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June 15, 2009

The Honorable James L. Oberstar
Chairman

House T&I Committee

U.S. House of Representatives

Washington, D.C. 20515

The Honorable Eddie Bernice Johnson
Chairman

House T&I Subcommittee on
Water Resources and Environment

U.S. House of Representatives

Washington, D.C. 20515

The Honorable John L. Mica

Ranking Member

House T&I Committee

U.S. House of Representatives

Washington, D.C. 20515

The Honorable John Boozman

Ranking Member

House T&I Subcommittee on

Water Resources and Environment

U.S. House of Representatives

Washington, D.C. 20515

Dear Chairman Oberstar, Ranking Member Mica, Chairwoman Johnson, and Ranking Member Boozman:

The National Association of Clean Water Agencies (NACWA), the leading advocacy organization representing the nation's municipal wastewater treatment agencies supports the *Wastewater Treatment Works Security Act of 2009*. The bill, introduced by Rep. Eddie Bernice Johnson (D-Texas), chair of the House Transportation and Infrastructure Subcommittee on Water Resources and Environment, would place wastewater facilities under the same security program as drinking water facilities at the U.S. Environmental Protection Agency (EPA). We believe this approach is the only way to ensure a consistent level of security at these facilities while avoiding duplicative and overly burdensome regulatory regimes that will lead to increased costs to taxpayers with no appreciable public benefit.

However, we understand that the House Committee on Homeland Security intends to assert jurisdiction over chemical security at wastewater treatment utilities when it marks-up a CFATS reauthorization bill on June 18 for the program administered by the Department of Homeland Security (DHS). If wastewater utilities are regulated under a CFATS program at DHS while drinking water utilities are regulated under a security program at EPA, separate security programs for water supply and wastewater treatment operators will be in place, thereby creating duplication of efforts, increased costs to ratepayers, and compliance mandates for two Federal programs without any discernible public benefit.

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The problematic nature of this approach is best crystallized by the example of water and wastewater utilities that are jointly owned and managed by a single entity. Under separate federal agency authorities, these facilities would face the prospect of being regulated by two different federal agencies for the same policy purpose. Indeed, we believe a splintered federal regulatory oversight approach will result in greater security vulnerabilities at wastewater and drinking water systems vis-à-vis intentional acts of terrorism.

NACWA recognizes Congress' interest in ensuring the best possible protections for the nation's critical infrastructure but including publicly owned treatment works (POTWs), whose sole mission is the protection of public health and the environment, into regulations aimed at securing private chemical plants is not a sound approach. POTWs are already heavily regulated under the Clean Water Act (CWA), which is administered by EPA and overseen by the T&I committee.

NACWA has worked diligently with EPA's water security division on effective security protocols to protect their facilities. The Association developed a suite of vulnerability self-assessment tools (VSAT™) that was distributed broadly for use by wastewater and drinking water agencies and also worked to develop its chlorine gas decision tree to help utilities assess the feasibility of switching to an alternative disinfection method. The CFATS bill has the potential to undermine both this work and EPA's ability to implement the CWA by giving overly broad discretion to DHS.

Clearly, any new legislation focusing on security at wastewater treatment facilities should fall under the oversight of the T&I Committee. NACWA fully supports the committee in its efforts to assert jurisdiction over wastewater treatment sector security through the *Wastewater Treatment Works Security Act of 2009* and we look forward to working with you on these efforts going forward.

Sincerely,

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

Ken Kirk

NACWA Executive Director

Cc:

The Honorable Nancy Pelosi

Members of the House Homeland Security Committee