

EXECUTIVE COMMITTEE

PRESIDENT

Christopher M. Westhoff

Assistant City Attorney

Public Works General Counsel

City of Los Angeles

Los Angeles, CA

VICE PRESIDENT

Marian Orfeo

Director of Planning

& Coordination

Massachusetts Water

Resources Authority

Boston, MA

TREASURER

Kevin L. Shafer

Executive Director

Milwaukee Metropolitan

Sewerage District

Milwaukee, WI

SECRETARY

Jeff Theerman

Executive Director

Metropolitan St. Louis

Sewer District

Saint Louis, MO

PAST PRESIDENT

Dick Champion, Jr.

Director

Independence Water Pollution

Control Department

Independence, MO

EXECUTIVE DIRECTOR

Ken Kirk

April 17, 2009

The Honorable Russell Feingold

U.S. Senate

Hart Senate Office Building, SH-506

Washington, DC 20510

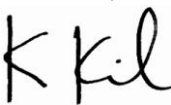
Dear Senator Feingold,

The National Association of Clean Water Agencies (NACWA) appreciates your ongoing commitment to the nation's water quality and values the opportunity to work with you to address confusion regarding the jurisdictional scope of the Clean Water Act created by recent U.S. Supreme Court rulings in *Solid Waste Agencies of Northern Cook County v. U.S. Army Corps of Engineers*, *Rapanos v. U.S.* and *Carabel v. U.S. Army Corps of Engineers*. These decisions have the potential to delay important permitting decisions and provoke more legal challenges. Therefore, as the leading advocacy organization representing the nation's municipal wastewater treatment agencies, NACWA strongly supports the legislative approach contained in S. 787, the *Clean Water Restoration Act*.

NACWA is also pleased to see that a findings section was added to the legislation stating that the regulatory waste treatment exemption for man-made treatment structures contained in the EPA and Army Corps of Engineers regulatory definition of "waters of the United States" (40 CFR 122.2, 33 CFR 328), would not be affected. However, NACWA believes that this provision should be included in the actual legislative language in the *Savings Clause* section. Without this explicit and binding exemption, NACWA members are concerned that certain components of their treatment systems, including some conveyance ditches, treatment lagoons, and manmade, effluent-dominated impoundments would be subject to the National Pollutant Discharge Elimination System (NPDES) permit requirements. NACWA is working with the House Transportation and Infrastructure Committee to include the waste treatment exemption in the body of their version of the legislation.

NACWA applauds your continuing leadership on this issue and looks forward to working with you as S. 787 moves forward in the 111th Congress.

Sincerely,



Ken Kirk

Executive Director

Cc. Senator Boxer, Senator Inhofe, Senator Cardin