



Inside

Hearing on EPA's Integrated Planning and Permitting Framework	2
NACWA Advances SSI Advocacy on Capitol Hill & In Courtroom	2
NACWA Active in the Litigation Arena	3
New Members Named to NACWA Board	3
112th Congress Outlook	5
NACWA Testifies on Fracking Issue	5
New NACWA Members	6
Association Leaders Meet in Charleston	8

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NACWA, Clean Water Stakeholders Discuss Integrated Planning with EPA

Public utility leaders and representatives from key stakeholder groups, including the Association of Clean Water Administrators (ACWA), the Natural Resources Defense Council (NRDC), the American Public Works Association (APWA), the National League of Cities (NLC), and American Rivers, gathered in Washington, DC December 13 to discuss the U.S. Environmental Protection Agency's (EPA) new integrated planning initiative. Convened by NACWA, the dialogue was structured to provide EPA with its first opportunity to introduce the Agency's draft framework for integrated planning to the clean water community. Before outlining the guiding principles and elements of the draft framework, EPA's top water and enforcement officials stressed the importance of this ongoing work. Nancy Stoner, Acting Assistant Administrator for Water and Cynthia Giles, Assistant Administrator for Enforcement & Compliance Assurance underscored the need to identify a better way to meet the goals of the Clean Water Act, and reaffirmed their commitment to move forward with the effort aggressively.

Enforcement Expansion Concerns Addressed

Addressing concerns that EPA's initiative was merely an effort to expand federal clean water enforcement activities, Giles stressed that the framework is not about extending the reach of existing EPA enforcement. Instead, EPA is looking for ways to implement the framework, to the extent possible, through the permitting program. The integrated plan, which would be developed by the municipality, would allow a balancing of the various Clean Water Act obligations in a manner that addresses the most pressing public health and environmental protection issues first. At this juncture, the plan would be limited to only clean water obligations (e.g. wastewater permit requirements, combined and sanitary sewer requirements, stormwater, etc.), and not include drinking water mandates. Many of the joint water and wastewater utilities participating in the dialogue, however, stressed that for them isolating wastewater from their broader strategic planning efforts will be difficult.

CONTINUED ON PAGE 4 »

NACWA Winter Conference to Highlight Utility Strategies for Meeting Growing Clean Water Obligations

NACWA's 2012 Winter Conference, *Watershed Moment in the Making...Conquering the Challenges of the New Regulatory Frontier*, February 12-15, in Los Angeles will examine the increasing regulatory requirements clean water utilities face – and the emerging suite of solutions and strategies utilities are using to address these regulatory pressures. The Conference will feature a new meeting format, starting on Sunday with Board committees, the Board Meeting and an evening Welcoming Reception – and running through Wednesday, with more time devoted to committee meeting interaction and high-profile General Session presentations.

Utilities Face Breaking Point . . . or Watershed Moment
Addressing water quality challenges, managing storm-

water flows, and planning for future water needs – all while dealing with crumbling infrastructure – can push a utility to the limit. Add to that the challenges of a weak economy and strapped municipal budgets and it might feel like a breaking point has been reached. But clean water agencies are already responding, looking to new models for the future, and embracing this time as a watershed moment. For the host community of Los Angeles, the way trees capture, filter and recycle water may prove a useful blueprint. The Conference will feature presentations on how the move toward substantial and functional green infrastructure installations can provide affordable solutions to an array of current water quality and quantity issues and help to rebuild the economy. While past

CONTINUED ON PAGE 4 »

NACWA Testifies at House Hearing on EPA's Integrated Planning and Permitting Framework

Dave Williams, NACWA President and Director of Wastewater for the East Bay Municipal Utility District (EBMUD) in Oakland, Calif., provided [testimony](#) on behalf of the Association at a December 14 [hearing](#)— *Integrated Planning and Permitting: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality*— before the House Committee on Transportation & Infrastructure's Subcommittee on Water Resources & Environment. Carter Strickland, NACWA Board Member and Commissioner of the New York City Department of Environmental Protection (NYCDEP) provided [testimony](#) at the hearing, as well, representing New York City. Overall, there was agreement among all witnesses that the time is now for an integrated planning approach and Representatives from both parties encouraged the U.S. Environmental Protection Agency (EPA) to move forward with their integrated planning initiative expeditiously.

Williams applauded EPA's new integrated Clean Water Act (CWA) planning initiative and urged the Subcommittee to encourage EPA's efforts. He focused his testimony on the discussion from the Dec. 13 dialogue with EPA ([see related article](#)) stating that, if done



CONTINUED ON PAGE 5 »

NACWA Advances SSI Advocacy on Capitol Hill & In Courtroom

NACWA is engaged in a aggressive campaign to build Congressional support for the reconsideration of the U.S. Environmental Protection Agency's (EPA) new regulations of sewage sludge incinerators (SSIs). With NACWA's urging, five Senators, including Claire McCaskill (D-MO), Roy Blunt (R-MO), Rob Portman (R-OH), Mark Begich (D-AK) and Lisa Murkowski (R-AK) recently sent a bipartisan [letter](#) to EPA Administrator Lisa Jackson, urging her to reconsider the ruling and regulate SSIs under the initial and appropriate section of the Clean Air Act (CAA). The letter states, "These new regulations impose unnecessary air emissions requirements for incinerators burning domestic sewage sludge at POTWs under §129 of the Clean Air Act (CAA)...We therefore urge you to reconsider this action and continue to regulate POTWs' sewage sludge incinerators in accordance with §405 of the CWA and pursuant to §112 of the CAA." The Senate letter follows an earlier [letter](#) from Reps. Bill Pascrell (D-NJ) and Steven LaTourette (R-OH) also urging the Administrator to do the same. NACWA is gratified by this bipartisan support and is working to engage more members of Congress as this effort progresses.

Staff for Senator Ben Cardin (D-MD), Chairman of the Senate Water & Wildlife Subcommittee, held two meetings with the EPA last month to discuss the legality of the SSI rule and further explore the option of reconsideration. Senator Cardin's office's personal involvement in this

issue has been vital in helping to advance NACWA's case, and a third meeting with EPA regarding the specific policy issues surrounding the incineration of sewage sludge is expected in the near future.

Court Denies Request for Stay of SSI Rule, Litigation Effort Moves Forward

In a related development, a federal court issued an [order](#) in late November denying NACWA's legal request for a judicial stay of the SSI rule. Although NACWA is disappointed with this decision, the court's ruling was not unexpected given the very high legal bar for obtaining a stay. NACWA's litigation strategy will not be affected by this development, and the ruling will have no bearing on the likelihood of success on the merits when the court eventually reviews the Association's full challenge to the rule. NACWA is now working with the other parties in the case to negotiate a briefing schedule for the remainder of the litigation. The Association hopes to have the court rule on the merits of the lawsuit as soon as possible to bring resolution to this important issue, and is pushing for an aggressive briefing schedule to accomplish that goal. NACWA also continues to pursue litigation over EPA's final definition of non-hazardous waste rule, although the case has been temporarily placed on hold until the Agency finalizes revisions to the rule in April 2012. Additional information on these litigation efforts can be found on NACWA's website under [Litigation Tracking](#).

NACWA Active in the Litigation Arena

As the calendar year draws to a close, the Association remains active in the litigation arena. The following provides an update on two key actions.

NACWA Submits Brief in Nutrients Litigation –

NACWA expanded its litigation portfolio regarding nutrient issues in November, engaging in an appeal over inappropriate nutrient limits included in wastewater discharge permits. The Association's Nov. 15 *brief* before the U.S. Court of Appeals for the First Circuit was filed in support of member agency the Upper Blackstone Water Pollution Abatement District (located in Millbury, Mass.) in a challenge to the utility's federally issued permit. NACWA's brief argues that the U.S. Environmental Protection Agency (EPA) acted illegally in setting nutrient limits in Upper Blackstone's discharge permit without regard to pending upgrades at the utility's treatment plant and without consideration of the performance or environmental benefits of those upgrades. In particular, the brief contends that EPA had no legal basis in requiring the utility to spend an additional \$200 million in treatment plant upgrades to achieve the new nutrient limits before the completion of an already underway \$180 million upgrade. The brief asserts that such action by EPA demonstrates a clear failure of appropriate prioritization of limited municipal clean water resources. NACWA's brief echoes the key concepts

of the Association's Money Matters™ campaign in making the legal argument that the EPA's actions were unjustified. NACWA also challenged the scientific basis for the contested nutrient limits, and the court is expected to review the case in early 2012.

Association to Participate in Key Stormwater Fee Case –

NACWA's Board of Directors has approved filing a brief in federal litigation in Washington State regarding the failure of the federal government to pay municipal stormwater fees. NACWA's participation in the case, in support of Member Agency the City of Vancouver, Wash., will allow the Association to defend its hard-fought victory last year in securing passage of legislation amending section 313 of the Clean Water Act to clarify that federal government facilities are responsible for paying local stormwater service charges. NACWA's brief will emphasize that the legislation simply clarified an existing obligation for federal government agencies to pay local stormwater fees, as opposed to creating a new obligation, and thus requires payment of past due amounts. Additionally, the brief will highlight the significant financial challenges Vancouver will face if the federal government does not pay, as well as the dangerous precedent this would set for other municipal stormwater utilities across the country. Briefing is expected to occur in the first half of 2012.

New Members Named to NACWA's Board

Ted Henifin, General Manager, Hampton Roads Sanitation District (HRSD) and David St. Pierre, Executive Director, Metropolitan Water Reclamation District (MWRD) of Greater Chicago were named to At-Large seats on [NACWA's Board of Directors](#) in November. Henifin has served as HRSD's General Manager since 2006. During that time he has continued HRSD's stellar record of support for, and engagement in, NACWA. Named Executive Director of the MWRD of Greater Chicago in June of this year, David St. Pierre is well-positioned to continue MWRD's long-standing leadership in the organization, having come to Chicago by way of positions at NACWA Member Agencies the City of Atlanta, as Deputy Commissioner of

the Department of Watershed Management, and the Metropolitan St. Louis Sewer District, as Operations Director. NACWA President, David Williams, made the appointments, noting "I am certain that Ted and David will continue to distinguish themselves both within our organization and the clean water community as a whole."

Henifin and St. Pierre join Howard Neukrug, a national leader for sustainable practices and quality management in the water industry and Commissioner of Philadelphia's Water Department, appointed to the Board in July, as the Association's newest Board Members. 💧



Integrated Planning Meeting

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Five Key Elements Outlined

In addition to discussing several guiding principles providing the boundaries within which integrated planning could take place, [EPA outlined](#) what it believes to be the five key elements of an integrated plan including: 1) a description of the water quality, human health and regulatory issues to be addressed in the plan; 2) a description of the existing wastewater and stormwater system or systems under consideration in the plan and a summary of system performance; 3) the process for meaningful public involvement at all stages of plan development; 4) the process for evaluating and selecting alternatives and proposed implementation schedules; and 5) a plan for measuring progress and success. The heart of the plan, according to EPA, is element four, which includes the criteria, such as cost and projected pollutant reductions, used for comparing alternative projects, a financial capability assessment and a financial strategy for ensuring investments are sufficiently funded, operated, maintained and replaced over time. EPA stressed

that this is only its current thinking for the framework and that it welcomes input on the elements.

Through the input EPA obtained from the December 13 dialogue, the Agency plans to continue drafting its framework over the next six weeks, with the goal of releasing a draft framework in late January. EPA is already planning a series of regional meetings for late January and early February to seek further input on the framework. In addition, EPA is hoping to identify a few communities where it might be able to conduct pilot implementation of this new framework and use those experiences to further fine tune the framework and serve as examples. NACWA plans to reach out to its membership to identify potential pilot communities and will be working through its Standing Committees and the [Money Matters Task Force](#) to provide further input to EPA. 📌

Top U.S. Environmental Protection Agency (EPA) officials, Nancy Stoner, Acting Assistant Administrator for Water and Cynthia Giles, Assistant Administrator for Enforcement & Compliance Assurance joined NACWA members and other key stakeholders at the Association's Dialogue on EPA's Integrated Planning Framework for CSOs and Other Clean Water Act Requirements. Giles and Stoner underscored the need to identify a better way to meet the goals of the Clean Water Act, and reaffirmed their commitment to move forward with the effort aggressively.



NACWA Winter Conference

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practices have led to the creation of separate water and resource management bureaucracies that now compete for resources, greater collaboration and a natural systems approach has the promise of leading to smarter investment that creates real jobs.

Integrated Planning Offers New Approach

Front and center for the clean water community is the promise of a new approach to meeting Clean Water Act obligations. As the U.S. Environmental Protection Agency (EPA) continues developing an integrated planning framework, the clean water community is weighing in on the best approaches for balancing and prioritizing their investments. Key questions, however, remain and the Conference will examine the ongoing debate. Can such a framework succeed if there is no federal policy or rule on the management of sanitary sewer overflows? Can communities with existing or pending consent decrees benefit? And how quickly can EPA finalize something that provides real relief for utilities that are feeling the pressure now? All of these issues will be discussed during a round-table discussion.

Nutrients, Stormwater to Receive Attention

The Conference program will also feature a session on trading and the extent to which it promises to help address the Nation's nutrient challenges. A panel on stormwater controls, including an update on EPA's rulemaking efforts, will examine how stormwater management matters regardless of whether you hail from an area with too much water or not enough.

Unique Tour Focuses on New Approaches

To cap off the Conference, on Wednesday afternoon the City of Los Angeles Bureau of Sanitation is offering an optional, one-of-a-kind tour of its South LA Wetlands Park and innovative Terminal Island Renewable Energy (TIRE) project. The City will provide transportation to and from the hotel and lunch at the Wetlands Park.

A preliminary agenda, registration information for the conference hotel, conference, and tour, and additional information can be found on [NACWA's website](#). 📌

What Will the Second Session of the 112th Congress Mean for Clean Water Issues?

As the second session of the 112th Congress gets underway, the question is what can NACWA hope to accomplish legislatively by the end of this term? The 112th Congress has thus far been consumed with fights over the federal budget and spending. Nestled in these spending fights were aggressive attempts by the Republican caucus to push back on environmental regulations in the area of clean air and clean water, which also consumed much of lawmakers' focus.

Given that it is a presidential election year, it is likely that the same issues will dominate the policy landscape during the second session of the 112th Congress. Dominant debates will occur over spending, with the specific focus on trying to avoid very deep cuts to defense programs that are currently set to kick-in on October

1, 2012. As this debate continues, Congress will have to tackle at least two pieces of legislation that have significant implications both from a budget perspective and water perspective: reauthorization of highway and transportation programs; and, the Farm Bill. Congress has delayed reauthorization of the transportation bill for several years. The highway trust fund will need significant amounts of money in order to avoid steep reductions in the number of roads, bridges and transit projects that can be funded and the jobs that come with them. This debate is important for NACWA's members for two reasons: first, efforts to address stormwater run-off from highways will likely be placed on the agenda by Senator Ben Cardin (D-MD), Chair of the Senate's Water & Wildlife Subcommittee, who is committed to reducing stormwater

CONTINUED ON PAGE 7 »

NACWA Testifies on Integrated Planning and Permitting

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properly, integrated CWA planning can provide real flexibility in terms of compliance with rules and guidance while focusing on meaningful environmental benefit, and apply relief mechanisms in an effective way. He used EBMUD as an example of how a changing regulatory landscape can directly affect community financial capability. Williams also discussed the potential need for targeted legislation that can ensure the use of long-term compliance schedules in the permitting context and expressed NACWA's commitment to continue to work with the Subcommittee on legislation, as necessary.

The other witnesses at the hearing included Mayor Jim Suttle, City of Omaha, for the U.S. Conference of Mayors; Mayor Joe Reardon,

Mayor and CEO, Unified Government of Wyandotte County and Kansas City, Kansas, on behalf of the National League of Cities; Todd Portune, Commissioner, Hamilton County, Ohio Board of Commissioners; Walt Baker, Director, Division of Water Quality, Utah Department of Environmental Quality on behalf of the Association of Clean Water Administrators; and Katherine Baer, Senior Director of the Clean Water Program with American Rivers. EPA testified on the second panel with Nancy Stoner, Acting Assistant Administrator for Water, and Cynthia Giles, Assistant Administrator, Office of Enforcement Compliance Assurance, representing the Agency. The testimony is available on the [Subcommittee's website](#).

NACWA Testifies Before House Subcommittee on Fracking Issue



Martie Groome, Vice Chair of NACWA's Pretreatment & Pollution Prevention Committee, and Laboratory & Industrial Waste Supervisor for the City of Greensboro Water Resources Department, N.C., testified on behalf of NACWA during a November 16 hearing, Hydraulic Fracturing of Shale Beds: Ensuring Regulatory Approaches that Will Help Protect Jobs and Domestic Energy Production, held by the House Committee on Transportation & Infrastructure's Subcommittee on Water Resources & Environment. The hearing was held in part due to the U.S. Environmental Protection Agency's (EPA) recent announcement in its Final 2010 Effluent Guidelines Program Plan that the Agency would develop national pretreatment standards for hydraulic fracturing (or "fracking") wastewater being sent to publicly owned treatment works (POTWS). NACWA's testimony focused on how pretreatment standards could provide a safe, accepted baseline that would allow POTWs to accept fracking wastewater, while also emphasizing that utilities could develop their own local limits to handle discharges from any industry that does not have national standards set by EPA. In response to questions from the Subcommittee, Groome also explained that utilities could refuse to accept the waste if they are not equipped to treat it. NACWA will provide input to EPA as it develops the pretreatment standard and will keep members informed of the progress made. and the regulation of nonpoint sources.

NACWA Membership – The Voice of Clean Water Grows Stronger

A growing NACWA membership is critical as the Association advances key advocacy initiatives on behalf of the clean water community. NACWA continues to strengthen its influence as the Association welcomes five new and re-joining members – three public Member Agencies; two Corporate Affiliates; and one legal affiliate.

Public Agencies

City of Bellingham, WA

Represented by Bob Banderra, Superintendent of Operations

The City of Bellingham serves a population of 80,885 and provides water, wastewater, water conservation, stormwater and surface water services.

Puerto Rico Aqueduct & Sewer Authority, PR

Represented by Alberto Lazaro, Executive Director for Infrastructure

Puerto Rico Aqueduct & Sewer Authority (PRASA) has rejoined NACWA after a brief hiatus. PRASA serves a population of 2,905,000 and operates 60 water treatment plants throughout Puerto Rico, serving 55% of the population of the island.

Ypsilanti Community Utilities Authority, MI

Represented by Larry Thomas, Director

The Ypsilanti Community Utilities Authority provides water and wastewater services to a population of 227,000 in nine different communities.

Corporate Affiliates

EPC Consultants, Inc.

Represented by Michele Pla, Senior Project Manager

EPC Consultants, Inc. is based in San Francisco, Calif. and its consulting practice on major infrastructure projects, including water/wastewater projects.

Causey Consulting

Represented by Paul H. Causey

Causey Consulting is a boutique consulting firm, based in Walnut Creek, Calif., specializing in business management and process logistics consulting.

Legal Affiliate

Clark Hill, PLC

Represented by John Sheehan, Member

Clark Hill PLC is a full-service law firm. Their environmental attorneys have extensive experience in everything from permitting to regulatory compliance and enforcement to administrative appeals and litigation to the environmental aspects of corporate and real estate transactions.

NACWA is the resource for information on current and evolving clean water issues. As the year progresses, the Association will look to utilize new technology to expand its outreach to its members and to increase the opportunities for members to interact with one another and to engage on specific issues in which the Association is involved. NACWA has expanded the use of internet based, virtual committee meetings and plans topical web seminars on issues currently confronting your utility – allowing more utility staff to actively participate. These advancements will improve member experiences and enhance each utility's ability to actively participate and utilize Association resources.

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.



NACWA's 2011 Developments in Clean Water Law Seminar



David Sherman, Director of the City of Indianapolis Department of Public Works, and Randy Hayman, General Counsel for DC Water, present on a panel about reopening municipal wet weather consent decrees at NACWA's 2011 Developments in Clean Water Law in Charleston, SC. The conference, held Nov. 16 -18, attracted a large number of clean water attorneys and utility managers from around the country to address the most important legal and regulatory issues the clean water community currently faces. Topics covered at the Seminar included the U.S. Environmental Protection Agency's (EPA) integrated planning effort, wet weather concerns, biosolids management, nutrients, and water quality issues. Handouts from the conference are available on NACWA's website.

Congressional Clean Water Outlook

CONTINUED FROM PAGE 5


run-off into the Chesapeake Bay. This discussion will raise awareness in Congress of the adverse impacts stormwater run-off from urbanized areas have on waterways and the various sources contributing to it. Second, the debate will also focus attention on the country's overall infrastructure investment needs, creating the opportunity for NACWA to showcase critical needs within the clean water sector and the important federal partnership that must continue through the State Revolving Fund programs.

Action on Farm Bill Anticipated

Congress will also be faced with reauthorization of the Farm Bill which expires at the end of 2012. While it is too soon to predict whether this Congress will be able to complete work on a Farm Bill, the 112th Congress will no doubt debate the significant budget, food security and conservation issues implicated in a reauthorization effort. NACWA, along with a coalition of water and wastewater associations, state regulators and other non-governmental organizations (NGOs), launched an advocacy effort during the first session of Congress to seek progress within this next Farm Bill to address the nutrient problem. The effort is expected to continue to gain momentum as work on the Farm Bill begins in earnest this year. NACWA believes that the urban perspective on agricultural impacts on water quality will draw support from lawmakers interested in making water quality gains through less costly measures that focus on the source of the contamination rather than on traditional treatment technology at a utility.

Smarter Investment through Integrated Planning a Legislative Focus

NACWA will also continue to focus Congressional attention on environmental regulation to promote its Money Matters™ message to find a smarter way of making investments in water quality through regulatory prioritization and integrated planning within the Clean Water Act (CWA). The Association expects that bi-partisan legislation will be introduced early in the session to move these concepts forward and allow for Congressional input into the regulatory process already underway at the U.S. Environmental Protection Agency (EPA) (see related article this issue). NACWA has already seen a great deal of interest in this issue from Democrats, such as Senator Sherrod Brown (D-OH), who represent older industrialized states with large urban cities that have aging populations, dwindling revenue bases, and large water quality challenges – and that are struggling to implement environmental regulatory demands while also meeting other pressing community needs such as education and public safety. NACWA's proposed legislation requiring EPA to establish an integrated planning and permitting approach within the CWA would enable communities to establish priorities for clean water investments according to what is most likely to achieve the greatest water quality benefit cost-effectively first before making investments elsewhere.

Though larger fights over federal spending will dominate the 112th Congress this year, NACWA will continue to advocate for smarter investment in water quality to help our members' ratepayers better afford and enjoy the benefits that clean water provides. 

Association Leaders Meet in Charleston – Look toward the Future

NACWA's Board of Directors and Standing Committee leaders met in Charleston, S.C. in mid-November for the Association's *Fall Strategic Leadership Retreat*. On the agenda was a 'mega issue question' from NACWA's [Strategic Plan](#) – How does NACWA maintain its relevance into the future? The Association leaders explored this question by considering the issues currently confronting the water sector – the challenge of developing financially and environmentally sustainable infrastructure; globalization's impact on changing economics; the increasing impact of climate change on utilities; scarcity and competition for water; and changing demographics that require new and diverse skill sets and experiences.

With this backdrop, NACWA's leadership focused their attention on the Association's advocacy agenda and in particular the signifi-

cant strides currently being made through its [Money Matters... Smarter Investment to Advance Clean Water™](#) regulatory prioritization campaign. The need to increase awareness of the important role played by clean water agencies in not only environmental protection, but also environmental leadership, received considerable attention, as did collaboration among national, state, and local organizations to achieve key strategic goals. The role of technology in NACWA's future (see related article) and communications as a key strategic component were also a central part of the dialogue.

A summary report of the deliberations is currently being prepared. This summary will serve as a touchstone for revisiting the key goals, objectives and strategies contained in the [FY 2012 Association Business Plan](#) – as well as NACWA's Strategic Plan. ♦

NACWA Board Endorses Strategic Integrated Technology Plan

NACWA's Board of Directors met for their fall meeting on November 13. Much of their deliberations focused on the important role technology must play in NACWA's future. Among their actions was the adoption of an amendment to the FY 2012 *Association Business Plan* – adding a new Key Management Focus – *Bridge NACWA's Technology Gap and Build a Framework for the Future*. The amendment speaks to the increasingly critical role that technology, particularly internet-based systems and platforms, will play in NACWA's relevance and performance. During their meeting, the Board built upon this action by endorsing a *Strategic Integrated Technology Plan* that will strengthen the Association's capacity to achieve its organizational goals and add significant value to NACWA's membership. The *Plan*, which includes both technology upgrades and NACWA engagement in strategic social media and outreach initiatives, will be implemented over the coming months. ♦

Happy Holidays
from the
NACWA Staff

