COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF ENVIRONMENT & PLANNING

THOMAS DEARING
COMMISSIONER

JOSEPH L. FIEGL, P.E.
DEPUTY COMMISSIONER

July 31, 2015

Honorable Kirsten E. Gillibrand
478 Russell Senate Office Building
Washington, DC 20510

Re: Section 428
Proposed Fiscal Year (FY) 2016 Appropriations Bill
Interior, Environment, and Related Agencies

Dear Senator Gillibrand,

Erie County's Department of Environment and Planning – Division of Sewerage Management has been alerted of troubling provisions inserted into the FY 2016 Interior, Environment, and Related Agencies Appropriations Bill. Specifically Section 428 of the appropriations bill proposes that public treatment agencies discharging into the Great Lakes (or its tributaries) be prohibited from using long standing practices that have protected water quality while being mindful of economic realities. I urge you both to oppose these provisions.

The Division of Sewerage Management, like so many other clean water service providers, is dedicated to protecting public health and the environment. In the 1960's Lake Erie was declared "dead" by Time Magazine – the Division takes great pride in the role it played in effectuating environmental improvements that have allowed Lake Erie to rebound from its unacceptable condition less than 50 years ago. Much of the enhancement in water quality across the Country since enactment of the Clean Water Act in 1972 has been due to the tireless efforts of sewer/wastewater service providers.

As with many environmental initiatives, these improvements required tremendous financial resources. Fortunately, the Clean Water Act provided grants in the 1970's and 1980's to assist local municipalities to implement infrastructure projects. The result was that Erie County partnered with the Federal and State governments to complete cost effective projects that brought forth remarkable benefits to our waterways. Being mindful of the engineering and fiscal challenges, provisions such as "blending"– i.e. where some flows are temporarily bypassed around portions of treatment plants to protect facilities during peak wet weather flows – were incorporated into many treatment facilities at that time. The means to allow for blending at these facilities were financed through the Clean Water Act at numerous treatment plants throughout the Country.

The addition of Section 428 of the FY 2016 Interior, Environment, and Related Agencies Appropriations Bill would lead to a prohibition of blending. The Erie County treatment plants that have blending facilities are permitted by the New York State Department of Environmental Conservation and utilize blending as an important operations tool to safeguard the long-term integrity of the treatment systems. A

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Item (1(e))

blending prohibition would impose unnecessary costs at a time in which the ratepayers are already burdened with many requirements. For example, one of Erie County's seven treatment plants is presently going through a full evaluation that has preliminarily identified over $50 million in upgrades that are necessary to meet the needs of a recently modified discharge permit. A prohibition of blending for this treatment plant would drastically increase the capital needs at this facility, with no appreciable water quality need documented.

It is quite concerning that a policy shift prohibiting blending would be enacted through a congressional appropriations bill as opposed to the normal legislative process where such a policy, the associated concerns, and cost implications would be fully vetted. It is equally concerning that Section 428 is included in the same bill that proposes a 30% cut in the allocation for the Clean Water State Revolving Fund (CWSRF) loan program - a program which provides low interest financing for critical water quality infrastructure projects. Finally, Section 428 proposes penalties of $100,000 be imposed in 2035 each time blending facilities are utilized. Such penalties would divert additional monies away from much needed local infrastructure investments and would further adversely impact local ratepayers.

The Erie County Division of Sewerage Management takes its environmental stewardship role – and its stewardship role with the financial resources our ratepayers provide – very seriously. It is imperative on all levels of government that limited financial resources be put to their best use. Traditional methods of continually focusing on point sources (such as treatment plants) are increasingly being replaced in today's regulatory paradigm with a watershed based philosophy. For Lake Erie in the 1960's and 1970's, sewage was the primary pollutant impairing water quality. With the recent toxic algal blooms in Lake Erie, other sources such as agricultural runoff have been identified as the major contributor. In this example, a focus on wastewater treatment plants to handle toxic algal blooms would not be economical or effectuate the water quality changes that are needed. In the opinion of the Division of Sewerage Management, proposals such as that suggested in Section 428 represent old thinking that are not efficient and would impose unnecessary additional costs on local ratepayers.

The prohibition on blending is only one component of Section 428 of the FY 2016 Interior, Environment, and Related Agencies Appropriations Bill that the clean water industry takes issue with. While the Erie County Sewer Districts do not have any combined sewer systems under its purview, we have been in correspondence with local combined sewer systems in New York that have voiced concerns with similar provisions in Section 428. These service providers will articulate their positions on this matter under separate cover. Due to these extensive issues with the proposal, the Division of Sewerage Management recommends that Section 428 be removed from the FY 2016 Appropriations Bill in its entirety. Should you or your staff wish to discuss this matter further, please contact me at (716) 858-7537 or joseph.fiegl@erie.gov.

Sincerely,

Joseph L. Fiegl, P.E.
Deputy Commissioner

Cc: M. Poloncarz – County Executive
Erie County Sewer District Boards of Managers
T. Dearing – Commissioner
G. Absolom/K. Kaminski
J. Carr/D. Millar/M. Salah

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322 Hart Senate Office Building
Washington, DC 20510

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