

CLEAN WATER ADVOCATE

NACWA will celebrate 40 years of clear commitment to clean water in 2010. For the Association, this significant milestone is truly a watershed moment. NACWA plans a year of introspection, innovation, and recognition as it acknowledges its past, present and future. The Association looks forward to actively involving and engaging its membership throughout its 40th Anniversary year.

See page 3

NACWA
at **40**
A WATERSHED
MOMENT
1970-2010

A Clear Commitment to America's Waters

OCTOBER/NOVEMBER 2009

Inside

NACWA Engages on Climate Change	2
NACWA Turns 40.....	3
Leading Author to Keynote NACWA Winter Conference.....	3
Water Trust Fund Proposal Gains Momentum on Capitol Hill	4
NACWA Garner Key Victory on Chemical Security Jurisdiction.....	5
NACWA Membership Outreach & Opportunities Kick Off.....	5

NACWA

National Association of
Clean Water Agencies
1816 Jefferson Place, NW
Washington DC 20036-2505

p 202.833.2672 f 202.833.4657
info@nacwa.org · www.nacwa.org

NACWA Maintains Focus on Peak Flow “Blending”

The regulatory status of peak flow blending remains a hot topic for the clean water community. The U.S. Environmental Protection Agency's (EPA) latest attempt to find a solution to the impasse on how to permit peak flow blending was the draft *Guidance on Preparing a Utility Analysis* that NACWA commented on in August. The draft guidance was intended to outline the ‘no feasible alternative’ assessment envisioned in the Agency's 2005 peak flows policy that has been contemplated as a possible solution for permitting blending at treatment plants serving separate sanitary systems. NACWA and several other stakeholders raised serious objections to the draft guidance, noting that the proposed 2005 peak flows policy the guidance was designed to implement has not been finalized, and that EPA's new interpretation of its 1979 bypass regulation oversteps the original intent of those requirements.

EPA Confirms Implementation of Draft Policy

The September 28 response from EPA's Assistant Administrator for Water, Peter Silva,

to NACWA's comment letter on the draft guidance affirmed that EPA has in fact begun to implement the 2005 proposed policy. This proposal, states the letter “has not been withdrawn, and remains a viable path forward for utilities to meet their obligations under the bypass rule.” The letter characterizes the Agency position as simply implementing the existing bypass regulation, promulgated in 1979. “The bypass regulation provides that the Director of the NPDES [National Pollutant Discharge Elimination System] program may take enforcement action against a permittee for a bypass,” the letter explains, “unless the permittee demonstrates that certain criteria are met, including a showing that there were no feasible alternatives to the bypass.” By pointing to the 1979 bypass regulation, coupled with the 2005 proposed policy, EPA is trying to assert its new position, and disregard the fact that the 2005 proposed policy was never finalized.

EPA's overall strategy on this issue, however, fails to acknowledge that the Agency has made a complete 180 degree turn in its handling of blend-

CONTINUED ON PAGE 5 »

NACWA's Flow Web Seminar Series Provides New Insights on Critical Wet Weather Issues



Registration is now underway for NACWA's *Flow Web Seminar Series*—four innovative web seminars addressing some of the hottest topics in wet weather and stormwater management. Designed as a central element in NACWA's Wet Weather Advocacy Project (WWAP), the *Flow Series* features experts discussing a variety of topics of interest to public utilities charged with the management of wet weather flows.

The dates and topics for the *Flow Series* include:

- **January 13, 2010** – Stormwater Management: What Really Works?
- **March 10, 2010** – Climate Change: It's all About Water
- **June 9, 2010** – Water Quality: The True Impact of Stormwater Runoff
- **September 8, 2010** – Green Infrastructure: What's Legal?

CONTINUED ON PAGE 6 »

NACWA Engages on Climate Change

The fall has been a busy time for NACWA and the water sector, in general, in the climate change arena. Although many of the climate impacts and the benefits of NACWA's advocacy may not be immediately realized, legislation is being developed now and it is critical that the Association position the Nation's clean water agencies as a vital voice in this debate early and often.

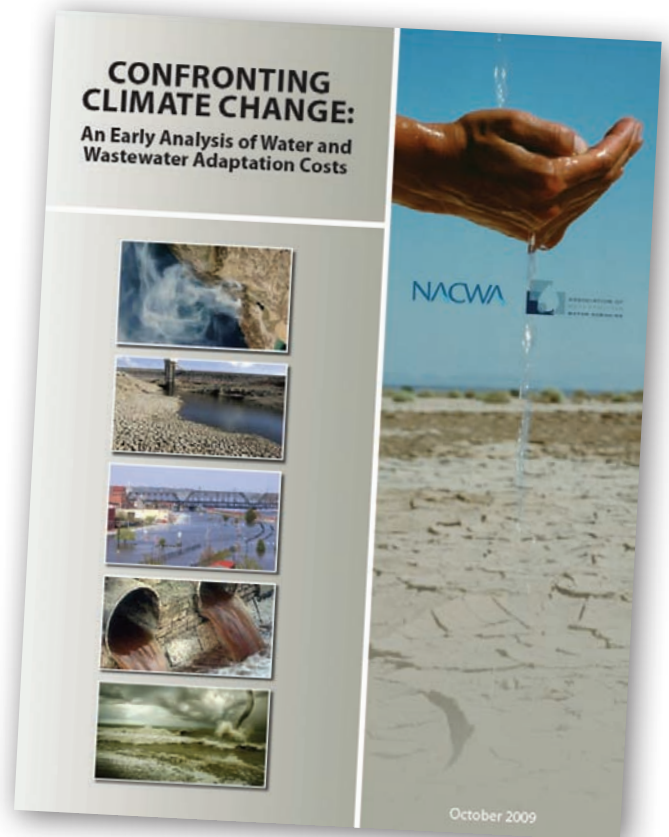
Joint Testimony Provided to Senate Committee

In line with this objective, NACWA testified jointly with the California Association of Sanitation Agencies (CASA) on October 28 before the Senate Environment and Public Works (EPW) Committee as part of a week-long series of hearings on the *Clean Energy Jobs and American Power Act* (S.1733). CASA President, Ronald E. Young, General Manager of the Elsinore Valley Municipal Water Agency, represented both organizations at the hearing and discussed the need to include adaptation funding for wastewater utilities in the legislation. He also urged the Committee to include language in the package to enable wastewater utilities to participate in a national renewable electricity portfolio standard. The legislation, which mirrors, in many respects, legislation passed earlier this year by the House, establishes a cap and trade system to reduce greenhouse gas emissions and includes provisions to help drinking water and wastewater facilities with funding for adaptation. The Senate EPW Committee approved and reported out the bill on November 5. The legislation now awaits consideration by the full Senate.

NACWA & AMWA Release Report on Climate Change Adaptation

NACWA and the Association of Metropolitan Water Agencies (AMWA) released a report, in late October, detailing the impacts climate change will have on wastewater and drinking water utilities, estimating the adaptation costs for these critical facilities to be between \$448 billion and \$944 billion through 2050. The report, *Confronting Climate Change: an Early Analysis of Water and Wastewater Adaptation Costs*, offers this cost estimate of adaptation needs in order to address a range of potential climate change impacts — from re-siting coastal facilities to impacts on water supply and wastewater treatment from altered precipitation patterns.

The publication is intended to provide policymakers and utility managers with a better understanding of the challenges faced by utilities as they work to ensure reliable water and wastewater services in the face of a changing climate. CASA President, Ron Young, showcased the report as part of his testimony before the Senate EPW Committee and it received significant attention in the trade press. *Confronting Climate Change: an Early Analysis of Water and Wastewater Adaptation Costs*, along with a comprehensive analysis, was forwarded to NACWA's membership via *Member Update 09-17* and is available on the Association's website at www.nacwa.org.



NACWA Participates in Interagency Climate Change Listening Session

Also on the climate change front, the White House Council on Environmental Quality (CEQ) has formed an Interagency Water Resources and Climate Change Adaptation Workgroup that includes the Office of Science and Technology Policy (OSTP), the National Oceanic and Atmospheric Administration (NOAA), and EPA, to develop recommendations for climate change adaptation. NACWA recently participated in a listening session for state, municipal, and water utility organizations, during which the Workgroup asked for input on programs, policies, or other actions that federal agencies should pursue to support or guide climate change adaptation efforts. The Workgroup also asked for recommendations of effective models for coordination among government agencies and ideas for integrating adaptation planning with existing water resources planning. Many groups, including NACWA, emphasized the need for better climate change data and models to help utilities and water resource managers plan appropriately for adaptation, as well as the need for more holistic watershed-based approaches to water quantity and quality issues. NACWA, through its Climate Change Committee, has provided additional written comments to the workgroup, and CEQ will make the information collected public sometime in the future. 💧

For NACWA...40 is a Watershed Moment

NACWA will celebrate 40 years of clear commitment to clean water in 2010. For the Association, this significant milestone is truly a watershed moment. Recent times have found the clean water community in the most dynamic environment it has seen in years. With it has come many challenges, but also great opportunity. On the horizon is 21st century watershed legislation, the promise of a clean water trust fund and other initiatives that have the potential to significantly improve not only our nation's water quality, but also the ability of NACWA Member Agencies to not simply meet, but

exceed, the expectations of their communities.

NACWA plans a year of introspection, innovation, recognition as it acknowledges its past, present and future. Initiatives and events include an update of the Association's *Strategic Plan*, new video outreach to current and potential members, 40th anniversary-focused keynote addresses and conference events, and the inaugural presentation of NACWA's *Lifetime Achievement Awards* at the Association's 40th Anniversary Annual Meeting in July in San Francisco. The Association looks forward to actively involving and engaging its membership throughout its 40th Anniversary year.



Leading Author to Keynote NACWA Winter Conference

NACWA is pleased to announce that its 2010 Winter Conference, *Transcending Tradition . . . the Expanding Roles & Relationships of the Clean Water Utility*, February 2 – 5 in Austin, Texas will be keyed by Chip Heath co-author, with his brother Dan, of the new book *SWITCH: How to Change Things when Change is Hard*. Chip and Dan Heath are also the co-authors of the New York Times bestselling book *Made to Stick: Why Some Ideas Survive and Others Die*. *Made to Stick* stayed on the Business Week best-seller list for 21 months, has been translated into 27 languages, and was named the Best Business Book of 2007 by Jack Covert and Todd Sattersten (Authors of *The 100 Best Business Books of All Time*). The Heath brothers also write a regular column for *Fast Company Magazine*. Their new book, *SWITCH: How to Change Things when Change is Hard* is scheduled for release the week after NACWA's Winter Conference.

SWITCH is described as a book to help you change things when change is hard. It considers change at every level – individual, organizational, and societal. Usually these types of change are treated separately as either “self-help advice” for individuals, “change management” advice for executives and “change the world” advice for activists. The Heath brothers assert that all change efforts have something in common: for anything to change, someone has to start acting differently.



Wastes as Resources and Other Opportunities to Be Explored

Utilities are increasingly being asked to do more with less and the 2010 Winter Conference will feature how some utilities are facing their management challenges head-on, with some using new and creative solutions that turn wastes into resources that benefit the utility. The conference will highlight how utility management for some clean water agencies is taking on a whole new meaning.

Many utilities have utilized their biogas

from anaerobic digestion for building or process heat and some limited power generation for years, but a few are exploring ways to maximize the generation of gas to provide 100 percent of their power needs and in some cases sell energy back to the grid. These utilities will find themselves as key stakeholders as power companies begin to look for more renewable energy sources and the pending climate change legislation on Capitol Hill will no doubt create more opportunities for utilities in this area. Biosolids, and the nutrient and energy potential they hold, are also being put to use beyond traditional land application. New technologies are enabling utilities to ‘mine’ their biosolids for phosphorus, a mineral with a finite natural supply, and for the energy potential that lies within the organic material. All of these ‘waste to resource’ opportunities are driving managers to find creative solutions to deal with the challenges they present as the stretch the traditional roles of the utility.

The 2010 Winter Conference will examine the new roles clean water agencies are assuming – but also put those roles into context as utilities continue to deal with an aging workforce, tough economic times, and growing capital program challenges. Look for more details about the conference program in the next *Clean Water Advocate* and on the NACWA website at www.nacwa.org/meetings. We look forward to seeing you in Austin in February. 🌊

Water Trust Fund Proposal Gains Momentum on Capitol Hill — NACWA and WIN Key Drivers

During the early fall, NACWA, joined by members of the Water Infrastructure Network (WIN), worked to build support for the *Water Protection and Reinvestment Act of 2009* (H.R. 3202). The legislation, introduced by Representative Earl Blumenauer (D-Ore.), seeks to establish a \$10 billion-a-year trust fund to help communities address wastewater and drinking water infrastructure challenges.

In support of this effort, NACWA, representatives from the American Society of Civil Engineers (ASCE), the Associated General Contractors (AGC) and other WIN members met with over 50 congressional offices to discuss the legislation, its benefits and revenue streams. These discussions and other outreach efforts have garnered a growing level of bipartisan congressional support that includes, at press time, 25 co-sponsors.



⤵ **Michael Grizuk**, (far right) director of the Pima County Regional Wastewater Reclamation Department in Tucson, Ariz., testified on behalf of NACWA before the House Transportation and Infrastructure Subcommittee on Water Resources and Environment on how funds from the American Recovery and Reinvestment Act (ARRA) have helped wastewater utilities and created jobs for local communities, but said some revisions were needed if Congress pursues a second stimulus bill. Grizuk testified that his agency used \$10 million in ARRA funding for its plant interconnect project, which is needed to help the county meet demands placed on the system by its growing population.

Transportation & Infrastructure Committee Chair Offers Support

Pivotal to the legislation, is the support of House Transportation and Infrastructure (T & I) Committee Chairman James Oberstar (D-Minn.). NACWA staff and members including Kevin Shafer, NACWA President and Executive Director, Milwaukee Metropolitan Sewerage District, Wis. and Marianne Bohren, Executive Director, Western Lake Superior Sanitary District, Minn. were in-

strumental in making the case to the T & I chair of the great need for the legislation. Recently, Chairman Oberstar expressed his support of the trust fund concept and announced that he looks forward to working with Representative Blumenauer to move the legislation in the future.

NACWA will continue with meetings on Capitol Hill to gain additional co-sponsors for the bill. As these efforts continue,

NACWA members are encouraged to meet with and/or contact their congressional delegations to explain the importance of the legislation to the future integrity of the nation's wastewater infrastructure. Should you require information for these discussions, or have any questions, please contact NACWA's Pat Sinicropi at 202-533-1823 or psinicropi@nacwa.org, or John Krohn at 202-833-4655 or jkrohn@nacwa.org.

NACWA Hot Topics Breakfast

NACWA's annual Hot Topics Breakfast at WEFTEC.09 attracted more than 60 people and featured comments from Pete Silva, U.S. Environmental Protection Agency's (EPA) assistant administrator for water; Mike Shapiro, EPA deputy assistant administrator for water; James Hanlon, director of the EPA Office of Wastewater Management (speaking in photo); Ephraim King, director of Science and Technology in the Office of Water; and Suzanne Schwartz, acting director of the Office of Wetlands, Oceans, and Watersheds; and Linda Boornazian, director of the permits division.

Those attending the breakfast expressed their deep concern with EPA's approach to blending, particularly its policies that seek to impose secondary standards on individual treatment units of the utility. NACWA emphasized that EPA should develop a comprehensive wet weather policy that would address blending and other issues, including sanitary sewer overflows (SSOs). EPA officials continue to state their view that blending constitutes a bypass requiring a no-feasible alternative analysis and continue to seek NACWA's input into how to proceed (see related article on page 1). The EPA officials also addressed the growing importance of stormwater management and the development of recreational water quality criteria.



NACWA Garners Key Victory on Chemical Security Jurisdiction

During November, the House of Representatives approved the *Chemical and Water Security Act of 2009* (H.R. 2868) by a vote of 230-193. The legislation seeks to establish a security program for wastewater utilities overseen by the Environmental Protection Agency (EPA) with the assistance of state primacy agencies. NACWA worked aggressively to ensure the bill placed jurisdiction for water sector security at EPA to avoid duplicative regulatory authority, as earlier versions placed wastewater security with Department of Homeland Security (DHS) and drinking water security with EPA.

Clean Water Utility VAs, SSPs and ERPs Required in Legislation

The legislation requires facilities that treat at least 2.5 million gallons per day to conduct vulnerability assessments (VA), and develop site security plans (SSP) and emergency response plans (ERP), for all treatment facilities, convey-

ance systems, electronics and automated systems. These assessments would be required every five years or when a major change is implemented at a facility that would render the old VA, SSP or ERP no longer valid. The legislation does, however, authorize \$200 million annually over four years for wastewater treatment utilities to complete VAs, SSPs, and ERPs as well as for implementing necessary security upgrades. The legislation would also require facilities utilizing a chemical of concern (such as gaseous chlorine) to review their treatment processes to determine if it is feasible to implement a more benign treatment method – referred to as an Inherently Safer Technology (IST).

The legislation will now head to the Senate where the Senate Homeland Security Committee will likely have jurisdiction. Sen. Susan Collins (R-Maine), ranking member of that committee, has criticized the House bill for including IST provisions, which she opposes. NACWA will continue keep its members apprised of new developments as they occur. ♦

NACWA Maintains Focus on Peak Flow “Blending”

CONTINUED FROM PAGE 1

ing without a final policy statement from the Administration. Clean water agencies across the country have been permitted for decades to employ blending during peak wet weather. Such a major change in the implementation of the Clean Water Act, and its accompanying regulations, requires a final policy statement from the Agency. NACWA plans a strongly worded response to the September 28 letter to underscore the Agency’s failure to complete the review process mandated by the Administrative Procedures Act for the 2005 proposed policy and to urge EPA to work to develop a sanitary sewer overflow (SSO) policy that would address blending and other SSO-related issues in a comprehensive manner. ♦

NACWA Membership Outreach & Opportunities Kick Off FY 2010

As NACWA embarks on a new fiscal year, the Association is working hard to ensure that its member services align with member needs – and that Association’s membership continues to grow. Recently, NACWA welcomed its newest Legal Affiliate, McMahon DeGulis, LLP in Cleveland, Ohio. The firm will be represented by Louis McMahon, Partner. McMahon DeGulis provides legal representation on issues from wind turbines to carbon emissions, permitting to compliance counseling, and brownfields to stormwater.

Membership Opens to Stormwater Management Utilities and Collection Systems

Taking steps to increase NACWA’s voice and depth on a broad range of wet weather issues, the Association’s Board of Directors has acted to include both stormwater management agencies and collection systems



as Public Agency Members of NACWA. Growth through these areas of the membership will be a priority this year as the Association seeks to strengthen its presence as the environmental advocacy organization representing the interests of the clean water community. Expanding membership in the areas of Public Agencies and Corporate, Legal and Supporting Affiliates continues to be a top priority, as well.

Take Full Advantage of NACWA Membership

One of the greatest features of NACWA membership is the ability for staff – throughout a Member Agency or organization – to take full advantage of member discounts, Association communications, and unlimited access to information at www.nacwa.org.

nacwa.org. This benefit of membership allows key staff the ability to stay updated on the important issues – relevant to their jobs – keeping everyone on your staff ahead of the curve on subjects relevant to your operations. If you would like to add additional staff members to your membership, please contact Kelly Brocato at 202-833-1449 or kbrocato@nacwa.org.

In addition to organizational membership, NACWA offers a robust standing committee structure, giving Members and Affiliates the opportunity to collaborate with their colleagues to shape national environmental policy. NACWA standing committees develop the Association’s position on environmental policy, craft legislation and work directly with the Environmental Protection Agency on the development and implementation of regulatory initiatives. To view a complete list of NACWA committees, or to join a committee, please visit www.nacwa.org/joincommittee. ♦



Giles Keynotes 2009 NACWA Law Seminar

« NACWA's 2009 Developments in Clean Water Law Seminar took place November 11 – 13, 2009 in Washington D.C. and provided clean water attorneys and utility managers with information and analysis on some of the most important current clean water legal issues. Among the many speakers to address the Seminar was Cynthia Giles (far left), EPA's assistant administrator for enforcement and compliance assurance (OECA), who discussed current clean water enforcement priorities at EPA. She reiterated the agency's plan to target major point source dischargers, including publicly owned treatment works (POTWs), even though, collectively, agriculture and other nonpoint sources of pollution continue to be the primary cause of water quality impairment. She also stated, however, that EPA recognizes the unique and important role POTWs play in achieving the goals of the Clean Water Act and that OECA is committed to focusing not just on POTWs but also on other sources of water impairment including stormwater and concentrated animal feeding operations (CAFOs). She said the agency was "sensitive to the issue of affordability" but does not want to fail to enforce the law even in areas that are struggling economically.

NACWA's Flow Web Seminar Series

CONTINUED FROM PAGE 1

All web seminars will be held from 2:00 to 3:00 pm Eastern Time, and registration is now underway. Please see the seminar summaries below or visit NACWA's website, www.nacwa.org/flow for additional details and to reserve your spot. Register for all four sem-

inars now for only \$800/location (a savings of \$200 over individual seminar registration) and engage key members of your staff in these unique and important offerings.

NACWA's Flow Series Web Seminars:

Flow Series Seminar 1: January 13, 2010 **Stormwater Management: What Really Works?**

Dr. Melissa Keeley, a leading authority in stormwater management techniques and fees, from George Washington University, will discuss the newest, most effective stormwater management practices currently being utilized throughout the world.

Flow Series Seminar 2: March 10, 2010 **Climate Change: It's all about Water**

Richard Heim, Meteorologist with the National Oceanic and Atmospheric Administration (NOAA) will speak to the assertion that climate change is primarily a water issue. Experts predict that a dramatically changing climate will result in both increased droughts in some areas and escalating wet weather events in others. Work underway at NOAA's National Climatic Data Center – and its importance to wastewater and stormwater utilities – will receive in-depth attention.

Flow Series Seminar 3: June 9, 2010 **Water Quality: The True Impact of Stormwater Runoff**

Dr. Erin Snyder, a leading expert in water quality issues and Principal Toxicologist at Total Environmental Solutions, Inc. will examine how precipitation, including rain and snow melt in the form of stormwater runoff, greatly impacts water quality. Current trends in wet weather and water quality science will be the focus of this seminar.

Flow Series Seminar 4: September 8, 2010 **Green Infrastructure: What's Legal?**

Jennifer A. Abdella, aquatic ecologist and environmental attorney with the law firm of Beveridge & Diamond PC, will review the potential legal and regulatory hurdles which must be overcome in order to use green infrastructure to address wet weather flows including stormwater management, combined sewer overflows, and sanitary sewer overflows.