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COUNTY OF ERIE

CHRIS COLLINS

COUNTY EXECUTIVE

June 1, 2011

The Honorable
Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, NY 14202

**RE: Division of Sewerage Management National Association of Clean Water Agencies
Legal Challenge Sewage Sludge Incinerator Advocacy Coalition**

Honorable Members:

Enclosed please find a memorandum from the Department of Environment and Planning pertaining to a legal challenge through the National Association of Clean Water Agencies.

Should your honorable body require further information, I encourage you to contact the Department of Environment and Planning, Division of Sewerage Management. Thank you for your consideration on this matter.

Sincerely,

CHRIS COLLINS
Erie County Executive

MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Environment and Planning
Re: Division of Sewerage Management National Association of Clean Water Agencies Legal
Challenge Sewage Sludge Incinerator Advocacy Coalition
Date: June 1, 2011

SUMMARY

A resolution from the County of Erie Legislature is requested authorizing the Division of Sewerage Management, on behalf of Erie County Sewer District (ECSD) No. 3, to issue a payment of \$10,000 to a National Association of Clean Water Agencies (NACWA) legal challenge on recent United States Environmental Protection Agency (USEPA) rules/regulations pertaining to sewage sludge incinerators.

FISCAL IMPLICATIONS

There are no fiscal implications to the County's General Fund. Payment would be made from an ECSD No. 3 operating account in the 2011 adopted budget.

REASONS FOR RECOMMENDATION

The new USEPA regulations pertaining to sewage sludge incinerators if carried out in their current form would likely require costly modifications to the Southtowns Advanced Wastewater Treatment Facility. NACWA has undertaken the necessary legal and administrative challenge of these rules/regulations through a Sewage Sludge Incinerator Advocacy Coalition (coalition). As part of the coalition, ECSD No. 3 would be joining with other utilities to share in the advocacy costs as opposed to incurring substantial expenses by challenging the new rules on its own.

BACKGROUND INFORMATION

The ECSD No. 3 Southtowns Advanced Wastewater Treatment Facility operates two (2) sewage sludge incinerators. The USEPA released final rules/regulations on February 21, 2011 titled "Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units." The new rules, in the opinion of NACWA and the Division of Sewerage Management, would have significant negative impacts on all utilities operating incinerators as a means to manage sludge/solids conveyed to wastewater treatment plants. Furthermore, it is believed that the final rules/regulations contain several legal and technical flaws and provide unrealistic guidelines without properly analyzing the consequences of implementation.

Therefore, NACWA formed the Sewage Sludge Incinerator Advocacy Coalition. Each utility in the United States that operates a sewage sludge incinerator was contacted and were requested to

make a payment of \$5,000 per incinerator to this coalition. The coalition will on behalf of all utilities operating sewage sludge incinerators prepare the necessary legal documentation to issue an administrative petition for reconsideration and well as formal legal challenges to various aspects of the rule.

The prospect of joining in this coalition was brought forth to the ECSD No. 3 Board of Managers at its April 13, 2011 meeting and the Board unanimously approved this action.

CONSEQUENCES OF NEGATIVE ACTION

The final USEPA rules/regulations, if implemented in their current form, would likely require costly modifications to the Southtowns Advanced Wastewater Treatment Facility. If ECSD No. 3 were to take on a legal challenge on its own, the cost would likely be hundreds of thousands of dollars.

STEPS TO FOLLOW APPROVAL

A \$10,000 payment will be remitted on behalf of ECSD No. 3 to NACWA to support the Sewage Sludge Incinerator Advocacy Coalition.



Jeffrey Hart
Deputy County Executive

JCH

A RESOLUTION SUBMITTED BY:
DEPARTMENT OF ENVIRONMENT & PLANNING
DIVISION OF SEWERAGE MANAGEMENT

RE: Division of Sewerage Management
National Association of Clean Water
Agencies Legal Challenge
Sewage Sludge Incinerator
Advocacy Coalition

WHEREAS, the Erie County Sewer District No. 3 Southtowns Advanced Wastewater Treatment Facility operates two sewage sludge incinerators to manage its solids/sludge; and

WHEREAS, the United States Environmental Protection Agency released final rules/regulations on February 21, 2011 titled "Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units"; and

WHEREAS, the final rules/regulations if carried out in their current form would likely require costly modifications to the Southtowns Advanced Wastewater Treatment Facility; and

WHEREAS, in the opinion of the Division of Sewerage Management, the final rules/regulations contain several technical and legal flaws and provide unrealistic guidelines without properly analyzing the consequences of implementation; and

WHEREAS, the National Association of Clean Water Agencies has formed a Sewage Sludge Incinerator Advocacy Coalition to challenge the final rules/regulations on behalf of all utilities in the United States that operate sewage sludge incinerators; and

WHEREAS, it would be cost prohibitive Erie County Sewer District No. 3 to challenge the final rules/regulations on its own; and

WHEREAS, the Erie County Division of Sewerage Management and the Erie County Sewer District No. 3 Board of Managers are desirous of contributing to the Sewage Sludge Incinerator Advocacy Coalition to assist in challenging the final rules/regulations.

NOW, THEREFORE, BE IT

RESOLVED, that the County Director of Budget and the County Comptroller be authorized to pay \$10,000 from Erie County Sewer District No. 3 Professional Services Account 516020 in the 2011 adopted budget, to the National Association of Clean Water Agencies for the Sewage Sludge Incinerator Advocacy Coalition; and be it further

RESOLVED, that the Clerk of the Legislature send two (2) certified copies of this resolution to Joseph Fiegl, P.E., Division of Sewerage Management and one (1) certified copy each to the County Executive, the Erie County Comptroller, and the Erie County Director of Budget and Management.