UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 20 2011

Mr. Tom Cochran
United States Conference of Mayors
CEO and Executive Director
1620 Eye Street NW
Washington, DC 20006

Dear Mr. Cochran:

Thank you for your August 26, 2011 letter. We want to also thank you for continuing this productive dialogue to achieve our shared goals of meeting water quality standards, protecting community health and revitalizing local economies by reducing raw sewage discharges. The technical discussion that took place earlier this year provided us with insight into the concerns of individual communities about EPA's work to address sewer system noncompliance. The purpose of this letter is to respond to the concerns that we heard from the communities during that meeting, and to support continuing discussion about advancing our shared goal of clean water for our communities.

1. *EPA needs to be more flexible to allow for cost-effective relief and appropriate compliance schedules.*

   We agree that existing policy such as the 1994 CSO Control Policy and 1997 CSO Financial Capability Guidance provide a framework that allows communities the flexibility to meet the objectives of the Clean Water Act. EPA strives to use the flexibility provided by the existing policies when working with municipalities to address sewer overflows. As a result, recent EPA settlements include flexible relief programs and schedules to incorporate green infrastructure, gray infrastructure, and other adaptive management solutions to best address sewage overflows cost-effectively. In April, we directed all EPA offices to continue to work with communities to identify and implement green infrastructure solutions that are cost-effective, flexible and environmentally sound.

   We also agree with you that improving water quality is most effectively done through an integrated approach to wastewater and stormwater planning. EPA will increase its efforts to work with communities to develop integrated wastewater and stormwater planning and holistic management solutions. We look forward to working with you and other stakeholders to identify municipal leaders that are committed to developing and implementing timely and effective integrated plans that may serve as a model for the future.

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2. *Many cities are concerned about the ability to afford the costs associated with implementing the requirements of consent decrees. EPA needs to consider all of the financial constraints of a city in determining financial capability.*

We recognize that municipalities face significant challenges in meeting their water quality goals and regulatory requirements. We appreciate your continued commitment to work with EPA and other interested groups to develop an integrated approach that allows municipalities to evaluate all of their Clean Water Act requirements in a cost-effective manner. This includes sequencing projects to get the biggest benefits and most cost-effective approaches implemented first. Existing EPA policies and guidance provide EPA the flexibility to consider the unique circumstances facing each community and to work together on a plan that considers those circumstances and evaluates appropriate cost-effective relief on a case-by-case basis. Municipalities are encouraged to provide additional financial information if they feel the 1997 CSO Financial Capability Guidance is not adequately considering their unique financial circumstances.

3. *Settlement negotiations with EPA take too long.*

EPA shares your concern that delays in addressing sewer overflow relief should be minimized so that impacts to human health and the environment from raw sewage discharges can be mitigated as quickly as possible. Given the large and complex nature of sewer systems, the time it takes to fully understand how a sewer system performs and the appropriate relief to address identified problems may vary. We hope that recent resolved cases reflect a quicker resolution.

4. *EPA needs to provide a better driver for Green Infrastructure.*

EPA promotes the use of green infrastructure in a variety of ways. In April of this year, EPA announced the release of its new Strategic Agenda to Protect Waters and Build More Livable Communities through Green Infrastructure. EPA's strategy focuses on clarifying how green infrastructure can and should be used within the regulatory and enforcement contexts, outreach and information exchange, financing, and tool development and capacity building. EPA also announced its green infrastructure community partnership including the first 10 communities that will work with the Agency on green infrastructure implementation issues. Our April memorandum, "Protecting Water Quality with Green Infrastructure in EPA Water Quality Permitting and Enforcement Programs," has also resulted in EPA offices giving much greater attention and support for green infrastructure solutions nationwide. The integrated planning approach for wastewater and stormwater will further facilitate more cost effective and innovative solutions to improving water quality, including the use of green infrastructure.

We recognize that green infrastructure solutions may require flexibility so that communities can learn from experience and adapt. Some of our more recent settlements provide good examples of resolutions that are innovative and provide benefits to communities – including cost savings – while assuring progress toward clean water.

5. *EPA should allow cities to modify CD requirements on a rolling basis as they implement their LTCP.*

EPA is always willing to consider a request to modify existing plans to incorporate cost-effective innovative approaches that achieve comparable and measurable results as evidenced by our recent modification to agreements with Indianapolis, IN and Toledo, OH. We also believe that

comprehensive integrated planning will allow communities to develop more certain schedules by addressing all of its water quality obligations at one time.

We look forward to meeting with you on September 21, 2011 to discuss opportunities for comprehensive plans that allow municipalities to address all of their Clean Water Act requirements with effective and affordable solutions.

Sincerely,

Cynthia Giles
Assistant Administrator
Enforcement and Compliance Assurance

Nancy Stoner
Acting Assistant Administrator
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