next *Clean Water Advocate*. ♣

NACWA Work on Affordability Leads to Proposed Legislative Fix

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(D-Ohio) to introduce bipartisan affordability/financial capability legislation (S. 3443) on August 1, that calls on EPA to update its 1997 guidance. The *Clean Water Affordability Act of 2008* mirrors much of NACWA's thinking on the need for increased flexibility in assessing financial capability and would require EPA to update its guidance to ensure the issue determinations more accurately reflect the ability of a community to pay for certain Clean Water Act requirements. Consistent with NACWA's previous work on the issue, S. 3443 would require capability assessments to examine site-specific local conditions and an array of economic factors and conditions; to not rely entirely on prescriptive formulas; and to not rely on a single measure, such as median household income, for determining whether a particular Clean Water Act program is affordable or not. In addition to directing EPA to update its guidance, S. 3443 would establish a grant program targeting distressed communities facing large investment needs for combined and sanitary sewer system improvements. The bill authorizes \$1.8 billion over five years to be distributed to the states, which would be responsible for prioritizing community needs. NACWA will now work to encourage other Senators to cosponsor the bill, and will keep members apprised of developments as they occur. ♣



« Among the excellent presentations given at NACWA's 2008 Summer Conference was Dan McCarthy (left) President & CEO, Global Water Business for Black & Veatch, Mo., and Andy Richardson (right) Chief Executive Officer for Greeley and Hansen, Ariz., discussion and presentation entitled *The Case for Sustainable Water Planning*. Richardson and McCarthy discussed the gambit of water challenges – too much, too little, too contaminated or inaccessible to meet needs as well as the need to preserve our nation's water resources for future generations. ♣