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Ken Kirk

December 10, 2008

The Honorable Henry Waxman
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20510

Dear Chairman Waxman:

The National Association of Clean Water Agencies (NACWA) would like to congratulate you on your selection as chairman of the House Energy and Commerce Committee and very much looks forward to working with you on issues of critical importance to the nation's publicly owned wastewater treatment agencies. NACWA represents the interests of more than 300 public agencies, which together collect and treat more than 18 billion gallons of wastewater every single day. Our members provide this critical service to the nation's largest municipalities, including the city of Los Angeles and Los Angeles County, as well as to small and medium-sized communities across the nation. The vast improvements to the water quality of the nation's rivers, lakes, estuaries, and other waterways over the past 35 years can be attributed, in large part, to the work of these public servants — true environmental stewards — with the direction of Congress through the Clean Water Act.

Despite the success of this law, many challenges remain, and NACWA is eager to begin working with you, your staff, and the 111th Congress to address them. Two issues of importance to our public agency members that will receive attention from your committee are climate change and chemical security.

Climate Change

NACWA's public agency members are focused on guaranteeing uninterrupted service to rapidly growing populations and are concerned about the challenges posed by climate change. In particular, NACWA believes climate change is about far more than just changing temperatures; it is fundamentally a water resource management issue with potentially severe consequences if not addressed in a science-based, common-sense manner. Projected increases in air temperature may lead to changes in precipitation, and thermal expansion of the oceans will result in sea level rise that will flood low-lying, coastal areas — where many wastewater treatment plants are located. Imagine, if you will, the cost and logistical nightmare of having to relocate a facility such as Los Angeles' Hyperion Treatment Plant, which sits on the coastline of the Santa Monica Bay and treats an average of 350 million gallons of wastewater per day. In addition, shifting climates can produce extreme weather events ranging from more intense storms to extreme drought conditions, all of which can have an impact on the operation of these critical facilities.

To address these challenges, clean water agencies have outlined a two-pronged approach that focuses on mitigation and adaptation. First, as environmental stewards, our public agency members are committed to finding ways to mitigate their own greenhouse gas emissions. Second, they are looking at strategies for adapting to climate change. Mitigation strategies include energy savings through treatment plant optimization and cogeneration measures (the capture of methane gas to sequentially generate both electricity and useful heat), the capture and sequestration of greenhouse gases through a variety of innovative means, and water reuse methods that would reduce and save energy. Adaptation will involve potentially costly upgrades to treatment plants to accommodate anticipated increases in precipitation and extreme storms and collaboration with state and federal agencies on a variety of regulatory matters.

Chemical Security

NACWA will also be working with the Homeland Security and the Transportation and Infrastructure committees, as well as your committee, as legislation is considered to reauthorize the Chemical Facilities Anti-Terrorism Security Act (CFATS), which is set to expire in 2009. While we fully understand the need to ensure 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 same regulatory regime as for-profit chemical manufacturers. As public entities, 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 their managers understand the consequences of not doing so. These facility leaders 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, 365 days a year.

The wastewater community has devoted significant resources to ensure the security of their facilities, and these efforts intensified after the 2001 terrorist attacks. Utilities have worked with the U.S. Environmental Protection Agency (EPA) and the 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 have 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. Congress recognized these important factors when it voted to exempt utilities covered under the Clean Water Act and Safe Drinking Water Act from the CFATS requirements two years ago. While we recognize that your committee does not have jurisdiction over wastewater utilities and Clean Water Act compliance, these issues will come up in the context of drinking water facilities, which share many of our

NACWA Letter to Waxman

December 10, 2008

Page 3 of 3

concerns. NACWA hopes these factors will be considered when CFATS comes up for reauthorization in the coming year.

Again, NACWA looks forward to working with you on these important issues in the 111th Congress. Please do not hesitate to contact me at (202) 833-4653 for more information about our positions. You can also visit our website at www.nacwa.org.

Thank you,

A handwritten signature in black ink, appearing to read "K Kirk". The "K" is large and stylized, with a vertical stroke. The "Kirk" is written in a cursive script.

Ken Kirk
NACWA Executive Director