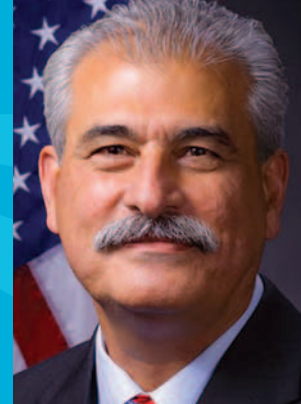


CLEAN WATER ADVOCATE

New U.S. Environmental Protection Agency Assistant Administrator for Water, Peter Silva, met with NACWA leadership recently and will speak at the Association's Hot Topics Breakfast at WEFTEC (October 13) and November 11-13 Law Seminar in Washington, DC.



A Clear Commitment to America's Waters

AUGUST/SEPTEMBER 2009

Inside

NACWA's Meeting with New EPA Assistant Administrator.....	2
NACWA's Work on EPA's Enforcement Action Plan.....	2
2010 Leadership Center Now Accepting Applications	4
EPA Gets Extension for Incineration Rule	4
NACWA's Winter Conference—Utility Roles & Relationships.....	5
Call for Award Nominations.....	5
NACWA's Wet Weather Advocacy Project.....	6
NACWA at WEFTEC'09.....	6

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Congressional Agenda Active as Session Draws to a Close

As lawmakers return to the Capitol following a divisive and active August, congressional leadership and committees have begun determining priority items for the remainder of the first session of the 111th Congress. Of interest to NACWA members is legislation relating to climate change, security, and wastewater infrastructure funding, all of which are likely to see action before the end of this year.

Wastewater Infrastructure Funding Continues as Key Priority

Funding for water and wastewater infrastructure projects is a top priority on NACWA's legislative radar screen and continues to receive significant attention from Congress. Three separate legislative efforts are moving forward that, if successful, will result in greater funding for communities struggling to pay for their water and wastewater infrastructure needs.

Congress is expected to complete work in October on Fiscal Year (FY) 2010 U.S. Environmental Protection Agency's (EPA) Appropriation bill, which will provide between \$2.1 billion and \$2.4 billion to the Clean Water



State Revolving Fund (CWSRF) and \$1.4 billion to the Drinking Water State Revolving Fund (DWSRF) for capitalization grants. Funding for the CWSRF represents more than a three-fold increase over funding levels established under the previous administration. For the DWSRF, the increase is almost double historical levels. Clearly the Obama Administration has made investment in our nation's water and wastewater infrastructure a top priority. Congress will likely appropri-

CONTINUED ON PAGE 3 »

EPA's Silva, Giles to Headline NACWA Law Seminar

Registration is now open for the 2009 NACWA *Developments in Clean Water Law Seminar*, with an agenda that includes many of the nation's top clean water legal practitioners speaking on today's hottest topics. The *Seminar*, scheduled for November 11-13 at the Marriot Metro Center in Washington, D.C., will feature remarks from Peter Silva, the new U.S. Environmental Protection Agency (EPA) Assistant Administrator for Water, and Cynthia Giles, the EPA Assistant Administrator for Enforcement and Compliance Assurance. These two key officials will discuss the Agency's current priorities on water and enforcement issues and provide valuable insights on EPA's plans for the coming year. The *Seminar* will also include a keynote address from Katherine Baer, the senior director of clean water program issues at American Rivers as well as engaging panels on a variety of current cutting edge topics in clean water law.

Panels to Focus on Blending, Nutrients and SSOs

Panel topics include the legal arguments clean water utilities should consider when the legal rules affecting their operations suddenly change. This panel will focus particular attention on recent legal changes affecting the ability of some utilities to process peak wet weather flows through blending, as well as potential changes to federal regulations that could affect biosolids management. Another panel will examine the current state of clean water law, with special emphasis on emerging regulation of nutrients, managing sanitary sewer overflows (SSOs) in the absence of a national SSO Rule, and considering a phased approach in the negotiation of consent decrees. There will also be a panel dedicated entirely to clean water enforcement issues, with a heightened focus this year

CONTINUED ON PAGE 5 »

NACWA Takes Priority Clean Water Issues to EPA Assistant Administrator Silva

NACWA and several members of its Executive Committee met with Peter Silva, the new U.S. Environmental Protection Agency (EPA) assistant administrator for water, on September 10, to discuss the priority advocacy issues of the clean water community. In advance of this meeting, NACWA sent Silva a letter outlining the Association's top concerns, including nutrient issues, peak excess flow blending, biosolids management (with a focus on EPA's sewage sludge incineration initiatives), water/wastewater security jurisdiction, and the need to move toward a more holistic watershed approach.

Issues include Biosolids Definition, Security

The meeting was particularly timely as it gave NACWA an opportunity to urge Silva to weigh in with his fellow leaders in the air and waste offices on the efforts by EPA to potentially define biosolids as a solid waste, which could lead to significantly more costly, albeit unnecessary, regulations on sewage sludge incinerators (SSIs). NACWA also learned that EPA is very aware of, and focused on, the issue of chemical security and the question of whether EPA or the Department of Homeland Security (DHS) should have jurisdiction over security at publicly owned treatment works (POTWs). This issue is garnering additional attention as Congress continues to debate how to regulate wastewater treatment and drinking water agencies within the context of reauthorizing the DHS's chemical facility anti-terrorism standards (CFATS) program by October of 2010.

These two issues, in particular, have seen new developments since NACWA's meeting with Silva. The court-ordered deadline for the Agency to revise or develop Clean Air Act (CAA) emission limits for solid waste incinerators was extended by the U.S. District Court for the District of Columbia days before the Agency's time was to run out (*see related article in box above*). On the issue of security jurisdiction, EPA has announced

NACWA Engages with EPA on Enforcement Action Plan

NACWA held a conference call in August with top U. S. Environmental Protection Agency (EPA) officials from the Office of Enforcement and Compliance Assurance (OECA) to discuss a new clean water enforcement initiative and followed up with a letter to OECA and EPA's Office of Water in early September. The conference call and opportunity for written comments followed NACWA's request for input to the development of a new Clean Water Act enforcement plan being formulated by OECA. During the conference call, NACWA expressed concern with EPA's current enforcement approach that measures success based solely on the number of enforcement actions carried out and the dollar value of complying with them. NACWA said such an approach is not sustainable and does not prioritize improvements to water quality. Association representatives urged OECA to work with NACWA to develop an enforcement approach that focuses more on measurable water quality improvement and public health.

NACWA's comment letter, sent to OECA Assistant Administrator Cynthia Giles and Office of Water Assistant Administrator Peter Silva, echoed the key points made on the call, as well as the importance of ensuring that enforcement actions are carried out in a uniform manner across the nation. The letter also encouraged EPA to increase the coordination between its water program office and water enforcement office. NACWA looks forward to reviewing EPA's new Enforcement Action Plan when it is released in October and to continued cooperation with the Agency on this important issue.

an agreement with DHS that gives the Agency authority to implement CFATS standards for POTWs and community-based water systems.

NACWA urges Nutrient Controls be View in Watershed Context

NACWA also took the opportunity presented by the meeting with Silva to link the nutrient control issue with the need to move toward a more holistic watershed approach. The Association's primary concern is that a one-size-fits-all approach to nutrient control will add an enormous cost to the nation's clean water agencies—without significant water quality advances. Achieving meaningful nutrient control requires that nonpoint

sources, including agriculture, be a key component of any nutrient policy and this, NACWA believes, can only happen via a viable watershed approach. In line with this, NACWA's leaders told EPA that it will seek the Agency's input into draft watershed legislation it is crafting with key stakeholder groups in the future. Many of these issues have been the subject of detailed letters from NACWA to Silva and key EPA staff over the past several weeks and are available to members for download from the Association's website at www.nacwa.org. The Association looks forward to building a strong relationship with Assistant Administrator Silva. 🌊

Congressional Agenda Active as Session Draws to a Close

CONTINUED FROM PAGE 1

ate these dollars with similar conditions that were imposed on funding under the stimulus package enacted earlier this year, with states required to set aside 20% of SRF funds for energy efficiency, water efficiency and green infrastructure projects and to distribute at least 30% of the funding in the form of additional subsidization including principal forgiveness, negative interest loans or grants—for which NACWA advocated strongly.

The Senate is poised to pass S. 1005, *the Water Infrastructure Financing Act*, reauthorizing the Clean Water and Drinking Water State Revolving Funds. The bill received broad bi-partisan support among members of the Senate Environment and Public Works (EPW) Committee. If Senate Majority Leader Harry Reid (D-Nev.) is able to free up some of the Senate's busy fall calendar to consider this legislation, a conference between the House and Senate could take place by the end of the year. This would certainly be an exciting development as Congress has debated similar legislation for several terms. Both the House-passed bill, H.R. 720, and the Senate package authorize significant increases in spending for the SRF programs.

Limited legislative activity is anticipated on H.R. 3202, *the Water Protection and Reinvestment Act of 2009*—establishing a long-term dedicated funding source for the both the clean water and drinking water SRF programs. NACWA is working actively to identify co-sponsors for the legislation. Already, the legislation has attracted the support from 14 Democratic and Republican lawmakers. The Association expects to see more members signing on to the legislation by year's end.

Climate Change and Energy Legislation Receive Attention

The Senate is now the focus of legislative action on climate change and energy legislation since the House passed its package—H.R. 2454, *The American Clean Energy and Security Act*—in July. The Senate Environment and Public Works Committee (EPW) is expected to introduce and report out of committee its climate change package by the end of October, at which point the bill will likely be referred to other

Senate Committees with jurisdiction over the subject, including Energy and Natural Resources, Finance, and Foreign Relations. NACWA has been diligently working with a coalition of water sector and environmental advocates to urge the Committee to include in the Water Systems Mitigation and Adaptation Partnerships Program designed to provide drinking water, wastewater and stormwater utilities federal assistance to help mitigate and adapt to climate change-related impacts. Senator Ben Cardin (D-Md.), Chair of the EPW subcommittee that oversees water issues, has made this provision a priority and has gotten the support of Senator Barbara Boxer (D-Calif.), Chair of the full committee. NACWA applauds their leadership on issue of water system adaptation and is confident that the package that emerges will contain this proposal.

NACWA is also working with Senator Debbie Stabenow (D-Mich.), a member of the Senate Energy and Natural Resources Committee, to ensure that energy recovery initiatives undertaken by wastewater treatment utilities are part of energy legislation designed to help wean the country off fossil fuels. Senator Stabenow has lead an effort to ensure that biogas and biosolids generated at wastewater treatment plants qualify as renewable biomass fuels and receive credit under the Renewable Electricity Portfolio Standard.

It is unclear whether the full Senate will take up climate legislation this year. Although the Administration and Democratic leaders would like a Senate vote prior to the international conference on climate change in Copenhagen in December, the Senate may not have the sixty votes to overcome a filibuster. Given the attention that healthcare legislation is receiving, climate change legislation may be a lift that is too heavy to do this session. However, the Administration has made passage of climate change legislation a top priority and is willing to commit significant political capital to getting it done, so we can be sure that climate change legislation will remain a top priority for this Congress.

Security among Legislative Priorities

Included among the legislative priorities is the effort to reauthorize the Department

of Homeland Security's (DHS) Chemical Facility Anti-Terrorism Standards (CFATS). In support of this effort, two bills designed to ensure that oversight of security related matters at community water systems and publicly owned treatment works (POTWs) remain under the authority of the EPA are likely to see consideration this fall.

The Drinking Water System Security Act of 2009, H.R. 3258, introduced by Henry Waxman (D-Calif.), Chairman of the House Energy and Commerce Committee, seeks to place regulatory jurisdiction of community water systems at the EPA as per an agreement between Homeland Security Chairman Bennie Thompson (D-Miss.) and Chairman Waxman. The legislation will likely see movement during the last months of the first session beginning with a hearing currently scheduled for early October. EPA will testify before the committee and indicate that it supports maintaining oversight on security matters for drinking water and wastewater facilities.

Also expected to see movement is *the Wastewater Treatment Works Security Act of 2009*, H.R. 2883, which seeks to also place regulatory jurisdiction of publicly operated treatment works plants at the EPA. The legislation avoids any duplicate regulatory authority that could occur if EPA were tasked with regulating drinking water facilities and DHS were tasked at safeguarding POTWs plants. While the exact schedule for H.R. 2883 remains somewhat uncertain, it appears that the legislation is a priority for the House Transportation and Infrastructure Committee. In fact, the Committee could markup the bill by the end of October. NACWA recently met with majority staff at the Committee to ensure that our priorities are included in an updated version of the bill expected to be released shortly.

These are just a few of the clean water efforts that Congress has on its legislative plate. NACWA members can also expect to see action on watershed planning legislation, BEACH Act reauthorization, and Clean Water Act jurisdiction. Clearly issues important to wastewater utilities are front and center on Congress's agenda and NACWA is there—advocating on behalf of the clean water community. 🌊

2010 Water & Wastewater Leadership Center Now Accepting Applications

The Water & Wastewater Leadership Center is currently accepting applications for its 2010 session, March 7 – 19, 2010, at the Kenan-Flagler Executive Education Center on the campus of the University of North Carolina at Chapel Hill. The deadline for applications is December 11, 2009. 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.

Celebrating its tenth anniversary this year, the Leadership Center Program has had more than 200 individuals benefit from

this outstanding executive educational experience. 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 (www.nacwa.org/leadershipcenter) or contact Kelly Brocato at 202/833-1449 or kbrocato@nacwa.org.

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EPA Gets Additional Time for Rules on Incineration

A court-ordered deadline for the U.S. Environmental Protection Agency (EPA) to revise or develop Clean Air Act (CAA) emission limits for a list of solid waste incinerators was extended by the U.S. District Court for the District of Columbia days before the Agency's time was to run out. The new deadline of April 15, 2010, also means that the fate of the Nation's sewage sludge incinerators (SSIs) remains undecided, providing NACWA with valuable time to advocate on the issue.

Though not the subject of the court case, SSIs have been caught up in the legal challenge of EPA's discretion to decide which section of the CAA to use when regulating incinerators. EPA's solid waste office, meanwhile, is working to develop a definition of non-hazardous solid waste that will ultimately be used by the air office to outline which units should be regu-



lated as "solid waste" incinerators and which units are burning a legitimate fuel and should be regulated under the less onerous sections of the CAA. In July, EPA indicated that it plans to include sewage sludge or biosolids in its proposed definition of solid waste, declaring that SSIs are not burning sludge for energy recovery, and EPA's air office is now quickly drafting regulations that would regulate SSIs as solid waste incineration units.

NACWA Focuses Efforts on Balance Among Regulatory Programs, Implications

NACWA is keeping the pressure on EPA

to recognize the implications of the rule-making efforts. The Association recently sent a letter to the heads of the three main EPA offices involved in the issue, outlining detailed arguments against the regulation of SSIs under Section 129 of the CAA and the major consequences if EPA decides to define solid waste to include sewage sludge under Subtitle D of the Resource Conservation and Recovery Act (RCRA). NACWA's letter was developed using *Targeted Action Funds* (TAF) to underscore how such a decision would undermine the carefully constructed balance among the regulatory programs implementing the Clean Water Act, including the Part 503 biosolids regulations, the CAA, and RCRA. NACWA is now working to set up meetings with the key EPA offices involved and the extension will afford more time to outline the Association's case against regulation of SSIs under Section 129.

Winter Conference Examines Evolving Utility Roles & Relationships

Mark your calendars now for NACWA's 2010 Winter Conference, *Transcending Tradition . . . the Expanding Roles & Relationships of the Clean Water Utility*, February 2-5, 2010, at the Four Seasons Hotel in Austin, Texas. The 2010 Conference will focus on the expanding boundaries of utility management as clean water agencies take on new roles.

Historic lines between wastewater, drinking water, stormwater, and water reuse are slowly being erased as an increasing number of clean water agencies play a more prominent role in these issues in their communities. Much of this new consolidation is due to a recognition that local water planning must be done holistically, looking at water supply, wastewater collection and treatment, land use practices – including low impact development and green infrastructure – and other issues together, rather than as independent needs overseen by different governmental entities. Management of urban stormwater seems to be a natural fit for many clean water agencies, but more national and global challenges, including climate change – and the water resource implications it brings – as well as the nexus between water



use and energy consumption will necessitate more dramatic change. The role of clean water agencies in creating and managing greenhouse gas offsets in a carbon market and in generating and selling green power are just a few examples of these new responsibilities.

The 2010 Winter Conference will examine some of the drivers for change and how utility managers, already handling a full array of issues, have and will continue to adapt. In addition to the new roles and responsibilities, the Conference will explore how utility managers will need to continue dealing with current staffing and funding needs while finding creative ways to potentially do more with less. Look for more details about the conference program in the next *Clean Water Advocate* and on the NACWA website at www.nacwa.org/meetings. 🍀

EPA's Silva, Giles to Headline NACWA Law Seminar

CONTINUED FROM PAGE 1

on what clean water lawyers and utilities can expect in the enforcement realm given a new political direction at EPA. Other panel discussions at the *Seminar* will include a look at the importance of public perception in how a clean water utility protects its legal rights, an examination of key legal terms of art, and a review of the most important Clean Water Act legal cases of the past year.

CLE Credits Available

NACWA's *Clean Water Law Seminar* is the only conference of its kind and has become an indispensable tool for clean water practitioners – both for public agency attorneys and managers alike – due to its thorough examination of key wastewater legal and regulatory challenges and opportunities. Continuing Legal Education (CLE) credits will be available, including ethics credits. Additional details on the *Seminar*, including registration and hotel information as well as a list of CLE credits by state, can be found on the *Conferences & Professional Development* page of the NACWA website. The deadline for conference and hotel registration is October 19. Be sure to join your clean water colleagues for this important and exciting event! 🍀

National Environmental Achievement Awards—Call for Nominations

NACWA is now accepting nominations for its 2010 *National Environmental Achievement Awards (NEAA)*. For over 25 years, the NEAA program has recognized local, state and federal officials for their contributions to water quality and the environment, as well as Member Agencies who are committed to the development of innovative and environmentally sound clean water solutions, and proactive community outreach and education programs.

The NEAA program includes two categories: *Individual Achievement Awards* and *Member Agency Achievement Awards*. *Individual Achievement Awards* offer *Public Service Awards* for federal, state or local elected or appointed officials; *Distinguished Service Awards* for member agency leaders' dedication to NACWA; and the *Environment Award*, recognizing service and commitment to the environment. The *Member Agency Achievement Awards* are open for the following categories: *Research & Technology* for innovative programs; *Operations* for effective treatment methods and projects; *Public Service*



for voluntary environmental contributions within the community; and *Public Information & Education* (including subcategories for video, printed publication, educational program, and e-media) for significant outreach to the agency's constituents.

More information, including applications, nomination criteria and a list of past honorees is available on the NACWA website at www.nacwa.org/awards. The deadline for nominations is Friday, December 4, 2009. If you have any questions concerning the 2010 *National Environmental Achievement Awards Program* please contact Kelly Brocato at 202/833-1449 or kbrocato@nacwa.org. 🍀

NACWA Launches Wet Weather Advocacy Project

NACWA unveiled its *Wet Weather Advocacy Project* (WWAP) this month, a major new advocacy initiative focused on addressing the unique challenges posed by wet weather issues such as stormwater management, combined sewer overflows (CSOs), and sanitary sewer overflows (SSOs). Communities all across the nation are currently struggling with water quality problems resulting from wet weather events, at the same time they are challenged by growing populations, aging infrastructure, and diminishing financial resources. The WWAP will support the Association's member agencies and build on NACWA's existing wet weather advocacy work by creating a series of new programs and efforts to further focus the attention of federal officials, including Congress, the Environmental Protection Agency, and the Administration, on the unique wet weather issues facing the nation's clean water utilities. Central to this project will be a sustained emphasis on stormwater advocacy from the municipal utility perspective, both for utilities that deal with stormwater as part of CSO and/or SSO issues, and for those utilities that manage stormwater solely through municipal separate stormwater sewer system (MS4) permits or that operate as conveyance systems.

E-Newsletter to Engage Members of Issues of Critical Concern

A key element of the WWAP is a monthly electronic newsletter on wet



weather issues, the *Wet Weather Advocacy Outlook*, the first of which was forwarded to the NACWA members in early September. This publication will focus on engaging the stormwater and CSO/SSO community on topics of critical concern and marshaling the collective effort of the clean water community on key wet weather initiatives, as well as providing a summary of current NACWA efforts on stormwater and wet weather initiatives.

Web Seminar Series to Offer in Depth Examination of Issues

The WWAP will also feature a series of web seminars – the *Flow Series* – that will address a variety of wet weather related topics, including climate change, energy issues, stormwater management, and green infrastructure. The *Seminars* will serve to inform utilities of current wet weather challenges, provide valuable information, and engage them in critical advocacy efforts. The first web seminar is slated for December 9 and additional in-

formation on registration will be forwarded to NACWA members soon.

Stormwater Management Committee Open to Members, Affiliates

NACWA President Kevin Shafer, Executive Director of the Milwaukee Metropolitan Sewerage District, Wis., has also created a new Stormwater Management Committee. The new Committee will complement the work of the Association's Facility & Collection System Committee and focus on a variety of issues related to stormwater management, including federal and state stormwater regulations and legislation, legal cases and developments affecting stormwater agencies, best management practices, the use of green infrastructure to control wet weather flows, and emerging stormwater permitting concerns related to nutrients and other pollutants. This new committee is open to all NACWA members and those interested in joining this committee are encouraged to sign up at www.nacwa.org/joincommittee. 🌱

NACWA to be an Advocacy Presence at WEFTEC'09

NACWA will be the only advocacy presence on the exhibit floor at WEFTEC '09 in Orlando, Fla., October 10 – 14, with the Association's *Clean Water Advocacy Center* (CWAC). Stop by the CWAC (Booth 3385) to learn more about NACWA's advocacy initiatives and discuss key developments with National Office staff.

Don't Miss NACWA's Hot Topic Breakfast

NACWA will hold its annual Hot Topics Breakfast on Tuesday, October 13, from 8:00 – 10:00 am at the Peabody Orlando. Joining us will be new U.S. Environmental Protection Agency (EPA)

Assistant Administrator for Water, Peter Silva; key EPA officials including Michael Shapiro, Deputy Assistant Administrator for the Office of Water; Ephraim King, Director of the Office of Science and Technology, and Jim Hanlon, Director of the Office of Wastewater Management along with other Agency staff to discuss issues including nutrient controls, effluent guidelines, blending, and biosolids, to name a few. The breakfast is an informal session and provides ample opportunity to ask questions of our colleagues from EPA. There is no fee for the breakfast, and registration is not required. We look forward to seeing you in Orlando! 🌱