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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 Coordinating Next Steps towards a Comprehensive SSO Rule

After NACWA urged the U.S. Environmental Protection Agency (EPA) earlier this year to make progress on a comprehensive sanitary sewer overflow (SSO) rule, the Agency held a facilitated workshop on July 14-15 to elaborate on the 2010 listening sessions about a possible rule. NACWA's representatives for this workshop were Ben Horenstein, Manager of Environmental Services at the East Bay Municipal Utility District and Co-Chair of NACWA's Facility & Collection System Committee, and Lisa Hollander, Special Liaison for Legislative & Regulatory Affairs at the Northeast Ohio Regional Sewer District and Chair of NACWA's Legal Affairs Committee. The other groups participating in the facilitated discussion were the Water Environment Federation (WEF), American Rivers, the Natural Resources Defense Council (NRDC), Clean Water Action, the Cahaba River Society, the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), and the League of Cities.

During the workshop, possible components of a comprehensive SSO rule were discussed, including monitoring, notification, and reporting of

SSOs; the use of a capacity, management, operations and maintenance (C-MOM) approach for reducing SSOs; management of peak excess flows both in the collection system and at the treatment facility; and the appropriate standard for allowable or excusable overflow events. The stakeholder groups found a significant degree of agreement on these issues during the facilitated discussion. At the conclusion of the discussion, EPA, and all of the groups, expressed an interest in building on these areas of agreement and pursuing a SSO rule. NACWA's *Advocacy Alert* AA 11-19, available on the Association's website (www.nacwa.org), provides more details about the discussions at the workshop.

Jim Hanlon, Director of EPA's Office of Wastewater Management, spoke to NACWA's Facility & Collection System Committee on July 20, reiterating that EPA is committed to moving forward on an SSO rule. During a subsequent meeting with NACWA and other groups representing municipal interests, Hanlon stated the he "personally would like to add clarity to these issues" and that the utility community "deserves an-

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Law Seminar Promises Engaging Program on Critical Clean Water Legal Topics

Planning is underway for NACWA's 2011 *Developments in Clean Water Law Seminar*, which will be held this year November 16-18 in beautiful Charleston, South Carolina at the historic Francis Marion Hotel.

NACWA's Law Seminar is the only conference of its kind focused specifically on the legal and regulatory challenges facing the municipal clean water community, and this year's Seminar promises to deliver a timely and informative program covering the hottest issues in clean water law. The topics covered at the *Seminar* will span the range of legal and regulatory issues impacting the clean water utilities, with some of the top clean water attorneys in the country providing valuable analysis and insights that will be relevant to any attorney or public agency manager working on municipal wastewater and stormwater issues.

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NACWA Continues Aggressive Advocacy on SSI, Solid Waste Rules

NACWA's efforts to challenge two recent U.S. Environmental Protection Agency (EPA) rules impacting sewage sludge incinerators (SSIs) and biosolids management continue to gain momentum, as the Association moves forward with lawsuits against both rules and awaits word from EPA regarding a parallel administrative challenge. NACWA sued EPA in early May over the Agency's final air emissions rule for SSI units, challenging both the legal and technical basis of the rule and pushing back against the significant costs the rule will impose on utilities that rely on incineration as an environmentally safe and cost efficient way to manage biosolids. In late May, NACWA also submitted an administrative petition for reconsideration and stay of the final SSI rule to EPA, expressing similar concerns about the legal and technical foundations of the rule and requesting that the Agency voluntarily reconsider the rule due to the significant negative impacts it will have on the clean water community.

In recent weeks, NACWA has stepped up the pressure on EPA regarding the arguments presented in the petition for reconsideration and stay, meeting with

senior officials in the Agency's Office of Air & Radiation and the Office of General Counsel to reiterate NACWA's position and emphasize the need for EPA to reconsider the final rule. As a result of these meetings – and NACWA's sustained advocacy efforts – EPA has requested additional time to review the Association's petition and give serious consideration to the fundamental legal and technical flaws in the underlying rule. NACWA anticipates receiving an answer from EPA regarding the petition for reconsideration and stay of the SSI rule by the end of August. If EPA does not grant NACWA's administrative request to reconsider the rule, the Association is prepared to move forward aggressively in its parallel legal challenge to the rule, including requesting the court to issue a judicial stay.

Solid Waste Rule Provides Crucial Regulatory Foundation

In addition to challenging the SSI rule, NACWA also filed a lawsuit in June against EPA over the Agency's final definition of non-hazardous solid waste rule. The solid waste rule provides a crucial regulatory foundation for the SSI rule, and NACWA is challenging the rule's inclusion of biosolids that are combusted as a solid

waste. NACWA filed a preliminary statement of issues in the solid waste rule case in July outlining an initial list of concerns the Association intends to raise in the litigation, including whether EPA's determination that biosolids which are combusted qualify as a solid waste is a violation of existing federal solid waste law and the existing exemption for domestic sewage from solid waste regulations. Briefing in the case is expected to begin later this year.

In addition to NACWA's legal efforts, the Association is also moving forward with creating a legislative strategy to address the two rules and will be meeting with key members of Congress in the coming weeks to discuss the significant negative impacts the two rules will have on municipal clean water agencies. All of NACWA's advocacy work on this important issue is being supported by the Association's Sewage Sludge Incineration Advocacy Coalition (SSIAC), which is comprised of nearly 45 different clean water utilities from around the nation. NACWA is grateful to all of the SSIAC members for their support and will be working to expand the SSIAC in the coming months. Additional information on NACWA's SSI efforts are available on the Association's webpage at www.nacwa.org/biosolids-incineration. 🌱



NACWA Summer Conference Features First-Class Utility Management, Sustainability Efforts

Conference keynote, Jason Ryan Dorsey, captured the audience's attention with an energetic look at engaging Gen Y workers and making them true assets to any organization during the 2011 NACWA Summer Conference & 41st Annual Meeting, Engineered for Success. . . Creating a First Class Public Utility. Anchored by compelling keynotes from bestselling author and generational strategist Dorsey and William McDonough, internationally renowned designer and architect, the Conference featured presentations on the wide range of efforts the clean water community has undertaken to better position itself for the future.

David Williams Elected NACWA President for 2011-2012

David Williams was elected NACWA President for 2011-2012 by the Association's Board of Directors on July 20. Williams is the director of wastewater for the East Bay Municipal Utility District in California and has had a distinguished career within the clean water community. Also elected were the following NACWA officers: Vice President, Suzanne Goss, government relations specialist for the JEA (Electric, Water & Sewer), Fla.; Treasurer, Julius Ciaccia, executive director, Northeast Ohio Regional Sewer District, Ohio; and, Secretary, Karen Pallansch, general manager of the Alexandria Sanitation Authority, Va. The Association expresses its sincere appreciation to outgoing President, Jeff Theerman, executive director for the Metropolitan St. Louis Sewer District, Mo. for his dedicated service as NACWA President over this past year.

NACWA Welcomes New Board Members

During the *Annual Association Business Meeting*, NACWA's membership elected six individuals as new members of its Board of Directors. Scott W. Jellison, chief operating officer with the Metropolitan District, Conn. was elected to represent Region 1. Region 2's representation on the Board will now include Carter H. Strickland, Jr., deputy commissioner for sustainability for the New York City Department of Environmental Protection, N.Y. George S. Hawkins, general manager for DC Water in the District of Columbia and Howard Neukrug, commissioner for the Philadelphia Water Department, Pa. were elected to join the representatives from Region 3. Region 7 welcomes an additional Director - John P. O'Neil, general manager for Johnson County Wastewater, Kansas. Susan Tanner Holmes, chairwoman for the Central Davis County Sewer District in Utah will join the Board of Directors from Region 8.

The following board members were elected or appointed to new terms: Raymond J. Marshall, executive director for the Narragansett Bay Commission, R.I. (Region 1); Timothy Haag, director, Utility Services & Planning for the Emerald Coast Utilities Authority, Fla. (Region 4); Larry Patterson,



NACWA's Officers for 2011-2012 were elected during the 2011 Summer Conference & 41st Annual Meeting. Pictured left to right, NACWA Treasurer, Julius Ciaccia, executive director, Northeast Ohio Regional Sewer District, Ohio; NACWA Vice President, Suzanne Goss, government relations specialist for the JEA (Electric, Water & Sewer), Fla.; NACWA President, David Williams, director of wastewater, East Bay Municipal Utility District, Calif.; and, NACWA Secretary, Karen Pallansch, general manager of the Alexandria Sanitation Authority, Va.

director of Operations & Water Resources for the Upper Trinity Regional Water District, Texas (Region 6); Steve Pearlman, director of environmental services, Metro Wastewater Reclamation District, Colo. (Region 8); Adel H. Hagekhalil, assistant director, City of Los Angeles Bureau of Sanitation, Calif. (Region 9); Daniel C. Thompson, division manager, Wastewater Operations, City of Tacoma Public Works Department, Wash. and Mark Yeager, utility services manager, City of Albany, Ore. (Region 10).

NACWA congratulates its new and re-elected Board Members and extends its thanks and appreciation to its outgoing Board members for their committed service to the Association. Those leaving the NACWA Board this past year are Robert Moore, former Chief Administrative Officer for the Metropolitan District, Conn. (Region 1); James Mueller, Assistant Commissioner for Capital Planning, Engineering and Support, Bureau of Wastewater Treatment, New York City Department of Environmental Protection,

N.Y.; Richard Lanyon, former Executive Director of the Metropolitan Water Reclamation District of Greater Chicago, Ill. and, Debra McCarty, deputy commissioner for the Philadelphia Water Department, Pa. (Region 3).

In other action NACWA's Board of Directors voted to approve the fiscal year (FY) 2012 *Association Business Plan* which sets out the goals, objectives, strategies and actions for the upcoming fiscal year starting October 1, 2012. The Board also approved the FY 2012 General Fund budget, as well as the Targeted Action Fund (TAF) budget. One TAF request was also approved, providing support from the FY 2012 TAF to support ongoing work on toxicity and other water quality impacts on clean water agencies from pesticides and other consumer product ingredients. The Board also approved NACWA's filing of an amicus curiae brief supporting the Metropolitan St. Louis Sewer District, in its appeal of a Missouri state court decision that invalidated the utility's stormwater fee program. 🌊

Law Seminar

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Among the subjects to be addressed at the *Seminar* will be a review of major regulatory developments of the past year and their legal impacts on clean water agencies, including an update on NACWA's current litigation efforts regarding sewage sludge incineration, nutrients, and nonpoint source issues. Wet weather concerns will also receive substantial attention, with a discussion of the U.S. Environmental Protection Agency's (EPA) forthcoming national post-construction stormwater rule and a look at the many legal issues within EPA's possible efforts to resume development of a sanitary sewer overflow (SSO) rule. Tied to this will be an examination of the most recent trends in municipal wet weather consent decrees, including the growing effort to reopen

existing decrees due to changed economic circumstances and the emergence of new technologies such as green infrastructure. There will also be a review and analysis of the most important clean water legal cases of the past year and a look at recent developments in clean water enforcement actions.

As in past years, Continuing Legal Education (CLE) credits will be available for *Seminar* participants, including ethics credits. Additional details on the *Seminar*, including a preliminary agenda, registration and hotel information, and CLE information are available on the NACWA website (www.nacwa.org). We hope to see you in Charleston with your clean water colleagues for this important and exciting event! ♦

NACWA's Critical Legislative Agenda Remains in Focus

Despite the budget debate that is currently consuming Capitol Hill, NACWA continues to push ahead with its legislative agenda focused on smarter ways to achieve the goals of the Clean Water Act for America's communities. The centerpiece of this effort is NACWA's *Money Matters™* campaign, seeking to advance legislation that will ensure a sound approach to regulatory prioritization, maximize water quality benefits, and re-energize a meaningful federal-state-local partnership.

The *Money Matters™* message of regulatory prioritization is now embodied in a legislative proposal designed to appeal to a bipartisan audience. The proposal starts with the premise that all requirements of the CWA must be met above all else. The proposal simply offers a new way to determine in which priority order and with what compliance schedules the array of existing and emerging CWA regulations must be implemented. NACWA is poised to have the legislation introduced in both the House and the Senate by the end of the year.

The need to ensure that all in a given watershed, who contribute to water quality impairment, are part of the solution is driving NACWA's efforts to strengthen the links between agricultural policy and clean water. Congress is due to reauthorize the Farm Bill during this next term, providing clean water agencies with an opportunity to highlight the fact that the only way to effectively re-



duce nutrient impairment is to substantially reduce nutrient run-off from agricultural lands. In order to maximize the potential to influence the Farm Bill negotiations, NACWA continues to convene the Healthy Waters Coalition of municipal water, wastewater, and state regulatory agencies, as well as conservation and sustainable agriculture groups, to push for more effective national policy to control nutrient run-off from the farm.

Finally, underlying all these efforts is NACWA's fundamental view that to the extent the federal government continues to

advance regulatory and legislative requirements under the CWA, it must also be a full partner in helping communities financially meet their obligations under the CWA. NACWA plans to continue fighting for robust funding for the Clean Water State Revolving Fund program and urge that a sustainable, long-term funding mechanism via a trust fund approach, which has the advantage of being deficit-neutral, be established. Only a long-term, non-discretionary funding mechanism can ensure that the federal partnership that began under the CWA will be sustainable. ♦

NACWA Membership—Growing Strong!

NACWA membership provides public agencies and private organizations with information and access to resources that make their operations more effective – and advocates on their behalf on key clean water legislative, regulatory and legal issues. The Association’s effectiveness in accomplishing this mission is strongly based on the engagement of its members. As NACWA’s fiscal year nears conclusion, the Association is proud to add the support of six new members to its efforts. NACWA welcomes the following public agency, legal affiliate, and corporate affiliates to the membership.

Public Agency

City of Sidney, Ohio

Represented by Brian Schultz, Wastewater Treatment Plant Superintendent

Serving a population of approximately 20,500, the City is responsible for collection, interceptor, treatment, municipal stormwater, and drinking water distribution. To learn more about the City of Sidney please visit www.sidneyoh.com/wwtwp/Wastewater_Treatment.html.

Legal Affiliate

**Pannone Lopes Devereaux & West LLC, R.I.
Represented by Bruce Tobey, Of Counsel**

The firm of Pannone Lopes Devereaux & West LLC is committed to providing responsive legal solutions resulting in cost-effective results. Serving corporate, municipalities and individual clients from coast to coast – at offices in Connecticut,



Florida, Massachusetts, New York and Rhode Island – the firm has earned a reputation for providing practical solutions to complex problems. Learn more about the firm at www.pldw.com.

Corporate Affiliates

GeoSyntec Consultants, Mo.

Represented by Trent Stober, Principal

Geosyntec Consultants is a specialized consulting and engineering firm that works with private and public sector clients to address new ventures and complex problems involving the environment, natural resources, and civil infrastructure. Please visit www.geosyntec.com for more information on GeoSyntec Consultants.

MaxWest Environmental Systems, Fla.

Represented by Wendy Broley, Vice President of Marketing Development

MaxWest Environmental Systems Inc. is a leading renewable energy company that offers local governments and private wastewater treatment generators a safe, cost effective, and environmentally friendly alternative for sustainable biosolids disposal by capturing the wastewater biosolid’s energy, reducing its volume by 90% and potentially benefiting from future greenhouse gas and carbon credits. To learn more about MaxWest Environmental Systems, visit <http://maxwestenergy.com>.

UTS BioEnergy, Mo.

Represented by Mark Murphy, Regional Vice President

UTS BioEnergy develops, owns and operates alternative energy projects. It is dedicated to helping to solve the nation’s energy problem through advanced alternative energy technologies developed in America and Europe. To learn more about UTS BioEnergy visit www.utsbioenergy.com.

Kennedy/Jenks Consultants, Calif.

Represented by Michael Joyce, Principal

Kennedy/Jenks Consultants is a complete engineering, environmental science, and architectural services consulting firm that strives to maintain a balance of innovation and proven solutions; improved operations and reduced costs; engineering excellence and environmental protection. To learn more about Kennedy/Jenks Consultants visit www.kennedyjenks.com.

In addition to welcoming these new members, NACWA would like to encourage existing members to engage more employees in the Association through receipt of e-communications, participation on any of the Association’s twelve standing committees, and attendance at conferences. If there are additional key members of your staff who would benefit from further involvement with NACWA please email their name, title and e-mail address to Laura Cobb at lcobb@nacwa.org. We look forward to continuing to provide you with value and excellent service in the coming fiscal year. 💧

Comprehensive SSO Rule

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swers” on how to proceed with the management of SSOs and peak wet weather flows. Although no timeline has been set to take action on the rule, NACWA will continue to keep this issue active for both EPA and the stakeholder groups. NACWA has already provided Ken Kopocis, the Administration’s nominee for EPA Assistant Administrator for Water, with documents outlining the

Association’s position on a comprehensive SSO rule and expressed the desire to work with him on this critical issue once he is confirmed.

With EPA’s encouragement, NACWA has begun reaching out to the stakeholder groups that participated in the July workshop and will be working with them to develop consensus and draft an outline of the

issues associated with a comprehensive rule. NACWA also plans to work closely with EPA, following the Agency’s release of its summary of the workshop, to determine the areas that are critical for the stakeholder groups’ focus. NACWA will keep its members informed about the process and will seek their input on the SSO rule issues as they are deliberated by the stakeholder groups. 💧

National Environmental Achievement Awards – Call for Nominations

NACWA is now accepting nominations for its 2012 National Environmental Achievement Awards (NEAA) program. For over 25 years, the NEAA program has recognized local, state and federal officials for their contributions to water quality and the environment, as well as Member Agencies who are committed to developing and promoting innovative clean water solutions, and community outreach and education programs.

The NEAA program has two comprehensive categories: Individual Achievement Awards and Member Agency Achievement Awards. Individual Achievement Awards contain three subcategories – Public Service Awards for federal, state or local elected or appointed officials; the Distinguished Service Award for member agency leaders' dedication to NACWA; and the Environment Award, recognizing service and commitment to the environment. The Member Agency Achievement Awards are open for the following categories: Research & Technology for innovative programs; Operations for effective treatment methods and projects; Public Service for voluntary environmental contributions within the community; and Public Information & Education (including subcategories for video, printed publication, educational program, and e-media) for significant outreach to the agency's constituents.

This year, NACWA's 2012 NEAA Agency Awards will be presented during the Association's Winter Conference February 12-15 in Los Angeles, California. Individual awards will continue to be presented during the National Environmental Policy Forum in April in Washington, DC. All NACWA Member Agencies are eligible to apply for any of the seven award categories.

More information, including applications, nomination criteria and a list of past honorees are available on the NACWA website at www.nacwa.org/awards. The deadline for nominations is Friday, October 14, 2011. ♻️

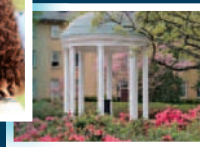


NACWA's NEAA Awards recognize individuals and member agencies who are committed to developing and promoting innovative clean water solutions, and community outreach and education programs. Barbara Biggs, Government Affairs Officer for Metro Wastewater Reclamation District in Denver, Colo. was among the 2011 NEAA Honorees recognized for State Public Service. What innovative programs or individuals in your community deserve to be recognized? This year's NEAA nominations are due Friday, October 14.

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