Why is Clean Water Act (CWA) citizen suit reform necessary?
CWA citizen suits serve an important purpose in protection of the environment, but actions based on sanitary sewer overflows (SSOs) and other alleged violations at local wastewater agencies often result in local agencies paying millions of dollars in settlements and legal fees that do not yield a corresponding environmental benefit.

Several factors make CWA citizen suits brought against wastewater agencies attractive to litigants. For example, every SSO that reaches waters is a violation of the CWA. SSOs can be reduced, but not completely prevented, and therefore all sewer systems inherently have exposure to citizen suits. In addition, the availability of substantial and disproportionate attorneys’ fees is a significant motivation for third party plaintiffs. There is very little downside to pursuing litigation for a citizen plaintiff.

What does this legislation do?
H.R. 3353 is a reasonable and measured approach to CWA citizen suit reform designed to prevent continued misuse of an important environmental law. Specifically the bill:

- Ensures attorneys’ fees awards are appropriate to local markets and commensurate with the proportion of successful claims in each case;
- Clarifies the definition of “diligent prosecution” of alleged violations, thereby allowing state and federal authorities to exercise their primacy in enforcement and preventing unnecessary citizen suit intervention when issues are already being actively resolved;
- Provides for normally accepted criminal and standard defenses to the Clean Water Act, similar to those provided in other federal environmental statutes.

These are tailored amendments that maintain the vitality of the CWA citizen suit provision as it was originally intended while preventing abuses that are costing local agencies millions of dollars in settlements and legal fees.

How can my agency support this bill?
CASA has prepared a model letter for your agency to send to your Congressional representative, supporting the measure and urging them become co-sponsors of H.R. 3353.

Who can I contact for more information?
For additional questions regarding citizen suit reform and H.R. 3353, contact CASA’s federal advocate, Eric Sapirstein, at (202) 466-3755 or CASA’s Director of Government Affairs, Adam Link, at (916) 446-0388.