



June 29th, 2015

The Honorable Kirsten E. Gillibrand
478 Russell Senate Office Building
Washington, DC 20510

Dear Senator Gillibrand:

I am writing to express my concern with provisions inserted into the Senate's proposed Fiscal Year (FY) 2016 Interior, Environment and Related Agencies Appropriations Bill that, if enacted, would have costly consequences for the Niagara Falls Water Board (NFWB) and delay improvements to water quality in the Great Lakes. I urge you to oppose these provisions.

Section 428 of the spending package directly contradicts and undermines legislation Congress enacted in 2001 codifying the 1994 Combined Sewer Overflow (CSO) Control Policy with which the majority of Great Lakes dischargers are currently complying. The CSO Control Policy sets forth national goals and standards for the reduction of CSOs by publicly-owned treatment works (POTW) and requires the development of Long-Term Control Plans (LTCP) to comply with these standards.

The NFWB has already implemented a highly successful LTCP approved by the New York State Department of Environmental Conservation (NYSDEC). Constructed improvements were completed in 2010 and a post construction monitoring program was conducted and completed in 2013. The results of the monitoring verify the effectiveness of the program and have been accepted by the NYSDEC. Since acceptance, the NFWB has continued to implement sewer improvement projects to further reduce CSO to the Niagara River and the Great Lakes.

The proposed provisions contained in Section 428 of this spending package would **require** communities to spend limited ratepayer resources on eliminating CSO discharges at the expense of addressing the numerous other water quality challenges facing the Great Lakes, thereby setting back overall efforts to improve water quality by decades. The reduction of CSO discharges is an important component of improving water quality; however, the Great Lakes face water quality challenges that go far beyond CSOs and include excessive amounts of nutrients caused by inadequate conservation practices, soil erosion caused by inadequate stormwater management practices, and invasive species brought into the basin by a variety of sources. These challenges are also quite costly to

address, but doing so would lead to far greater water quality improvements than focusing solely on CSOs.

If Section 428 is allowed to stand as proposed, our limited capital improvement resources would be diverted to implement an expensive, inefficient and ineffective cookie cutter solution that does not account for location-specific conditions. Our aging, declining and financially struggling service population is currently stressed in supporting our utility repair & rehabilitation efforts that have averaged \$5M annually for the past decade. This expenditure must address the needs of our water treatment facility, water distribution system, and stormwater sewer system in addition to wastewater collection and treatment. Elimination of CSO and blending alternatives would force a massive investment in new infrastructure at a time when we are truly struggling to maintain our present facilities, some of which date back over a hundred years.

Further, the proposed provisions would prohibit communities from utilizing an important operations tool that safeguards the integrity of their wastewater treatment systems during periods of extreme wet weather. We are still undertaking repairs to our wastewater treatment facility following a massive rainfall event in July 2013 that caused \$8M in damage. The runoff from that intense storm exceeded the ability of our CSO system to protect the plant; we cannot imagine managing a future event (which is only a matter of time) without any sewer relief capability.

We note that Section 428 also contains a provision to eliminate blending at wastewater treatment facilities. The ability to blend during intense rainfall events presents municipalities with an affordable way to achieve treatment objectives under a variety of operating conditions without costly expansion of facilities that would sit idle the majority of the time. We believe the practice is properly protective of the environment, as the same NYSDEC treatment plant discharge limitations that apply in dry weather also apply in wet weather.

Finally, these costly provisions are included in a spending package that proposes to cut funding for the Clean Water State Revolving Fund (CWSRF) by nearly 30%. Imposing additional regulations on ratepayers at the same time as Congress proposes to cut infrastructure financing programs that assist with compliance will saddle ratepayers with an unfunded mandate that may well be insurmountable.

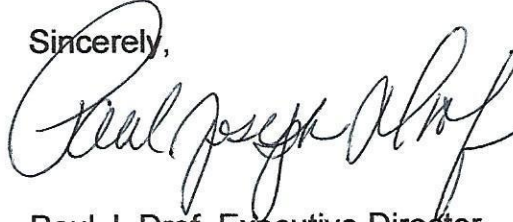
The CSO Control Policy was carefully crafted by the Environmental Protection Agency and key state, municipal and environmental stakeholders. It recognized that chasing a goal of zero CSOs would waste precious resources that could be used to address other water quality challenges.

The proposal contained in Section 428 of the Senate EPA spending package proposes a dramatic shift in clean water policy, one that would impose catastrophic costs to ratepayers throughout the Great Lakes region and result in negligible water quality improvement. At the very least, such a dramatic policy shift should be considered through the normal legislative process so that the policy and cost implications can be fully debated and the impacted communities can be fully heard, not through the congressional appropriations process that does not allow for a proper airing of concerns.

For the foregoing reasons, I urge you to remove Section 428 from the FY16 Interior, Environment and Related Agencies Appropriations package.

Thank you for your consideration of this matter and please do not hesitate to contact me at (716) 283-9770 or pdrof@nfwb.org for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul J. Drof", written in a cursive style.

Paul J. Drof, Executive Director