



#### PRESIDENT

**Thomas W. Sigmund**  
Executive Director  
NEW Water  
Green Bay, WI

#### VICE PRESIDENT

**Oluwole A. "OJ" McFoy**  
General Manager  
Buffalo Sewer Authority  
Buffalo, NY

#### TREASURER

**Diane S. Taniguchi-Dennis**  
Chief Executive Officer  
Clean Water Services  
Hillsboro, OR

#### SECRETARY

**William J. "Mickey" Conway**  
Chief Executive Officer  
Metro Water Recovery  
Denver, CO

#### CHIEF EXECUTIVE OFFICER

**Adam Krantz**

1130 Connecticut Ave NW  
Suite 1050  
Washington DC 20036

T (202) 833-2672  
F (888) 267-9505

[www.nacwa.org](http://www.nacwa.org)

July 9, 2023

Timothy Connor  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460  
Submitted via email to [BABA-OW@epa.gov](mailto:BABA-OW@epa.gov)

***RE: NACWA Comments on Amended Public Interest Waiver of Section 70914(a) of P.L. 117-58, Build America, Buy America Act, 2021 for State Revolving Fund and Water Infrastructure Projects that have Initiated Design Planning***

Dear Mr. Connor:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on U.S. EPA's amended public interest waiver for State Revolving Fund and Water Infrastructure Projects that have initiated design planning.

NACWA represents 350 publicly owned wastewater treatment agencies nationwide who serve the majority of the sewered population in the United States. Our members have long and successful histories of leveraging federal water funding and financing to advance environmental and public health protection.

NACWA appreciates the efforts of U.S. EPA to implement the Build America, Buy America (BABA) Act in a manner that advances the goals of increased American production and competitiveness without delaying critical water infrastructure projects. In particular, NACWA appreciates U.S. EPA's efforts over the past year to ensure that utilities which had infrastructure projects under development prior to BABA taking effect are not sent back to the drawing board to meet new requirements when funding is finally available, as well as efforts to align BABA implementation consistently across the various water infrastructure financing options utilities evaluate when considering how best to advance projects for their communities.

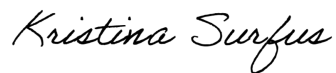
Unfortunately, this amended public interest waiver has created new confusion and concern for NACWA members, including those with projects funded through the Fiscal Year 2022 and 2023 appropriations process (Congressionally Directed Projects). Utilities welcome the waiver for projects that initiated project design prior to May 14, 2022, whether funded through the SRFs or directly by Congress, but are concerned with the newly proposed expiration/sunset date for the public interest waiver of September 30, 2024. It is unclear why amending the waiver to include the sunset date is necessary now, and details are lacking on how it will be implemented. Given the long planning horizons inherent in many water infrastructure projects, which U.S. EPA has previously

acknowledged, it is quite likely many projects that initiated design planning before May 14, 2022, could advance after September 30, 2024 – less than 2 ½ years later, a short planning horizon for many major water projects.

NACWA supports concerns which our individual member utilities have raised highlighting specific issues that this sunset date could create for their unique projects. As proposed in this amended public interest waiver, the sunset will harm U.S. EPA's work to keep critical water infrastructure projects on track and minimize construction delays and cost overruns, and could further discourage utilities from looking to federal infrastructure investment dollars to advance key projects that protect public health and the environment.

We urge U.S. EPA to reconsider adding this sunset date. Thank you for the opportunity to comment and your consideration.

Sincerely,



Kristina Surfus  
Managing Director, Government Affairs  
NACWA