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August 4, 2015

The Honorable Harold Rogers
Chairman
Appropriations Committee
United States House of Representatives
Washington, D.C. 20515

The Honorable Ken Calvert
Chairman
Appropriations Interior, Environment,
and Related Agencies Subcommittee
United States House of Representatives
Washington, D.C. 20515

The Honorable Nita Lowey
Ranking Member
Appropriations Committee
United States House of Representatives
Washington, D.C. 20515

The Honorable Betty McCollum
Ranking Member
Appropriations Interior, Environment,
and Related Agencies Subcommittee
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Rogers, Ranking Lowey, Chairman Calvert and Ranking Member McCollum:

On behalf of the National Association of Clean Water Agencies (NACWA), I am writing to express our concern over provisions inserted in the Senate's proposed Fiscal Year (FY) 2016 Interior, Environment and Related Agencies Appropriations Bill that, if enacted, would have costly consequences for communities and ratepayers throughout the Great Lakes region and delay efforts to improve overall water quality in the Great Lakes. These provisions should be stricken from the final spending package as they constitute a flagrant attempt to legislate national water policy through the appropriations process.

Section 428 of the spending package directly contradicts and undermines clean water 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 (POTWs) and requires the development of Long-Term Control Plans (LTCPs) to comply with these standards. Of the 184 CSO dischargers to the Great Lakes, 170 permittees have developed and are implementing LTCPs in accordance with the CSO Control Policy, at a cost of tens of billions of dollars to ratepayers. The implementation of these plans occurs over decades due to the technical and engineering complexities of the

projects, as well as the funding capabilities of the communities making these significant investments.

If Section 428 is allowed to stand, these communities would need to go back to the drawing board and spend tens of billions of additional ratepayer dollars to achieve a nearly impossible goal of zero overflows without regard to corresponding improvements in water quality. 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, thereby imposing unnecessary additional costs by handcuffing communities as they attempt to comply. The Northeast Ohio Regional Sewer District serving Cleveland and surrounding communities, estimates that its compliance costs would be as much as \$16.5 billion, on top of the \$3 billion the District intends to spend on implementing its current CSO LTCP, and would result in monthly sewer rates of over \$300 for the average residential customer.

Moreover, the legislation proposes to establish a Great Lakes restoration fund on the backs of these ratepayers by earmarking dramatically increased penalties of \$100,000 per violation to pay for overflow correction projects. This perverse system of incentives would undoubtedly lead to increased enforcement activity and litigation as states and environmental advocates seek to build up the fund.

The proposed provisions contained in Section 428 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.

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 (EPA) and key stakeholders and recognizes 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 which does not allow for a full airing of concerns.

For the foregoing reasons, I urge you to strip Section 428 from the S. 1645, the FY16 Interior, Environment, and Related Agencies Appropriations package.

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Thank you for your consideration of this matter and please do not hesitate to contact me or Patricia Sinicropi, NACWA Senior Legislative Director, at psinicropi@nacwa.org.

Sincerely,

A handwritten signature in black ink that reads "Adam Krantz". The signature is fluid and cursive, with a long horizontal stroke at the end.

Adam Krantz
NACWA CEO

Cc: Jason Gray
Majority Professional Staff Member
House Appropriations Interior, Environment, and Related Agencies Subcommittee

Rita Culp
Minority Staff Assistant
House Appropriations Interior, Environment, and Related Agencies Subcommittee