

# CLEAN WATER ADVOCATE

NACWA past president, Kevin Shafer, Executive Director of the Milwaukee Metropolitan Sewerage District (MMSD), serves as chair of the Association's Workgroup considering amendments to the Farm Bill.



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A Clear Commitment to America's Waters

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## NACWA Takes Lead on Stormwater Advocacy, Notches Major Legislative Victory

NACWA has ramped up its stormwater advocacy efforts in recent months on a number of critical issues that will directly impact municipal stormwater agencies, including securing a significant legislative victory in the waning days of the 111th Congress. On December 22, just before the end of its lame-duck session, Congress passed S. 3481, legislation amending Section 313 of the Clean Water Act to clarify that federal government facilities are responsible for paying stormwater fees charged by local clean water utilities. NACWA was a strong supporter of the bill and made the passage of the legislation a key advocacy priority due to the growing problem across the nation of federal government facilities refusing to pay local stormwater fees, claiming such fees are impermissible taxes on federal agencies. S. 3481 clarifies that reasonable service charges related to municipal stormwater service are in fact fees and not taxes, and must be paid by federal agencies. NACWA worked closely with the leadership of both the House and Senate to ensure passage of the legislation and believes this new law will result in significant regulatory and economic benefits for clean water utilities that have stormwater responsibility. The U.S. Department of Justice is currently drafting guidance for federal agencies on how to implement the

requirements of the legislation, and NACWA looks forward to providing our members with an analysis of that guidance as soon as it is available.

### Federalism Consultation Focuses on Stormwater Rule

NACWA has also been active in the regulatory arena on stormwater issues, especially regarding the U.S. Environmental Protection Agency's (EPA) ongoing efforts to develop a new national post-construction stormwater rule. In December, NACWA participated, along with a number of other municipal and state advocacy organizations, in a federalism consultation sponsored by EPA on the forthcoming stormwater rule. As part of this invitation only meeting, EPA discussed many of the options currently under consideration for the new stormwater rule, including an expansion of the areas subject to federal municipal separate storm sewer system (MS4) permits, the inclusion of performance standards for new development or redevelopment for onsite retention of stormwater using green infrastructure or low impact development techniques, and the possibility of retrofit requirements for areas of existing impervious surface. In late January, NACWA submitted writ-

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## NACWA Calls for New Regulatory Approach at Money Matters Summit

NACWA's Money Matters Summit & Fly-In was held in Washington, D.C., March 1 and 2 with nearly 50 municipal clean water agency leaders coming together to bring a focused message to the U.S. Environmental Protection Agency (EPA) and Congress. The Summit, part of the continuing Money Matters campaign, included the announcement of NACWA's plans to develop a legislative proposal to provide a more flexible planning approach to Clean Water Act compliance. NACWA members utilities of all sizes expressed a shared, and growing, concern about their ability to meet the array of priority regulatory requirements – and realistically balance cost with water quality benefits – in discussions with EPA enforcement and water office officials, and congressional staff. Among the discussion leaders were Caswell Holloway, IV, Commissioner of New York City's Department of Environmental Protection (speaking in photo) who joined other agencies as they kicked off the Summit with presentations on needs and the limited flexibility they have to prioritize investment in projects that local leaders believe will result in the largest improvements in water quality. The presentations and dialogue were followed by visits to member agency delegations on Capitol Hill. We encourage all members to learn more about the campaign by visiting the Money Matters website ([www.nacwa.org/moneymatters](http://www.nacwa.org/moneymatters)) where you can find tools to bring the campaign to your community.

## NACWA Leads Coalition to Include Water Quality Concerns in Upcoming Farm Bill

As Congress gears up to debate re-authorization of the Farm Bill, NACWA took a leadership role in organizing a coalition of groups representing the water, wastewater, conservation, and state environmental communities in urging Congress to support policies that strengthen the links between agriculture policies and water quality. The primary focus of this effort is to achieve meaningful reductions in nutrient run-off from agricultural lands to improve the quality of the Nation's waters. In support of this effort, the coalition delivered a letter, signed

by over 140 organizations at the national, state and local levels, to Congress urging the legislative body to "substantially improve our nation's waters through the promotion of practices that improve the conservation performance of our farms and ranches."

The coalition is also working to develop a key group of policy goals to be achieved within the legislative text of the Farm Bill. While these goals are still being finalized they will likely include a greater use of nutrient management plans, and an effort to safeguard current funding levels for conservation programs that help farmers, ranch-

ers, and landowners to protect rivers and streams.

To support this ongoing effort, NACWA has convened a workgroup of its members, chaired by Kevin Shafer, Executive Director of the Milwaukee Metropolitan Sewerage District (MMSD), to provide input into the coalition's work. The workgroup has met twice and discussed various policy proposals to accomplish the Association's goals. NACWA Member Agencies interested in participating in the workgroup, please contact NACWA's Legislative Director, Pat Sinicropi, at [psinicropi@nacwa.org](mailto:psinicropi@nacwa.org).

## Proposed EPA Budget Will Reduce Wastewater Infrastructure Funding

While the fiscal year (FY) 2012 budget has yet to be finalized, proposed budgets from President Obama and Congress indicate that the U.S. Environmental Protection Agency (EPA) will be facing significant budget cuts next year, including programs for improving wastewater infrastructure. President Obama's proposed request includes \$8.973 billion for EPA, a 13 percent decrease from the Agency's FY 2010 budget. The request includes \$1.5 billion for the Clean Water State Revolving

Fund (CWSRF), down \$500 million from the President's FY 2011 request. The Drinking Water State Revolving Fund (DWSRF) is similarly affected, with the FY 2012 request of \$950 million constituting a \$397 million decrease from the FY 2011 request. The Administration request funds increased federal enforcement activities.

In its budget request, the Administration indicated that its long-term goal is to have the SRFs provide an average of five percent of total water infrastructure spending annually. This amount is still insufficient to address the

20-year \$500 billion estimated funding gap between repair and replacement needs and available funding for wastewater infrastructure. With Congress also pushing for extensive budget cuts, this goal is unlikely to be realized.

NACWA continues to voice the message that the clean water program warrants federal support to do the job right, not an expansion of regulatory and enforcement activity. Through its *Money Matters* campaign, the Association is calling on the federal government to rethink its approach and join with municipalities to pursue smarter investment to advance clean water.

## NACWA Discusses Top Issues with Members in the Northeast



« NACWA met with its members and other representatives from the clean water community on January 25 during a luncheon held in conjunction with the New England Water Environment Association's (NEWEA) Annual Conference. NACWA provided updates on the post-election political environment in Washington – as well as on a diverse list of priority legislative, regulatory and legal issues. This annual luncheon is one of many ways that the Association works to collaborate closely with its members throughout the country.

# Consent Decree Implementation Survey Results Now Available

**N**ACWA is pleased to announce that the results of its recent *Consent Decree Implementation Survey* are now available on the Association's website – providing another important resource for NACWA members dealing with consent decree issues. The survey contains responses from over 25 communities across the nation currently under wet weather consent decrees. It provides information on topics such as costs, the impact on utility rates, major components, whether

green infrastructure is included, and how much overflow reduction will be achieved.

The goal of the survey is to provide an opportunity for NACWA members currently under consent decree to share information with each other regarding the implementation phase of their decrees – allowing utilities to learn from each other's experiences. The survey also complements NACWA's existing consent decree resources, *The Consent Decree Handbook*, *Handbook Supplements*, and Library, that address the negotiation phase

of consent decrees. The results of the survey are available to members on the *Legal Resources* page of the NACWA website, [www.nacwa.org](http://www.nacwa.org).

NACWA is grateful to all of the member agencies that participated in the survey and will be working to add additional survey responses in the coming months. Members with questions about the survey, or interested in adding their utility's experience to the survey responses, may contact Nathan Gardner-Andrews, NACWA's General Counsel, at [ngardner-andrews@nacwa.org](mailto:ngardner-andrews@nacwa.org).



## Winter Conference Features Collection System & Wet Weather Topics

« David Kubiak, Senior Program Manager for the Massachusetts Water Resources Authority, discusses integrated wet weather management during the 2011 NACWA Winter Conference, *Understanding the New Paradigm for Wet Weather & Collection System Management*. Kubiak, along with Daniel Donahue, Wet Weather Practice Leader for AECOM, described MWRA's use of a watershed approach to balance combined sewer overflow (CSO), stormwater, and upstream loads to meet water quality standards. Panel presentation focused on how utilities are implementing stormwater management, infiltration and inflow control, and wet weather solutions considering both existing financial constraints and the regulatory demands that are currently in place and expected in the future.

## NACWA Takes Lead on Stormwater Advocacy

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ten comments to EPA regarding these potential options, expressing support for the use of innovative techniques to address stormwater runoff issues, but also cautioning EPA against proposing an overly restrictive rule that would impose unnecessary economic burdens on municipal stormwater utilities. This marked the fourth time since early 2010 that NACWA has formally commented on the rulemaking process. NACWA will continue to engage with EPA over the coming months regarding the rulemaking, and a rule proposal from the Agency is expected in September 2011.

### Joint Letter Expresses Concern with EPA Memo

In late January, NACWA joined with the American Public Works Association (APWA) and the National Association of Flood & Stormwater Management Agencies (NAFSMA) in letter to EPA responding to the Agency's November 2010 memo regarding stormwater permitting and total maximum daily load (TMDL) issues. The memo, which prompted significant concern among the municipi-

pal stormwater community, established a presumption in favor of numeric effluent limits in municipal stormwater permits, significantly changing EPA's policy regarding how numeric limits should be addressed in stormwater permits. The joint NACWA/APWA/NAFSMA letter expressed significant concern with the content of the memo, including questioning EPA's legal position, as well as the process used by EPA to develop the memo, as demonstrated by the failure of the Agency to consult with the regulated community prior to issuing the document. NACWA and its municipal partners are hoping to meet with EPA soon to further discuss the memo and the municipal response.

Additional information on NACWA's stormwater advocacy efforts, including a copy of the stormwater fee legislation, the Association's comments on EPA's stormwater rulemaking process, and the joint municipal response letter to the Agency's November stormwater memo are available on the *Stormwater Management* page of the NACWA website at [www.nacwa.org](http://www.nacwa.org).



## NACWA Scores Key Victory on SSI Rule, but Legal Action May Still Be Necessary

After nearly a year and half of sustained advocacy work by NACWA, the U.S. Environmental Protection Agency's (EPA) final maximum achievable control technology (MACT) standards for sewage sludge incinerators (*Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration (SSI) Units*), released February 23, in large part reflected the Association's recommendations on the extent to which SSIs should be regulated under the Clean Air Act (CAA). Key issues, however, surrounding EPA's statutory authority to impose MACT standards on all SSIs under Section 129 of the CAA remain, and NACWA continues to evaluate its legal options.

The most significant change from the proposal was the removal of the overly stringent "beyond the MACT floor" level of control for mercury. After taking NACWA's input and data into account, revising its emission estimates, and looking at the true cost of controlling mercury at SSIs,

EPA determined that the beyond the floor reductions were not cost-effective. Most of the cost impacts of the proposed rule were related to controls necessary to meet the beyond the MACT floor limit for mercury, and NACWA is pleased that this key change alone will save municipalities more than \$1 billion nationally in capital costs. Informed by NACWA's data, EPA acknowledged that it underestimated the cost to remove mercury – and that actual SSI contributions of mercury to the environment are a third of the Agency's initial estimate.

Based on the content of the proposed standards, NACWA's Board of Directors voted February 2 to approve a legal challenge to the final rule if necessary. NACWA is now evaluating the extent of the changes made by EPA to determine the appropriate next advocacy steps, including whether to file a legal challenge to the rule. While EPA had limited time to make revisions to the proposal, a number of substantial changes were made based on the comments submitted by NACWA and its members. NACWA's

initial review of the rule indicates that, in addition to the mercury issue, EPA also corrected some of its baseline emissions estimates and assumptions about SSI operation, resulting in changes to several of the other emission standards, making them less stringent. In a few instances, however, the standards were made more stringent than proposed. EPA also subcategorized the standards for both existing units and new units into multiple hearth and fluidized bed. Previously, only the existing unit standards were subcategorized.

The Agency also released its final definition of solid waste rule (*Identification of Non-Hazardous Secondary Materials That Are Solid Waste*). As expected, the final rule states that the domestic sewage exclusion has never applied to sludge generated at publicly owned treatment works (POTWs) and defines biosolids that are combusted as a solid waste. NACWA is evaluating a potential challenge to this rule in tandem with its efforts on the CAA standards for incinerators. 🌊

## NACWA Briefs Congressional Staff on the Clean Water Act



« NACWA held a March 11 briefing for new and returning Members of Congress' staff on the Clean Water Act (CWA). The briefing focused on the history of the Clean Water Act and how it is implemented. It also provided a regulatory and financial outlook for the Nation's clean water agencies. Panelists included (left to right) NACWA President Jeff Theerman (at podium), Executive Director of the Metropolitan St. Louis Sewer District; who spoke on EPA's expansive regulatory regime and highlighted the Association's Money Matters — Smarter Investment to Advance Clean Water campaign; Ken Kirk, NACWA's Executive Director, who moderated the event; Nathan Gardner-Andrews, NACWA's General Counsel, who provided an overview of the Clean Water Act's structure from a legal perspective; NACWA's Legal Affairs Committee Chair Lisa Hollander from the Northeast Ohio Regional Sewerage District who provided an overview of wet weather regulatory issues affecting clean water agencies including sewer overflows and stormwater management challenges; and, Ken Rubin, Managing Director at Rubin Mallows Worldwide (not pictured), who provided an economist's perspective on the trends in CWA investment and disinvestment – as well as the corresponding connection to water quality improvement and decline.

# NACWA Honors Agencies as National Environmental Achievement Award Winners

NACWA recently recognized thirteen of its Member Agencies with *National Environmental Achievement Awards (NEAA)* at a ceremony on February 2, 2011 during the Association's Winter Conference, *Understanding the New Paradigm for Wet Weather & Collection System Management*, in Ft. Lauderdale, Florida. Agencies were recognized in three categories—Operations & Environmental Performance, Public Service, and Public Information & Education.

## Five Agencies Honored for Operational & Environmental Performance

NACWA's Operations & Environmental Performance Award is presented to member agencies for outstanding operations initiatives that are both cost-effective and environmentally-sound. The **City of Los Angeles – Bureau of Sanitation** in California was honored for its *Elmer Avenue Green Street Project*. The utility developed an innovative collaborative effort to address a historic flooding problem by utilizing various stormwater best practices and green infrastructure strategies while creating a green space habitat and community awareness of watershed issues. The **East Bay Municipal Utility District** in California



*City of Los Angeles – Bureau of Sanitation in California was honored for its Elmer Avenue Green Street Project*

was recognized for spearheading the design and construction of a new, unique treatment facility in a local Chevron refinery that utilizes highly purified recycled water for refinery operations – thereby conserving limited local potable water supplies.

Creating a unique and effective approach to financing infrastructure maintenance while improving community relations, the **Passaic Valley Sewerage Commissioners** in New Jersey was honored for their *Municipal Rebate Incentive Program*. Joining the honorees was Tennessee's **City of Chattanooga, Interceptor Sewer System** for their creative and cost effective *Warner Park/Engel Stadium Combined Sewer Overflow (CSO) Control Project*—a coordinated effort to integrate the utility's initiatives with improvements being undertaken by other entities in the area. The final agency receiving an NEAA award in the Operations & Environmental Performance category is the **City of Tacoma Department of Public Works – Surface Water Utility** for the City's unique uses of science, intuition, investigation, investigation and enforcement to significantly impact stormwater discharge and improve water quality in the Thea Foss Waterway.

## Passaic River Project Garners NACWA Public Service Award

NACWA's *Public Service Award* recognizes significant contributions in public service related to wastewater treatment, public utility operation or environmental protection. In February NACWA honored the **Passaic Valley Sewerage Commissioners** for organizing and sponsoring the largest regatta ever held on the Passaic River.

## Public Information & Education Awards Recognize Creativity & Community Involvement

NACWA's Public Information & Education Awards honor agencies for innovative efforts to inform and involve their communities. This year two agencies were recognized for outstanding video presentations. NACWA was proud to honor **Metropolitan Council Environmental**

**Services (MCES)** in Minnesota for their video, *Protecting Water Resources for the Region*, which effectively educates the public on the services and positive environmental impact MCES has on the region's water resources. NACWA also honored the **Narragansett Bay Commission's, Environmentalism at Work**, a video illustration of the utility's history and role as a leading advocate for clean water and public health.

Six agencies were also recognized in the Public Information & Education category for excellence in printed publications and public education. The **Sanitation District No. 1** in Kentucky was honored for *Protecting Water Resources* — an innovative course at Northern Kentucky University offering students hands-on and applied experiences with which to understand water quality, the land-water connection and how stormwater issues affect our daily lives. Highlighting the importance of water in nurturing and protecting our environment, the **Independence Water Pollution Control Department** was recognized for their annual *Independence EcoFest "It's All About Water"*—an interactive, environmental education festival. Furthering the theme of community engagement, three agencies



won for their innovative and informative open houses. Each agency opened their doors to the public to create greater awareness of their utility's daily operations, community involvement, and broad environmental stewardship. The first of the agencies recognized was **ALCOSAN** for the *ALCOSAN Open House*. The **Alexandria Sanitation Authority's** innovative *Visitor Center & Mobile Learning Displays* were also honored. Rounding out the impressive group of honorees was the **LOTT Clean Water Alliance** in Washington for its *Water Education & Technology Center*. Finally, bringing attention to a common commu-

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nity issue, the **Northeast Ohio Regional Sewer District**, was honored for their P.U.P. - "Pick up Poop" Program. This light-hearted, but meaningful, outreach program focused on educating dog owners on the environmental and water quality impacts that can result from the failure to scoop their dog's poop.



NACWA congratulates all of these *National Environmental Achievement Award* winners on their clear commitment to clean water and a safe, sustainable environment. *National Environmental Achievement Awards* will be presented to individual honorees in May at the Association's *National Environmental Policy Forum*. For more information on NACWA's awards programs please visit [www.nacwa.org/awards](http://www.nacwa.org/awards).

## NACWA Welcomes Two New Public Agency Members

Utilities across the country are facing immense environmental projects, aging infrastructure and rising operating costs – NACWA membership unites the clean water community to speak with one voice bringing attention to these issues and advocating for responsible solutions with the greatest environmental benefit. The Association is pleased to welcome two new Public Agency Members.

### Bayshore Regional Sewerage Authority, NJ

Represented by Robert C. Fischer, Executive Director

Bayshore Regional Sewerage Authority is located in Union Beach, New Jersey. With a service area population of 70,000, the Authority is committed to a clean environment for today, tomorrow and generations to come. To learn more about Bayshore Regional Sewerage Authority please visit [www.bayshorersa.com](http://www.bayshorersa.com).

### City of Lynnwood, WA

Represented by John C. Ewell, Treatment Plant Supervisor

The City of Lynnwood serves a population of 35,000, offering water, sewer, and surface water services to its residents. Ewell and his staff are dedicated to enhancing the quality of life in their community. To learn more about the City of Lynnwood please visit [www.ci.lynnwood.wa.us](http://www.ci.lynnwood.wa.us).

NACWA would like to express its appreciation to its current members who helped recruit these new organizations. If you are aware of a clean water agency, or organization, that would benefit from learning more about membership in NACWA, please contact Kelly Brocato, Director Membership Development at [kbrocato@nacwa.org](mailto:kbrocato@nacwa.org). New members referencing existing members as being instrumental in their decision to join will earn a complimentary NACWA conference registration for both agencies.

## Save the Date – Upcoming NACWA Conferences

NACWA's conferences, workshops and seminars offer the latest information on a diverse range of clean water issues and provide attendees with an unparalleled opportunity to network with colleagues from across the country. We look forward to seeing you and your staff at the following NACWA conferences & workshops:

### National Environmental Policy Forum

May 8-11, 2011

Westin Washington DC City Center  
Washington, D.C.

### National Pretreatment & Pollution Prevention Workshop

May 18-20, 2011

St. Louis Union Station Marriott  
St. Louis, MO

### Summer Conference & 41st Annual Meeting\*

*Engineered for Success...Creating a First Class Public Utility*

July 19-22, 2011

Westin Chicago River North  
Chicago, IL

*\*special discounted registration for young professionals*



Chicago: Site of the 2011 Summer Conference

### Developments in Clean Water Law Seminar

*A Seminar for Public Agency Attorneys and Managers*

November 16-18, 2011

Make sure to watch your e-mail for the latest on NACWA conference and workshop offerings and visit [www.nacwa.org/meetings](http://www.nacwa.org/meetings) for the most up to date information on upcoming events.