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Ken Kirk

December 17, 2009

The Honorable James L. Oberstar
Chairman
Committee on Transportation and
Infrastructure
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John L. Mica
Ranking Member
Committee on Transportation and
Infrastructure
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Oberstar and Congressman Mica:

The National Association of Clean Water Agencies (NACWA) is pleased to share a copy of its most recent white paper, titled *Clean Water Act Enforcement: Challenges and Opportunities in the 21st Century*, with you. As you know, the U.S. Environmental Protection Agency (EPA) has been clear about its intention to ramp up enforcement activity under the Clean Water Act (CWA). There has, however, been little discussion about the consequences of such actions or the strategic and environmental benefits expected from such activity. NACWA's report details the need for a new approach to CWA enforcement that accounts for the mounting affordability constraints at the local level, especially during a period of economic downturn and uncertainty. The report also expresses the urgent need for innovative watershed approaches and policies that can address sources of pollution that to date have not been addressed but which account for the majority of the water quality impairment in this country.

Over the past 37 years, the CWA has played a vital role in improving the health of our nation's waters. Today, our rivers, streams, lakes, and oceans are, on the whole, significantly cleaner, healthier, and more vibrant than they were just a few decades ago, thanks in large part to the tremendous efforts made under the CWA by federal, state, and local governments. The members of NACWA, a national trade association representing nearly 300 of the nation's publicly owned treatment works (POTWs),



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

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

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have contributed significantly to the success of the CWA, investing billions of dollars over the past four decades to construct, improve, and upgrade wastewater collection and treatment systems in every corner of the country that protect both the environment and public health and ensure economic prosperity. In fact, municipalities nationwide spend approximately \$70 billion per year on water infrastructure investment. NACWA members are proud of the investments they have made and the progress they have helped achieve. Yet, as true environmental stewards on the front lines of clean water protection, NACWA members also understand much work remains to be done to meet the lofty goals of the CWA and solve our nation's water quality problems.

A significant area of concern for NACWA members and others dedicated to protecting water resources is the current state of clean water enforcement. A recent series of articles in the *New York Times* highlighted many of the flaws in the current clean water enforcement program and detailed shortcomings by state environmental enforcement agencies and by the EPA. NACWA is concerned, however, that rather than address the root causes of these flaws, there is a potential danger that EPA and states may simply engage in more enforcement activity without a meaningful examination of how to address, and make additional progress, on our current water quality challenges.

The attached white paper provides some overarching principles that NACWA believes policy-makers should consider as they undertake a review of EPA's enforcement program. The white paper presents some key observations and recommendations from a POTW perspective that NACWA believes must be part of the current discussion over how to best achieve the CWA's goals. EPA has been engaged in a productive dialogue with NACWA and it is critical that Congress continue to play a vital role in this discussion as well. As EPA prepares to ramp up with potentially costly regulatory and enforcement programs, NACWA urges Congress to expand the federal government's role in being an investment partner in this vital infrastructure. The House-passed jobs bill provides only \$2 billion for the nation's aging and ailing water infrastructure. While we appreciate this effort, the federal government must dramatically increase its investment if we are ever to address the \$23 billion per year EPA-estimated water infrastructure funding gap. Clearly, if clean and safe water merits an increase in federal regulatory requirements and enforcement activity, it also demands a similar federal investment.

We hope the discussion contained in this paper will be helpful to you in your CWA enforcement oversight efforts. Please do not hesitate to contact us if you would like to discuss any points raised in this white paper in greater detail. You may contact Patricia Sinicropi, NACWA Legislative Director at 202-833-2672 or at psinicropi@nacwa.org.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk". The signature is stylized with a large, bold "K" followed by the first and last names.

Ken Kirk
Executive Director

cc: Members of Congress