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STATEMENT OF
HUGH J. WESSINGER, ASSOCIATE DIRECTOR, SENIOR LEVEL
COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT
HOUSE COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION
UNITED STATES HOUSE
OF REPRESENTATIVES

ON

MARINE DISCHARGE WAIVERS
FOR PUBLICLY OWNED WASTEWATER
TREATMENT FACILITIES



116386

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE ARE HERE TODAY TO DISCUSS OUR MAY 22, 1981, REPORT TO THE CONGRESS ENTITLED "BILLIONS COULD BE SAVED THROUGH WAIVERS FOR COASTAL WASTEWATER TREATMENT PLANTS" (CED-81-68). IT IS APPROPRIATE THAT WE ARE IN LOS ANGELES BECAUSE, AMONG THE LOCATIONS COVERED IN OUR REVIEW, WE INCLUDED VISITS TO 12 SOUTHERN CALIFORNIA COMMUNITIES AND SEWER UTILITIES.

THE CLEAN WATER ACT OF 1977 ALLOWS THE ENVIRONMENTAL PROTECTION AGENCY (EPA) TO GRANT WAIVERS TO PUBLICLY OWNED WASTEWATER TREATMENT FACILITIES SO THAT THEY CAN DISCHARGE PRIMARY TREATED MUNICIPAL WASTES INTO THE MARINE ENVIRONMENT WHEN IT CAN BE SHOWN THAT COSTLY SECONDARY TREATMENT IS NOT NECESSARY. ALTHOUGH 230 COMMUNITIES SUBMITTED PRELIMINARY APPLICATIONS FOR SECONDARY TREATMENT WAIVERS TO EPA, ONLY 70 FILED FINAL APPLICATIONS. AS OF TODAY, EPA HAS NOT YET MADE ANY WAIVER DECISIONS.

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EPA ESTIMATES THAT \$1.5 BILLION IN FEDERAL, STATE, AND LOCAL CONSTRUCTION COSTS COULD BE SAVED IF ALL 70 OF THE FINAL APPLICANTS WERE GIVEN WAIVERS. WE IDENTIFIED HUNDREDS OF ADDITIONAL POTENTIAL WAIVER APPLICANTS, REPRESENTING ADDITIONAL BILLIONS IN POTENTIAL CONSTRUCTION SAVINGS, WHICH HAVE BEEN PREVENTED FROM APPLYING FOR WAIVERS BECAUSE OF LEGISLATIVE CONSTRAINTS AND RESTRICTIVE EPA REGULATIONS. AS A RESULT, BILLIONS OF DOLLARS MAY BE WASTED ON UNNEEDED BUT FEDERALLY REQUIRED SECONDARY TREATMENT FACILITIES. THE FEDERAL GOVERNMENT USUALLY PAYS 75 PERCENT OF ELIGIBLE CONSTRUCTION COSTS.

LEGISLATION AND REGULATIONS
PROVIDING FOR SECONDARY
TREATMENT WAIVERS

LET ME BRIEFLY PROVIDE SOME OVERALL BACKGROUND ON THE WAIVER PROVISION IN THE CLEAN WATER ACT.

THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972 REQUIRED THAT BY JULY 1, 1977, PUBLICLY OWNED WASTE TREATMENT FACILITIES ACHIEVE EFFLUENT LIMITATIONS BASED UPON SECONDARY TREATMENT, AS DEFINED BY EPA, AND THAT BY JULY 1, 1983, THE FACILITIES ACHIEVE THE "BEST PRACTICABLE WASTE TREATMENT TECHNOLOGY."

IN MARCH 1974, THE CONGRESS BEGAN TO REEVALUATE THE NEED FOR SECONDARY TREATMENT FOR COASTAL DISCHARGERS. CONSIDERABLE DEBATE WAS GENERATED CONCERNING THE NEED FOR PROCESSING MUNICIPAL WASTEWATER THROUGH COSTLY SECONDARY TREATMENT LEVELS WHEN THE EFFLUENT IS DISCHARGED INTO THE MARINE ENVIRONMENT. SCIENTISTS, ENGINEERS, AND OTHER EXPERTS ARGUED THAT THE QUALITY OF THE ENVIRONMENT CAN BE MAINTAINED IF MUNICIPAL WASTEWATER IS PROCESSED THROUGH PRIMARY TREATMENT AND DISCHARGED THROUGH OUTFALL PIPES INTO THE MARINE ENVIRONMENT, WHERE THE CURRENT AND DEPTH ADEQUATELY DISPERSE AND

DIFFUSE THE EFFLUENT. IN MANY INSTANCES, THEY REASONED, THE ADDITIONAL COST OF SECONDARY TREATMENT COULD NOT BE JUSTIFIED.

THE CONGRESS RESPONDED TO THESE EXPRESSED CONCERNS IN THE CLEAN WATER ACT OF 1977. THE 1977 ACT ALLOWED PUBLICLY OWNED TREATMENT FACILITIES TO APPLY FOR WAIVERS TO THE SECONDARY TREATMENT REQUIREMENT WHEN DISCHARGES ARE MADE INTO MARINE WATERS. IT RECOGNIZED THAT RELAXING TREATMENT REQUIREMENTS OFTEN MAY NOT SIGNIFICANTLY AFFECT THE QUALITY OF THE RECEIVING WATERS AND MAY CONSIDERABLY REDUCE THE COSTS OF WASTE TREATMENT.

SCOPE OF REVIEW

DURING OUR REVIEW, WE ASKED WHY MANY COMMUNITIES DID NOT APPLY FOR WAIVERS AND WHY MANY MADE ONLY PRELIMINARY APPLICATIONS. ALSO, WE OBTAINED INFORMATION CONCERNING THE APPLICATION REQUIREMENTS AND POTENTIAL COSTS ASSOCIATED WITH SECONDARY TREATMENT. AS PART OF OUR FIELD REVIEW, WE VISITED 34 COMMUNITIES IN ALASKA, CALIFORNIA, CONNECTICUT, MAINE, MASSACHUSETTS, OREGON, RHODE ISLAND, AND WASHINGTON. WE RELIED ON EXPERT ADVICE IN REVIEWING THE SCIENTIFIC INFORMATION.

NINETEEN OF THE 34 COMMUNITIES ARE AWAITING EPA WAIVER DECISIONS. THE OTHER 15 COMMUNITIES WERE EITHER NOT ELIGIBLE FOR WAIVERS BECAUSE OF RESTRICTIONS IN THE CLEAN WATER ACT OR BECAUSE THEY DID NOT FILE FINAL WAIVER APPLICATIONS WITHIN THE APPLICATION TIME FRAME.

IN ADDITION TO THE 34 COMMUNITIES WE VISITED, WE ALSO IDENTIFIED 846 COMMUNITIES WITHIN A 1/2 MILE OF THE U.S. COASTLINE THAT HAVE A POTENTIAL FOR DISCHARGING PRIMARY WASTES INTO THE MARINE ENVIRONMENT THROUGH OUTFALL PIPES. WE THEN USED EPA DATA SHOWING 1978 CONSTRUCTION NEEDS TO COMPUTE POTENTIAL SAVINGS FOR ALL THESE COMMUNITIES.

BILLIONS OF DOLLARS COULD BE SAVED

OUR ESTIMATES OF POTENTIAL CONSTRUCTION COST SAVINGS RANGE FROM \$4 BILLION TO \$10 BILLION, DEPENDING ON THE CRITERIA APPLIED FOR SELECTING COMMUNITIES. THE \$4 BILLION ESTIMATE APPLIES TO 714 COMMUNITIES THAT HAVE ONLY DOMESTIC WASTES AND EXCLUDES THOSE WITH INDUSTRIAL WASTES. THE \$10 BILLION ESTIMATE APPLIES TO 846 COMMUNITIES HAVING BOTH INDUSTRIAL AND DOMESTIC WASTES. OF THE 846 COMMUNITIES, 88 PERCENT HAVE POPULATIONS UNDER 50,000 AND 76 PERCENT HAVE POPULATIONS UNDER 10,000.

SMALL COMMUNITIES, ESPECIALLY THOSE THAT HAVE LITTLE OR NO INDUSTRIAL WASTES, WOULD BE THE MOST LOGICAL COMMUNITIES TO RECEIVE SECONDARY TREATMENT WAIVERS. THE VOLUME OF WASTES DISCHARGED BY THESE COMMUNITIES IS RELATIVELY SMALL AND THE WASTES ARE OFTEN NONTOXIC. IF THE COMMUNITIES DISCHARGED THEIR WASTES INTO MARINE WATERS WHERE THE DEPTH AND CURRENT ARE SUFFICIENT TO PROVIDE FOR ADEQUATE DISPERSION, THE WASTES SHOULD BE EASILY ASSIMILATED. GENERALLY, THESE COMMUNITIES HAVE GREATER DIFFICULTY PAYING FOR POLLUTION CONTROL IMPROVEMENTS THAN LARGE COMMUNITIES. THE MANY SOCIAL AND ECONOMIC HARDSHIPS THAT SMALLER COMMUNITIES ENCOUNTER IN PAYING FOR NEW SEWAGE TREATMENT SYSTEMS ARE DISCUSSED IN OUR MAY 1980 REPORT TITLED, "EPA SHOULD HELP SMALL COMMUNITIES COPE WITH FEDERAL POLLUTION CONTROL REQUIREMENTS" (CED-80-92, MAY 30, 1980).

MANY COMMUNITIES WERE PREVENTED OR DISCOURAGED FROM SUBMITTING WAIVER APPLICATIONS

WE FOUND THAT LEGISLATIVE CONSTRAINTS AND RESTRICTIVE EPA REGULATIONS PREVENTED OR DISCOURAGED MANY COMMUNITIES FROM APPLYING FOR SECONDARY TREATMENT WAIVERS. THE 1977 ACT IMPOSED A 270-DAY

TIME LIMIT FROM THE DATE OF ENACTMENT FOR RECEIPT OF WAIVER APPLICATIONS. EPA'S PROPOSED RULES, ISSUED ABOUT 120 DAYS AFTER THE DATE OF ENACTMENT, LEFT COMMUNITIES WITH ABOUT 150 DAYS TO FILE PRELIMINARY APPLICATIONS. EPA'S FINAL IMPLEMENTING REGULATIONS WERE ISSUED SEVERAL MONTHS LATER AND ALLOWED COMMUNITIES ONLY 90 DAYS TO PREPARE AND SUBMIT FINAL APPLICATIONS. ALSO, THE LEGISLATION EXCLUDED FROM ELIGIBILITY, WASTEWATER TREATMENT PLANTS WITHOUT EXISTING MARINE OUTFALLS. EPA'S REGULATIONS EXCLUDED PLANTS ALREADY OPERATING AT SECONDARY TREATMENT LEVELS. FINALLY, EPA'S PROPOSED RULES AND PRELIMINARY AND FINAL REGULATIONS DISCOURAGED MANY COMMUNITIES FROM APPLYING BECAUSE THEY REQUIRED COMPLEX, AND FOR SOME COMMUNITIES, EXPENSIVE BIOLOGICAL TESTING AND DATA GATHERING. THESE FACTORS AFFECTED MANY COMMUNITIES THAT OTHERWISE MIGHT HAVE APPLIED FOR SECONDARY TREATMENT WAIVERS.

FOR EXAMPLE, LEGISLATIVE CONSTRAINTS AND EPA REGULATIONS PREVENTED THE MUNICIPALITY OF METROPOLITAN SEATTLE FROM APPLYING FOR A WAIVER FOR ONE OF ITS FIVE TREATMENT PLANTS. THE PLANT WAS NOT ELIGIBLE FOR A WAIVER UNDER THE LEGISLATION BECAUSE IT DID NOT YET HAVE ACCESS TO AN EXISTING MARINE OUTFALL. IT WAS NOT ELIGIBLE UNDER THE EPA REGULATIONS BECAUSE IT WAS ALREADY AT THE SECONDARY TREATMENT LEVEL. SEATTLE ESTIMATED THAT IF A WAIVER COULD BE OBTAINED FOR THE PLANT, AN ADDITIONAL \$84 MILLION IN PLANNED CONSTRUCTION COSTS FOR FACILITY EXPANSION COULD BE SAVED ALONG WITH \$3.7 MILLION IN LOCAL ANNUAL OPERATION AND MAINTENANCE COSTS.

AVALON AND MORRO BAY, CALIFORNIA, ARE TWO COMMUNITIES THAT APPEAR TO HAVE EXCELLENT POTENTIAL FOR WAIVERS--BUT ARE NOT BEING CONSIDERED.

AVALON COULD NOT QUALIFY FOR A WAIVER BECAUSE IT IS ALREADY AT THE SECONDARY TREATMENT LEVEL. YET, THIS ISLAND COMMUNITY OF 2,000 RESIDENTS PLUS UP TO 6,000 SEASONAL TOURISTS APPEARS TO BE IDEALLY SUITED FOR A WAIVER BECAUSE IT HAS NO INDUSTRY AND THE OCEAN DEPTHS AND CURRENTS NEAR IT CONTRIBUTE TO RAPID EFFLUENT DISPERSION. ALSO, SINCE AVALON HAS ALREADY RECEIVED FEDERAL AND STATE FUNDING FOR THE ORIGINAL SECONDARY TREATMENT FACILITY, STATE OFFICIALS TOLD US THAT AVALON PROBABLY WILL NOT BE ABLE TO OBTAIN NEW FEDERAL OR STATE CONSTRUCTION GRANT FUNDS. WITHOUT A WAIVER, THE AVALON CITY MANAGER ESTIMATES ADDITIONAL LOCAL FUNDING COSTS RANGING FROM \$50,000 TO \$250,000 FOR PLANT EXPANSION AND MODIFICATIONS. IN ADDITION, LOCAL OPERATION AND MAINTENANCE COSTS, INCLUDING ANNUAL ELECTRICITY COSTS ESTIMATED AT MORE THE \$90,000, COULD BE SAVED IF AVALON RECEIVED A WAIVER.

MORRO BAY, WITH A POPULATION OF 10,000, DID NOT FILE A FINAL WAIVER APPLICATION BECAUSE IT COULD NOT COLLECT THE BIOLOGICAL AND OTHER DATA REQUIRED BY EPA IN THE SHORT TIME FRAME ALLOWED. TWO MILLION DOLLARS IN FEDERAL, STATE, AND LOCAL FUNDS FOR PLANNED CAPITAL INVESTMENTS AND AS MUCH AS \$100,000 IN LOCAL ANNUAL OPERATION AND MAINTENANCE EXPENSES, COULD BE SAVED IF MORRO BAY RECEIVED A WAIVER. MORRO BAY OFFICIALS RECENTLY TOLD US THAT THEY WILL SUBMIT PLANS FOR ADDITIONAL SECONDARY TREATMENT FACILITIES TO THE STATE BY MID-SEPTEMBER 1981, IN ORDER TO PRESERVE THEIR GRANT FUNDING PRIORITY.

A NUMBER OF EXPERTS, INCLUDING STATE AND COMMUNITY OFFICIALS AND ENGINEERING CONSULTANTS, BELIEVE THAT THE LEGISLATION AND EPA IMPLEMENTING REGULATIONS WERE NEEDLESSLY RESTRICTIVE. ALMOST ALL OF THESE EXPERTS POINTED OUT THAT SMALL COMMUNITIES WERE

DENIED THE OPPORTUNITY TO APPLY FOR WAIVERS BECAUSE THEY LACKED THE RESOURCES TO OBTAIN THE REQUIRED INFORMATION AND TO PREPARE APPLICATIONS IN THE SHORT TIME ALLOWED.

OFFICIALS IN PORT TOWNSEND, WASHINGTON, TOLD US THAT THEY DID NOT SUMIT A FINAL WAIVER APPLICATION BECAUSE OF THEIR LIMITED RESOURCES AND THEIR INABILITY TO MEET THE RESTRICTIVE TIME FRAME. THEY ESTIMATED THAT THE COST TO HIRE A CONSULTANT WOULD BE \$50,000 OR 20 PERCENT OF THE DISTRICT'S TOTAL ANNUAL BUDGET, WHICH OFFICIALS WERE UNWILLING TO RISK GIVEN SUCH COMPLEX APPLICATION REQUIREMENTS AND THE LIMITED TIME AVAILABLE. THE SUPERVISOR OF THE WATER QUALITY MANAGEMENT SECTION OF THE WASHINGTON STATE DEPARTMENT OF ECOLOGY DESCRIBED PORT TOWNSEND, WITH ITS POPULATION OF ABOUT 6,000, AS "IDEALLY LOCATED" FOR A SECONDARY TREATMENT WAIVER BECAUSE THE OUTFALL FOR ITS PRESENT PRIMARY TREATMENT PLANT IS SITUATED IN DEEP WATER WITH STRONG CURRENTS. ASIDE FROM POTENTIAL FEDERAL, STATE, AND LOCAL SAVINGS IN CAPITAL CONSTRUCTION COSTS OF \$1.5 MILLION, PORT TOWNSEND RESIDENTS COULD REALIZE ANNUAL OPERATION AND MAINTENANCE SAVINGS OF ABOUT \$50,000.

EPA SEEMED TO DELIBERATELY LIMIT THE NUMBER OF APPLICANTS. AT THE TIME THE WAIVER LEGISLATION WAS BEING CONSIDERED, EPA TOLD THE CONGRESS ABOUT ITS CONCERN OVER ITS ABILITY TO MANAGE THE WORKLOAD IF TOO MANY COMMUNITIES APPLIED. EPA STATED THAT WAIVERS SHOULD BE RESTRICTED TO CERTAIN AREAS, OTHERWISE MANY MUNICIPALITIES WOULD SEEK WAIVERS, WHICH WOULD CREATE AN EXTRAORDINARY DRAIN ON EPA'S RESOURCES. EPA POINTED OUT THAT BECAUSE OF LIMITED SCIENTIFIC UNDERSTANDING OF THE EFFECTS EFFLUENTS HAVE ON OCEANS, ITS WAIVER DECISIONS WOULD BE HIGHLY JUDGMENTAL AND APPEALABLE IN

THE COURTS. EPA EXPRESSED CONCERN THAT THE NET EFFECT OF THIS WHOLE PROCESS WOULD BE A RETURN TO THE REQUIREMENT OF PROOF OF HARM TO RECEIVING WATERS--A REQUIREMENT IT DID NOT WANT.

WE AGREE THAT IT WOULD BE UNFORTUNATE IF THE WAIVER EVALUATION PROCESS LED TO THE REQUIREMENT OF PROOF OF HARM TO RECEIVING WATERS. SOME DISCHARGES, ESPECIALLY INDUSTRIAL DISCHARGES WHICH CONTAIN SYNTHETIC TOXICS, COULD PRODUCE IRREVERSIBLE DAMAGE TO THE ENVIRONMENT BEFORE THE PROBLEM IS DISCOVERED. IT WOULD BE EASIER TO ASSESS THE ENVIRONMENTAL IMPACTS OF WAIVING SECONDARY TREATMENT FOR SMALLER COMMUNITIES BECAUSE THEY HAVE LIMITED DISCHARGES AND THEIR WASTES ARE PRIMARILY DOMESTIC RATHER THAN INDUSTRIAL.

EPA COULD PROMPTLY GRANT WAIVERS FOR SMALL COMMUNITIES WHERE THE DEGREE OF RISK TO THE ENVIRONMENT IS LOW. IF SUBSEQUENT MONITORING DISCLOSED A DETRIMENTAL CHANGE IN THE MARINE ENVIRONMENT, ACTION COULD BE TAKEN AT THAT TIME TO RESOLVE THE PROBLEMS. WITH SMALL AMOUNTS OF DOMESTIC DISCHARGES, THERE WOULD BE LITTLE POTENTIAL THAT CRITICAL, IRREVERSIBLE DAMAGE TO THE ENVIRONMENT WOULD OCCUR BEFORE THE PROBLEM WAS CORRECTED.

ALL THE SCIENTISTS, ENGINEERS, AND ENVIRONMENTALISTS WE CONTACTED BELIEVE EPA'S WAIVER REQUIREMENTS SHOULD BE MORE RIGOROUS FOR LARGE DISCHARGERS THAT HAVE INDUSTRIAL WASTES THAN FOR SMALL DISCHARGERS OF DOMESTIC WASTES. UNDER THIS APPROACH, WHICH STRATIFIES WAIVER APPLICANTS BASED ON THE DEGREE OF ENVIRONMENTAL RISK OF THEIR DISCHARGES, EPA WOULD PROMPTLY GRANT WAIVERS WHEN THE ENVIRONMENTAL RISK WAS LOW.

OFFICIALS FROM SEVERAL STATES AND COMMUNITIES ALSO RECOMMENDED ADMINISTRATIVE REVISIONS TO THE WAIVER PROCESS TO EMPHASIZE A STRATIFIED APPROACH. CALIFORNIA, WASHINGTON, AND

ALASKA ENVIRONMENTAL OFFICIALS TOLD US THAT THEY DID NOT BELIEVE THE EXTENSIVE MONITORING AND DATA COLLECTION REQUIRED BY EPA IN THE WAIVER PROCESS WAS NECESSARY OR REASONABLE, PARTICULARLY FOR SMALL COMMUNITIES WITH LITTLE OR NO INDUSTRIAL DISCHARGE.

EPA HAS DEVELOPED SIMPLIFIED PROCEDURES FOR COASTAL NATIVE VILLAGES IN THE TRUST TERRITORY OF THE PACIFIC ISLANDS, THE NORTHERN MARIANA ISLANDS, GUAM, AMERICAN SAMOA, THE VIRGIN ISLANDS, PUERTO RICO, AND ALASKAN NATIVE VILLAGES. EPA OFFICIALS RESPONSIBLE FOR ADMINISTERING THE WAIVER PROVISION IN ALASKA AND THE PACIFIC ISLANDS EXPLAINED THAT, BECAUSE OF THESE SIMPLIFIED PROCEDURES, EPA CAN MORE EFFECTIVELY CONSIDER THE NEEDS OF A COMMUNITY AND THE QUALITY OF THE RECEIVING WATER. WE BELIEVE THIS APPROACH COULD BE EXTENDED TO OTHER COMMUNITIES SO THAT REQUIREMENTS WOULD BE DESIGNED TO FIT VARIOUS TYPES OF DISCHARGERS AND WOULD EASE THE REGULATORY BURDEN ON MEDIUM-SIZED AND SMALL COMMUNITIES THAT HAVE LITTLE INDUSTRIAL WASTES.

THE EXAMPLES WE HAVE DESCRIBED ABOVE AND OTHER EXAMPLES INCLUDED IN OUR REPORT ILLUSTRATE THE POTENTIAL SAVINGS THAT COULD RESULT IF THE LEGISLATIVE AND REGULATORY CONSTRAINTS AFFECTING THE WAIVER PROVISION ARE LIFTED. 'SUBSEQUENT TO OUR REVIEW, THE U.S. COURT OF APPEALS IN MAY 1981 STRUCK DOWN THE THREE PROVISIONS OF EPA'S REGULATIONS WHICH STATED THAT DISCHARGES OF RAW SEWAGE, OF SEWAGE SLUDGE, AND FROM PLANTS ALREADY ACHIEVING SECONDARY ^{TREATMENT} ~~ACHIEVEMENT~~ WERE NOT ELIGIBLE FOR WAIVERS. EPA HAS YET TO DECIDE ON ITS RESPONSE TO THE COURT DECISION. THE CONGRESS NEEDS TO MODIFY THE LEGISLATION AND EPA NEEDS TO CHANGE ITS REGULATIONS TO ALLOW COASTAL COMMUNITIES TO APPLY FOR SECONDARY TREATMENT WAIVERS. QUICK CHANGES COULD STOP POTENTIALLY UNNECESSARY SECONDARY TREATMENT CONSTRUCTION SCHEDULED TO START IN THE NEXT SEVERAL MONTHS.

WHAT SHOULD BE DONE

POTENTIAL SAVINGS AVAILABLE IN CONSTRUCTION COSTS AT THE FEDERAL, STATE, AND LOCAL LEVELS ARE EXTREMELY HIGH. ADDITIONAL SAVINGS IN OPERATION AND MAINTENANCE COSTS ARE ALSO VERY SIGNIFICANT. OUR REPORT RECOMMENDS THAT THE CONGRESS AMEND THE CLEAN WATER ACT OF 1977 TO ALLOW FOR A CONTINUOUS SECONDARY DISCHARGE WAIVER PROCESS, FOR ALL COASTAL COMMUNITIES WHERE THE COMMUNITIES HAVE SHOWN THAT THE RISK OF ENVIRONMENTAL DAMAGE IS MINIMAL. IN PARTICULAR, THE CONGRESS SHOULD:

- ELIMINATE THE REQUIREMENT THAT TREATMENT FACILITIES MUST HAVE AN EXISTING MARINE OUTFALL TO QUALIFY FOR A WAIVER.
- REMOVE THE STATUTORY DEADLINE FOR FILING WAIVER APPLICATIONS AND PROVIDE FOR A CONTINUOUS WAIVER PROCESS.
- INDICATE THAT THE WAIVER PROVISION IS NOT INTENDED TO PRECLUDE COMMUNITIES ALREADY ACHIEVING SECONDARY TREATMENT FROM OBTAINING WAIVERS IN CASES WHERE PRIMARY TREATMENT IS BOTH COST EFFECTIVE AND ENVIRONMENTALLY SOUND.

ALSO, IF THE CONGRESS TAKES ACTION TO ALLOW FOR A CONTINUOUS WAIVER PROCESS, WE ARE RECOMMENDING THAT THE ADMINISTRATOR, EPA:

- REQUIRE STEP 1 FACILITIES PLANNING GRANT APPLICANTS FOR SEWAGE TREATMENT FACILITIES IN COASTAL AREAS TO CONSIDER DISCHARGING PRIMARY WASTES INTO MARINE WATERS AS AN ALTERNATIVE TO SECONDARY TREATMENT.
- REVISE THE WAIVER APPLICATION PROCESS TO OBTAIN A MORE STRATIFIED APPROACH THAT DIFFERENTIATES BETWEEN COMMUNITIES BASED ON THE POPULATION SERVED, THE TYPE OF WASTE BEING DISCHARGED, AND THE ABILITY OF THE RECEIVING WATER TO ASSIMILATE THE WASTES SO THAT SIMPLER APPLICATION

PROCEDURES ARE USED FOR COMMUNITIES THAT PRIMARILY HAVE DOMESTIC WASTES AND LITTLE OR NO INDUSTRIAL WASTES. --EXPERIMENT WITH WAYS OF PROVIDING TECHNICAL HELP TO SMALL COASTAL COMMUNITIES SO THAT THEY CAN APPLY FOR SECONDARY TREATMENT WAIVERS.

AGENCY COMMENTS
AND OUR EVALUATION

IN COMMENTING ON OUR REPORT, EPA STATED THAT IT GENERALLY AGREED WITH MANY OF OUR RECOMMENDATIONS AND BELIEVED THAT THE REPORT TREATED A NUMBER OF ISSUES RELATED TO MARINE OUTFALLS IN A SENSIBLE, CONSTRUCTIVE MANNER. EPA BELIEVED, HOWEVER, THAT THE REPORT SHOULD HAVE CONTAINED A MORE REALISTIC DISCUSSION OF THE COST SAVINGS ASSOCIATED WITH SECONDARY TREATMENT WAIVERS, INCLUDING MORE DETAIL ABOUT MARINE OUTFALLS. IT BELIEVED THAT MORE COST AND ENVIRONMENTAL DATA SHOULD BE DEVELOPED BEFORE THE WAIVER PROVISION IS REOPENED AND EXPANDED.

WE DISAGREE AND BELIEVE IMMEDIATE REOPENING OF THE WAIVER LEGISLATION AND MODIFICATION OF THE WAIVER REGULATIONS ARE NEEDED BECAUSE POSSIBLE COST SAVINGS ARE SIGNIFICANT AND THE FACT THAT CONSTRUCTION DECISIONS ARE IMMINENT. RATHER THAN RISK SPENDING LARGE AMOUNTS OF CONSTRUCTION FUNDS AND THEN FINDING OUT THAT THESE PROJECTS ARE NOT NEEDED, EPA COULD QUICKLY REVIEW AND APPROVE THOSE DISCHARGES THAT ARE OF RELATIVELY SMALL RISK TO THE ENVIRONMENT.

MR. CHAIRMAN, THIS COMPLETES MY PREPARED STATEMENT. WE SHALL BE GLAD TO RESPOND TO YOUR QUESTIONS.