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Dear Member of Congress:

As the 118<sup>th</sup> Congress gets underway, the National Association of Clean Water Agencies (NACWA) looks forward to working with you over the next two years on proactive and effective clean water legislative solutions to improve the communities/ratepayers that our members serve and that you represent.

For over 50 years, NACWA has been the leading national policy, advocacy, and technical organization for the public clean water utility sector. NACWA works to ensure that federal and state clean water regulations that local communities must ultimately implement are based on sound science as well as engineering and economic feasibility. Our growing organization now represents over 350 public wastewater and stormwater utility members all over the country, who collectively provide essential clean water services to more than 150 million Americans daily. These utility members serve communities both large and small, urban and rural, in nearly every state and work around the clock to protect public health and the environment and support economic growth. NACWA's membership also includes over 100 corporate and organizational entities engaged in strategic collaboration with the Association's public utility members.

Our public clean water utilities strive to provide the highest level of service, working to balance federal and state regulations and local priorities while preserving water affordability and ensuring the sustainability and resiliency of these vital services. It is a constant challenge. Clean water utilities face myriad complex challenges including reinvesting in aging infrastructure; managing escalating operation and maintenance costs and supply chain disruptions; attracting and retaining a skilled workforce; addressing new water quality impairments and regulations such as for per- and polyfluoroalkyl substances (PFAS), emerging contaminants, and nutrients; and investing in climate adaptation and system resiliency and security.

NACWA greatly appreciates the bipartisan achievements in the previous Congress to help address some of these challenges and begin to restore strong federal investment in water. We seek to build on this progress in the years ahead.

There are several key policy opportunities and focus areas where Congress can assist local communities in proactively meeting these clean water challenges over the next two years.

Our priorities areas are outlined below. However, we also urge you to reach out to NACWA's legislative team to discuss any public clean water issues you and your constituents may be facing.

### Growing Federal Investment in Public Clean Water Infrastructure

The Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF), Sewer Overflow and Stormwater Reuse Municipal Grants (OSG), and Water Infrastructure Finance and Innovation Act (WIFIA) funds are three critical federal financing tools that assist communities in more affordably building local clean water infrastructure. These programs help communities meet their federal Clean Water Act (CWA) obligations and can support investment in disadvantaged communities.

Federal clean water investment is one of the key tenets of the cooperative federalism framework established under the CWA, but the federal cost-share has been declining for decades. The *Bipartisan Infrastructure Law* made an important down-payment on increased federal investment in water through direct appropriations and through increased annual authorizations for core programs – which we urge this Congress to fully fund.

If this Congress chooses to continue the use of Congressionally Directed Spending, or earmarks, for water infrastructure projects as has been done in the last two fiscal years, it is vitally important that these funds *not* come out of the baseline annual CWSRF funding moving forward. Water infrastructure earmarks for Fiscal Years 2022 and 2023 came out of the baseline CWSRF, lowering the overall availability of this critical infrastructure program and setting a dangerous funding precedent for the future. While earmarks for water projects can be very helpful for certain communities that can receive them, *such funding must be additive to the overall EPA budget and not drawn from existing funding programs.*

Every day, our country relies on the work of utility professionals to manage and operate our complex water infrastructure and protect public health and the environment. Unfortunately, communities of all sizes are struggling to recruit, train, and retain staff at rates needed to ensure ease of operation and reduce the strain caused by an aging labor pool nearing retirement. To address this challenge, NACWA also encourages robust funding for workforce development and apprenticeships through EPA and the Department of Labor.

### Addressing PFAS Risks While Protecting Water Customers and Communities from Liability

NACWA strongly supports policy measures with an emphasis on source control as a critical first step to controlling PFAS entering clean water systems and the environment, and on advancing understanding of PFAS risk – which is essential to developing regulatory standards.

NACWA also strongly supports the “polluter pays” model where those who produced and profited from PFAS pollution bear the necessary costs of its remediation – not the public. As such, NACWA

has significant concerns with EPA's proposed rule to designate two PFAS chemicals, PFOA and PFOS, as hazardous substances under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA's proposal falls short of advancing a "polluter pays" approach and instead threatens to place significant costs and liabilities onto local communities and untenably focus on cleanup ahead of critical source control and risk assessment processes.

To protect local communities and public ratepayers from these undue burdens, it is imperative Congress exempt public clean water utilities from CERCLA liability for PFAS cleanups, and instead adopt measures to place those costs on the responsible polluters. EPA is working to finalize this CERCLA designation but believes it does not have the authority itself to provide an exemption, making this an urgent Congressional ask.

#### **Advancing Clean Water Partnerships through the Farm Bill**

As work begins on the 2023 Farm Bill, NACWA seeks to ensure public clean water utilities can more flexibly engage upstream with agricultural partners to achieve meaningful water quality improvements through a holistic, watershed-based approach, and secure recognition for water quality activities through the permitting process.

Public clean water utilities and the agricultural community are collaborating more in order to maximize efforts to control nutrient runoff and other water quality challenges. These partnerships can proactively address water quality threats, avoid the need for further regulation, and create mutually beneficial partnerships between landowners, producers, and clean water agencies in their watershed. This progress has been advanced by policies and tools provided under the prior two Farm Bills, including the Regional Conservation Partnership Program (RCPP).

NACWA also believes the municipal wastewater sector and the agricultural community have a common interest in supporting the safe land application of municipal biosolids, which are a nutrient-rich residual of the wastewater treatment process that can have very beneficial agricultural value. Land application is a common and highly regulated practice which is facing growing uncertainty in some states due to PFAS. This is a problematic situation both for utilities that rely on beneficial reuse to manage their biosolids and for farmers and landowners who rely on biosolids as a soil amendment or have in the past and are concerned about the possible presence of PFAS. NACWA urges USDA and EPA to work together to support the continued safe land application of biosolids and provide risk-based clarity and guidance for the agricultural community and utilities so that the beneficial reuse of these nutrient-rich materials is not unnecessarily restricted especially when fertilizer supply remains constrained.

#### **Supporting Low-Income Water Customer Assistance and Addressing Water Affordability Concerns**

Each month, countless households across America, urban to rural, struggle to pay their water and sewer bills. Congress stepped up to help fill this gap for the first time during the pandemic, providing emergency low-income water customer assistance funding through the Department of Health and Human Services (HHS). However, current funding will end this fall, potentially leaving

many struggling families in a position to not be able to afford their essential water services. Additional resources are needed to bridge this gap and ensure long-term viability of a permanent low-income water assistance program.

At the same time, EPA is advancing policies that will significantly harm low-income households when it comes to paying water and sewer bills and exacerbate the affordability challenges that communities and utilities face around water infrastructure investments. Many of EPA's actions on affordability also are contradictory to shared environmental justice (EJ) goals and will only increase the disproportionate financial burden that confronts EJ households in paying their water and sewer bills. We can work together and find smarter more flexible and sustainable solutions to balancing environmental protection and our affordability/EJ goals.

NACWA looks forward to further working with Congress on these critical issues.

#### **Advancing Regulatory Flexibility and Reforms**

As CWA compliance costs continue to grow and water quality issues become more complicated and multifaceted, targeted regulatory reforms will be increasingly important to help alleviate escalating costs and affordability challenges faced by communities nationwide while still leading to the same high levels of human health and environmental protection.

Integrated Planning (IP), codified into the CWA by Congress in 2018, can assist both large and small communities in managing costs and prioritizing their clean water investments—empowering communities to maximize environmental benefits and prioritize their most critical environmental outcomes. The IP approach requires a shift from business as usual and requires significant work upfront by communities, states, and EPA. Congress can strengthen this tool by providing dedicated EPA resources to help communities develop IP frameworks and for the Agency to work with state regulators to incorporate IP approaches into permitting and enforcement.

In addition to advancing EPA's use of IP, Congress could also adopt several CWA reforms aimed at providing greater certainty to clean water utilities and other permittees while increasing transparency. These measures include codifying EPA's longstanding CWA "permit shield" policy, requiring the use of clear permit terms in place of ambiguous and often misinterpreted language, and establishing a more transparent procedure for the development of water quality criteria that provides for additional public participation and due process. Such reforms could help provide much needed regulatory certainty to communities as they make long-term capital investments designed to meet future water quality obligations.

#### **Improving Wastewater Utility Energy Efficiency and Sustainability**

Each year, public wastewater utilities are estimated to consume more than 30 terawatt-hours per year of electricity, equating to roughly \$2 billion in annual electricity costs. Electricity can constitute 25 to 40 percent of a wastewater treatment plant's annual operating budget and leave utilities vulnerable as energy prices rise.

NACWA believes there is significant opportunity to further advance policies which enhance public clean water utilities' ability during the treatment process to capture and generate renewable energy, such as biogas and thermal, and to improve energy efficiency. Improving on-site energy capture and generation will help utilities manage costs, become more resilient and secure, and reduce emissions.

### Driving Technological Innovation in the Water Sector

Technological advances can be key to helping public clean water utilities improve their efficiency, optimize their treatment systems, and meet 21<sup>st</sup> century clean water challenges.

Expanding and prioritizing eligibilities and guidance for technological innovation through federal water programs is key to mitigating risk and removing barriers to continued clean water technology development and deployment.

Thank you for your consideration of these clean water agency priorities. Please visit NACWA's [advocacy priorities](#) pages and contact NACWA's [legislative staff](#) for more information on these issues. NACWA and our members appreciate your consideration of these matters and we stand ready to serve as a resource to you and your staff.

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  
Chief Executive Officer