EPA
Wet Weather Press Conference Call
December 19, 2005
12:30 pm CT

Benjamin Grumbles: Good afternoon. My name is Benjamin Grumbles. I am the Assistant Administrator for the Office of Water here at EPA. I'm joined by Nancy Stoner, NRDC, Ken Kirk and Alex Dunn of NACWA. And I'd like to mention to you some important news and developments. Today EPA is proposing for public comment a draft policy for peak wet weather discharges for publicly owned waste water treatment plants that have separate collection systems for sewage. The policy is designed to provide greater national consistency while allowing site specific conditions to be included in permitting decisions.

Policies informed by the October 2005 joint recommendations of the Natural Resources Defense Council and the National Association of Clean Water Agencies, two groups with different views but a common goal, cleaner water. I commend environmentalists and utilities for working to find common ground on a clean water solution that does not rely on dilution. This is a triumph of treatment over dilution and collaboration over confrontation. EPA's peak flow policy puts a premium on stopping leaks and spills, improving treatment and increasing public oversight. EPA's goal is to insure that all flows treatment plants receive a minimum of secondary treatment. This draft policy will improve waste water treatment in a variety of ways.

The policy states that in limited situations the permitting agencies may approve anticipated diversions around biological treatment units as a "bypass" in a waste water permit. However, the policy seeks to insure that the bypass is only considered after all other feasible solutions are used by local government. The permit would then include a schedule for the future installation of feasible

technologies and approaches as a permit condition. It embraces the principle that blending is not a long term solution.

The anticipated bypass can only be approved under the following three conditions: one, there are no feasible alternatives to the diversion; two, the diversion from the secondary treatment units receives a minimum of primary treatments and any feasible supplemental treatment; and three, secondary treatment limitations and any applicable more stringent limitations are met at the end of the pipe.

For those limited number of municipalities that have no feasible alternatives, the policy emphasizes public involvement. The policy further encourages public participation through the permitting process and provides for the reporting of diversions to permitting authorities and for timely public notification of the diversion event. As I mentioned earlier, leaders of NRDC and NACWA are here with me also. I believe they would like to say a few words about this important new policy. Alex?

Alexandra Dapolito Dunn: Great. Thank you Ben. And thank you for having us today at the agency. I am Alexandra Dapolito Dunn. I am General Counsel of the National Association of Clean Water Agencies and I am here with our Executive Director Ken Kirk. I want to thank the agency for today's proposed policy. It represents the culmination of the very serious effort between historic adversaries to reach middle ground on a very contentious issue.

We appreciate the agencies taking our proposal so seriously and we think that it will do a number of things that will raise the public confidence in the operations of waste water treatment plants around the country. This policy when it's adopted will foster a discussion at the local level of waste water

treatment options and promote community involvement in discussing solutions to wet weather challenges.

As you mentioned Ben, it will maximize the treatment of peak wet weather flows, a very important goal both of the utility community, the environmental community and the agency. And really, it will encourage involvement by the local community in solutions for wet weather for the future. We think this is a very positive step forward and again we thank the agency for taking our suggestions and moving them forward in a very positive manner. I think with that I'll turn it to Nancy.

Nancy Stoner: This is Nancy Stoner. I'm the Director of the Clean Water Project at the Natural Resources Defense Counsel. And I'm very pleased to be here and to be part of this event today. I would like to thank both NACWA and EPA for working with NRDC on the approach that's being proposed today. I'm particularly pleased to be here because I think this approach is a much better one and one that will help to protect the public against water borne illness by requiring full treatment of sewage to the maximum extent feasible.

There are three major elements of this proposal that we are discussing here today. The first one again, is about providing full treatment whenever it's feasible to do so. No longer will there be sewage discharge without full treatment every time it rains. This is not only the fact that the treatment is required under this policy but also the way in which that change will be made that's important.

Leaky out of date sewer systems will be fixed. There will be no bypassing due to inadequate capacity or inadequate maintenance of the sewer system where the treatment plant is. Those will not be approvable under this policy. The second which was mentioned by both of the earlier speakers is the public

involvement. That's a key element of this policy. This policy would have the decision made by the permitting authority in advance.

This has several elements in it that make it positive. One of which is that the public can look at the proposed permit and the plan and the alternative and to participate in the decision-making process. One thing that we have all seen over the past few months as this policy has been debated is the public is very interested in having sewage fully treated and having public health protected. This will enable that and make sure that they're participating in those decisions whether to do so. The other thing that's good about it is that the sewer operator will also know what to expect because it will be decided in advance and put in the permit.

That's really a good government provision that I strongly support and am really pleased to see is in the proposal today. And then lastly this will really bring the sewage treatment bypassing out into the open. Monitoring will be required. A reporting of the duration of the bypasses, the volume of the bypasses, when they occur. This will happen for the public and/or the regulatory agencies so that people can be cautious when sewage is being discharged that has not been fully treated.

I think all of these elements are going to be very good for public health and environmental protection. I commend the agencies for moving forward with this.

(Eryn Witcher): Thank you. And with that we'll open it up to questions. If you have a question directly directed at someone go ahead and specify that. Otherwise everyone will weigh in and help you out. And Operator can you remind us of how we notify you if we want to ask a question?

Operator: Yes ma'am. As a reminder ladies and gentlemen, to ask a question please, press star 1 on your telephone keypad. We'll pause for just a moment to compile the Q&A roster.

Your first question comes from the line of (Amina Sayeed) with (V&A).

(Amina Sayeed): Yes. Good afternoon Ben, Nancy and Alex. My question was about the application of this policy. Is it correct that it's going to apply only to sanitary sewer systems and not POTWs that combine - that have combined sewers? And if that is the case or if that's not the case and how many POTWs would this policy apply to? And second…

(Eryn Witcher): You know I'm sorry. We've got to start with one question per person. Go ahead.

(Amina Sayeed): I mean it's related to the same question if you don't mind. The addition to that is if it's not applicable to combined, systems with combined sewers then is there going to be another policy forthcoming to deal with that aspect.

Benjamin Grumbles: (Amina) this is Ben Grumbles and this proposal is limited to sanitary sewer overflows. The previous policy of '94 and incorporated by Congress into the Clean Water Act in Section 4.02 address CSOs and so what this important policy focuses on is sanitary sewer systems.

There are approximately 16,000 POTWs and approximately 15,000, a little more than 15,000 are sanitary systems. So this proposed policy has the potential to apply to a large number of facilities. One of the best things about this proposal as Nancy Stoner mentioned, is that it provides more information for communities to know more about the flow, the flows in their communities

and will have a better understanding for how many facilities might want to blend or whether they had been blending in the past.

So we think this is an important policy for sanitary sewer systems.

(Eryn Witcher): Great, thank you. Next question.

(Amina Sayeed): Thank you.

Operator: Your next question comes from (Mike Lafferty) of the Columbus Dispatch.

(Mike Lafferty): Thank you. I'm curious as to the extent of the problem, is it mostly sanitary sewers or mostly combined sewers? How important is this policy in actually addressing the overall issue of rain water discharges?

Benjamin Grumbles: Ben Grumbles - the answer is that peak flows can occur in both CSO systems as well as sanitary sewer systems across the country so this is a very important step forward to help reduce and over time eliminate problems or the process of blending.

Nancy Stoner: This is Nancy Stoner from NRDC. The only thing I would add to that is that it's actually more difficult for combined sewer systems to treat all of the flow because the systems are designed to overflow when it rains. Separate systems don't have storm water in them by design and that's one of the reasons why by implementing a lot of the technologies and approaches that some of which have been around a long time and some of which are developing, a sanitary system can often provide full treatment to all of the flow.

(Eryn Witcher): Thank you. Next question.

Operator: Your next question comes from the line of (Tom Ignowski) of The Engineering News Record.

(Tom Ignowski): Hi. Thanks for taking my call. I wanted to try to set this development and maybe follow up on the previous question or maybe set it in the context of the overall clean water picture. How big a deal is this in terms of reducing water pollution in the grand scheme of things? My sense is that a lot of the remaining work needs to be done in the (non point) source area which this doesn't really get at I guess. So how, in the nation's efforts to clean up water, is this a - does it attack a relatively small problem or small part of the problem or a big slice of the remaining problem?

Benjamin Grumbles: Thanks for the question. Ben Grumbles, EPA. I would say that this is an important part of the overall effort to tackle water pollution across the country but there are many other challenges, additional ones. I think your question - it's accurate to say that there are other challenges as well, other types of wet weather flows beyond the (non point) source runoff. There are other challenges. The US EPA places a priority on enforcing against illegal discharges from combined sewer systems and sanitary sewer systems. So those continue to present challenges and we're committed to working together to solve them. But this policy focuses on one of many of the water quality challenges.

Nancy Stoner: Hi. This is Nancy Stoner from NRDC if I could just add to that. Agriculture is the largest source of water pollution in the nation and I think storm water is actually the fastest growing source of water pollution in the nation but there are indications that the deterioration of our sewer system is becoming an increasingly large problem. EPA did a report at one point that estimated that if we didn't invest more in the rehabilitation and repair of our sewer system

that we would have levels of sewage discharges into the water as high as we saw in 1968 and we would exceed that level by 2025.

So that's one of the reasons why I support increased investment in the upgrading of our sewer system. It received a grade of D- by the civil engineers this past year. It's clearly a need and a priority for our nation to invest in that waste water infrastructure.

Alexandra Dapolito Dunn: And this is Alexandra Dunn, just to add onto what Nancy said. working with the nation's utilities, publicly owned one aspect of this proposal is the basically affordability of the different options available to a community to maximize this treatment. And affordability is going to be a community by community evaluation and I think Nancy is right on in that there are going to be some communities around the country where due to the low income and distress nature of an urban population they may have a difficult time affording some of the most cutting edge technologies available.

And by putting a priority on our nation's infrastructure as a country as a whole we can make great strides forward and the investment and infrastructure is absolutely needed not only at the local level but at the federal level.

(Eryn Witcher): Great. Thank you. Next question.

Operator: Your next question comes from (Elizabeth Showgrin) of National Public Radio.

(Elizabeth Showgrin): I wondered if I could ask two quick ones. One is how many people are served by the systems that are just single sanitary systems? Is it a small portion of the population or the entire population? And also have you done, is

there any money available to help these communities meet these new requirements? Any new money?

Benjamin Grumbles: (Elizabeth) this is Benjamin Grumbles. How are you?

(Elizabeth Showgrin): Fine thanks.

Benjamin Grumbles: First question - approximately 150 million people in the country are served by the sanitary sewer systems which is the focus of this proposed peak flow quality. The second question relates to funding and we think it's extremely important for communities to invest in the infrastructure. It is an extremely important investment for purposes of public health and water quality and overall economic health of the community.

There are funds that are provided through the clean water act, through the state revolving funds loans to communities. There are also additional grant programs. EPA works with its partners at the state and local levels. We also think it is extremely important that as additional requirements are imposed to meet the mandates of the clean water act that affordability be taken into account as well as Engineering feasibility and we think this proposed policy adequately does that. That's a very important - we also part of the EPA's job here is to encourage the adoption of true value pricing or full cost pricing to help communities invest in their waste water infrastructure.

(Elizabeth Showgrin): But there is no new federal funding for this.

Benjamin Grumbles: Well there is new in the sense of this isn't a budge document that we're releasing today but the agency is committed to continued funding of clean water programs, that Congress just appropriated funds for EPA to provide grants to the states for loans to communities and we recognize that some of

those funds should go towards priority wet weather flow issues to invest in the infrastructure to help maximize treatment and to avoid or reduce spills and we think that's very important.

$4.9 billion was provided last year nationally through the clean water state revolving fund. And that's a mechanism for leveraging federal, state and local funding.

(Elizabeth Showgrin): Thank you.

Alexandra Dapolito Dunn: (Elizabeth) this is Alexandra Dunn. Just one other addition on the issue of funding. In the policy that EPA is proposing today, the feasibility analysis as Ben mentioned is an analysis of both Engineering feasibility and economic feasibility and sort of looking at those two together to get the end result of overall feasibility for a particular community. And that balance is going to be very sensitive in many communities. Today local communities bear 90% of the cost of waste water infrastructure. 10% of that cost is borne by the federal government through the loan programs that Ben was talking about.

So the largest burden does hit those rate payers in communities across the country and there are some innovative approaches being looked at for long term sustainable funding of our nation's waste water infrastructure without which we saw in the New Orleans situation we don't have the quality of life that we enjoy here. One of them is a bill introduced just last week by Congressman Duncan of Tennessee - HR 4560 which would create $7 billion for waste water, a year for waste water infrastructure investment going forward. A very cutting edge proposal.

(Elizabeth Showgrin): Thanks.

(Eryn Witcher): Great. Thank you. Next question.

Operator: Once again ladies and gentlemen, to ask a question please press star 1 on your telephone keypad.

Your next question comes from the line of (Matthew Shipman) of the Water Policy Report.

(Matthew Shipman): Hey everybody. This is (Matt Shipman). How are you? I've got a question for Ben in regard to what would be included in this guidance. I understand that it would be based on the principles of the NACWA/NRDC document. But one of the principles that was included there that was (unintelligible) little bit of concern is characterizing blending as an anticipated bypass. And there is some concern that that could engender third party suits regarding bypass rule if people are allowed to blend. Is that addressed at all in this document or do you guys avoid using the term anticipated bypass? How did you guys deal with that?

Benjamin Grumbles: Hey (Matt). It's Ben. The policy we're proposing today is very similar to and largely based on the recommendations of NACWA and NRDC. We've made some technical revisions and clarifications. We've also tried to subject it to public comment to further benefit from additional public review. Retained within the policy is the notion of an approved advanced anticipated bypass (unintelligible) that rider would go through the process and we think that's an important approach to take and that is in the policy.

(Eryn Witcher): Go ahead.

Alexandra Dapolito Dunn: (Matt) this is Alex. Another point that gets at that question you asked which looks at vulnerability of a permanent entity for citizen enforcement if they're operating in a way that's not the same as this policy outlines is the provision at 3C in the back which there was a good bit of discussion about which talks about enforcement actions being taken against operators that failed to move forward expeditiously to meet their obligations and certainly within the waste water treatment community there's a lot of talk about this policy being proposed and the sense that being taken very seriously and from an enforcement action standpoint it would appear that an enforcement would be appropriate against a utility that was failing to follow the policy or look at it seriously but one that was moving forward expeditiously would likely have a good argument.

(Matthew Shipman): For a permit shield or?

Alexandra Dapolito Dunn: If it's addressed in their permit today then they have a permit shield.

(Matthew Shipman): Okay.

(Eryn Witcher): Is there anyone that has not had a chance to ask a question Operator?

Operator: Your next question comes from (David Steincraft) of The Journal Times.

(David Steincraft): Hi. I just have one quick follow up to a previous question about the populations served by sewer systems. Does anyone have an idea how many major cities are on combined versus sanitary only systems. I'm curious whether this is the policy that's going to hit mostly big cities or everybody or mostly middle sized cities or what.

Benjamin Grumbles: Ben Grumbles - our latest data indicates that approximately 750 communities have the combined systems, combined sewer systems.

(David Steincraft): Any idea of what the populations are of those? It must take in quite a range I would imagine given the number.

Benjamin Grumbles: You know what? We can do some further research and try to have somebody get back to you?

Woman: We'll follow up with you.

(David Steincraft): Okay.

Woman: Could you tell us what paper you're with again?

(David Steincraft): The Journal Times in Racine, Wisconsin.

(Eryn Witcher): Thank you. Any new questions? Anyone that hasn't had a chance to ask a question?

Operator: Yes. Your next question comes from the line of (Alison Heinres) of The Pittsburgh Tribune Review.

(Alison Heinres): Hi. Yeah, I was just hoping you could kind of give me an idea of the timeframe that this is going to take place on. Like how long is public comment for and when does enforcement action begin?

Benjamin Grumbles: This is Ben Grumbles. Today we're putting out the proposal. We'll have a 30 day comment period and our expectation is to move forward and to finalize the policy as soon as we can after we go through the comments, the

additional comments we get. We think this is the best thinking of the agency on this policy that for years has caused controversy and it's a very positive step forward to have consensus based, to have an actual approach that EPA's working on that reflects middle ground approaches and a good step forward.

It will appear in the Federal Register later this week. And we look forward to finalizing it.

(Alison Heinres): Okay. Thank you.

(Eryn Witcher): Great. Are there any new questions?

Operator: No ma'am. Not at this time.

(Eryn Witcher): All right. Great. Thank you so much for joining us today. Have a nice afternoon.

Operator: This concludes today's conference call. You may now disconnect.

END