

CLEAN WATER ADVOCATE

A Clear Commitment to America's Waters

FEBRUARY/MARCH 2010

Dean Marriott, Director of the City of Portland's Bureau of Environmental Services, Ore. was appointed to NACWA's Board of Directors at the Association's Winter Conference in Austin, Texas. Marriott fills a Region 10 Board seat, open as result of change in employment by Charlie Logue, who recently relocated to Renewable Water Resources in South Carolina. Logue will continue his leadership of the Association's Strategic Watershed Task Force and its efforts to pursue 21st century watershed legislation.



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NACWA National Environmental Policy Forum Features Key Policymakers



As the Federal government continues to place water quality issues high on its agenda in both the regulatory and legislative landscapes NACWA members and other clean water professionals are urged to come to Washington, D.C. for the 2010 National Environmental Policy Forum being held

from April 18-21 at the L'Enfant Plaza Hotel in Washington, D.C.

The Policy Forum will feature high level discussions on water quality issues such as watershed management, nutrient control, infrastructure funding, climate change and wet weather issues

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Watershed Legislation Gains Interest on Hill and Among Key Stakeholders

Efforts to make additional water quality progress through a viable national watershed policy are moving forward through progress on NACWA's 21st Century Watershed Act and reauthorization legislation for the Chesapeake Bay Program sponsored by Senator Ben Cardin (D-Md.).

NACWA Convenes Facilitated Session on its Draft Watershed Act

On February 18 NACWA convened a group of stakeholders to discuss and further refine the Association's draft 21st Century Watershed Act. Organizations represented included the Association of State & Interstate Water Pollution Control Administrators, the

Illinois Department of Environmental Protection, the Virginia Department of Environmental Quality, the Water Environment Federation, the Natural Resources Defense Council, American Rivers, the Environmental Law & Policy Center, and the Chesapeake Bay Foundation. NACWA's President Kevin Shafer, Executive Director of the Milwaukee Metropolitan Sewerage District, and Charlie Logue, Chair of NACWA's Strategic Watershed Task Force and Director of Technical Services for Renewable Water Resources in Greenville, S.C., were on hand to represent NACWA's interests and voice the municipal agency perspective.

The day-long session delved deeply into NACWA's proposal and recommendations that might help attract critical support among

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NACWA Keeps Up Pressure on Peak Flow Blending

The U.S. Environmental Protection Agency (EPA) continues its work on the diverse list of water issues facing the nation, including the complex web of wet weather issues and peak flow blending. Front and center for Assistant Administrator for Water Peter Silva is deciding what the Agency should do given the fact that EPA's 2005 proposal on peak flow blending was never finalized. Although no final action has been taken, EPA staff has been actively engaged in ongoing permitting activities across the country, counseling states and EPA Regions to handle blending in Clean Water Act permits under the bypass regulations, as contemplated by the 2005 proposal. NACWA, state environmental agencies, and several EPA regions have now raised concerns over EPA's implementation of the proposed policy and are looking to Agency headquarters to provide some form of final guidance.

NACWA met with Assistant Administrator Silva and senior EPA staff February 18 to discuss the Agency's next steps. During the meeting, EPA staff indicated that a series of options for proceeding on blending would be presented to Silva in the next 30 - 45 days. The decision on next steps, however, will ultimately be made by EPA Administrator Lisa Jackson, whose office has already expressed an interest in the issue.

While EPA did not provide the specific options they may consider for moving forward, finalizing the 2005 proposed peak flows policy is clearly among those options. There are, however, significant unresolved issues that NACWA believes need to be addressed before the policy could be finalized. Chief among those issues is how to handle parallel treatment systems and whether utilities who implement all feasible alternatives will be subjected to a comprehensive analysis every five years.

Blending as Bypass—Significant and New Interpretation of Regulations

NACWA stressed that EPA's current stance – classifying blending as a bypass – is a significant and new interpretation of the Agency's bypass regulations that needs to be clearly stated in a final policy document before it can be used in Clean Water Act permitting decisions. Many states and EPA regions have consistently approved wet weather treatment/blending configurations at wastewater treatment plants for decades. Continuing to rely on a draft policy that upends these historic practices to guide EPA's permitting efforts is unacceptable.

NACWA will be following this very closely over the coming weeks and months as EPA decides what its next steps will be. If EPA does not explain its new interpretation in a clear and final policy statement, NACWA continues to leave all advocacy avenues open, including legal action. ♦

NACWA to Target Affordability Issues in “Money Matters” Outreach & Advocacy Campaign

As difficult economic times persist, the federal government is not relenting on increasingly onerous enforcement actions and new regulatory mandates. In many ways, federal policy appears divorced from the severe affordability limitations many municipalities are experiencing. As a result, Member Agencies have raised serious concerns and called upon NACWA to aggressively address the issues of affordability/financial capability as they relate to the federal government's approach to the Clean Water Act.

Demonstrating the importance of this issue to the Nation's clean water community, NACWA Member Agencies have begun organizing efforts in a number of states, including Kentucky, Ohio, and Indiana, to seek changes at the state level that would legislatively require a more holistic and realistic assessment of municipal financial capability in implementing state-delegated water pollution control programs. The Association has been successful this Congress in garnering increased federal funding of nearly \$8 billion dollars for the Clean Water State Revolving Fund (CWSRF), compared to the traditional \$650 million annual appropriations level for the CWSRF in the

U.S. Environmental Protection Agency's (EPA) budget. As these efforts continue, along with initiatives focused on securing a dedicated revenue stream via a trust fund, it is equally important that NACWA focus its sights on ensuring a more reasoned federal approach to affordability. To achieve this goal the Association is pursuing its members' affordability agenda on all fronts – legal, regulatory, legislative, and in the public domain via outreach.

NACWA continues its work on the legal front to ensure EPA's enforcement approach accounts for the full range of municipal affordability limitations from the very beginning of the consent decree negotiation process. The Association is also bringing together officials from the Office of Enforcement & Compliance Assurance with Office of Wastewater Management to ensure both offices are part of the development process of either a new or clarified affordability approach. On the legislative front, NACWA has been successful in urging Senators Voinovich (R-Ohio) and Brown (D-Ohio) to introduce legislation requiring a review and update of EPA's outdated 1997 combined sewer overflow affordability guidance. Similar language was

included in the Senate's SRF reauthorization bill (S. 1005), receiving broad bipartisan support from the Senate Environment & Public Works Committee. NACWA has also begun to pursue similar language via a rider in the FY 2011 appropriations bill.

Long-Term Effort Planned

Recognizing the importance of this issue NACWA is embarking on an ambitious and long-term outreach and advocacy effort we are calling *Money Matters*. This effort will include a resolution to be voted on at the April *National Environmental Policy Forum* in Washington, DC, encouraging a new economically sound approach to affordability, an outreach initiative to support public agencies as they raise affordability concerns with their local, state and federal elected officials, as well as an attractive printed 'leave-behind' with a carefully crafted message on the need for a viable affordability approach. The affordability message will be crafted in line with NACWA's *Strategic Plan*, ensuring that the goals of the Clean Water Act can be met through new and innovative approaches while respecting the very real financial constraints that municipalities face. ♦



Keynote Address Highlights Change – When Change is Hard

« NACWA's 2010 Winter Conference in Austin, Texas was kicked off with a keynote address by best-selling author and professor Chip Heath (left), who set the tone for the conference with his presentation, *Switch: How to Change When Change Is Hard*. Based on his newly released book of the same name, Heath discussed motivating employees, family members, and ourselves in analysis of why we too often fear change. In his interesting and thought provoking analysis, Heath acknowledged that utilities are demonstrating their leadership as change agents despite the fact that such changes are often difficult and unpredictable. Here, Heath signs books for Conference attendees following his remarks.

President Obama Pushes Infrastructure Funding in Jobs Bill and 2011 Budget

During his first State of the Union address President Obama outlined his priorities for the coming year advocating for the passage of a jobs bill that among other items includes funding for infrastructure priorities. The President has also unveiled his Fiscal Year 2011 budget which continues his commitment to water infrastructure providing \$2 billion for the Clean Water State Revolving Fund (CWSRF); \$274 million for Section 106 Pollution Control Grants; \$300 million for the restoration of the Great Lakes and \$63 million for the restoration of Chesapeake Bay.

President Presses Jobs Bill—Senate Acts

Using the President's pleadings – and House passage of a \$154 billion jobs bill that seeks to provide funding for tax cuts, municipal assistance and infrastructure investments – recent weeks saw the Senate working to move a comprehensive job creation package forward. Senate deliberations began in November 2009 when Democratic leadership began examining investments that could deliver jobs in a timely manner. Following successful efforts to have \$2 billion included in the House bill, NACWA and the Water Infrastructure Network (WIN) pressed for funding in the Senate's bill that matched the House investment.

In support of this effort, NACWA members worked with the offices of Senators Ben Cardin (D-Md.) and Sheldon Whitehouse (D-R.I.) to circulate a "Dear Colleague" letter supporting \$6 billion in water infrastructure

investments (\$3 billion CWSRF/ \$3 billion Drinking Water State Revolving Fund) as part of the Senate bill. Over a period of two weeks, NACWA members and WIN representatives contacted every Democratic Senate office and were successful in securing the support of 30 Senators representing 1/3 of the Senate and over half of the Democratic caucus. This successful effort ultimately led to water infrastructure's inclusion in "Democratic Jobs Agenda" released by Senate leadership; however, action on the Senate bill stalled as Senate Majority Leader Harry Reid (D-Nev.) abandoned a bipartisan Senate bill crafted by Senators Max Baucus (D-Mont.) and Chuck Grassley (D-Iowa) hours after it was released in favor of smaller bill focusing on extending the surface transportation program and implementing tax credits designed to spur job creation.

Reid's bill passed the Senate on Wednesday, February 24th clearing the deck for additional job creation bills expected to be introduced in the Senate. While strategies are still being determined, it is expected additional job creation legislation – containing infrastructure investments including clean water needs – will be introduced in the Senate.

President's Budget Continues Commitment to Clean Water

On February 2nd President Obama released his Fiscal Year 2011 budget request which continues a commitment to providing funding for clean and safe water priorities. The President's budget – released just days after the Administration's announcement

of a domestic spending freeze – proposes investments of \$2 billion for the Clean Water State Revolving Fund and \$1.28 billion for the Drinking Water State Revolving Fund (DWSRF). In addition, the President's budget also provides \$274 million for Section 106 pollution control grants, \$300 million for the continued restoration of the Great Lakes and \$63 million to restore the nation's largest freshwater estuary – the Chesapeake Bay.

Overall, the President seeks to provide \$10 billion to the Environmental Protection Agency (EPA) – a reduction of \$300 million from Fiscal Year 2010 enacted levels, with the CWSRF and DWSRF each seeing a reduction of \$100 million from what was provided this year. The President's budget also contains a provision seeking to change the amount of SRF funding available for additional subsidization. The request seeks to limit the amount by requiring states to use not more than 30% of their funding for these financing agreements. Previous budgets have requested states use not less than 30% of their SRF funds for additional subsidization. Further limiting is the fact that the 30% threshold applies only to state's SRF allotments above \$1 billion.

The President's budget will now be debated by Congress, with hearings likely to begin in the March-April time frame. NACWA will work with Members of Congress in the coming months to ensure the maximum amount of funding is applied to the clean water priorities and will continue efforts to increase additional subsidization available to state's through the SRF program. 💧

Pretreatment Workshop Will Feature Pollution Control Challenges

NACWA's 2010 Pretreatment & Pollution Prevention Workshop will provide information about the challenging issues pretreatment professional face in controlling pollution from both traditional industrial sources as well as other sources. The Workshop will be held May 19-21 at the Hyatt Regency Phoenix in Phoenix, Arizona, and will feature a wide range of technical and advocacy-related topics.

Mercury a Key Focus

The best methods for controlling mercury discharges to the environment continue to be debated, and a panel presentation at the *Workshop* will highlight the most recent developments in this debate. A Michigan law that requires dental amalgam separators at dentist offices may sound like a good source control measure, but it limits the authority of pretreatment programs in the state and prevents them from taking any further actions. A U.S. Environmental Protection Agency (EPA) representative and the other panelists will discuss what actions can be taken regarding this law, which may be in violation of the Clean Water Act. EPA has also been asked by the U.S. House of Representatives to re-evaluate mercury from dental offices, and the Agency will share its response to this request with *Workshop* participants. In addition, the

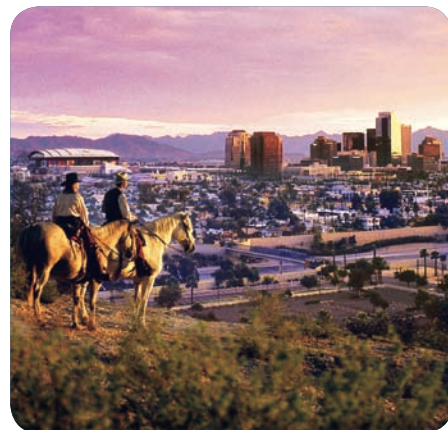
latest research on the environmental effects of mercury discharged from wastewater treatment plants will be presented.

FOG Discharges Examined Through the Legal Lens


Legal issues continue to be an integral part of pretreatment programs, and this year's "Law and Order" panel will focus on legal cases resulting from discharge of fats, oils, and greases (FOG) into the sewer system from the food industry. These FOG discharges have caused extensive and expensive damage to sewer system equipment, making the legal actions necessary. The cases and eventual solutions will be described by the people involved with them. A potential new method of dealing with FOG on a regional basis will also be presented as part of this panel.

Regulatory Developments & Challenges Take Center Stage

As in past *Workshops*, EPA staff from the National Pretreatment Program and the Office of Science and Technology will be at this year's *Workshop* to talk about the latest regulatory developments. Topics will include development of effluent guidelines for airport deicing and construction projects, best management practices for disposal of unused pharmaceuticals from health care facilities, and pretreatment performance



measures. In addition, pretreatment coordinators from the EPA Regions will be at the *Workshop* to have discussions with the participants from their Regions during the Regional Roundtable session.

Other challenges that pretreatment programs are currently facing will also be on the agenda for the *Workshop*, including enforcement and effectiveness of best management practices, how to deal with increasingly strict water quality standards for metals and nutrients, and methods for introducing new commercial users to necessary pretreatment practices. More information about the *Workshop*, including an agenda and online registration, will be available soon on NACWA's *Conferences & Meetings* website. 



NACWA's Winter Conference Offers Insights

« NACWA's 2010 Winter Conference, *Transcending Tradition . . . The Expanding Roles & Relationships of the Clean Water Utility*, took place February 2-5 in Austin, Texas. The meeting was well attended and offered a program that explored the new arenas in which clean water agencies are taking a leadership role. Among the topics explored was "waste as a resource", with presentations focusing on opportunities in the wastewater treatment process to create new energy sources and to mine phosphorus from biosolids as world phosphorus supplies, so vital to fertilizing crops and pastureland, diminish at an alarming rate. Reusing wastewater for potable and non-potable purposes was also discussed as a burgeoning area for the nation's municipalities, especially in water-poor regions.

Highlights included several industry leader keynote addresses. Craig Goehring, CEO of Brown and Caldwell, explored how the principles behind the Ten Attributes of an Effectively Managed Utility are vital to meeting 21st century challenges but also have significant application in a corporate setting, including his own company. J. Joseph Burgess, President and CEO of Insituform Technologies, Inc., discussed the positive trend he is seeing toward regional/watershed approaches, while noting the important role that clean water agencies are playing – and must continue to play – throughout these changing times as purveyors of common sense.

Engaging in NACWA Membership

NACWA's advocacy on behalf of the clean water community is strengthened through the engagement of its members. It is through this engagement and growth of the membership that the Association is able to advance the development of national environmental policy while further informing policymakers of our perspectives on water quality challenges. Members are encouraged to take full advantage of the Association's communications, award programs, committees and unlimited access to information at www.nacwa.org.

Membership in NACWA is organizational and allows an unlimited number of key staff at your organization the ability to receive Association communications and have access to online resources – keeping them up-to-date and informed of the important issues relevant to their jobs and utility operations. Additionally, it allows Members the opportunity to actively engage in any of NACWA's standing committees – shaping the Association's advocacy initiatives and engaging directly with the U.S. Environmental Protection Agency (EPA) on the development and implementation of regulatory initiatives. To add additional staff members to your NACWA membership or learn more about how to get more engaged in the Association, please contact Kelly Brocato at 202/833-1449 or kbrocato@nacwa.org.

Strengthening the Voice of Clean Water

Continuing to grow, NACWA is excited to celebrate the addition of four new members, two Public Agencies and two Corporate Affiliates. These new additions strengthen NACWA's voice on the Capitol Hill, within EPA, and in the nation's courts. The Association is pleased to welcome the following:

Public Agencies

Camden County Municipal Utilities Authority, N.J.

Represented by Andrew Kricun, Deputy Executive Director, Chief Engineer

Camden County Municipal Utilities Authority is located in Camden County, N.J. and serves 37 municipalities and a population of 500,000. To learn more about the Camden County MUA please visit www.ccmua.org.

Timpanogos Special Services District, Utah

Represented by Jon Adams, District Manager

Located in American Fork, Utah, Timpanogos Special Service District provides wastewater disposal services to eight communities serving 100,000 people.

Corporate Affiliates

Synagro Technologies

Represented by Layne Baroldi, Director of Technical Services

Synagro Technologies is a residuals management company located in Houston, Texas and offers a variety of high performance organic waste residuals management and beneficial use services. Please visit www.synagro.com.

CEMEX

Represented by Gregory Hein, Manager Studies/Alternate Fuels

With operations in more than 50 countries, CEMEX manufactures cement and concrete products for construction projects in every sector: industrial, commercial, residential and municipal. Please visit www.cemexusa.com.

If you are aware of a clean water agency, or organization, that would benefit from engaging in the clean water community that is NACWA please contact Kelly Brocato, Director Membership Development at kbrocato@nacwa.org.



Member Agencies honored for Excellence in Management

« During its 2010 Winter Conference NACWA celebrated its 2009 Excellence in Management Recognition Program honorees. This year, the Association recognized five member agencies with this prestigious honor. 2009 honorees include: El Paso Water Utilities Public Service Board, TX; Hampton Roads Sanitation District, VA; JEA (Electric, Water & Sewer), FL; Metropolitan St. Louis Sewer District, MO; and Orange County Sanitation District, Calif.

Edward Henfin, General Manager of the Hampton Roads Sanitation District, Va. (center), receives congratulations from (left to right) Philip Friess, Chair of NACWA's Awards Committee, and Department Head of Technical Services for the Sanitation Districts of Los Angeles County, Calif.; NACWA President, Kevin Shafer, Executive Director of the Milwaukee Metropolitan Sewerage District, Wis.; and NACWA Executive Director, Ken Kirk. NACWA congratulates all of the 2009 Excellence in Management Recognition Program honorees!

NACWA National Environmental Policy Forum Features Key Policymakers

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to name a few. These discussions will focus on issues and concerns to all NACWA members in the current environment of increased enforcement activities being pursued by the U.S. Environmental Protection Agency (EPA).

Key Washington policymakers such as EPA Deputy Administrator Robert Perciasepe, U.S. Senator Ben Cardin (D-Md.), Idaho Congressman Mike Simpson are confirmed to join us for the *Forum*. The popular Technical Roundtable Breakfast is scheduled for Wednesday morning providing Members with the opportunity to meet directly with key personnel at EPA after being briefed by Office of Water leadership on priorities for the coming year. The *Policy Forum* will also showcase the 2010 National Environmental Achievement Award winners at a gala reception marking the Association's 40th anniversary.

As part of this year's *Policy Forum*, NACWA has set aside time in the agenda for Members to meet with their congressional delegations to raise issues of sig-

nificance to their utility and NACWA members as a whole. We encourage you to make time for these critical meetings during your visit to the *Policy Forum* and are available to assist their scheduling. For assistance, please contact John Krohn, NACWA's Manager of Legislative Affairs at 202-833-4655 or via email at jkrohn@nacwa.org.

Agenda & Registration Now Available

Members are now able to register and view the *Forum's* agenda on NACWA's *Conference and Meetings* webpage. Advanced registration is available and must be received by Monday, April 5, 2010. For the first time this year, discounted rates are available to public utilities that bring multiple staff members to the *Forum*. Attendees can also secure their reservations at the L'Enfant Plaza Hotel at a special group rate of \$249 per night. Reservations can be made by calling the Hotel at 202-484-1000 or online using the code NAC417. We look forward to seeing you in Washington in April. 🌱

NACWA Board Adopts Ethics Statement

Adoption of an Ethics Statement for the organization was among the actions taken by NACWA's Board of Directors when they met in February. The statement reads as follows:

The National Association of Clean Water Agencies (NACWA) is committed to maintaining and promoting the highest level of ethical and professional standards within the clean water community. In pursuit of this goal we are committed to:

- Accountability, integrity, and credibility in all that we do;
- Fiscal responsibility; and,
- Honesty and transparency in our dealings with the public, elected and appointed officials, and each other.

Watershed Legislation Gains Interest on Hill and Among Key Stakeholders

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the stakeholders present, as well as a broader array of potential supporters. The participants agreed that the basic watershed concept embodied in NACWA's legislative proposal was something they could support and were enthusiastic about the general direction of the legislation. Those present recommended that a statement of principles be developed to mirror the objectives of the legislation. These agreed upon principles could then be used to attract additional supporters to the effort. NACWA plans to draft a preliminary principles document to share with the group for comment. The Association committed to reconvene the group soon – and to add other organizations representing a broader base of municipal and nonpoint source stakeholders to the discussion.

Chesapeake Bay Legislation Adds Momentum to National Watershed Efforts

Congress, as well, is focused on watersheds. In October, Senator Ben Cardin introduced S.1816, the *Chesapeake Clean Water and Ecosystem Restoration Act of 2009*, to reauthorize the Clean Water Act's (CWA) Chesapeake Bay Program. The bill would significantly modify the current Chesapeake Bay Program and dramatically

expand both federal and state authorities to clean up the Bay and restore it to ecological health. In it requirements are established for the six States within the Chesapeake Bay watershed region – New York, Pennsylvania, West Virginia, Maryland, Delaware, Virginia – and the District of Columbia that must be met in order to continue receiving federal clean water funding. The legislation's main focus is reducing adverse impacts on the Bay caused by nitrogen, phosphorus, and sediments – the main sources of pollution to the Bay. S.1816 accomplishes this by enforcing a watershed-wide total maximum daily load (TMDL) that the U.S. Environmental Protection Agency (EPA) is on schedule to approve by December 31, 2010.

NACWA's position on the legislation was the subject of discussions at both the Legislative Policy Committee and Board of Directors Meeting in early February and on a subsequent conference call among Association leaders. The Association has been working, and will continue to work, closely with Senator Cardin's office to ensure that all sources are pollution in the Bay share in the burden of meeting the nutrient and sediment reduction targets that will be established by the Bay TMDL. 🌱