



ASSOCIATION OF  
METROPOLITAN  
WATER AGENCIES

April 10, 2007

The Honorable Joseph R. Biden, Jr.  
United States Senate  
201 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Biden:

We understand that there is a possibility that a version of *The Community Water Treatment Hazards Reduction Act of 2006* (S. 2855/S. 2920), legislation you sponsored last year, may be reintroduced during the 110<sup>th</sup> Congress. We would like to take this opportunity to offer our recommendations should new legislation be introduced.

The Association of Metropolitan Water Agencies (AMWA) is an organization of the largest publicly owned drinking water systems in the United States, with a membership from Alaska to Puerto Rico serving more than 127 million Americans with safe drinking water. AMWA has a rich history of working with Congress to enact effective federal drinking water laws, and we are eager to continue this cooperation with you.

We applaud the legislation's intent to help utilities reduce the use of hazardous chemicals, and we believe that last year's bill can be significantly improved to best meet this objective and win support in Congress and the water community.

Many drinking water utilities across the country have independently analyzed the feasibility of different treatment options. Moreover, all water systems serving 3,300 people or more have already conducted vulnerability assessments under Title IV of the Bioterrorism Act of 2002 (P.L. 107-188). As a result, some systems have decided to replace their use of gaseous chlorine as a disinfectant with other treatments, while others have determined that gaseous chlorine remains their best option based on a combination of environmental, public health, financial, and engineering constraints. We believe that any legislation on this issue must recognize this reality by encouraging the consideration of substitute disinfectants without imposing a national "one-size-fits-all" mandate.

Several AMWA members have indicated that they would welcome a voluntary grant program to help offset the cost of adopting alternative chemicals or technologies for water treatment, particularly if the program is retroactive and would help those systems that have already invested heavily to secure or replace chemicals such as gaseous chlorine. However, we strongly urge against mandating thousands of community water systems to conduct federal feasibility assessments and choose alternatives regardless of whether these systems seek grants. Assessments should be required only upon application for a grant by water systems that have decided alternative treatment methods are appropriate, and new legislation should make clear that the federal government shall not require new treatment processes before a grant is awarded.

In addition, we believe that the legislation must make clear that all feasibility assessments will be protected from public disclosure under the Freedom of Information Act, as well as state and local disclosure laws. We strongly urge use of the approach taken by the

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Bioterrorism Act of 2002 (SDWA Section 1433(a)(3-4), which prohibits the disclosure of water system assessments required by that Act. Disclosure of details related to the security of treatment equipment, facilities and chemicals could seriously undermine the safety of the community and public health protection, should the information become available to foreign or domestic criminals and terrorists. For this reason, we also find S. 2855/S. 2920's required consultation with "other interested parties" during the mandatory selection of substitute technologies to be problematic.

Also on the issue of funding, AMWA believes that grant authorizations (as well as subsequent appropriations) should be substantial enough to encourage participation by water utilities. While some utilities have converted from gaseous chlorine for as little as \$160,000, experience has shown that typical conversion costs can be higher. One of our members reported spending almost \$13 million to convert to on-site generation of sodium hypochlorite, and another spent \$9 million. Several of our members have also raised concerns over the legislation's provision requiring the return of grant funds based on cost savings. Utilities that have converted from gaseous chlorine to sodium hypochlorite report experiencing operation and maintenance costs two or three times higher than before the conversion, easily negating any initial savings. In addition, it is very unlikely that a water utility would eliminate vital security measures such as fencing, emergency response planning, or employee background checks simply because of the conversion. So requiring utilities to estimate, document and report cost savings based on these factors would only result in a paperwork burden with no benefit to the public.

AMWA believes that these and other changes to the legislation would encourage the replacement of hazardous substances where feasible, but without putting the public at risk through the release of sensitive data or the inadequate disinfection of drinking water, and without imposing an unfunded federal mandate.

Finally, we concur with the recommendations of the National Association of Clean Water Agencies (NACWA), provided in their April 5, 2007 letter. We believe that legislation incorporating the recommendations outlined in our letters could win wide support in Congress and the water community.

We genuinely appreciate your leadership on this important issue, and we look forward to continuing this dialogue.

Sincerely,



Diane VanDe Hei  
Executive Director

cc: Nelson Peacock