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November 7, 2018

Jeffrey Bossert Clark, Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530-0001

Dear Mr. Clark:

On behalf of the National Association of Clean Water Agencies (NACWA), I would like to congratulate you on your confirmation as Assistant Attorney General of ENRD. NACWA, a national trade association of public wastewater and stormwater agencies, represents over 300 public utilities of all sizes nationwide. For nearly five decades, NACWA has been a recognized leader in legislative, regulatory, and legal advocacy on the full spectrum of clean water issues, as well as a top technical resource for water management, sustainability and ecosystem protection interests.

The Clean Water Act (CWA) is one of the most successful environmental statutes in U.S. history and the public clean water utility sector has been the primary engine driving that success. Working closely with state and federal regulators, these public utilities have collectively achieved an astonishing level of pollution reduction, both at their own facilities and at thousands of industrial facilities regulated by utilities under the federal pretreatment program.

Until recently, the focus of the wet weather enforcement program has been to control pollutants to lower and lower levels with little consideration of the other sources of pollution and with insufficient scientific evidence to demonstrate that the new pollutant levels will lead to actual water quality improvements. NACWA is committed to changing this approach to shift the focus to more holistic solutions centered around net environmental improvements, not just individual pollutant levels. This is particularly true with complex issues like nutrients, where nonpoint sources are the leading water quality impairment contributors in most watersheds.

NACWA recently met with Susan Bodine, Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance. We are encouraged by EPA's support of a compliance assistance first approach. In her August 2018 memo to EPA Regional Administrators, Ms. Bodine announced that EPA will change the name of its priorities from National Enforcement Initiatives to National Compliance Initiatives to better convey the message that increased compliance is the goal, and enforcement actions are not the only tool for achieving this goal.

To continue to make the kind of progress that justifies our members' large expenditures, both DOJ and EPA must champion a philosophy of compliance assistance for new instances of noncompliance and for communities already under long-term enforcement decrees. DOJ and EPA should not only be open to modification of decrees but should encourage it where the utility/community can demonstrate that the modification will result in increased net environmental benefits and/or more responsible and affordable approaches to achieve CWA

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compliance. To ensure that the sector's efforts are sustainable, regulators must more consistently and comprehensively acknowledge and address the significant challenges posed by community affordability.

When DOJ and EPA negotiate with public clean water utilities on modifications, it is important to recognize that we are all government entities with vitally important roles to ensure a resilient clean water future for the American public, our economy, and the environment. The best deal for the federal government should be what is best for all parties.

Last year, several NACWA staff members and utility leaders met with Jeffrey Wood to discuss these issues. Mr. Wood also attended NACWA's 2017 Enforcement Workshop last November to deliver the luncheon address. NACWA appreciates the opportunity to engage and collaborate with DOJ and we hope to continue the dialogue. Once you settle into your new role, NACWA and a few of our public utility leaders would like to schedule a meeting with you to share more about the great work our members do nationwide.

We look forward to working with you and others within the Department and at EPA. Thank you very much.

Sincerely,

A handwritten signature in black ink that reads "Adam Krantz". The signature is written in a cursive style with a stylized flourish at the end.

Adam Krantz  
CEO

cc: Jeffrey Wood, Principal Deputy Assistant Attorney General, ENRD  
Ellen Mahan, Deputy Section Chief Environmental Enforcement Section, ENRD  
Bruce S. Gelber, Deputy Assistant Attorney General, ENRD  
Andrea Berlowe, Counselor to the AAG for State and Local Matters, ENRD