

**INTEGRATED PLANNING AND PERMITTING:
AN OPPORTUNITY FOR EPA TO PROVIDE
COMMUNITIES WITH FLEXIBILITY TO MAKE
SMART INVESTMENTS IN WATER QUALITY**

(112-68)

HEARING
BEFORE THE
SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT
OF THE
COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS
FIRST SESSION

DECEMBER 14, 2011

Printed for the use of the
Committee on Transportation and Infrastructure



Available online at: [http://www.gpo.gov/fdsys/browse/
committee.action?chamber=house&committee=transportation](http://www.gpo.gov/fdsys/browse/committee.action?chamber=house&committee=transportation)

U.S. GOVERNMENT PRINTING OFFICE

71-739 PDF

WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

JOHN L. MICA, Florida, *Chairman*

DON YOUNG, Alaska
THOMAS E. PETRI, Wisconsin
HOWARD COBLE, North Carolina
JOHN J. DUNCAN, Jr., Tennessee
FRANK A. LoBIONDO, New Jersey
GARY G. MILLER, California
TIMOTHY V. JOHNSON, Illinois
SAM GRAVES, Missouri
BILL SHUSTER, Pennsylvania
SHELLEY MOORE CAPITO, West Virginia
JEAN SCHMIDT, Ohio
CANDICE S. MILLER, Michigan
DUNCAN HUNTER, California
ANDY HARRIS, Maryland
ERIC A. "RICK" CRAWFORD, Arkansas
JAIME HERRERA BEUTLER, Washington
FRANK C. GUINTA, New Hampshire
RANDY HULTGREN, Illinois
LOU BARLETTA, Pennsylvania
CHIP CRAVAACK, Minnesota
BLAKE FARENTHOLD, Texas
LARRY BUCSHON, Indiana
BILLY LONG, Missouri
BOB GIBBS, Ohio
PATRICK MEEHAN, Pennsylvania
RICHARD L. HANNA, New York
JEFFREY M. LANDRY, Louisiana
STEVE SOUTHERLAND II, Florida
JEFF DENHAM, California
JAMES LANKFORD, Oklahoma
REID J. RIBBLE, Wisconsin
CHARLES J. "CHUCK" FLEISCHMANN,
Tennessee

NICK J. RAHALL II, West Virginia
PETER A. DeFAZIO, Oregon
JERRY F. COSTELLO, Illinois
ELEANOR HOLMES NORTON, District of
Columbia
JERROLD NADLER, New York
CORRINE BROWN, Florida
BOB FILNER, California
EDDIE BERNICE JOHNSON, Texas
ELIJAH E. CUMMINGS, Maryland
LEONARD L. BOSWELL, Iowa
TIM HOLDEN, Pennsylvania
RICK LARSEN, Washington
MICHAEL E. CAPUANO, Massachusetts
TIMOTHY H. BISHOP, New York
MICHAEL H. MICHAUD, Maine
RUSS CARNAHAN, Missouri
GRACE F. NAPOLITANO, California
DANIEL LIPINSKI, Illinois
MAZIE K. HIRONO, Hawaii
JASON ALTMIRE, Pennsylvania
TIMOTHY J. WALZ, Minnesota
HEATH SHULER, North Carolina
STEVE COHEN, Tennessee
LAURA RICHARDSON, California
ALBIO SIRES, New Jersey
DONNA F. EDWARDS, Maryland

SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

BOB GIBBS, Ohio, *Chairman*

DON YOUNG, Alaska	TIMOTHY H. BISHOP, New York
JOHN J. DUNCAN, Jr., Tennessee	JERRY F. COSTELLO, Illinois
GARY G. MILLER, California	ELEANOR HOLMES NORTON, District of Columbia
TIMOTHY V. JOHNSON, Illinois	RUSS CARNAHAN, Missouri
BILL SHUSTER, Pennsylvania	DONNA F. EDWARDS, Maryland
SHELLEY MOORE CAPITO, West Virginia	CORRINE BROWN, Florida
CANDICE S. MILLER, Michigan	BOB FILNER, California
DUNCAN HUNTER, California	EDDIE BERNICE JOHNSON, Texas
ANDY HARRIS, Maryland	MICHAEL E. CAPUANO, Massachusetts
ERIC A. "RICK" CRAWFORD, Arkansas	GRACE F. NAPOLITANO, California
JAIME HERRERA BEUTLER, Washington,	JASON ALTMIRE, Pennsylvania
<i>Vice Chair</i>	STEVE COHEN, Tennessee
CHIP CRAVAACK, Minnesota	LAURA RICHARDSON, California
LARRY BUCSHON, Indiana	MAZIE K. HIRONO, Hawaii
JEFFREY M. LANDRY, Louisiana	NICK J. RAHALL II, West Virginia
JEFF DENHAM, California	<i>(Ex Officio)</i>
JAMES LANKFORD, Oklahoma	
REID J. RIBBLE, Wisconsin	
JOHN L. MICA, Florida <i>(Ex Officio)</i>	

CONTENTS

	Page
Summary of Subject Matter	vii
TESTIMONY	
PANEL ONE	
Hon. Jim Suttle, Mayor, City of Omaha, testifying on behalf of the U.S. Conference of Mayors	24
Hon. Joe Reardon, Mayor/CEO, Unified Government of Kansas City, Kansas, and Wyandotte County, testifying on behalf of the National League of Cities	24
Todd Portune, Commissioner, Hamilton County, Ohio, Board of Commissioners	24
Walter L. Baker, P.E., Director, Division of Water Quality, Utah Department of Environmental Quality, testifying on behalf of the Association of Clean Water Administrators	24
Carter H. Strickland, Jr., Commissioner, New York City Department of Environmental Protection	24
David Williams, Director of Wastewater, East Bay Municipal Utility District, testifying on behalf of the National Association of Clean Water Agencies	24
Katherine Baer, Senior Director, Clean Water Program, American Rivers	24
PANEL TWO	
Nancy K. Stoner, Acting Assistant Administrator, Office of Water, United States Environmental Protection Agency	125
Cynthia Giles, Assistant Administrator, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency	125
PREPARED STATEMENTS SUBMITTED BY MEMBERS OF CONGRESS	
Hon. Jason Altmire, of Pennsylvania	136
Hon. Gerald E. Connolly, of Virginia	138
Hon. Eddie Bernice Johnson, of Texas	139
PREPARED STATEMENTS SUBMITTED BY WITNESSES	
Hon. Jim Suttle	141
Hon. Joe Reardon	170
Todd Portune	188
Walter L. Baker, P.E.	192
Carter H. Strickland, Jr.	198
David Williams	201
Katherine Baer	207
Nancy K. Stoner	212
Cynthia Giles ¹	212
SUBMISSIONS FOR THE RECORD	
Hon. Grace F. Napolitano, a Representative in Congress from the State of California, request to submit the report entitled, "Water Use Efficiency and Jobs," prepared by the Economic Roundtable, 2011	7
Hon. Timothy H. Bishop, a Representative in Congress from the State of New York, request to submit H.R. 3145, a Bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes	53

VI

	Page
United States Environmental Protection Agency, responses to questions from Hon. Timothy H. Bishop, a Representative in Congress from the State of New York	218

ADDITION TO THE RECORD

Diane Linderman, P.E., PWLF, President, American Public Works Association, written statement	220
---	-----

¹Cynthia Giles did not submit a written statement.



**U. S. House of Representatives
Committee on Transportation and Infrastructure**

John L. Mica
Chairman

Washington, DC 20515

Rick J. Rahall, II
Ranking Member

James W. Coon II, Chief of Staff

December 12, 2011

James H. Zola, Democrat Chief of Staff

MEMORANDUM

TO: Members of the Subcommittee on Water Resources & Environment

FROM: Bob Gibbs
Subcommittee Chairman

RE: Hearing on "Integrated Planning and Permitting:
An Opportunity for EPA to Provide Communities with
Flexibility to Make Smart Investments in Water Quality"

PURPOSE OF HEARING

The Water Resources and Environment Subcommittee is scheduled to meet on Wednesday, December 14, 2011, at 10:00 a.m., in Room 2167 of the Rayburn House Office Building, to receive testimony from city mayors, the commissioner of a city's department of environmental protection, a municipal wastewater utility director, a state water quality program director, an environmental activist advocate, and the U.S. Environmental Protection Agency ("EPA") on EPA's proposed integrated planning and permitting regulatory prioritization effort under the Federal Water Pollution Control Act (commonly referred to as the "Clean Water Act").

BACKGROUND

The Water Resources & Environment Subcommittee has jurisdiction, under the Clean Water Act ("CWA"), over water quality and wastewater infrastructure programs administered by EPA. Title III of the CWA places a number of treatment and other regulatory requirements on municipalities' wastewater treatment works, and Title IV of the CWA requires permits, under the National Pollutant Discharge Elimination System ("NPDES") permit program, for the discharge of pollutants from wastewater treatment works and certain municipal storm sewer systems. Title VI of the Clean Water Act provides for the establishment and capitalization of Clean Water State Revolving Loan Funds (SRFs) to aid in funding the construction of wastewater treatment works and other wastewater infrastructure around our nation.

It is widely accepted that clean drinking water and public wastewater services are necessary priorities to sustain public health, support our economy, and protect the environment. Significant amounts of public resources have been devoted to water infrastructure in American communities over the last 40 years to meet these priorities. An impressive inventory of physical assets has been developed over this period.

Our nation's wastewater infrastructure includes 16,000 publicly owned wastewater treatment plants, 100,000 major pumping stations, 600,000 miles of sanitary sewers, and 200,000 miles of storm sewers. Since 1972, with the enactment of the Clean Water Act, Federal, State, and local investment in our national wastewater infrastructure has been over \$250 billion. This investment has provided significant environmental, public health, and economic benefits to the nation. Our farmers, fishermen, manufacturers, and tourism industries rely on clean water to carry out activities that contribute well over \$300 billion to our economy each year.

However, our nation's ability to provide clean water is being challenged, as our existing national wastewater infrastructure is aging, deteriorating, and in need of repair, replacement, and upgrading. Old and deteriorated infrastructure often leak, have blockages, and fail to adequately treat pollutants in wastewater, thereby creating water pollution problems.

REGULATORY PRESSURES AND INADEQUATE INFRASTRUCTURE ISSUES FACING OUR COMMUNITIES

The needs of municipalities to address wastewater infrastructure are substantial. According to studies by EPA, the Congressional Budget Office, and the Water Infrastructure Network, the cost of addressing our nation's clean water infrastructure needs over the next 20 years could exceed \$400 billion, roughly twice the current level of investment by all levels of government.

The needs are especially urgent for many areas trying to remedy the problem of combined sewer overflows ("CSOs") and sanitary sewer overflows ("SSOs"), often associated with wet weather conditions, and for communities lacking sufficient independent financing ability. In recent years, EPA (and activist groups, through citizens suits) has stepped up enforcement actions against many municipalities in an effort to force them to eliminate their CSOs and SSOs. EPA's National Enforcement Initiative for fiscal year 2011 focuses on the reduction of these overflows by winning commitments from municipalities to implement infrastructure upgrades to prevent these problems in the future.

These enforcement actions have resulted in many larger cities and smaller municipalities entering into enforcement settlements, by signing consent agreements with EPA (and/or activist groups) to implement enforceable plans to eliminate their CSOs and SSOs. Many of these settlements are costly to implement, especially in the face of dwindling EPA infrastructure funds.

The projected total cost to larger municipalities of implementing the terms of each of these settlements could end up being as much as \$1-5 billion per city, or even more in some instances. There are approximately 746 communities, located in 31 States and the District of

Columbia, with combined sewer systems and CSO issues potentially facing these sorts of costs. Many more communities have SSO issues. EPA estimates that there are at least 23-75 thousand SSOs per year (not including sewage backups into buildings), amounting to an estimated three to ten billion gallons a year of untreated releases.

In recent years, other regulatory issues also have become national priorities, which is placing a further demand for resources on municipalities' utilities. For example, while our nation's wastewater utilities already have removed the vast majority of conventional pollutants from municipal wastewater, looking forward, they face significantly higher costs to remove the next increment plus control pollutants from urban runoff.

EPA has initiated a national rulemaking to establish a potentially far-reaching program to regulate stormwater discharges from newly developed and redeveloped sites and add to or make other regulatory requirements more stringent under its stormwater program. This includes possibly expanding the scope of the municipal separate storm sewer systems ("MS4") regulatory program, establishing and implementing a municipal program to regulate stormwater discharges from existing development, imposing specific requirements for transportation facilities, and establishing and implementing stormwater regulations specific to the Chesapeake Bay watershed. This stormwater rulemaking, if promulgated, could cost our communities additional billions of dollars in regulatory compliance costs, thereby imposing substantial additional regulatory and economic burdens on municipalities to comply.

In addition, EPA has begun zealously pressing the States and local governments to adopt a new "framework" for managing nutrients pollution, including crafting numerical nutrients criteria, setting strict numerical regulatory requirements, including numerical standards and TMDL load reduction goals for pollutant sources, and adopting stringent numerical nutrient standards and stringent effluent limits for nutrients in NPDES permits for municipal and other dischargers of nutrients. Stringent effluent limits for nutrients in NPDES permits could mean that many municipalities would have to install and operate, at great expense, nutrient treatment and removal technologies at their wastewater treatment plants. These requirements will add still an additional layer of regulatory requirements and economic burdens that our communities will have to deal with.

Further, many communities face increasing regulatory requirements and more stringent standards under the Safe Drinking Water Act for their public drinking water systems. In addition, protection of critical wastewater infrastructure has become important to homeland security. Many of these same communities also have to deal with State-imposed regulatory requirements, on top of the Federal mandates.

A large portion of these Federal and State regulatory mandates are going unfunded by the Federal and State governments. Rather, local governments are being expected to pay for more and more of the costs of these mandates, with the result that local government has made substantial increases in investments in public water and wastewater infrastructure in recent years and local communities and ratepayers are increasingly getting economically tapped out. For example, Jefferson County, Alabama (Alabama's most-populous county and the home of Birmingham) recently declared the largest municipal bankruptcy in U.S. history, in part as a

result of a multi-billion dollar sewer project. Today, local government provides the majority of the capital required to finance water infrastructure investments through loans, grants, bonds, and user fees.

COMMUNITIES' CONCERNS

As a result of many communities becoming financially squeezed, representatives of local government are increasingly voicing concerns over EPA's policies and unfunded mandates, including the cumulative impacts of multiple regulatory requirements being imposed on them, and over how EPA is dealing with communities to address the regulatory mandates that EPA is imposing on them. Some of the concerns include:

- CSO/SSO enforcement actions appear to be overly costly, overly prescriptive, and beyond the financial capability of local government to implement. The local experience in EPA's stormwater management compliance and enforcement efforts, including consent order negotiations, has resulted in extremely expensive requirements to eliminate stormwater overflows from combined sewers and sanitary sewers. These Federal unfunded mandates come at a time when local budgets are hard pressed to afford them.
- EPA does not apply a consistent approach in addressing CSO issues around the nation. The Federal government is inconsistent in how it enforces CSO compliance protocols throughout the nation and often ignores specific local conditions, such as affordability factors and existing plans for cleaner water. The result is a less than optimal engineering solutions for cities, taxpayers, and the environment.
- The complexities and expense of negotiating solutions to wet weather overflows from combined sanitary/storm sewer systems that are acceptable to EPA and the Department of Justice are overwhelming to municipalities.
- Local communities have no sense of partnership with the agency, in that municipalities are often treated as criminals, and that these attitudes permeate the decision-making process. EPA is inflexible with communities in seeking resolution of CSO and other water quality problems. This inflexible approach halts progress in addressing many water quality issues.
- Many of the Federal (and State) regulatory mandates imposed on communities reflect a one-size-fits-all approach that does not account for an individual municipality's specific public health and other needs, and requires the completion of massive capital investments on tight construction schedules. Because these projects are legally mandated and have to be done within a specified time period, many of our communities' construction dollars are not being dedicated to the projects that are most needed by the communities, or are not the most cost-effective in terms of public health and environmental protection. It is time for the national clean water strategy to evolve from a "one size fits all" mandate and enforcement approach, to a strategy that recognizes and funds the individual needs of water and wastewater utilities based on demonstrated public health needs and water quality benefits.

- Each EPA regulatory program is managed in a “stovepipe,” with each program imposing its own requirements on communities without regard to what any of the other programs are doing.
- EPA exhibits an attitude with respect to their regulatory requirements that everything is a priority, so therefore, nothing is a priority.

NEED FOR GREATER REGULATORY FLEXIBILITY AND PRIORITIZATION

Municipalities are very concerned about the impacts the unfunded Federal mandates treadmill has on local government ability to meet compliance obligations, and have been urging EPA officials to limit the massive costs of complying with agency wastewater and stormwater requirements, especially given municipalities’ dwindling revenues due to the economic downturn. Representatives of local government have approached EPA (and representatives of the States) to press them for greater regulatory program/policy flexibility and prioritization to allow municipalities to achieve the goals of the various water regulatory program requirements in a less costly manner and over a slightly longer time frame.

For example, integrating stormwater and wastewater requirements could help address municipalities’ cost concerns because EPA would be better able to weigh municipalities’ financial capabilities to address both sets of requirements, and to trade off investments in wastewater and stormwater management. Where the dollar gets the highest environmental return, that could be prioritized and supported by the agency.

Municipalities want to holistically address the regulatory mandates facing them, and have the flexibility to eliminate inconsistent and duplicative requirements, better plan out and prioritize projects that will provide the greatest water quality benefits the soonest, seek out the most cost-effective approaches, undertake locally designed strategies that reflect local and regional variations in climate, economic stability, population, and other considerations, explore the use of green infrastructure and other flexible and innovative solutions where appropriate, and be able to focus more resources on maintaining their current infrastructure in a state of good repair.

Municipalities also want to employ an adaptive approach that would allow enforceable requirements to be modified to show new modeling or other predictive calculations, or other changed circumstances, including efficacy of treatment and management techniques previously implemented by the community, other watershed protection that has been implemented, water conservation, population changes, and changes in economic circumstances.

Further, they want EPA to reconsider the Agency’s “affordability criteria” for determining how much an individual household or community can pay for water services before they become unaffordable. With local government providing the majority of the capital required to finance water infrastructure investments, the rate payers are picking up an increasingly larger part of the debt service or carrying charges through their user fees. Many communities have

experienced dramatic increases in user fees in recent years to support these infrastructure investments.

Importantly, municipalities are seeking a more collaborative approach where EPA and State water regulators work more like “partners” than “prosecutors” with communities to yield better solutions that achieve the goal of eliminating sewer overflows and addressing other water quality issues through the use of best engineering and innovative approaches at the lowest cost, resulting in the greatest environmental benefits.

EPA’s PROPOSED INTEGRATED PLANNING AND PERMITTING INITIATIVE

It appears that EPA may be starting to listen to municipalities’ concerns. Late in the summer of 2011, EPA announced (as part of an Agency regulatory review plan) that it was going to develop a new policy to allow municipalities to prioritize their water quality requirements, an approach that many municipalities have been seeking, to address the huge unfunded costs associated with the growing number of requirements stemming from EPA water rules and enforcement actions. EPA said it intends to develop a policy to create a new integrated permitting approach for dealing with stormwater flows and combined sewer overflows (CSOs) to allow municipalities and utilities to develop plans for prioritizing wet weather investments. According to the review plan, EPA intends to consider approaches that allow municipalities to evaluate all of their CWA requirements and develop comprehensive plans to meet these requirements.

On October 27, 2011, EPA’s water and enforcement offices followed up with an Agency memorandum, issued jointly by the Assistant Administrators for Water and for Enforcement and Compliance Assurance, to regional permit writers outlining the broad components of an upcoming “framework” the Agency plans to develop to assist EPA regional officials and state and local governments in prioritizing CWA regulatory requirements when funds for infrastructure improvements are limited. The memo acknowledged that the current approach of focusing on each CWA requirement individually can have the “unintended consequence of constraining a municipality from implementing the most cost-effective solutions in a sequence that addresses the most serious water quality issues first.”

In its memo, EPA said that a comprehensive and integrated planning approach to a municipality’s wastewater and stormwater obligations offers the greatest opportunity for implementing the most important projects first, noting that the CWA provides the agency the necessary flexibility to utilize this approach. The flexibility includes evaluating a municipality’s financial capability in tough economic times and setting appropriate compliance schedules, allowing for implementation of innovative solutions, and sequencing critical wastewater and stormwater projects in a way that ensures human health and environmental protection. The memo said that the integrated planning approach framework that EPA is developing is supposed to identify the essential components of an integrated plan, steps for identifying municipalities that might make best use of such an approach, and how best to implement the plans under CWA permit and enforcement programs.

Once the framework is in draft form, the EPA has said the Agency plans to hold discussions and meetings with states, local governments, utilities, and environmental groups to obtain feedback. EPA also has mentioned about identifying municipalities that are developing or have developed integrated plans that can serve as models for this work. The memo also advocates for the increased use of so-called green infrastructure as a way to meet regulatory requirements.

It remains to be seen how EPA's proposed integrated planning and permitting regulatory prioritization initiative will turn out. Some municipal officials are concerned that EPA is not willing to limit its enforcement efforts against municipalities that have been driving costly infrastructure upgrades to reduce stormwater and sewer overflows during heavy storm events. They are concerned that a continued emphasis on an enforcement approach will undermine the flexibility EPA is ostensibly seeking to provide.

At Wednesday's hearing, the Subcommittee on Water Resources & Environment will hear from EPA's water and enforcement office heads who issued the October memorandum, as well as representatives of local and State government, to get their latest views on EPA's proposed integrated planning and permitting regulatory prioritization initiative.

WITNESSES

Panel One

Mayor Jim Suttle
City of Omaha

Testifying on behalf of the US Conference of Mayors

Mayor Joe Reardon

Mayor/CEO - Unified Government of Wyandotte County and Kansas City, Kansas
Testifying on behalf of the National League of Cities

Mr. Walt Baker

Director, Division of Water Quality - UT Dept. of Environmental Quality
Testifying on behalf of the Association of Clean Water Administrators

Mr. Carter H. Strickland, Jr.

Commissioner - NYC Environmental Protection

Mr. David Williams

Director of Wastewater - East Bay Municipal Utility District
Testifying on behalf of the National Association of Clean Water Agencies

Ms. Katherine Baer

Senior Director, Clean Water Program - American Rivers

Panel Two

Nancy Stoner

Acting Assistant Administrator for Water, US EPA

Cynthia Giles

Assistant Administrator for the Office of Enforcement and Compliance Assurance, US EPA

**INTEGRATED PLANNING AND PERMITTING:
AN OPPORTUNITY FOR EPA TO PROVIDE
COMMUNITIES WITH FLEXIBILITY TO MAKE
SMART INVESTMENTS IN WATER QUALITY**

WEDNESDAY, DECEMBER 14, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WATER RESOURCES
AND ENVIRONMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m. in Room 2167, Rayburn House Office Building, Hon. Bob Gibbs (Chairman of the subcommittee) presiding.

Mr. GIBBS. The committee of water resource and environment will convene. And welcome, everybody. Today we are going to have two panels, and we will get to our first panel here in just a few minutes. And we have a second panel from the EPA officials.

I will start off here with my opening statement. First of all, again, I would like to welcome everyone to the hearing today on the "Integrated Planning and Permitting: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality."

It is well known that the needs of municipalities to address wastewater infrastructure are substantial. Our existing national wastewater infrastructure is aging, deteriorating, and in need of repair, replacement, and upgrading. Old and deteriorated infrastructure often leak, have blockages, and fail to adequately treat pollutants in wastewater.

There are well over 700 cities and towns around the Nation with combined sewer systems which periodically experience combined sewer overflows during wet weather conditions. Many more communities have problems with sanitary sewer overflows, where untreated wastewater can get released into the environment or into people's homes.

In recent years, EPA has stepped up enforcement actions against many municipalities in an effort to force them to eliminate their CSOs and SSOs. These enforcement actions have resulted in many larger cities and smaller municipalities entering into enforcement settlements by signing consent decrees with the EPA or States to implement enforceable plans to eliminate combined sewer overflows and sanitary sewer overflows. Many of these settlements are costly to implement, especially in the face of dwindling EPA infrastructure funds.

Many States could end up spending as much as \$1 billion to \$5 billion each, or even more in some instances, to implement the terms of many of these settlements. But it doesn't stop there. In recent years, numerous other regulatory issues also have become national priorities, and are placing additional burdens on municipalities.

For example, many of our Nation's wastewater utilities are being forced to install extremely expensive, advanced waste treatment to remove to next increment of pollutants. In addition, EPA has initiated a controversial national rulemaking to establish a potentially far-reaching, burdensome, and costly program to regulate stormwater discharges. This could lead to communities facing the prospect of substantially increased cost for controlling pollutants from stormwater runoff.

Further, EPA has been pressing the States and local governments to adopt a new framework for managing nutrient pollutions. This includes strict numerical nutrient standards, the tough total maximum daily load reduction goals, and stringent nutrient effluent limits for many municipal dischargers. This will force many municipalities to install and operate extremely expensive nutrient treatment and removal technologies at their wastewater treatment plants.

Moreover, many communities face increasingly regulatory burdens under the Safe Drinking Water Act for their public drinking water systems. All these initiatives are adding additional layers of regulatory requirement and economic burdens that our communities are having to somehow deal with. Unfortunately, each of these EPA regulatory programs are being managed in a stovepipe or silo approach, with each program imposing on—its own requirements on communities, without regard to what any of the other programs are doing. And EPA has been exhibiting an attitude with respect to their regulatory requirements that everything is a priority.

Many of the Federal regulatory mandates imposed on communities reflect a one-size-fits-all approach that does not account for individual municipality-specific public health and other needs, and requires the completion of massive capital investments on tight schedules. Many of our communities' construction dollars are not being dedicated to the projects they need in order to protect public health and the environment most cost effectively.

A large portion of these Federal, not to mention State, regulatory mandates are being unfunded by the Federal and State governments. Rather, local governments are being forced to pay for more and more of the cost of these mandates with the result that local communities and rate payers are increasingly getting economically tapped out. Regulators need to realize that their unfunded mandates do not just impact local governments, but hurt the economically struggling citizens of those communities who face increased user rates or taxes they can ill afford.

As a result of many communities becoming financial squeezed, representatives of local government are increasingly voicing concerns over EPA's policies and unfunded mandates, including the cumulative impacts of multiple layers of regulatory requirements being imposed on them and over how EPA is dealing with commu-

nities to address the regulatory mandates that EPA is imposing on them.

It is time for the national clean water strategy to evolve from a one-size-fits-all mandate and enforcement approach to an integrated strategy that recognizes the individual public health needs and water quality benefits of water and wastewater utilities and the resource limitations of communities.

There may be some cause for optimism that the EPA is finally starting to hear municipalities' concerns. I am very pleased to hear that the EPA has announced that it plans to create a new integrated regulatory planning and permitting approach to help EPA regional offices and States and local governments in integrating and prioritizing Clean Water Act regulatory requirements. Of course, it remains to be seen how EPA's proposed initiative will turn out. I guess the devil is always in the details.

I have been hearing some mixed signals coming out of EPA. There are some indications that the EPA may not be willing to limit its enforcement against municipalities. I am concerned that a continued emphasis on enforcement approach, including consent decrees, will undermine the flexibility that the EPA is ostensibly seeking to provide.

On the other hand, there seems to be some willingness on the part of the Agency to make this a planning and permitting approach that would largely take this out of the enforcement action realm.

I want to hear from our EPA witnesses specifically which approach it is going to be. And I want to hear from EPA and other witnesses what statutory or other impediments, if any, stand in the way of making this an effective initiative for both communities and the regulators.

Hopefully, this initiative will truly give our communities the flexibility they need to prioritize the water quality requirements, and address the huge unfunded costs associated with the growing number of mandates stemming from EPA water rules and enforcement actions.

At this time I yield to my ranking member, the Honorable Tim Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman, and thank you very much for holding this hearing.

One of the basic tenets of the Clean Water Act is to prevent the discharge of raw sewage and pollutants into the Nation's waters. Despite the significant progress that has been made on this effort since 1972, many cities and communities are facing the need to make large wastewater infrastructure investments to address ongoing Clean Water Act violations, or to address aging wastewater infrastructure repairs and replacements. In light of the current fiscal crisis, communities are looking to Congress and to the Environmental Protection Agency for assistance.

First and foremost, communities are looking to Congress to renew the Federal commitment towards investment in wastewater infrastructure, as could be accomplished through the enactment of the bipartisan bill H.R. 3145, the Water Quality Protection and Job Creation Act of 2011, which I will speak about a bit more in a few moments.

Second, communities are looking to EPA for flexibility to continue progress towards improving the Nation's waterways, while focusing investment on addressing the most pressing health and welfare issues, first. As we will hear today, EPA has proposed to draft an integrated planning framework that has the potential to dramatically improve water quality over time, as well as promote the use of integrated, sustainable, and cost-effective approaches to solving decades-old waste and stormwater issues.

I am encouraged by the seriousness of this effort from all parties, and look forward to providing any assistance necessary in moving this issue forward. The reality, however, is that we would be less in need of integrated planning and flexibility if we had adequate investment in wastewater infrastructure.

Communities across the Nation want to do the right thing in making the necessary improvements to their wastewater infrastructure, and to address ongoing water quality concerns, such as combined sewer overflows and other wet weather issues. However, these efforts cost money. And in the ongoing fiscal situation, money can be a very difficult thing to come by. This lack of available resources has prompted communities to seek additional flexibility from the EPA to address these concerns.

To some extent, Congress is partially to blame for the lack of sufficient wastewater infrastructure funding. For one reason or another, Congress has failed to reauthorize appropriations for the Clean Water State Revolving Fund for the past 24 years, over two decades. This has not been for lack of trying. Over the past few Congresses under both Republican and Democratic leadership, this committee has developed legislation to increase the level of funding to address ongoing water quality needs.

Mr. Chairman, the American economy also needs jobs. And this Congress has a responsibility to support programs that create jobs. That is what spending on wastewater infrastructure systems will do. And it will, plain and simple, create jobs. For every \$1 billion we spend on wastewater infrastructure, we can create approximately 28,000 jobs in communities across America, while improving our public health and the environment. It is a win-win proposition.

The importance of investment in wastewater infrastructure is clear, and the need is great. In the 2008 clean water needs survey, States documented almost \$300 billion in wastewater treatment, pipe replacement and repair, and stormwater management projects that need to be filled over the next 20 years. In 2010, Congress appropriated \$2.1 billion for wastewater infrastructure projects through the clean water SRF. However, this number was reduced to \$690 million in 2011, and could go even lower in the current fiscal year. This is a far cry from the \$15 billion a year we would need to spend to address the needs identified by the States to modernize and repair our aging systems.

In October I joined with my colleagues Ranking Member Rahall and Congressmen LaTourette and Petri to introduce the bipartisan Water Quality Protection and Jobs Creation Act of 2011 to partially close this gap. This legislation renews the Federal commitment to addressing our Nation's substantial needs for wastewater infrastructure by investing \$13.8 billion in the State Revolving Funds

over the next 5 years. H.R. 3145 is similar to prior bills reported by this committee, and approved by the House by wide bipartisan margins.

However, the bill also recognizes that significant additional resources beyond the traditional clean water SRF may also be necessary. To that end, H.R. 3145 establishes two complementary new initiatives for the long-term sustainable financing of wastewater infrastructure.

The first is a direct loan and loan guarantee programs based, in part, on the Transportation Infrastructure Finance and Innovation Act, or TIFIA, and the second, a clean water infrastructure trust fund. These funding innovations, when implemented in concert, would leverage billions of additional dollars to meet local wastewater infrastructure needs, create jobs, and protect our public health and environmental quality.

I am pleased that this bipartisan legislation has broad support among groups ranging from local governments, such as the National League of Cities, to contractors and labor, such as the Associated General Contractors of America and the National Construction Alliance, to public works utilities such as the National Association of Clean Water Agencies, to name just a few. I urge you, Mr. Chairman, to hold a hearing on this important bipartisan legislation in the near future.

With respect to the issue at hand, I applaud the professionalism of the dedicated staff at the Environmental Protection Agency for hearing the concerns expressed by local communities, and for working with States and local governments, as well as utilities and environmental groups seeking flexibility in addressing ongoing water quality programs in a systematic manner. I look forward to hearing more about their efforts today.

And, Mr. Chairman, I thank you. I look forward to this hearing, and any comments that any may have on our desire to move our wastewater infrastructure bill in this Congress. Thank you very much. I yield back.

Mr. GIBBS. Mr. Cravaack, you have a statement?

Mr. CRAVAACK. Thank you, Chairman Gibbs and Ranking Member Bishop, for holding this important hearing on integrating the EPA's planning and permitting process. These improvements would offer communities the opportunity to make smarter investments in their wastewater infrastructure.

I would like to welcome today's witnesses, and I look forward to hearing your testimony about the management of our country's vital water resources.

I understand that while a tremendous investment to build and maintain—a properly planned and maintained water infrastructure and resources provide tremendous value to the communities they serve. In these tough economic times, it is irresponsible for the EPA to enforce a one-size-fits-all approach to enforcing standards.

Every municipality is different, with its own needs and priorities. The EPA should keep in mind the unique situation and needs of local communities before committing to action. For ideal water resource management and infrastructure, it is important to discourage the EPA from enforcing regulations without local interaction. The Agency should be working with municipalities to determine

and implement projects that best meet the needs of an affected community.

I look forward to hearing from you and our witnesses and their thoughts on what steps that are needed to create a different relationship between the municipalities and the EPA. Thank you again, Mr. Chairman, and I look forward to hearing our witnesses' testimony. I yield back.

Mr. GIBBS. Mrs. Napolitano, proceed.

Mrs. NAPOLITANO. Thank you, Mr. Chairman. And thank you, Ranking Member Bishop, for holding this hearing.

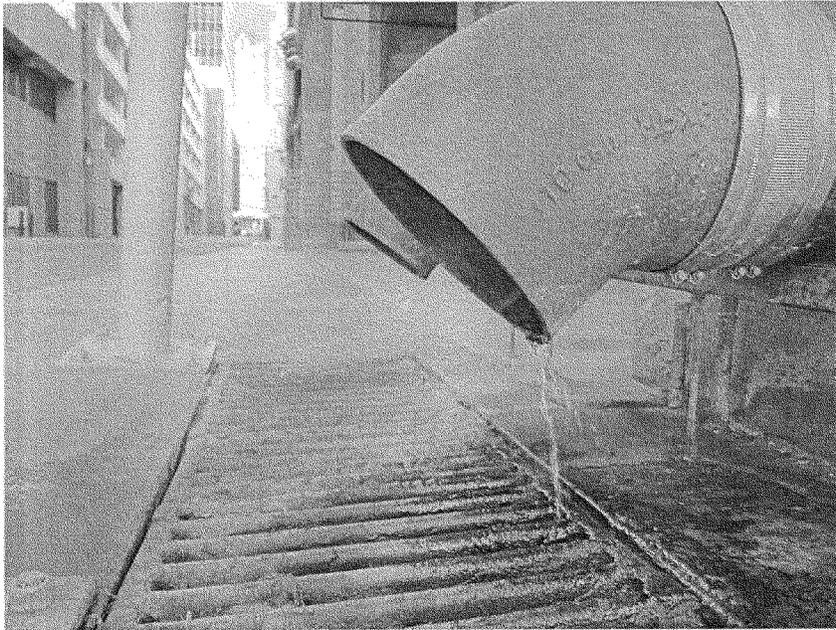
Coming from local government, I have dealt with this issue on a firsthand basis. So, clearly, investing in the clean water infrastructure does create jobs.

And Mr. Chairman, I ask unanimous consent to submit for the record a recent report by the Economic Roundtable in Los Angeles, California, titled "Water Use Efficiency and Jobs." This can be found on the Web site www.economicrt.org, entitled "Water Use Efficiency and Jobs," produced by the Economic Roundtable. This is a joint effort by cities, wastewater treatment plants, engineers. Everybody got together in California.

Mr. GIBBS. So ordered.

[The executive summary of the report entitled, "Water Use Efficiency and Jobs" follows. The complete report can be downloaded from the Economic Roundtable's Web site at: http://www.economicrt.org/summaries/Water_Use_Efficiency_and_Jobs_Study.html.]

Water Use Efficiency and Jobs



Water Use Efficiency and Jobs

2011

Patrick Burns and Daniel Flaming

**Underwritten by the Community Development Department and Workforce Investment Board, City of Los Angeles
Piping Industry Progress and Education Fund,
International Association of Plumbing and Mechanical Officials,
National Inspection, Testing, Certification Corporation**

ECONOMIC ROUNDTABLE
A Nonprofit, Public Policy Research Organization
315 West Ninth Street, Suite 1209, Los Angeles, California 90015
www.economicrt.org

This report has been prepared by the Economic Roundtable study team, which assumes all responsibility for its contents. Data, interpretations and conclusions contained in this report are not necessarily those of any other organization that supported or assisted this project.

This report can be downloaded from the Economic Roundtable web site:
www.economicrt.org

Acknowledgements

We are grateful for assistance, data, ideas, information, and critical suggestions that have been generously provided by the following individuals:

Project Funders

Community Development Department and Workforce Investment Board, City of Los Angeles
Piping Industry Progress and Education Fund
International Association of Plumbing and Mechanical Officials
National Inspection, Testing, Certification Corporation

Project Advisory Group

Paula Daniels
Senior Advisor on Food Policy, Special Projects in Water,
Office of Mayor Antonio Villaraigosa, City of Los Angeles

Mark Hanna, Associate, GeoSyntec Consultants, formerly of LADWP	Caryn Mandelbaum, Freshwater Program Director, Environment Now	Nancy Steele, Executive Director, Council for Watershed Health
Steve Bilson, Founder and Chief Executive Officer, ReWater	Cecilia V. Estolano, Estolano LeSar Perez Advisors	Shelley Luce, Executive Director, Santa Monica Bay Restoration Foundation

Data Providers

Ding Lee, Bureau of Engineering, City of Los Angeles	Paula Daniels, Office of the Mayor of Los Angeles
Edith de Guzman, TreePeople	Penny Falcon, Water Conservation, LA City Department of Water and Power
Gil Crozes, Carollo Construction Engineers	Rosa Castro, Metropolitan Water District
Ken Deck, Rowland Water District	Shelley Luce, Santa Monica Bay Restoration Foundation
Leighanne Kirk, West Basin Municipal Water District	Sharon Green, Sanitation Districts of Los Angeles County
Marcus Castain, Generation Water	Steve Bilson, ReWater
Mark Hanna, GeoSyntec	Wendy Young, Department of Water and Power, City of Los Angeles
Michael Drennan, Weston Solutions	
Nancy Steele and Edward Belden, Council for Watershed Health	

Feedback Contribution and Planning Meeting Attendees

Amir Tabakh, Department of Water and Power, City of Los Angeles
Angela Rashid, UCLA Urban Planning student, Green for All intern
Annabelle Garcia, Customer Service Division, Department of Water and Power, City of Los Angeles
Beth Jines, Mayor's Office, City of Los Angeles
Bill Luddy, Legal and Political Director, SW Regional Council, United Brotherhood of Carpenters
Blanche Burke, Community Development Department, City of Los Angeles
Celeste Cantu, Santa Ana Watershed Protection Authority

Claire Robinson, Amigos de los Rios
 Edward Belden, formerly of the Los Angeles & San Gabriel Rivers Watershed Council
 Elizabeth Willis, Mayor's Office, City of Los Angeles
 Frank Pasker, Architect, Dvoretzky Bardovi Bunnell Architects
 Gregory Irish, Workforce Investment Board; Community Development Department, City of Los Angeles:
 Heather Cooley, Pacific Institute
 James Maughan, Asst. Deputy Director, Div. of Fin. Assistance, State Water Resources Control Board
 Jim Kemper, Department of Water and Power, City of Los Angeles
 Jonathan Parfrey, Commissioner, Department of Water and Power, City of Los Angeles, Green LA Coalition
 Kelli Bernard, Department of Water and Power, City of Los Angeles
 Larry Frank, Deputy Mayor, City of Los Angeles
 Larry McKenney, RBF Consulting / Moulton Niguel Water District
 Laurie Kaye Nijaki, Provost Fellow, University of Southern California
 Leneyde Chavez, Carollo Engineers, Inc.
 Lenise Marrero, Wastewater Division, Bureau of Sanitation, Department of Public Works, City of Los Angeles
 Margarita Gamero, Piping Industry Progress and Education Trust Fund
 Mark Gold, Health the Bay
 Mark Horne, EIP Associates
 Mark Norton, Santa Ana Watershed Protection Authority
 Martha Davis, Policy Development, Inland Empire Utilities Agency
 Mia Lehrer, Mia Leherer + Associates
 Michael Brown, Bureau of Engineering, Department of Public Works, City of Los Angeles
 Michael Gagan, Rose & Kindel
 Michael Prlich, MPS Construction Inc.
 Michael Scaduto, Bureau of Sanitation, Department of Public Works, City of Los Angeles
 Michael Winters, Water Solutions for Life, MW Environmental Technology
 Mike Antos, Council for Watershed Health
 Mike Massey, Piping Industry Progress & Education Trust Fund; Nat'l Inspection, Testing, Certification Corp.
 Miu-Ying Tam, Bureau of Engineering, Department of Public Works, City of Los Angeles
 Pamela Berstler, G3, The Green Gardens Group
 Paul Herzog, Ocean Friendly Gardens Program Coordinator, Surfrider Foundation
 Paul Liu, Department of Water and Power, City of Los Angeles
 Rob Katherman, Water Replenishment District of Southern California
 Robert Bernal, Community Development Department, City of Los Angeles
 Robert Denver Smith, Painters and Allied Trades Local 36
 Robert Sainz, Community Development Department, City of Los Angeles
 Ron Maben, PSOMAS - Planning and Entitlements
 Russ Chaney, International Association of Plumbing and Mechanical Officials
 Russell Horning, Assistant Project Manager, Abode Communities
 Shahram Kharaghani, Stormwater, Bureau of Sanitation, Department of Public Works, City of Los Angeles
 Shelley Larson, California Stormwater Quality Association (CASQA)
 Stella Catanzarite, Harbor Region, Community Development Department, City of Los Angeles
 Steve Lehtonen, Internat'l Assoc. of Plumbing & Mechanical Officials
 Susan Lien Longville, Water Resources Institute, California State University San Bernardino
 Suzanne Dallman, Department of Geography, California State University Long Beach
 Tom Polansky, Director of Facilities Management, Abode Communities
 Tori Kjer, Project Manager - Parks for People, The Trust for Public Land
 Traci Minamide, Bureau of Sanitation, Department of Public Works, City of Los Angeles
 Wilson Fong, Department of Public works, Los Angele County

About this Study

This report grew out of conversations in late 2009 between Paula Daniels, then serving as a Commissioner on the City of Los Angeles Board of Public Works, and Dan Fleming, President of the Economic Roundtable about the need for an *economic* analysis of an emerging growth sector: Water Use Efficiency. This phrase refers to the suite of activities that make our water use more efficient, including recycled water use, stormwater capture and reuse (also known as rainwater harvesting), groundwater clean-up and remediation, and water conservation measures, including graywater systems.

Paula and Dan shared their idea with prospective funders, who pooled scarce resources to make this research project possible. These funders – the City of Los Angeles’ Community Development Department and Workforce Investment Board, the Piping Industry Progress and Education Fund, the International Association of Plumbing and Mechanical Officials, and the National Inspection, Testing, Certification Corporation – patiently supported this project’s data gathering process, data analysis and report writing, while also allowing us to carry out the research independently.

Initial work on this study required a change in approach due to limited data availability about individual companies that make up Los Angeles’ water sector, and instead focused on data that was available: detailed project budgets of local water efficiency investments. These data on various ‘water projects’ became a central focus of the study, allowing us to calculate the economic and job impacts of five categories of water use efficiency investments: *Stormwater, Recycled Water, Groundwater / Remediation, Water Conservation and Graywater Systems*.

An advisory group of Los Angeles area water advocates stepped forth to share their knowledge about building an infrastructure for water use efficiency. (See names in the preceding *Acknowledgements* page.) Their collective spirit, support, and belief in the changes needed to make Los Angeles’ water resource use sustainable made this project possible.

While the study was in progress, the advisory group introduced the Economic Roundtable to staff of several public water agencies, as well as non-profit, labor and business leaders, in order to obtain budget data on local water projects. This outreach was invaluable for extending relationships of trust that allowed us access to water projects budget data, broadening and improving the analysis we then undertook.

This project’s funders, advisory groups and other stakeholders generously shared their time to answer questions, read and provide feedback on draft versions of the report, schedule presentations for us to share the study’s findings and highlights, and otherwise urging us on to completion. For these contribution and more, the Economic Roundtable staff is sincerely grateful to all who generously gave of their time, professional expertise and personal passion to support this study project.

Contents

Executive Summary	1
Introduction.....	1
Los Angeles’s Water Sector.....	2
Jobs and Occupations in Los Angeles’ Water Sector	2
Impacts of Recent Water Use Efficiency Projects in Los Angeles.....	3
Policy Recommendations.....	6
1 Los Angeles’ Water Supply and Users	7
Overview.....	7
Water Sources, Drought and Conservation.....	7
Water Consumption	9
Commercial Water Consumption	10
2 Identifying Industries that Make up the Los Angeles Water Sector.....	13
Introduction	13
First Tier of the Water Sector	14
Second Tier of the Water Sector.....	14
3 Industry Analysis	17
Introduction: Characteristics, Growth and Decline Trends since 1996	17
Total Sales Generated	22
Ownership Type.....	24
Location Quotient	26
4 Jobs and Occupations in the Water Sector.....	29
Introduction.....	29
Key Occupations in Los Angeles’ Water Sector	29
Occupational Clusters and Potential Career Ladders.....	33
Building and Grounds / Forest and Conservation Workers	33
Construction Workers	35
Maintenance and Repair Workers.....	39
Architecture and Engineering Workers	39
Conclusion: Occupational Clusters.....	42
5 Case Studies of Water Use Efficiency Projects in Los Angeles.....	43
Introduction: The Use of Water Efficiency Projects Data	43
Methodology for Estimating Local Economic and Job Impacts.....	43
5.1 Stormwater Projects	46
Direct Impacts.....	46
Indirect Impacts	47

Induced Impacts	49
Top Occupations Impacted	50
Impacts per \$1 Million Spent	51
Geography of Impacts	52
Impacts of Ongoing Operations and Maintenance	52
Case Study: <i>Generation Water</i> - Rain Gardens	53
5.2 Recycled Water Projects	55
Direct Impacts	55
Geography of Impacts	56
Indirect Impacts	56
Induced Impacts	58
Top Occupations Impacted	59
Impacts per \$1 Million Spent	60
Impacts of Ongoing Operations and Maintenance	61
5.3 Groundwater Management / Remediation Projects	63
Direct Impacts	63
Indirect Impacts	64
Induced Impacts	66
Top Occupations Impacted	66
Impacts per \$1 Million Spent	67
Impacts of Ongoing Operations and Maintenance	68
5.4 Water Conservation Projects	69
Direct Impacts	69
Indirect Impacts	70
Induced Impacts	72
Top Occupations Impacted	73
Impacts per \$1 Million Spent	74
Impacts of Ongoing Operations and Maintenance	75
Case Study: <i>Generation Water</i> – Audits and Retrofits	75
Water Efficiency Audits and Irrigation System Surveys	76
Irrigation System Retrofit Services	79
Future Opportunity for Generation Water	80
5.5 Graywater Systems Installation Projects	83
Installation of Graywater Systems in Residential Dwelling Units	83
Economic Impacts of Installing Graywater Systems in Residential Dwelling Units	84
Direct Impacts	84
Indirect Impacts	85
Induced Impacts	87
Top Occupations Impacted	88
Impacts per \$1 Million Spent	89

Impacts of Ongoing Operations and Maintenance.....90

5.6 Location of Water Use Efficiency Investments Construction and Impacts91

 Impacts of Local versus Statewide Investments92

6 Policy Recommendations.....95

 Recommendations.....95

Appendices

 Appendix A: Definitions of Industry Sectors in the Water Sector99

 Appendix B: Definitions of O*NET Skills for Occupations104

 Appendix C: Water Use Efficiency Projects Contributors List.....107

 Appendix D: Graywater Systems for Residential Dwelling Units116

End Notes.....119

Executive Summary

WATER USE EFFICIENCY AND JOBS

Introduction

At the peak of California's most recent drought in 2009, the Los Angeles economy was in severe recession, with unemployment above 12 percent.¹ These twin crises identified a policy opportunity to tackle both challenges together. Public investments in water use efficiency provide economic and job benefits alongside the environmental benefits from using less water. This report quantifies the economic and job benefits that result from investments in water use efficiency in Los Angeles.

Los Angeles is a major net importer of water and relies on sources several hundred miles away in Northern California and Colorado for two-thirds of its supply. The ecosystems of these source regions are significantly impacted by decades of diverting water for agricultural, industrial and municipal use. Combined with the periodic droughts afflicting the Southwest U.S., these circumstances put Los Angeles under increasing pressure to reduce reliance on imported water by using what we have more efficiently.

Significant investments by public agencies that build on previous efforts are required to achieve needed gains in water use efficiency. These investments take the form of stormwater capture and treatment infrastructure, groundwater treatment equipment and recharge systems, graywater systems for homes, sub-metering multi-family housing, water de-salting facilities, indoor appliance/fixture retrofit campaigns, ecosystem restoration, and irrigation system evaluation and repair.²

As dollars are spent on specialized civil engineering and construction services, the multiplier effects ripple through the local economy benefiting a wide range of employers that provide supplies and support for water use efficiency. Water use efficiency investments and their subsequent multiplier effects are quantifiable, enabling us to estimate the amount of business sales stimulated, numbers of jobs supported, top occupations hired, and average wages paid. Using this information, we identify clusters of jobs that offer career ladders to hopeful workers, industry trends of growth and decline, and opportunities for local business expansion.

We present this information in two ways. First we analyze Los Angeles' water sector – the establishments³ that provide goods and services that directly build and maintain municipal

Water Use Efficiency refers to the suite of activities that make our use of water more efficient, including using recycled water, capturing and reusing stormwater (also known as rainwater harvesting), cleaning-up and remediating groundwater, and conserving water, including graywater.

2 Water Use Efficiency and Jobs

water infrastructure, manufacture specialized water systems equipment, provide engineering consulting services, and provide support services for these direct providers. Second, we analyze over 50 recent water use efficiency *projects* in the Los Angeles region, detailing their supplier networks and multiplier effects.

Los Angeles' Water Sector

Los Angeles' emerging water sector establishments do not have a separate industry code that would enable researchers and public agencies to quickly identify how many establishments are located here, how many people they employ, or other characteristics. To fill this gap, this study identifies six "*first tier*" industries that *capture* the businesses that build, operate and maintain our region's water and sewage system infrastructure, manufacture water systems equipment, and engineer improvements in water use efficiency. Within the first tier, the local *Water Systems Operations* and *Sewage Treatment* industries employ just over 7,500 workers countywide, adding about 38 employees per year since 1996. *Manufacturing* industries in the water sector are smaller and have declined since 1996. Average annual salaries of workers in these first tier industries range from \$49,000 to \$84,000. The annual direct sales (output) of establishments in Los Angeles' first tier water sector industries amount to \$2.7 billion. Los Angeles shows competitive strength in the *Water Supply and Irrigation Systems* and *Sewage Treatment Facility* industries with a high share of its labor force employed in these industries compared to the nation as a whole.

Second tier industries indirectly support Los Angeles' water sector by supplying goods and services to municipal water utilities as well as water and wastewater industries.⁴ Second tier industries have total employment of over 150,000 workers in Los Angeles County, with estimated annual direct sales (output) of \$32.5 billion. The largest industries in this set include: professional services (*Engineering Services, Physical Sciences Research and Development, and Guidance Instrument Manufacturing*) that employ 64,258 workers countywide, and blue collar services (*Electrical Contractors, Plumbing, Piping, and Heating-Ventilation-Air-Conditioning (HVAC) Contractors, and Landscaping Services*) that employ 43,220 workers countywide. The professional services industries pay an average salary exceeding \$100,000 per year, while the blue-collar services pay wages that typically are less than \$50,000 per year.

Jobs and Occupations in Los Angeles' Water Sector

Fourteen occupations in the Los Angeles economy are strongly involved with water use efficiency efforts. The jobs range from building and operating water infrastructure to researching and managing urban landscapes. They provide an estimated 34,350 jobs in Los Angeles County, or approximately one percent of the county's total employed workforce. Their mean wages vary from \$13.65 to \$47.80 per hour, or \$28,390 to \$99,430 annually. While some of these occupations are already common in the local economy, Los Angeles is under-represented in several of them compared with the nation's workforce. Relative underemployment indicates an opportunity for job growth, especially if we maintain or increase local investments in water use efficiency.

Four occupational clusters with potential career ladders for aspiring workers are identified for local workforce development agencies to utilize (Table A). These occupational clusters each currently employ 10,000 or more workers in Los Angeles County, across a total of 34 detailed occupations. Each cluster's career ladder starts with entry-level occupations with relatively low education, related work and skill level requirements on the bottom rung, and progresses to higher wage occupations on the top rung. One professional cluster, *Architecture and Engineering Workers*, employs workers who pursue university-level education that enables them to plan Los Angeles' water use efficiency future.

Table A
Occupational Clusters with Potential Career Ladders in Los Angeles' Water Efficiency Sector

Occupational Clusters	Number of Occupations	Current Employment	Mean Hourly Wage
Building & Grounds/Forest & Conservation Workers	6	23,590 Jobs	\$14.49 / hr.
Construction Workers	16	71,220 Jobs	\$24.89 / hr.
Maintenance and Repair Workers	6	12,480 Jobs	\$22.26 / hr.
Architecture and Engineering Workers	6	10,020 Jobs	\$40.64 / hr.

Source: Economic Roundtable analysis, U.S. Bureau of Labor Statistics. 2011. *Occupational Employment and Wages, May 2010*. Washington, D.C. O*NET, U.S. Department of Labor, Employment and Training Administration. 2011. O*NET Version 15.0
Databases: Education, Training & Experience and Skills Tables.

Impacts of Recent Water Use Efficiency Projects in Los Angeles

We studied over \$1.2 billion of investments in recent water use efficiency projects in the Los Angeles area, including a sample of 53 recent local *Stormwater, Water Conservation, Graywater, Groundwater Management / Remediation* and *Recycled Water* projects, to find how they affect the local economy. This cumulative *direct* investment stimulated an additional:

- \$534 million in *indirect* sales – The “upstream” demand stimulated for materials and services used in the projects.
- \$718 million in *induced* sales – The “downstream” demand stimulated by household spending of workers involved directly and indirectly in water conservation projects.
- \$2.4 billion in *total* sales – Sum of the direct, indirect and induced sales stimulated by investments in these water use efficiency projects.

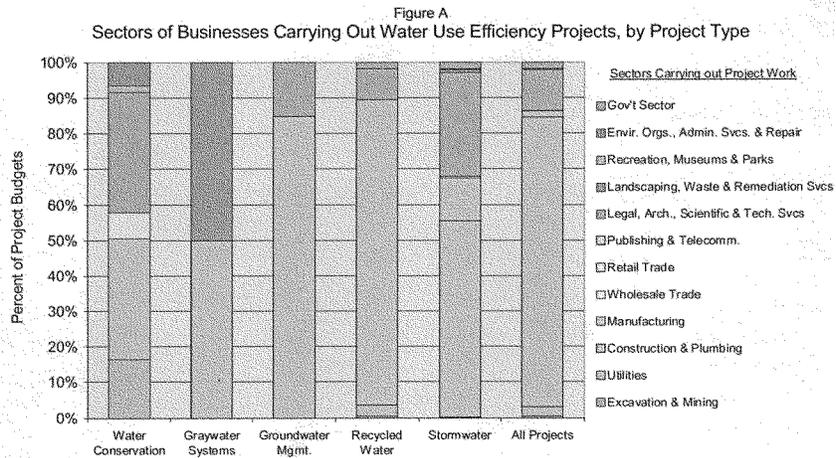
These 53 projects provided an estimated 8,654 *direct* person-years of employment⁵ in Los Angeles. Those investments stimulated an additional:

- 3,016 *indirect* person-years of employment – Jobs added in “upstream” employers supplying goods and services to establishments directly carrying out the 53 projects.
- 4,909 *induced* person-years of employment – Jobs added “downstream” in the local economy through induced spending by worker households.
- 16,579 *total* person-years of employment – Sum of the direct, indirect and induced employment stimulated by investments in these water use efficiency projects.

4 Water Use Efficiency and Jobs

These *indirect* and *induced* impacts are the economic ‘ripple effects’ that result when demand for goods and services in one set of industries carrying out local water use efficiency projects in turn generates demand for more goods and services in related local industries.

Establishments directly involved in Los Angeles’ water use efficiency projects are found in a variety of industry sectors: construction, utilities, manufacturing, wholesale trade, professional services (including engineering, architectural, scientific, legal and technical services), environmental organizations, and local government agencies (Figure A).⁶ The mix of industries involved in each type of water use efficiency project type differs, with most projects dominated by construction and professional services, except for water conservation programs that draw upon a variety of non-construction industries.



Source: See Water use Efficiency Projects Contributors List in Appendix C of the full report. Chart data appear in end notes.

An investment of one-million dollars in these five types of water use efficiency projects creates 12.6 to 16.6 jobs in Los Angeles’ economy, and stimulates \$1.91 to 2.09 million in total sales (Table B and C). Mean annual wages for these jobs range from \$33,286 to \$52,828. Water conservation projects have particularly high multiplier effects for local manufacturing, professional services, utilities and wholesaling establishments, along with local environmental organizations, recreation sites, museums and parks.

In comparison, Los Angeles' water use efficiency projects stimulate more jobs per \$1 million invested than the *Motion Picture and Video Production* (8.35 person-years of employment) and *Housing Construction* (11.3) industries, but less than the *Grocery Stores* (18.5) and *Cut and Sew Apparel Contractors* (24.5) industries. Los Angeles' water use efficiency projects stimulate similar numbers of jobs as the *Commercial Construction* (13.6) and the *Utility System Construction* (13.7) industries (Table C). These differences in local job multiplier effects can be attributed to several factors that vary by industry, including the portion of direct investment that "leaks" out of the local economy to non-local suppliers of goods and services,

Table B
Economic Impacts of Water Use Efficiency Projects in Los Angeles, per Million Dollars Invested

Project Type	Direct Sales (Investment)	Indirect Sales Stimulated	Induced Sales Stimulated	Total Sales Stimulated	Mean Annual Wages
Water Conservation	\$1,000,000	\$429,705	\$665,193	\$2,094,898	\$37,558
Graywater Systems	\$1,000,000	\$457,068	\$453,894	\$1,910,962	\$33,286
Stormwater	\$1,000,000	\$408,934	\$583,740	\$1,992,674	\$52,828
Groundwater	\$1,000,000	\$407,550	\$558,349	\$1,965,899	\$50,001
Recycled Water	\$1,000,000	\$411,548	\$544,608	\$1,956,156	\$49,092

Table C
Job Impacts of Water Use Efficiency Projects, with Comparison to Energy Efficiency Retrofits and Traditional Industries in Los Angeles, per Million Dollars Invested

Project Type	Direct Jobs Stimulated	Indirect Jobs Stimulated	Induced Jobs Stimulated	Total Jobs Stimulated	Average Wages
Water Conservation	9.1	3.0	4.5	16.6	\$37,558
Graywater Systems	9.4	2.4	3.1	14.9	\$33,286
Stormwater	6.6	2.4	4.0	13.1	\$52,828
Groundwater	6.8	2.3	3.8	12.8	\$50,001
Recycled Water	6.6	2.3	3.7	12.6	\$49,092
Energy Efficiency Retrofits ^a	5.7	4.1	3.9	13.6	-
Cut and sew apparel contractors*	17.8	2.2	4.5	24.5	\$29,534
Grocery Stores*	13.7	1.1	3.7	18.5	\$31,382
Utility Systems Construction*	7.4	2.4	4.0	13.7	\$75,305
Commercial Construction*	7.7	1.9	3.9	13.6	\$29,551
Housing Construction*	5.2	3.0	3.2	11.3	\$81,606
Motion Picture & Video Production*	3.0	2.3	3.0	8.3	\$141,254

Sources: Economic Roundtable analysis, Minnesota IMPLAN Group, Inc., IMPLAN System 2009 data and 2011 software, California Employment Development Department & Employment Projections Program, U.S. Department of Labor, U.S. Bureau of Labor Statistics, 2010. Los Angeles County Industry-Occupation Matrix 2008/2009.

Notes: See Water Efficiency Projects Contributors List in Appendix C for individual project descriptions and budgets. Sales supported per million dollars invested are derived from five water use efficiency case studies of over 50 local projects. "Employment" is person-years of employment supported, which includes full-time and part-time jobs, all derived from industry-specific estimates.

^a Energy Efficiency Retrofits data are drawn from the national report, "A New Retrofit Industry: An analysis of the job creation potential of tax incentives for energy efficiency in commercial buildings and other components of the Better Buildings Initiative" by Lane Burt (U.S. Green Building Council), Duane Desiderio (Real Estate Roundtable), Debbie Zeidenberg (Political Economy Research Institute) and Meg Waltner (Natural Resources Defense Council), June 2011.

*Multipliers for local industries in Los Angeles County are drawn from IMPLAN System 2009 data and 2011 software; average wages are from U.S. Bureau of Labor Statistics.

6 Water Use Efficiency and Jobs

wage rates paid to workers, and the shares of revenue that go to capital equipment, labor, rent, savings and profit. Overall, the local impacts of investments in water use efficiency stimulate significant numbers of jobs with average annual wages of \$33,286 to \$49,092.

Policy Recommendations

In order to realize the economic and employment boost that comes with local water use efficiency investments, public policy makers and stakeholders in the business and non-profit sectors can take the following actions to support future investments in water use efficiency:

1. *Funding*: Support and budget for comprehensive watershed management planning and projects, including ongoing residential and commercial water conservation campaigns in local communities, as well as support for state bond measures earmarked for local projects.
2. *Existing Businesses*: Provide targeted support to help local businesses grow and build competitive strength in water conservation, recharge, and reuse services and technologies.
3. *New Business*: Extend this support to recruiting new water sector businesses to Los Angeles by highlighting the region's large market for water conservation, recharge, and reuse services and technologies.
4. *Workforce Development*: Invest in targeted workforce training in community colleges and establish uniform certification programs for emerging water occupations. Develop apprenticeships for young adults, specialized job opening lists, and employer forums in the water use efficiency field to identify essential skills for key occupations and plan training curricula.
5. *Research*: Investigate growth needs of water sector businesses through survey outreach. Collect and disseminate information about new categories of water use efficiency investments, water sector businesses, occupations, and career ladders in the City of Los Angeles. Track the impacts of water use efficiency policies and campaigns on local water consumption rates.
6. *Community Partnership*: Involve local community stakeholders in job outreach to link local residents with new jobs, including water conservation, environmental advocates and green jobs networks.
7. *Keep Investments Local*: Prioritize *distributed* investments in diverse water use efficiency projects over concentrated investment in a few massive projects. *Local* investments not only produce large multiplier effects where water users live and work, but also support better stewardship of this precious resource by residential and commercial water consumers. Also, local investments return taxpayer dollars to the areas where they are generated.

These policy actions will stimulate new sales and employment in the local economy, quantified in detail in the following report.

Mrs. NAPOLITANO. Thank you, sir. This report highlights the following. One million dollars invested in water jobs—water projects creates 12 to 16 jobs in our area. The industry creates more jobs in southern California than the two leading industries in southern California—that is entertainment and housing. There is under-employment in the water industry, which indicates there is an opportunity for job growth.

The availability of health and sufficient water resources is drastically declining. Droughts have plagued the southeast and southwest regions of the country. The Colorado River and Missouri River basins are overused and sometimes abused. Climate change is diminishing our water resources. Mother Nature just hands it out to us.

And contamination is affecting our water supply. I can tell you in southern California they closed the beaches. We have such a long coastline that this does affect our wastewater treatment plants.

As the ranking member of water and power subcommittee, we have held many hearings on the health of our great rivers and waters and lakes. Our Nation's health depends on downstream water sources to be clean enough for irrigation and drinking water, and could lead to many increases in diseases and illnesses. We don't yet know the—where it comes from.

We must invest in improving our wastewater treatment, because it will directly support a clean water supply.

I do strongly support 3145, the Water Quality Protection and Job Creation Act of 2011, and congratulate Ranking Members Bishop and Rahall for introducing it. It provides \$13.8 billion in Clean Water State Revolving Funds over 5 years. Fund is desperately needed to address the wastewater treatment challenges facing our country. Many areas cannot afford to do it, including some Native American areas, Native American tribes.

EPA's most recent clean water needs survey found that the States need \$300 billion worth of wastewater system repairs over the next 20 years. It also incentivizes the use of green technologies to reduce energy consumption. Water treatment plants have a capacity for solar, wind, biomethane energy production. And we must assist in those investment opportunities, and also get the private sector to begin to get interested in the investment. Incentivize and assist them in helping our communities.

I can tell you that the sanitation district in Los Angeles has long been using the recovery of biomethane. They used electricity. They now use solar to be able to reconvert it to electricity. It will help solve our water quality challenges.

I think working together, not pointing fingers, but actually congratulating EPA, because if it weren't for them we would have a much sorer state of affairs in our health, and I trust that we will be hearing a lot more on this, and look forward to working cooperatively. Thank you, Mr. Chairman.

Mr. GIBBS. Mr. Duncan, you have an opening statement?

Mr. DUNCAN. Well, thank you very much, Mr. Chairman. This is a very important hearing. And we have made tremendous progress in both clean air and clean water areas over the last 40 years. There are some people and some groups who don't like to admit

that, and who don't like to admit that we have the toughest clean air and clean water laws in the entire world.

But I do realize—I chaired this subcommittee for 6 years—I do realize that there is a lot of work that needs to be done in cities, and especially some in the northeast, where their wastewater and clean water systems are very old.

But we have got to have a little balance and common sense in these areas, and not go ridiculously overboard. And I was concerned when I read the—some of the testimony of Mayor Reardon from the National League of Cities, and he says in the past 3 years the city of Kansas City has had to increase sewer fees by 40 percent to meet the—decree requirements that EPA and DOJ are proposing. Sewer fees would have to increase 400 percent in the next 5 years. Four hundred percent? With all due respect, our citizens simply can't afford more.

And then I noticed the testimony of Mr. Portune from Hamilton County, Ohio. He said the EPA required—or will testify the EPA required total investment is projected to cost over \$3.1 billion in 2006 dollars, and virtually every penny of that comes from our community rate payers. And that is what concerns me.

I have noticed over the years that almost all the environmental radicals come from very wealthy or very upper income families. And perhaps they can pay whopping increases like 400 percent in 5 years. After a 40-percent increase in the past 3 years. And those are in years of 2½- or 3-percent inflation.

We have got to come to our senses on some of this stuff. Not only are we going to really harm a lot of poor and lower income working people, but then some people who say, “Well, let's let the poor people out of it, let's just put these costs on the businesses.” Well, the businesses then have to raise their prices, and that hurts the poor and lower income people.

So—and this same thing has happened in the city of Knoxville. The Knoxville utilities board—the city of Knoxville, where I am from, they spent hundreds of millions of dollars improving all of their wastewater and clean water systems all through the 1990s and early 2000s. Then the EPA came in and with a decree that required a 10-year, \$530 million expenditure on top of all the money that had already been spent. And I can tell you in times of weak economies there is not many cities that can afford the types of requirements that are being expected or demanded.

And so, that is why I think this hearing is so very, very important. And I thank you for calling this hearing.

Mr. GIBBS. Thank you. At this time I want to welcome our first panel. I will introduce our panel.

At my far left, your far right, is Mayor Jim Suttle, city of Omaha. He is testifying on behalf of the U.S. Conference of Mayors. Next to him is Mayor Joe Reardon. He is the mayor and CEO of the Unified Government of Wyandotte County and Kansas City, Kansas. He is testifying on behalf of the National League of Cities. Next to him is Mr. Todd Portune. He is the commissioner of Hamilton County Board of Commissioners—that is Cincinnati area.

Mr. Walt Baker, director of division of water quality, Utah Department of Environmental Quality, testifying on behalf of the Association of Clean Water Administrations. Next to him is Mr.

Carter Strickland, Jr. He is the commissioner, New York City Department of Environmental Protection.

Next to him we have Mr. David Williams, director of wastewater, East Bay Municipal Utility District, testifying on behalf of the National Association of Clean Water Agencies. It doesn't say on my paper, but I know from testimony he is from Oakland, California, right?

Ms. Katherine Baer, senior director of the clean water program, American Rivers. Welcome.

And we will start down at this end with the mayor of the city of Omaha.

TESTIMONY OF HON. JIM SUTTLE, MAYOR, CITY OF OMAHA, TESTIFYING ON BEHALF OF THE U.S. CONFERENCE OF MAYORS; HON. JOE REARDON, MAYOR/CEO, UNIFIED GOVERNMENT OF KANSAS CITY, KANSAS, AND WYANDOTTE COUNTY, TESTIFYING ON BEHALF OF THE NATIONAL LEAGUE OF CITIES; TODD PORTUNE, COMMISSIONER, HAMILTON COUNTY, OHIO, BOARD OF COMMISSIONERS; WALTER L. BAKER, P.E., DIRECTOR, DIVISION OF WATER QUALITY, UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY, TESTIFYING ON BEHALF OF THE ASSOCIATION OF CLEAN WATER ADMINISTRATORS; CARTER H. STRICKLAND, JR., COMMISSIONER, NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION; DAVID WILLIAMS, DIRECTOR OF WASTEWATER, EAST BAY MUNICIPAL UTILITY DISTRICT, TESTIFYING ON BEHALF OF THE NATIONAL ASSOCIATION OF CLEAN WATER AGENCIES; AND KATHERINE BAER, SENIOR DIRECTOR, CLEAN WATER PROGRAM, AMERICAN RIVERS

Mr. SUTTLE. Well, thank you and good morning. My name is Jim Suttle. I am the fiftieth mayor of the city of Omaha. My background is I am a professional engineer. I have served as a public works director, an officer and executive vice president of one of the top 10 largest architecture engineering companies in the Nation. I have also served as a city councilman, city planner, et cetera.

I am testifying on behalf of the U.S. Conference of Mayors, and I have been actively involved in our water council that has been working directly with EPA on the discussions regarding this integrated planning memorandum. I am here today to tell you why the mayors of this Nation are concerned about the rising cost of water and wastewater infrastructure, and what we hope EPA's memo will address.

But the fact is still there, that we need congressional oversight to ensure that this process works, and that this process is modified to fit reality. We need true partnerships with EPA and the Congress to ensure that the plan achieves what the mayors have asked for: a flexible and cost-effective way to achieve clean water goals, but in a reasonable and pragmatic manner.

I want to cover with you five issues. And let's change those to five must-do's that have to be in this modification to the EPA policies.

Aside from the recent exceptions, where EPA has been more flexible, I want to talk about this first issue of affordability. The trend has been in a 4-2-20 model; 4 overflows or less a year, a 2

percent of median household income as a target for local spending on the long-term control plan, and 20 years or less to comply to the schedule of implementation on the timeframe.

This approach locks in local government to overly costly and overly prescriptive and overly restrictive plans. There is no room under this approach for innovation. There is no room under this approach for cost efficiencies. Let me give you an example, in very fundamental terms. A household with 25,000 annual income pays \$1,000 a year for water and sewer bills is thus allocating 4 percent of that income to these needs. If a \$250 increase in the rates raises the household spending to 5 percent, a \$500-a-year increase in the rates raises it to 6 percent.

EPA and the Congress should no longer ignore the regressive financial impacts caused by unfunded Federal mandates on the low- and moderate-income households. In Omaha, in a 10-year period, residential rates for sewers will go from \$7 annual to \$50 annual. Do the math, and look at the logic.

But now let's talk about businesses. Businesses and other organizations are often significant rate payers, because of their large uses of municipal water supplies. For businesses, wastewater is a variable cost of doing business. But history has demonstrated that this industry is footloose, and will leave a community to seek favorable water and sewer rates. I have 11 industries threatening to leave Omaha at the present time. And one of those will see its sewer bills raise over the next 10 years from roughly \$50,000 a year to \$1.8 million a year. If these industries leave, the cost of the burden for the sewer system—still is there—gets reallocated to those that remain.

Second point, in addition to the affordability, I want to leave with you is achieving water quality goals is better accomplished through a permitting process, rather than enforcement via the consent decrees. Every morning mayors and local government officials wake up as criminals, as defined by the EPA's enforcement strategy. It doesn't matter if the mayor was elected 10 years ago or took office yesterday. They are, by definition, criminals under this process, because their wastewater system has sewer overflows that primarily result from a natural act: rain water.

The message via the mass media of our citizens—to our citizens is that mayors are not trustworthy, and that they condone water pollution. I can think of no other Federal administration policy that has done so much damage to the intergovernmental partnership between the Federal and local elected officials than this EPA policy. EPA can accomplish the same water quality goals through a permitting process, and by helping States and local governments develop watershed water quality programs to protect the precious resources that we have.

The third point that we need as a must is green infrastructure and green credits.

The fourth is new technology that must be factored in to all of our future planning and construction and operational costs.

And finally, the fifth point is that we need a grants program so that the partnership is in place 50/50 between the Federal Government and local government, to get the job done.

So, what can Congress do? We need the Congress to provide oversight, and to remember that EPA has this authority because of the way the Clean Water Act was written. We need a paradigm shift. We need to do it together: local, State, and Federal officials exercising practical leadership and working together to determine what our environmental and spending priorities should be. Thank you.

Mr. GIBBS. Thank you.

Mr. Reardon, the floor is yours.

Mr. REARDON. Thank you very much. Good morning, Chairman Gibbs, Ranking Member Bishop, and members of the committee. I am Joe Reardon, mayor and CEO of the Unified Government of Wyandotte County and Kansas City, Kansas. It is a long title. We are a city of about 155,000 people.

We cherish clean water, and we are doing all we can to ensure that clean water is part of the future of our city. We are encouraged by the recent EPA integrated planning memorandum that articulates a more cooperative approach to watershed management. It acknowledges the tough balancing act that cities like ours must make in addressing our water issues, while being sensitive to the economic conditions of our citizens in these tough economic times.

The simple fact is that people in Kansas City, Kansas, are suffering the effects of this recession. It has hurt many of our families. And as mayor, I am obligated to do all I can to make sure the city's resources are used to better their condition. The path is not an easy one, as you all are aware. Our current unemployment stands at 9.8 percent. Our real property values have declined 15 percent since the recession began, putting further strains on our families and our government's resources.

We have a diverse community. More than half of our citizens are minorities. Our per capita income is one of the lowest in the State, at nearly \$29,000 a year. A quarter of our residents are at or below the poverty line. Many live on fixed incomes.

And in the midst of all of that, we have made real commitments to improvements in clean water and our environment. We have increased our sewer rate charges, now by 50 percent in the last 4 years. We are spending \$20 million annually on stormwater and sanitary sewer systems. But as the city in these most challenging of economic times, we are making difficult and critical decisions about investments of the precious tax dollars from our citizens each year.

Our annual budget is currently \$244 million. And as was mentioned, we are currently in consent decree negotiations. And in order to meet the requirements being proposed by the EPA and Department of Justice, sewer fees would have to increase 400 percent in the next 5 years. For a family, this could mean a sewer bill of over \$100 a month. For too many of our citizens, that forces them to make impossible choices.

The cost of meeting the combined sewer overflow mandate would be nearly four times our entire annual municipal budget. And this is in the midst of our city reducing its workforce by nearly 300 persons, freezing salaries, instituting furloughs, and drastically reducing major infrastructure investments to deal with the economic reality we all are facing. Citizens expect and deserve their govern-

ments to work cooperatively to solve problems and reach our national goal of cleaner water.

So, today I come before you to say that the EPA's most recent memo is a step in the right direction. Now this memo must become a reality at the local level. Because the fact is my city and cities like mine need a Federal Government that is acting more like a partner and less like an adversary, moving away from lawsuits and consent decrees and towards real solutions. We need a consistent source of funding. In fact, we need a new perspective on funding.

The reality is that the benefits of clean water literally flow to everyone. But the costs associated with addressing the issue are borne by just a few and, in many cases, poorer communities. We need a process that allows us to prioritize our investments in clean water in a way that will maximize water quality benefits and public health and safety conditions. We need a regulatory environment that specifies performance objectives, rather than the behavior or manner of compliance, preserving the important role that local governments have in deciding how to move their communities forward.

We want an approach that looks at the entire watershed in an integrated way, assessing costs and approving solutions that are not redundant and inefficient. The EPA's memo is a good step in opening up those possibilities. The devil, however—and this was mentioned—is always in the details. And it will be the framework that is being prepared that provides the detail.

I ask the EPA and you to consider a framework that honestly looks at the real situation cities face on the ground. Given that we are currently in consent decree negotiations, I offer up my city for a pilot study with the Federal Government to develop and implement a different approach, an approach in which the city and Federal Government work together as partners, not adversaries.

Let's create a new approach of cooperation and partnership with a goal of developing a solution that is cost-effective and affordable, instead of a system and a process based on adversarial and unfunded mandates that citizens that you and I represent cannot afford.

Let's explore more diversified and alternative funding mechanisms than simply looking down at cities and our citizens to shoulder the entire cost burden.

Thank you very much, Mr. Chair, for giving me an opportunity to testify today.

Mr. GIBBS. Thank you.

Mr. Portune, the floor is yours. Welcome.

Mr. PORTUNE. Thank you, Mr. Chairman. Good afternoon, Chairman Gibbs, Ranking Member Bishop, members of the subcommittee. My name is Todd Portune, and I serve as county commissioner for Hamilton County, Ohio. The city of Cincinnati is our county seat.

I am here today testifying not only on behalf of my constituents, but also on behalf of the Perfect Storm Communities Coalition. The coalition is made up of communities dealing with the perfect storm of high unemployment, high home foreclosure rates, stagnant economic growth, and an exodus of business and industry, while being required to meet expensive CSO/SOO wet weather consent decrees and stormwater regulations.

We appreciate EPA's announcement that it has crafted a new policy to allow municipalities to prioritize through water quality investments, and to create a new integrated permitting approach. However, we believe that Congress must ensure such EPA policy changes are implemented in a meaningful manner, and that they result in real cost-effective wet weather solutions for communities dealing with these challenges.

Congress should provide oversight and direction to the EPA in promoting cost-effective tools such as green infrastructure and other alternative measures, innovative wet weather solutions, and the like. We believe allowing communities to prioritize these solutions will ensure that practical, accountable, and affordable remedies are approved and used to reduce and eliminate CSO violations.

The EPA memorandum to regional offices on integrated stormwater and wastewater planning directed these offices to provide as much flexibility as possible. However, we believe that congressional oversight is necessary, and we recognize that this hearing is extremely timely, and can help assure that this flexibility is actually realized by communities such as ours.

Because many coalition members in other communities are now operating under judicial or administrative consent decrees, it is also important that EPA and the Department of Justice make a clear written commitment to updating and modifying these decrees more frequently in the future, so that their terms do not delay or hinder regulatory flexibility from truly taking effect. The committee's oversight into whether existing and future consent decrees are regularly and effectively revised across the Nation will be important.

The cost of using traditional methods to meet Federal wet weather mandates are enormous, costing billions of dollars per community, and leading to massive rate increases for local taxpayers, as we have heard already here today. Under normal economic conditions, these mandates are not affordable. In the current economy, incurring these costs will have long-term negative effects. In my own community of Hamilton County, our judicial consent decree has been enforced since 2004. Thus far, nearly \$400 million of sewer district funds have been raised and spent locally to address CSO and SSO issues.

The EPA-approved implementation plan is expected to cost an additional \$800 million in the next 7 years, and that is just phase 1 of a 2-phase plan, the total projected cost being over \$3.1 billion in 2006 dollars, virtually every penny of it being paid for by local rate payers. A major chunk of our phase 1 spending is slated to construct a deep tunnel that EPA has required. And as a result, our rate payers are facing double-digit rate increases and have seen that for the past 3 years. We are in the middle of an expected 8 percent rate increase per annum for the next 5 years.

To put all of this into perspective, our general fund budget for 2012 for Hamilton County was just over \$205 million. We have declining revenues, 10-percent unemployment. We have had to lay off over 1,500 employees in the last 4 years to balance our budget, and we have not spent any money at all on improving other public fa-

cilities. Yet we are facing this enormously expensive consent decree.

Across the Nation, affected communities recognize the need to manage their stormwater and improve water quality at a cost affordable to local taxpayers. We believe that traditional gray infrastructure approaches, however, are more expensive and unnecessary, and that communities must be allowed to prioritize their investment using more cost-effective and accountable solutions. Examples of these include reducing other sources of pollutants in a watershed approach, enhancement and restoration of instream aquatic habitats, implementing green infrastructure technology to control stormwater runoff using creek bed stabilization, and reducing erosion by diverting high flows.

And keeping water out of the system using green infrastructure methods is much less expensive to treat as well, on the down side, and further allowing us to keep rates lower for our rate payers.

In closing, members of the committee, the coalition seeks to work with your subcommittee. We believe and we have asked EPA to establish 15 to 20 demonstration partnerships in each of the next 5 years in communities across the Nation currently facing these wet weather challenges as a means to highlight partnership communities and promoting green infrastructure, and to develop the data that is necessary to ensure even-handed enforcement of existing policies, and to ensure flexibility across the board, nationwide.

The Perfect Storm Communities Coalition looks forward to working with you, Mr. Chairman and members of the committee, as well as EPA, in developing and ensuring the implementation of innovative, flexible approaches in meeting these wet weather challenges. Thank you very much for this opportunity.

Mr. GIBBS. Thank you.

Mr. Baker, the floor is yours. Welcome.

Mr. BAKER. Thank you. Good morning Chairman Gibbs and Ranking Member Bishop and members of the subcommittee. My name is Walt Baker. I am the director of the Utah division of water quality. By way of background, I am a professional engineer. I have worked in consulting for a number of years before moving to the State where now for over 27 years I have worked at implementing Clean Water Act programs for the State of Utah. I am here representing the Association of Clean Water Administrators.

Our association, which is 50 years old this year, is a national nonpartisan voice of State and interstate officials responsible for implementation of water protection programs throughout the Nation. Our members work closely with EPA as co-regulators responsible for implementing Clean Water Act programs. We are on the front lines of Clean Water Act monitoring, inspection, and compliance, and enforcement across the country. In 46 States we are the clean water permitting authorities. We are dedicated to Congress' goal of maintaining the chemical, biological, and physical integrity of our Nation's waters.

I am pleased to be able to present testimony on behalf of the association today regarding EPA's recent efforts to explore the concept of integrated planning and integrated permitting.

The backbone of our Nation's infrastructure is aging. In the current economic climate, this infrastructure liability, coupled with ad-

addressing the demands of increasing population and meeting other water quality challenges such as nutrients, sanitary sewer overflows, combined sewer overflows, and stormwater has taxed the ability of many of our communities and utilities to keep up.

A thoughtful identification of approaches to promote cost effective and synergistic solutions has never been more important than it is today. We are encouraged by EPA's October 27th memo, which focuses on the need for integrated planning in the area of stormwater and wastewater requirements, while still meeting Clean Water Act objectives.

The use of jointly negotiated and reasonable compliance scheduling permits is a valuable tool that accords flexibility while also allow the integration of planning elements. States have vast experience in using them to allow permittees to bring technology online to come into compliance with standards.

In Utah, compliance schedules are tailored to the individual circumstances of our communities, in order for the community to plan, design, and construct its project. Often times we provide financial assistance to communities to accomplish those activities. A compliance schedule can beneficially be used to phase in integrated plan elements and to provide a community with sufficient and adequate time to come into compliance.

Now, there are a few areas of integrated planning and permitting that we think merit attention in the coming months, and I would like to identify a few of those.

One, it is important to think about the effective integrated planning on existing State consent decrees and orders. Re-opening existing consent decrees may be appropriate, but this should be done on a case-by-case basis, after deliberation by the parties involved, so as to minimize the risk of third-party lawsuits.

Two, Clean Water Act programs that ignore the individual circumstances of States and municipalities can turn into a black hole that consumes precious time and resources, and can distract us from addressing the most pressing water quality problems. There are circumstances, certainly, where a national one-size-fits-all approach is appropriate and warranted. There are circumstances where, clearly, it is not.

Three, we are encouraged that EPA's offices of water and enforcement and compliance assurance have jointly committed to an integrated planning concept. Communication between these offices at both the headquarter and regional level has not always been what it could or should be. These distinct offices must improve their ability to work together and with the States, if this initiative is to be successful.

Four, EPA has suggested it plans to work to identify communities in which to pilot these approaches. Early on, States must be directly involved with this identification process.

Let me conclude by again saying that State regulators are very supportive of EPA's development of a framework for integrated planning and permitting. The association has previously called upon EPA to streamline, consolidate, and eliminate duplicative aspects of Clean Water Act programs and to provide the States a list of the Agency's priorities. The framework may be a step in accomplishing those program improvements.

However, as the permitting authorities, we must focus and maintain that focus on the objective set forth in the Clean Water Act which is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

It is our job under the Clean Water Act and complementary stand-alone State authorities to protect water quality. Our success in doing so will center on implementation.

We look forward to working with EPA and other stakeholders on this framework that allows us to promote reasonable, innovative, and cost-effective solutions with the greatest environmental benefit.

Thank you very much.

Mr. GIBBS. Thank you.

Mr. Strickland, welcome. The floor is yours.

Mr. STRICKLAND. Thank you. Good morning, Chairman Gibbs, Ranking Member Bishop, and committee members. I am Carter Strickland, commissioner of the New York City Department of Environmental Protection. Or, as we are known in New York City, DEP. On behalf of Mayor Michael Bloomberg, I thank you for the opportunity to testify today about EPA's integrated planning framework, a subject of great interest at DEP, as our budget and operations are significantly affected by Federal laws and regulations.

To give the committee some background on my agency, DEP manages a regional water supply system that serves 8.4 million New York City residents, plus commuters and visitors—millions a year—and 1 million persons who reside in nearby counties. DEP provides over 1 billion gallons of water each day from several watersheds that extend more than 125 miles from the city through a vast network that includes over 6,000 miles of water mains and distribution.

On the wastewater side, average across the year our system treats approximately 1.3 billion gallons a day of wastewater, collected again through a network of about—over 7,000 miles of sewers, 95 pump stations, and 14 in-city treatment plants. In wet weather this system can treat up to 3.5 billion gallons per day. In addition to our treatment plants, we also have four combined sewer storage facilities.

DEP has one of the largest capital budgets in the region to maintain these services, with \$14 billion of work currently under construction or design. Our capital program will generate almost 3,000 construction jobs per year over each of the next 4 years.

DEP is funded almost exclusively through rates paid by our customers, which have gone up 140 percent in recent years. Last year was our first single-digit rate increase in the last five. So even Federal assistance, primarily in the form of grants, has accounted for less than 1 percent of our budget since Mayor Bloomberg took office in 2001. If you add ARRA funding, it is less than 2 percent, even though 69 percent of the \$22 billion we spent in capital investments since 2002 has been the result of Federal mandates. And I point out that this amount, \$22 billion since 2002, is for both wastewater split roughly equally, and it is more than any other capital need for other social needs in our city.

Cities prioritize needs to produce a balanced budget every year, and that experience has shaped draft prioritization legislation developed by NAC1, and you will hear more about that. We are encouraged that EPA has recognized that such an approach is critical.

Although EPA's integrated planning framework is new and still taking shape, I am hopeful that the program will bring more collaboration.

We certainly face a lot of mandates, not only CSOs treatment plant upgrades, but also stormwater discharges and nutrient loadings. And the cost of maintaining the status quo is pretty significant. We have, looking forward, 25 percent of our budget is due to mandates, and that flexibility allows us to build out sewer networks and the like to those thousands of New Yorkers who lack sanitary sewers or storm sewers.

Since DEP and many other utilities manage drinking water-related programs, as well as wastewater programs, our customers pay one rate for both water and wastewater services. For that reason, it is critical that EPA expand the integrated planning framework to include both mandates for drinking water programs and wastewater programs.

We certainly have many questions about how the integrated planning process would work, including the fundamental issue of the overall metrics or standards that will be used to prioritize investments across these silos, and the criteria that EPA or delegated State programs would use to provide a successful integrated program. While these are difficult questions, we are confident it can be done.

I would point out that in planning documents such as Mayor Bloomberg's PlaNYC 2030, our sustainability plan, this document, New York City green infrastructure plan, and my agency's strategy 2011 through 2014, our administration is taking on the same challenge of articulating goals and identifying ways to measure progress towards them, often with innovative technology. We think our experience will be useful, as we discuss these matters with DEP.

Our general support for integrated planning is based on the assumption that the process will result in regulators and municipalities agreeing that not all wastewater stormwater problems are equal, or drinking water problems, for that matter, in terms of costs and benefits. Here is one example.

In New York City, water quality data for New York Harbor support the conclusion that CSOs are the dominant water quality issue. And we are planning our investments accordingly. And that stormwater runoff is a lesser issue. While CSOs contribute slightly over 50 percent of the total flow, as compared to stormwater discharge and direct drainage, CSOs are estimated to contribute approximately 97 percent of total pathogen loading, citywide. As we understand it, the integrated planning process will provide a way for New York City to discuss with its regulators the merits of focusing on CSO abatement efforts.

Finally, I would point out that this effort, integrated planning effort, is congruent with another initiative we have great hopes for, which is the agency's efforts to come up with a regulatory review

plan to meet the Executive Order 13563, which also recognized the need for flexibility in the use of cost benefit principles. We are particularly interested in EPA's commitment to review its application of the CSO policy and the Long Term 2 Enhanced Surface Water Treatment Rule, or the LT2 rule. Without such a review, New York City will be forced to cover at a cost of \$1.6 billion a 90-acre reservoir for which we show no public health benefit. It is a significant cost for no benefit.

We do believe that EPA could better coordinate the efforts of its enforcement office, which all too often are independent of its program offices, such as the office of water.

In conclusion, we are cautiously optimistic, and we welcome congressional oversight of both the integrated planning framework and EPA's regulatory review process. Thank you.

Mr. GIBBS. Mr. Williams?

The floor is yours. Welcome.

Mr. WILLIAMS. Chairman Gibbs, Ranking Member Bishop, members of the subcommittee, I am David Williams. I am the president of the National Association of Clean Water Agencies. And I am here testifying on behalf of NACWA this morning. I am also the director of wastewater at the East Bay Municipal Utility District, serving communities along east San Francisco Bay. And I am also an elected board member of the Central Contra Costa Sanitary District in Martinez, California.

NACWA applauds the subcommittee for holding this hearing. We feel you have an important responsibility to communities and rate payers to encourage EPA to act boldly and timely.

Yesterday there was a dialogue held here in DC. Over a dozen utility leaders, key stakeholders, including State regulators and NGOs, and EPA staff Cynthia Giles and Nancy Stoner, we discussed the elements of the integrated planning framework. I felt it was a very productive meeting and served as a good kickoff for listening sessions that EPA has planned over the coming months across the country.

So, we have had four decades of success with the Clean Water Act. But we have also had significant mounting regulations under the Clean Water Act dealing with SSOs, CSOs, stormwater, nutrients, and others. And these, of course, have been driven by water quality standards and TMDLs.

There has also been a lot of enforcement. We currently have about 100-plus communities, wastewater communities with consent decrees, amounting to billions and billions of dollars. And we also have Clean Air Act and Safe Drinking Water Act regulatory burdens.

EPA itself estimates that there is a gap of \$300 billion to \$500 billion in infrastructure investment needed over the next 20 years. And this is above and beyond regulatory compliance costs. So, simply put, in the absence of a new approach to compliance and prioritization, the future of maintaining—let alone adding to—the water quality gains that we have achieved is at risk.

My agency, East Bay MUD, offers a good example. In the 1980s we had a problem with overflows from our interceptor along San Francisco Bay, creating a public health concern. So the communities—our satellite communities—and East Bay MUD, collabo-

rated with EPA, and we put together a wet weather program that resulted in expending \$350 million on wet weather treatment facilities by East Bay MUD, and \$350 million of improvements in the collection system by the communities. It was a huge success. We reduced overflows into San Francisco Bay, untreated overflows from over 10 per year to less than 1 in 5 years.

However, recently in 2000—these facilities were built in the 1990s—in 2000 a new interpretation of the secondary treatment rule as it applies to these wet weather facilities and new regulations dealing with trace metals and organics resulted in us being under a court order to cease discharging from these facilities. This undoubtedly will result in a very large capital program, estimated to be \$1.5 billion to \$2 billion, this while we are still paying off the bonds from the first program.

Our communities are already struggling with budget deficits and double-digit rate increases. So we feel that something like integrated planning is good in that it would seek to prioritize the regulations, such that those with the highest net environmental benefit would be put at the top of the list, and you would spend the limited public resources to do those projects.

So, we had this dialogue yesterday. There was an outline of the framework presented by EPA. We thought it was well thought out and comprehensive. We felt EPA was sincere and serious in their efforts to move this initiative forward. And the attendees all appeared to be pretty much on the same page, thinking that this was a good idea.

One of the key issues that we struggled with was how it would be implemented. So EPA explained you can do it via permit or a consent decree, or maybe some hybrid. But all seemed to favor that a permit would be the better approach. NGOs tend to like permits, because it is an open, participatory process. Whereas, the regulated community often do not like consent decrees because of the stigma of enforcement, the negotiations are often times contentious, trying, long, drawn-out, and costly, and if you have a permit you do have a permit shield.

So, one of the questions that the group struggled with was how do you actually do this, given the constraints of a 5-year permit term? If you have an integrated plan that is, say, on the order of 25 years, how does that fit into a 5-year term? You need to have the certainty that the investments that you are going to be making in these prioritized regulations will actually be codified in a permit.

So, one idea is perhaps could you have some legislative approach that you could have a longer term permit that is associated with integrated planning when you have approved plans in place?

Another issue is—that needs more discussion is flexibility. And we are talking about real flexibility, in terms of compliance with rules, guidance, and even regulations that have not yet been adopted and are on the horizon. We need relief mechanisms such as variances where they are appropriate. And also the issue of equity, so people who already have consent decrees in place, that they would be allowed to open those up and examine them from an integrated permitting approach.

EPA noted that we also need to look at the possibility of joint plans coming forward, where you have various jurisdictions at the

municipal level, say with stormwater, that would get together and jointly put together an integrated plan.

And finally, we need to have the flexibility to address circumstances where there is new technology, or where financial circumstances within the communities have changed.

So, in summary, we are at a crossroads. NACWA recognizes the subcommittee's concern with Clean Water Act cost of compliance, and we share this concern. Now is the time to put something in place: a new framework. NACWA has shared with the subcommittee its draft legislation for a viable integrated permitting approach. We want you to know we stand ready to help in any way we can. And I thank you for allowing me to testify.

Mr. GIBBS. Thank you.

Ms. Baer, welcome. The floor is yours.

Ms. BAER. Thank you. Mr. Chairman, Ranking Member Bishop, and members of the subcommittee, thank you for inviting me here to testify today. My name is Katherine Baer, and I am senior director of the clean water program for American Rivers. Founded in 1973 with offices throughout the Nation, we are a leading voice for healthy rivers and the communities that depend on them.

EPA's effort to create a more integrated approach to water management warrants support. For too long, there have been unnecessary silos between the management and planning for stormwater, wastewater, and drinking water, thus missing important opportunities to use smarter and more sustainable approaches to protect clean water.

As long as the fundamental standards and requirements established in the Clean Water Act to protect public health and the environment are preserved, this integrated approach could greatly benefit rate payers, communities, and the environment.

I will briefly address the following main points with respect to integrated permitting: first, the need to maintain strong clean water safeguards; and second, the opportunity this presents to advance a more sustainable and cost effective approach.

The Clean Water Act is responsible for improved water quality, nationally. Since 1972, the number of streams, rivers, and lakes meeting water quality standards has doubled. And yet, 40 percent of America's rivers and 46 percent of our lakes are too polluted for fishing, swimming, and aquatic life. And every year up to 3.5 million people get sick from sewage-contaminated water.

The challenges to clean water range from population growth, sprawl, increasingly severe and frequent floods and droughts that all strain existing infrastructure. Meeting these challenges requires us to direct limited dollars towards cost-effective solutions that produce multiple community benefits.

At the same time, the fundamental structure and goals of the Clean Water Act must be preserved. Water quality standards are the backbone of the Act, and serve to protect human health and the environment.

Any integrated permitting approach must achieve the Clean Water Act's goals in the most sensible, efficient way, and not weaken the Act's fundamental protection of streams and rivers that provide drinking water for roughly two-thirds of all Americans.

As this hearing is about smart investments in clean water, which are sustainable approaches that maximize benefits for dollar invested, we can no longer invest solely in outdated infrastructure approaches that focus exclusively on pipes, pumps, and reservoirs. Instead, we must better integrate the built and natural environments.

Healthy flood plains, small streams and wetlands, and streamside buffer zones are key parts of our water infrastructure, and should be considered a first line of defense against floods, droughts, and pollution. In both developed and developing areas, we must integrate techniques such as green roofs and rain guards to reduce, re-use, and clean our water.

Such smart infrastructure approaches have far-reaching and multiple benefits: reducing stormwater runoff and sewage overflows; recharging drinking water supplies and creating green space, made all the more valuable in the current fiscal crisis. In many cases, these forward-thinking infrastructure approaches will cost less than traditional strategies.

Sanitation District No. 1 in northern Kentucky developed an integrated watershed plan that included green and gray infrastructure approaches that will save rate payers \$800 million and produce better clean water results than the original all-gray infrastructure plan.

In Bremerton, Washington, a city of 40,000, the city has used both green and gray approaches to reduce combined sewer overflows. A program to disconnect downspouts kept water out of the sewers and, instead, soaked it into the ground. Using this and other methods, such as permeable pavement, Bremerton calculated that it was 10 times cheaper to treat the water naturally, even with the cost of providing an incentive payment to homeowners.

Because the integrated permitting approach under discussion today is driven largely by the question of how best to pay for clean water, approaches that are cost-effective and address multiple problems at once are, of course, ideal.

However, I note that existing funding sources are not always aligned to support this integration. Bonds, for example, are often limited in their ability to fund anything other than fixed and central treatment plants.

But there is now increasing interest in aligning funding to support better integration. In recent years, for example, EPA has provided clear guidance to the State on defining green infrastructure projects eligible for the SRFs, and States are leveraging this money for a broad range of projects to save water, save energy, and achieve clean water.

Similarly, local governments are finding that providing a financial credit for treating stormwater on site is creating a market for local contractors and expanding local job opportunities. Efforts to formally recognize natural assets as part of the process are also underway. So, for example, protecting a city's drinking water supply through source water protection should be valued as an asset against which to borrow for further investments.

Although Federal funding does not appear to be increasing, we encourage EPA to look for ways to prioritize existing Federal resources towards integrated approaches, and to encourage innova-

tive financing options. And we continue to support the reauthorization of the SRF.

The innovative approaches demonstrated in communities in Washington and northern Kentucky are working across the country, and recognized by EPA as a cost-effective way to meet Clean Water Act requirements and offer new job development and economic growth opportunities. Yet, such sustainable approaches remain in the minority at this point.

We agree that there is a benefit to moving toward more integrated infrastructure through better planning, evaluation, and sequencing of investments, but only if smarter infrastructure is driving this process. Green infrastructure, water efficiency, and other innovative solutions must be analyzed on equal footing with traditional approaches.

People and businesses across the country, regardless of their means, need clean water. Upholding the Clean Water Act's goals for public health and the environment, as well as requirements for public participation, are critical to the success of this effort.

Thank you for the opportunity to testify.

Mr. GIBBS. Thank you. I will start off questionings here. Well, it is pretty evident to me—I appreciate all the testimony that—really come to a head on this issue, where we have had for—since the Clean Water Act went in place in the early 1970s, building infrastructure and doing a lot of good work, that, an enforcement mechanism versus an integrated approach, I think it is pretty clear which way we should go. Our next panel will have more discussion on that.

But I am a little bit intrigued. Two things I want to cover in my questions is the watershed approach and then get to talk about permits. I want to start off with Mr. Strickland. In your testimony you talk about combined sewer overflows contribute slightly over 50 percent of the total flow during stormwater—compared to stormwater discharges. But then the CSOs, approximately 90 percent of the total pathogen loading, citywide.

Now, I guess I am a novice here, but I would conclude during a storm event, and you got all that stormwater coming in to the combined sewer overflow, that is why you get the 97 percent. So I guess my question is, if we were able to take a watershed approach and deal with stormwater way above your sewage treatment plant, and keep that from getting in, that would solve a lot of the problems. See where I am headed there?

Mr. STRICKLAND. Yes, that is correct. And, in fact, that is what we do, Mr. Chairman, with our green infrastructure plan.

You know, maybe a few background facts that will explain that. We—our city, about half of our city, is a separated system, or direct discharge, and about half is in a combined system. But the loading, the pollutant loadings, overwhelmingly, as I testified, and as you noted, come from our combined sewer system and combined sewer overflow. So that is where we want to spend the money.

And we have long-term control plans coming up over the next few years that will certainly take account of those sources and loadings. However, right now we are negotiating with our State agencies, our primary regulator, an MS4 permit. And our concern is that, while we have that watershed planning on the horizon, in

terms of long-term control plans, we—there is a possibility of having a very costly—with little benefit—separated stormwater controls.

Mr. GIBBS. I guess for the record, for anybody that wants to respond, is it safe to say that—I know we got some aging infrastructure out there in our treatment plants—that we are doing a pretty good job on sanitary systems, specifically, when stormwater systems aren't involved with that? Is that—you all shake your heads—that has been pretty good there?

So, the issue really is during a storm event, how we handle all that gray water. I guess we call it gray water, right?

Is there anything—anybody can respond—that either at the State level or at the Federal level, where laws would need to be changed to give you the ability to work in the entire watershed?

I am thinking of most cities, you know, your sewage treatment plants down at the end of the watershed, and you got all that water coming in, to have this watershed approach, is there anything that is limiting your ability, under local laws or not having the ability to move out in the entire watershed, it is outside your jurisdiction? Mr. Suttle?

Mr. SUTTLE. Well, in the State of Nebraska we do not have legislation. We have been arguing about it for 40 years on the watershed side. But yes, those of us that are in the profession, engineering and many others, support the watershed concept. But we would need enabling legislation in Nebraska in order to do that.

Mr. GIBBS. Yes, Mr. Baker?

Mr. BAKER. Back in the 1970s and the early 1980s, we had basin-wide plans. EPA and the Federal Government were heavily invested in developing those 208 Water Quality Management Plans. When the construction grants program went the way of the dinosaur, replaced by the State Revolving Fund program, that left a void, I think, in long-term planning. 208 Plans served as a guiding plan that integrated municipalities and what they did with their wastewater.

So, what we are left with, I think, is kind of independent permittees in communities, and not integrated master plans. So I think that is one thing that came out of the canceling, if you will, of those 208 Water Quality Management Plans.

Mr. GIBBS. Yes, Mr. Williams?

Mr. WILLIAMS. I agree. The 208 Plans were sort of the watershed approach, and NACWA has supported a watershed approach for some time. With no funding for those plans, it tends to be everybody is on their own. There are some efforts to try to do it, but often times it is on a pollutant-specific basis, as opposed to a more holistic approach.

Another concept is since the Nation does have a huge issue with wet weather—and it is something that legislation, I think, changes to the Clean Water Act—is the issue of wet weather standards. So actually, dealing with the wet weather issue head-on through development of wet weather standards, which we currently don't have.

Mr. GIBBS. OK. I am out of time. I will get to the rest of my questions on the next round. Mr. Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman. And to all of you, thank you for some very important and helpful testimony.

I should observe that a rare thing has happened today. There has been near unanimity among all of you, and that unanimity has been positive, with respect to an EPA policy initiative. And I think that ought to be noted for the record, with some gratitude.

I have a question for Mr. Suttle and Mr. Reardon. Mr. Suttle, you talked about a 50 percent share, Federal Government and local government. Mr. Reardon, you talked about a consistent source of funding. I am presuming that you are looking to the Federal Government to be at least a piece of that consistent source of funding. I gave the numbers in my opening statement. We spent \$2.1 billion for the SRF in 2010, a little under \$700 million in 2011. Likely that it is going to go down again, fiscal year 2012. We now have statutory caps on spending, going forward. So the prognosis going forward is decidedly unfavorable, in terms of the Federal Government supporting wastewater infrastructure, clean water infrastructure.

But I have a very specific question. The—and that is whether your two organizations have conducted any analysis of what the balanced budget amendment, which, as you know, is one of the principle policy priorities of the majority, what impact that would have, if we were to have a balanced budget amendment take on the force of law, what impact that would have on the ability of the Federal Government to assist local government in dealing with this very real and very—I would say—unachievable need to upgrade existing systems?

So, Mr. Suttle and Mr. Reardon?

Mr. SUTTLE. Well, I think one of the things that needs to be put in perspective in addressing what you are talking about is that all cities and all States in this Nation must have balanced budgets. We cannot do deficits in our operating costs. Now, we can go into debt, but we have to service that debt.

Now, Omaha is one of 16 cities right now enjoying a AAA bond rating from Moody's and Standard & Poor's. And we worked hard to get that back. Moody's is telling us over and over—as Standard & Poor's—that the \$1.3 billion debt that the city of Omaha is now having is too high. But they like the way we are servicing it. But when you add \$1.7 billion on top of that, we are going to the moon, ladies and gentlemen. And that is not going to work. And that is our dilemma, at the local level.

I realize at the Federal level you are wrestling with all kinds of things. But we still get back to that basic question in Econ 1 that revenues minus expenses should always be a positive number. And we are not working that way very well in Federal Government. But local government and State government is.

Mr. BISHOP. You do recognize there is a difference between how the Federal Government accounts for its expenditures and local—

Mr. SUTTLE. I do understand that.

Mr. BISHOP. Local government can bond capital investments; Federal Governments can—does not. So—

Mr. SUTTLE. And I understand that.

Mr. BISHOP [continuing]. There is a real difference there. But that doesn't diminish your point. I understand.

Mr. SUTTLE. No, and it doesn't, but—

Mr. BISHOP. I understand the point you are making.

Mr. SUTTLE. If we are going to be partners, as we were in the 1970s and 1980s. We were partners. And we had financial partnership. And we worked it through all kinds of means. We worked it through bonds, we worked it through State Revolving Funds, we worked it through grants.

But here we are, at another point in time, and these numbers are horrific. Horrific numbers. This debt burden cannot be put on the shoulders of local government.

Mr. BISHOP. But—and I don't want to put words in your mouth. And, Mr. Reardon, I want to give you an opportunity.

But I think what I hear you arguing for is an increased investment on the part of the Federal Government in helping local governments step up to these very real needs.

Mr. SUTTLE. Yes, and let's recognize the other priorities going on right now. This whole question, or issue—

Mr. BISHOP. I want to give Mr. Reardon a chance, because I am running out of time.

Mr. SUTTLE. This whole question and issue is about, really, adding a tremendous overhead cost to the economy. And we are not gaining anything. We are supposed to be looking at how we create jobs. But the jobs need to be in manufacturing and the service industry, as we—

Mr. BISHOP. Well, I would gently take issue with you. I heard Mr. Williams talk about, I believe, a \$700 million investment that took place several years ago that you said yielded tremendous results. Is that not correct?

Mr. WILLIAMS. That is correct.

Mr. BISHOP. Thank you. I—Mr. Chairman, will you let Mr. Reardon—

Mr. REARDON. Thank you so much, Mr. Chairman. We are practical at the local level. The benefits of clean water, which we absolutely believe in, can't be shouldered by individual communities. We will not solve the problem. We need you as a partner, not just on the regulatory side, but also financially, to figure out how we are able to fund this in a way that doesn't shoulder so much of the burden—

Mr. BISHOP. OK.

Mr. REARDON [continuing]. On local communities and really cause, I think, an economic issue in cities that—

Mr. BISHOP. Yes, I thank you. And the legislation that I filed would be a means. Not the only, but a means of the Federal Government coming to the table to be that partner that you are seeking.

Thank you, Mr. Chairman. I yield back.

Mr. GIBBS. Mr. Cravaack, do you have any questions?

Mr. CRAVAACK. Thank you, Mr. Chairman. I appreciate all the testimony. One of the other things I saw throughout the panel here is a frustration. And a frustration that I have, too, is on the congressional side. We have a \$3.5 trillion budget and \$1.6 trillion of

that is borrowed money. Forty-seven percent of our debt is foreign-owned, and 30 percent of that is owned by the Chinese.

So, on your local levels—and I commend your AAA rating on—as a mayor. And I truly believe the answers to the questions we have on the Federal level actually initiate at the local level.

So, with that said—and Mr. Suttle, if you could—if you were sitting here in my position, knowing what you know about the Federal situation in regards to our debt, and how we are placing a burdensome amount of debt on future generations, also understanding what you have just told me today about being a mayor of your—in your community, what is your answer? What would you be telling—what could you say? How would you solve this problem?

Mr. SUTTLE. I think we need to focus on the proper priorities that are going to get the U.S. economy going, and get us solidly into the number one seat, and that is jobs. Construction jobs are great. But at this point, we need to really get our economy going, and what turns the engine. And I would ask you to set that as a priority.

Jim Clifton's new book—he is the CEO of Gallup—is an excellent book for all of us to read on what we need to do on jobs. And what we are talking about today is fine, well, and noble goals, and we support it. But it is not addressing the jobs initiative to turn our economy and propel us, and keep us ahead of the Chinese.

Mr. CRAVAACK. I agree, sir. Jobs, you know, does this other thing, too. By creating jobs within the—in the private sector, it also creates revenue. That is from taxes, as well, which has—we create more revenue for—and then it can also assist us in the plans that we have.

Mr. SUTTLE. Back to that equation I said: revenue minus expenses should always be a positive number.

Mr. CRAVAACK. Yes, sir. Mr. Portune?

Mr. PORTUNE. Mr. Cravaack, if I may, to add to the answer to your question, though, we certainly understand, both in Hamilton County as well as the Perfect Storm Coalition, the tremendous fiscal challenges the Federal Government faces.

And that is one of the reasons why while we are not opposing by any means Federal investment in this problem, again, to put it in perspective, \$3.1 billion for our problem alone—and look at the dollars that you are talking about on a Federal level, and we are just 1 of 781 communities—but our focus has been more on regulatory flexibility. Because for every dollar that we save, that is the same as a dollar we receive from the Federal Government that we have gained, in terms of flexibility.

We presented a very detailed green build infrastructure program for our overall wet weather improvement plan, long-term control plan. It will have saved us \$1 billion off of that \$3.1 billion price tag. It was not approved. We do have the ability, within our consent decree, to work up alternatives and present those. But we are still under very strict timetables. And if they are not approved by the regulators, we have to go forward with the same gray build approach, which is much more expensive. So we end up spending money on both sides without any flexibility at all.

Flexibility is truly key here. And flexibility, in terms of allowing local governments the ability to make these investment decisions

on where to apply our dollars, the green build approach, keeping water out of the system, it ends up being able to accomplish the same results cheaper and quicker. It serves the dual purpose of also—by keeping stormwater out of the system, we end up having to treat less effluent, and that saves money.

And, from a jobs perspective, as these rates go up, nothing is going to do more to chase people and business out of my community than the increase in sewer rates. Not the rate of our taxes, not anything else that is going on. It is the increase in rates.

So, flexibility that allows us to save money is important. And that is also why we focused on urging 15 demonstration project communities a year for 5 years, to help build the data that will allow for uniform application of these alternative approaches across the Nation, so that you don't have different outcomes, depending upon what EPA region you are in, or even within a region, depending upon who the regulators are that show up.

Mr. CRAVAACK. Well, thank you. I appreciate it. I am out of time. But just to let you know, I grew up in Hamilton County, so—I grew up in a small town called Madeira.

Mr. PORTUNE. Yes, sir.

Mr. CRAVAACK. Thank you very much.

Mr. PORTUNE. It is a great town. Thank you, sir.

Mr. CRAVAACK. I am out of time, and I yield back, sir.

Mr. GIBBS. I didn't know you were a Buckeye. Mrs. Napolitano?

Mrs. NAPOLITANO. Thank you, Mr. Chairman. Mr. Suttle, that report I was referring to, I would hope that maybe you would have somebody review it and maybe share it with the mayors, because it does cover some of the things about jobs—created jobs with the water industry, with the green technology, with all of the things we have been talking about here. Any of you welcome to it.

Mr. Baker, I was a little bit confused when I saw ACWA. To me, it is a California Association of Water Agencies, and it kind of threw me for a loop there.

Question is, have you done a survey on the analysis on the economic value that water infrastructure development brings to a community or to a region? And specifically, have you looked at the number of direct, indirect, and induced employment opportunities that water investments can bring to the area?

The reason I ask this is in our area, in LA County, we can point to the positive impacts on jobs and the economy that the investments have made. And in the case of LA County, over 14 occupations directly benefitted from water investments. And we make more jobs, as I stated before, in water than we do in the movie industry or in the fields, in agriculture, in many areas.

From your perspective, what would it take to conduct this sort of assessment by your association? And is it something they might do so we could get a sense of the value of investing on our water resource infrastructure?

Mr. BAKER. Let me speak to not so much broadly nationally, but what we are doing in Utah, because we are faced with many of the same issues that other States are. Nutrients are a very important pollutant source right now that we are addressing in Utah. We don't have the Chesapeake Bay-type problem as we are a headwater State. But nutrients is the number one pollutant in our State.

Mrs. NAPOLITANO. Nature cost?

Mr. BAKER. The cost to address nutrients. That is the biggest pollution source. If we were to look at—

Mrs. NAPOLITANO. Is it nature cost? Is it induced by nature? Is it industrial pollutants?

Mr. BAKER. Well, it is both. It is agricultural runoff, it is urban, it is wastewater treatment plants. The nutrients are sucking the oxygen out of our streams. And it is the leading cause of impairment of our streams in Utah. So, although we are a headwater State, it is very important for us to address nutrient pollution.

What we have done is undertake a two-pronged study. One, to look at the cost of removing nutrients, so that we know what the impact would be to our rate payers and municipalities. The second is to determine what would be the benefit? For example, drinking water. If we don't have to treat drinking water to remove these pollutants, what is the benefit? What is the recreational benefit that comes to the State of Utah for having cleaner water?

Mrs. NAPOLITANO. OK. I am running out of time. But you translated it into economic evaluation?

Mr. BAKER. Correct. Yes. Both on the cost side, what the cost would be to remove it, and what the benefit would be if we were to remove it. We are looking at that economic analysis in Utah.

Mrs. NAPOLITANO. Love to see that report, sir, if you wouldn't mind sharing it with us.

Mr. BAKER. We have got half done. The other half will be done in the spring of this year.

Mrs. NAPOLITANO. Thank you. And, Mr. Williams, welcome. Coming from California, glad you came to this cold weather and shared it with us here.

I would like to speak to your position associated with the city of Oakland and the issues facing the San Francisco Bay Delta area in respect to water, of course. We are acutely aware of the controversy regarding the management of water in California, and the perplexing problem of how to move massive amounts of water from mountains to the north to the agricultural fields and the heavily populated areas in the south, impacts associated with moving water from north to south, expanding populations, agricultural runoff, as was just heard, aging wastewater treatment plants, the water infrastructure, et cetera, et cetera.

State of California is working with the Federal Government and local entities to find solutions to our escalating water quality concerns. Recent agribusiness in Central Valley has been pointing fingers at the wastewater treatment plants in northern California as being the culprits in degraded water quality conditions in the Bay Delta ecosystem.

Would you—what type of integration has been proposed by EPA—aid or lead to more confusion, with respect to how Oakland manages its wastewater? And if yes, please explain why. If no, what benefits could occur?

Mr. WILLIAMS. That is a—

Mrs. NAPOLITANO. Big issue, north versus south.

Mr. WILLIAMS. Yes, if you have a couple hours—

[Laughter.]

Mr. WILLIAMS. So you are correct. The whole issue of water in California, and moving water from north to south, and the impact, particularly in the Bay Delta, as you are aware, Sacramento Regional, a large treatment plant that is tributary to the Delta, has—

Mrs. NAPOLITANO. Sacramento.

Mr. WILLIAMS. Yes, Sacramento has a large price tag that is associated with their new permit for removing nutrients from their wastewater.

The POTW community that is further downstream in Suisun Bay, which is then tributary to San Francisco Bay, are very concerned about having these limits put in their permit, as well. And, in fact, the agency that I am a member of the board of directors, Central Contra Costa Sanitary District, has a permit that the water contractors had said they need to have nutrient limits put in that permit.

The key issue, from the wastewater community perspective, is that what is the science based on? Because it is going to end up costing literally billions of dollars if it is implemented in terms of permit limits. We have looked at it from the wastewater community perspective. We think the science is not complete, at this point, and it needs to be more robust. There has only been a couple reports that have been utilized to essentially act as a springboard, for putting these limits into permits, which will require removing the nutrients.

So, we are fully supportive of doing what is needed. But we believe that the sound science is extremely important.

Mrs. NAPOLITANO. Thank you for your indulgence, Mr. Chair.

Mr. GIBBS. Ms. Capito.

Mrs. CAPITO. Thank you, Mr. Chairman. I would like to thank all of you all for your testimony. I didn't hear the entire testimony, but I appreciate it.

I am just—I wanted to ask a question if any of you all used stimulus money or had stimulus projects in your regions, or that you directly accessed funds for those. If you could talk about them a little bit, Mr. Strickland.

Mr. STRICKLAND. Sure. We, in New York City, got on the wastewater side—I can't speak to the rest of it, but we received \$221 million in stimulus funds; \$150 million of that is going towards three large sludge vessels, vessels to transport sludge that are being built in Texas.

So, you know, the rest are being spent on plant upgrades and the like. We—

Mrs. CAPITO. This is in New York?

Mr. STRICKLAND. This is in New York City.

Mrs. CAPITO. In New York City. OK. I thought you said—did you just say Texas?

Mr. STRICKLAND. They are being built—vessels are being built.

Mrs. CAPITO. In Texas?

Mr. STRICKLAND. In Texas.

Mrs. CAPITO. OK.

Mr. STRICKLAND. That we brought up. So that—we find that is a significant benefit, certainly, and we are happy to receive it.

Mrs. CAPITO. But these projects haven't actually gone—I mean they are partially forward, but not—

Mr. STRICKLAND. We haven't received shipping yet. We are on track. And I will say that it adds—if you consider ARRA spending, we have received—2 percent of our capital spending over the last 9 years has been from the Federal Government. Without that, it is 1 percent. So it was helpful. It was wonderful. It will create jobs. It certainly hasn't spoken to the larger issue of defraying costs and helping us out.

And I will say that, you know, one thing—localities are spending the money and are spending quite a bit of money. I think the key question here is what are we getting for it? And for example, if local—we are all in the business of providing service to our customers. To the extent that those—what we are asking for is having Federal mandates match those customer service priorities, one of which—one of the basic ones is providing clean water and drinking water.

These are not mandates, but New York City has committed to spending \$5 billion on a third water tunnel which will create some redundancy in-city, and several billion dollars to create—to fix our Delaware aqueduct, which has a leak every day. Those are obviously construction jobs, money that will be spent, but it is meeting our—the priorities that we determine are foremost. And to the extent that we have competing mandates that come down that don't match local priorities, it will bump out those local needs.

Mrs. CAPITO. OK. Let me ask another question, because my time is going kind of fast here.

I know in a lot of construction projects that are involved with Federal funding, that the timeline to get projects from the time it—you know, concept, idea concept to actually turning the dirt has become longer. And we all know time is money. Are you finding this with your projects? And is there a way that you could streamline this process, understanding that we are in financial constraints, here?

Certainly one of the things we are looking at on the—in the transportation bill is to try to streamline the permitting process and make it more simultaneous, so we can cut the timeline, so that the money can go farther.

Does anybody have a comment on that? Mr. Portune? Well, I said that—

Mr. PORTUNE. Senator Portman, also from Cincinnati, but that—

Mrs. CAPITO. Portune.

Mr. PORTUNE [continuing]. Is not me.

Mrs. CAPITO. Yes.

Mr. PORTUNE. We do occasionally confuse our mail, though. That is correct. No, it is Portune, Hamilton County commissioner—

Mrs. CAPITO. Yes.

Mr. PORTUNE [continuing]. Thank you, Representative. Certainly any way in which you can condense the timeframe it is going to end up saving money.

Now, in our sewer system, though, our district, we have very few Federal dollars that are involved. Only \$6 million, and that came

from the State Revolving Loan Fund that ultimately came out of stimulus money. The vast—

Mrs. CAPITO. What is the total cost of your project?

Mr. PORTUNE. \$3.1 billion from—

Mrs. CAPITO. And only \$6 million of that is Federal dollars?

Mr. PORTUNE. At this point, that is correct. Now, we don't—we haven't spent all of that. We spent over \$400 million to date. We have over \$800 million in the next 7 years budgeted to complete phase 1. Total project cost is \$3.1 billion. But a very, very small amount has been tied back to Federal investment at this point.

Mrs. CAPITO. Have you had to raise the rates on your individual—

Mr. PORTUNE. Yes, we have. We have. We went through a stretch of double-digit rate increases, starting in 2008. We now are in the midst of 5 consecutive years of 8 percent rate increases. And if you project it out over the life of the system, we are looking to double-digit rate increases again to fund the balance of phase 1, all of phase 2.

In real dollars, the quarterly bill of—your typical residential homeowner in Hamilton County today is \$167 related to their sewer bill. Projecting those rates forward at the end, that figure is going to increase to over \$2,800, quarterly, in order to fund the system. It is just—it is not sustainable.

Mrs. CAPITO. Per resident?

Mr. PORTUNE. That is correct. It is just simply not sustainable.

Mrs. CAPITO. Wow. That is pretty stark.

Mr. PORTUNE. It is.

Mrs. CAPITO. Yes, right.

Mr. PORTUNE. It is. We are—

Mrs. CAPITO. Thank you.

Mr. PORTUNE. Thank you.

Mr. GIBBS. Ms. Edwards?

Ms. EDWARDS. Thank you, Mr. Chairman, and thank you to all of our witnesses today. I appreciate the hearing.

I know I live in the Chesapeake Bay watershed community, just outside of the city here. We have been under a consent decree that started in 2005 for the next 12 years, related to storm—to wastewater overflows, sewage overflow. And under that decree, it covers 5,400 miles of sewer mains, and an estimated \$500 million or so of enhancements that are needed to the system.

I have been particularly curious—and it is a separate system from—stormwater from sewer. But I have been particularly curious about the way in which we can use green infrastructure techniques. I was pleased to see the guidance issued by the EPA about integrating those techniques into these comprehensive plans.

And—but one of the things we run into, of course, is, you know, depending on the region, whatever those techniques are that need to be implemented could be slightly different, the technologies are—and it is unfortunate that there are communities obviously implementing green infrastructure technologies, but there is no way for one community—it is difficult for one community to learn from another about what those technologies are, and sort of an efficiency standpoint.

I have introduced the Green Infrastructure for Clean Water Act of 2011. It is H.R. 2030. And I would love to, given the testimony that we have heard today, to really encourage some of our Republican colleagues to come on board this, and particularly commend it to our chairman, because it is really clear—and we have had the support of NACWA and American Rivers and others—that already communities across the country are trying to figure out the best ways to implement green infrastructure so that it is more efficient, cost effective, it accounts for maintenance costs that are ongoing for these systems that result in consumers like me and others having to foot a huge bill for maintenance and enhancements.

But we need to figure out a more national strategy, looking at various regions to make sure that we are doing this in the best way possible. And H.R. 2030 creates 3 to 5 centers for excellence that are regionally based, to help us come up with those strategies.

And so, in the time remaining, I am particularly interested in hearing from a couple of our witnesses about what you know, in terms of cost effectiveness and efficiencies in systems.

And, Mr. Portune, please.

Mr. PORTUNE. Representative, thank you very much. Mr. Chairman, members of the committee. Again, we presented a detailed green infrastructure plan that was not approved by EPA and the Department of Justice in total, although as testified, we were given the opportunity to present alternatives—though not approved, so we end up dual designing and double spending, if we want to go down that path.

We estimated that we would save \$1 billion off of a total price tag of \$3.1 billion, in terms of our total project, as one example of the kinds of savings that are attainable through a green build infrastructure approach.

Your bill is—I commend you on that, because the Perfect Storm Coalition of Communities has also advocated the development of demonstration projects—and there is existing authority within the Clean Water Act already for that to be done; you don't need to amend the Act at all, just simply it is a matter of policy, and with oversight of this committee, that could be done—we are advocating 15 pilot communities on an annual basis for 5 years that would then—they would then develop the data necessary that other communities could look to, to rely upon as to how effective these alternative techniques could be.

And that would also inform EPA, in terms of their enforcement practices, to ensure that you don't have inconsistent results, depending upon what region that you are in, or again, even within an existing region, depending upon who the regulators are that show up on that particular—

Ms. EDWARDS. Thank you. In my remaining time, if I could hear from American Rivers, I think that would be helpful. And we will have a chance to speak with the EPA after this panel as well about those things, and some of the considerations they have in these green infrastructure projects. Ms. Baer?

Ms. BAER. Thank you, Representative Edwards, and for your leadership on this issue, as well.

Yes, we have seen from the examples that have come in across the country that the cost effectiveness results have really borne out

so far. And we know, you know, Philadelphia, Portland, Seattle are all forecasting, you know, cost effectiveness benefits and savings in the billions. But not only that, I think they are also showing the multiple benefits that is accruing to their communities is really where they are also getting additional benefits.

So, for example, in Philadelphia, in addition to meeting—forecasting to meet their clean water standards, they are seeing more local jobs, cleaner air, less heat-related fatalities, less time spent in traffic, cooler temperatures, just an array of community benefits that I think aren't necessarily counted on our books right now, but really should be part of this equation, when we talk about the cost and benefits of investing in our communities and clean water, simultaneously.

Ms. EDWARDS. Thank you, Mr. Chairman.

Mr. GIBBS. Mr. Bucshon, do you have any questions?

Dr. BUCSHON. I do. Thank you, Mr. Chairman. I would like to also point out that some of our successes in the United States, by comparison to other countries—probably three or 4 years ago I read an article in National Geographic or Smithsonian—I can't remember the one—talking about Sao Paulo, Brazil, and the river that goes through the city and the fact that, for 100 miles south of the city, nothing lives in the river. Nothing. No plants, no animals, nothing.

So, I do think we have had some successes over the years, and we obviously have a challenge now, with upgrading our infrastructure. But I think that we have made some progress over the years.

For Mr. Williams the question is, I mean, one of the big, I think, complaints that I hear from people, not only as it relates to this, as it relates to Federal regulation, is the bar keeps changing in a lot of different areas. And not only recently, but historically. And I see that, you know, you put in this comprehensive wet weather program, spending \$350 million, and then now you have been told to stop discharging from your wet weather treatment plants.

Do you know what the reason—why that was? Were the discharges not being treated properly, according to EPA, or—what was the reason why they moved the bar on you?

Mr. WILLIAMS. There was a couple reasons. One was that the discharges from these wet weather facilities that are not the main POTW—they are remote facilities that collect the peak flows off of our interceptor—they were—sedimentation and high-rate disinfection, the intent was to protect public health by disinfecting, but they did not meet secondary standards. So that was one issue.

The second issue was that in 2000 the California Toxics Rule was promulgated, which deals with trace metals and trace organics. And these facilities did not meet the discharge limits from that rule.

Dr. BUCSHON. When you first designed your program, though, they met—did it meet standards at the current time, when you spent this kind of money to build it?

Mr. WILLIAMS. The—when the program was first developed, the interpretation of EPA was that these were appropriate facilities, and the treatment technology essentially was a best available control technology, best practical control technology. There was a reinterpretation of that.

I think the more interesting point is that the facilities were—the issue of beneficial use was protection of public health. And at the time we built the facilities, and leading up to building those, we did studies that showed that the runoff, the urban runoff from the stormwater, in terms of metals and trace metals and organics, pesticides, that type of thing, was a much higher contributor.

So, this whole issue of integrated planning—you might say, in this community, where would you get the biggest bang for your buck of limited resources? Would it be to prioritize stormwater issues, which are now contributing the majority of the load of metals and organics, versus ceasing discharges from these treatment facilities that 20 years ago were deemed to be the best available control technology and have indeed succeeded for what they were designed for?

Dr. BUCSHON. Thank you. Ms. Baer, we keep talking about green infrastructure today, and if—I will address this to you first. But could somebody describe to me green infrastructure that we are talking about? I mean exactly what are we talking about, compared to just the regular way to deal with this?

Because it is interesting to me that, as outlined by Mr. Portune, that they proposed so-called green infrastructure things, but the EPA actually denied that. So I will let you address that, first.

Ms. BAER. Yes, sure. Thank you. Green infrastructure is sort of a suite of approaches or practices, and we would consider them processes, either natural techniques or engineered approaches that either protect, restore, or sort of recreate natural processes. So that would be, for example, protecting a wetland or in a city, building a green roof, or using permeable pavement to let water naturally soak through or capture systems. So, a whole suite of technologies and approaches that could be considered green infrastructure, broadly.

And then, I think in recent years we have seen more and more communities start to use green infrastructure. And now we are incorporating them into their specific permits and plans. EPA came out with a memo last year, I believe, officially recognizing and encouraging the use of green infrastructure as part of stormwater and sewer overflow permits.

I am not familiar with the situation, the specific situation there, but I know recently there have been a number of long-term control plans and consent orders for CSOs that have actually included an integrated green infrastructure in those plans, often on a sort of adaptive management technique. So it is certainly something that is being recognized by EPA and used more frequently, and has—it should have an increasing role.

Dr. BUCSHON. Mr. Chairman, can I have just a second for Mr. Portune to comment on a question on that?

Why do you think your green infrastructure plan was denied by EPA? What was the reason?

Mr. PORTUNE. The primary reason is that the—as I understand it—is that the results are not as well understood or as guaranteed as you can get with traditional gray-build infrastructure. So, from an engineering perspective, it is much easier to determine what the end result is going to be of constructing a deep tunnel in a particular area to hold water back until it can be treated, as opposed

to what—the benefit that you may get from green roofs or permeable materials or disconnecting downspouts from the system, or any combination of all of those things.

So, we were given the opportunity within our consent decree to propose alternatives and to more or less develop those, and make the case for them by a particular date. But that is where the flexibility issue becomes very important. Because while we were given that opportunity to propose alternatives, we were not given the flexibility of timing in meeting results or objectives.

So, we have to still come up with one alternative, and no guarantee that the green will be approved. We end up—if we want to pursue that, we spend on both sides of the equation.

Dr. BUCSHON. Thank you. I yield back, Mr. Chairman.

Mr. GIBBS. Just a couple questions. I want to follow up a little bit on that.

You talk about in your testimony, silos. You got enforcement over here, you got other areas of the EPA. I guess I am concerned.

The stormwater regulations: I mean it is pretty clear—I think it has been completely clear in the testimony that if we can get that water out of the regular sanitary system, then we will solve a lot of problems.

Now, in issues like when you have retention basins for storm and—do you see new regulations on the stormwater or not being able to talk to another part of the EPA? What would you say that is a problem? Or you were talking about the flexibility. You might want to expound on that, because I am a little concerned about proposed new stormwater regulations, and how it affects you to get to what we need to get to, and give you the flexibility.

So, Mr. Portune?

Mr. PORTUNE. I guess I will begin. I—in—speaking in the main, a broad, comprehensive approach that allows local communities the ability to—or the flexibility to—in a pool of limited resources to make investment decisions based upon what results can be accomplished the best quicker and cheaper.

No one wants to backslide on the benefits of the Clean Water Act. My citizens want to live in a clean environment. They don't want polluted streams or rivers or anything like that. But we also have to recognize the affordability question is very important. And we have to balance the tension between doing everything and rigid enforcement versus what my citizens can actually afford to do, and give local governments the flexibility to be able to make those decisions and to place those investment dollars in the wisest way, based upon local needs and interests and affordability.

So, looking at it comprehensively, I would just simply add, Mr. Chairman, that it—we haven't touched upon it much today, but we are very concerned also about the fact that we do know that other regulations are being contemplated. And what happens when we spend all of this money dealing with effluent and fecal coliform levels, and things of that nature, and then all of a sudden there are new regulations that require us to get all of the pharmaceuticals and oils and gases and other toxins, and we have no money? And how do we answer that question of our citizens?

So, would certainly urge Congress to weigh in on these issues to ensure that there is broad oversight flexibility on a local level, and

that we be given the opportunity to apply our dollars in the best way.

Mr. GIBBS. Mr. Reardon?

Mr. REARDON. Just to add, I think, from my perspective, if we continue down the path of consent decrees and an adversarial relationship, it is very difficult to get the flexibility and the ongoing dialogue and the changes of circumstances when cities have to come back and constantly ask for a consent decree to be reopened. We haven't reached that point yet; we are in the midst of it.

But this—you all know when you get into that adversarial relationship, it creates barriers, effectively, to being flexible and innovative and considering the reasonableness of issues. And so I just would continue to encourage you all to think about a different way of doing business with us.

We, as mayors of cities, want to work with you. We want to work with the EPA. We want to find solutions. That is what we do every day, is find out how to move forward. And a different atmosphere to get that done is—

Mr. GIBBS. As we saw in a lot of testimony, the consent decree doesn't help you in the media and the general public, so it adds fuel to the adversarial relationship.

Yes, Mr. Suttle?

Mr. SUTTLE. I want to answer your question and the previous congressman's questions with this thought process. Go back to what I said in my testimony of the 4-2-20 rule. That is the way the policies are put.

The four relates to four bypasses per year to the river. So if my city or any city here comes up with 1 to 10 green solutions, how do you measure that against 4 bypasses in—per year? It doesn't compute. We are looking at the wrong statistics. We need to be looking at the quality of what is going into the river. And if we are doing 1 to 10 green solutions or new technology solutions, what difference is that really making in the qualitative flow this year, versus 5 years from now?

We are not talking about the realities of life. And we have got to get away from this hard fast 4-2-20 concept to really measuring performance.

Mr. GIBBS. OK. Mr. Baker?

Mr. BAKER. Just one comment as far as statutory revisions, or what we can do to further this concept, that we do have some institutional barriers. When we talk about silos that maybe EPA are in, we must recognize States are in their own silos. In my agency I have stormwater permitting folks, I have municipal wastewater permitting folks, I have groundwater folks, and I have standards folks. And we need to communicate. And EPA, at its highest level, needs to communicate within its different offices.

In Utah, if I was to talk to our 10 largest permittees, there is only one municipality among them. The rest are singular, special service districts that have nothing to do with stormwater. They don't manage a stormwater system. Salt Lake City is the exception to that. Otherwise the major permittees don't care about stormwater issues. They care about their municipal wastewater permit.

And so, under a holistic approach, if we can look within the watershed and bring all the players and stakeholders to the table to

talk about what we jointly need to do, that will be a barrier we will need to break down.

Mr. GIBBS. Yes. I am out of time here, but I just wanted to comment on the permits. Typically, the permits are 5 years, correct?

So, I am convinced that the way to do this is through the permitting process and not the consent decrees, and give you the flexibility. And maybe one thing we should be thinking about is maybe a concept of a conditional permit that would go on, say, "Here is your plan," and hopefully it is a comprehensive integrated plan for the watershed, but it is conditional on meeting certain benchmarks that you agree on during the permitting process. Would that be something that would be a concept that would be favorable? OK. Yes?

Mr. BAKER. I would say, though, that hasn't been a huge impediment. Even though we have got a 10-year plan that needs to be implemented, having a 5-year permit cycle has not been an impediment in my State. I don't know if we are an outlier in that regard.

We have used a consent decree or a compliance schedule within the permit itself, and had that schedule roll over from permit to permit, if necessary, because of the expanded timeframe.

Mr. GIBBS. I guess I just raised the question because changes in elected officials at every level, public policy changes. You know what that does for certainty.

Yes, Mr. Williams?

Mr. WILLIAMS. Yes, just at the dialogue yesterday that was an issue that engendered a lot of discussion. There was a lot of concern about that. The fact that if everyone is holding hands and saying, "Yes, this is OK," rolling things over, but every time you open up a permit and it goes forward into a renewal, there is opportunities to derail whatever it was that you had in place.

Mr. GIBBS. OK. Mr. Bishop, do you have any questions?

Mr. BISHOP. I have a couple of questions, Mr. Chairman. I thank you. But before I get to my questions, let me just do a little house-keeping.

I request unanimous consent to enter into the record two statements, one from Congresswoman Eddie Bernice Johnson, and one from Congressman Gerry Connolly.

Mr. GIBBS. So ordered.

[Please see the table of contents section entitled, "Prepared Statements Submitted by Members of Congress" for the statements of Hon. Eddie Bernice Johnson and Hon. Gerald E. Connolly.]

Mr. BISHOP. And I also ask unanimous consent to enter into the record information regarding the bipartisan bill that I have filed, along with Mr. LaTourette, H.R. 3145, which I made reference to a couple times.

Mr. GIBBS. So ordered.

[The information follows:]

H.R. 3145, THE “WATER QUALITY PROTECTION AND JOB CREATION ACT OF 2011”

H.R. 3145, the Water Quality Protection and Job Creation Act of 2011”, renews the Federal commitment to addressing our nation’s substantial needs for wastewater infrastructure by investing **\$13.8 billion** over five years in wastewater infrastructure through the State Revolving Fund and other efforts to improve water quality. The bill would also authorize two additional options for **long-term, alternative financing mechanisms to provide several billion in supplementary funds** for clean water infrastructure.

H.R. 3145 will create thousands of new, domestic jobs in the construction and wastewater-support sectors through increased investment in wastewater infrastructure, reduces the cost of constructing and maintaining that infrastructure, and promotes energy-efficiency and water-efficiency improvements to publicly owned treatment works to reduce the potential long-term operation and maintenance costs of the facility.

Title I – Water Quality Financing

- **Authorizes \$13.8 billion in Federal appropriations over five years to capitalize Clean Water State Revolving Funds (“Clean Water SRFs”). These funds provide low-interest loans and additional loan subsidizations (e.g., principal forgiveness and negative interest loans) to communities for wastewater infrastructure.**
- **Authorizes technical assistance to rural, small and tribal communities to assist them in gaining access to financing wastewater infrastructure. Also provides additional options for States and local communities to reduce the overall cost of financing wastewater infrastructure, including extended repayment periods, long-term asset management planning, and the ability to waive the State match during periods of economic uncertainty.**
- **Provides additional subsidies, including principal forgiveness and negative interest loans under the Clean Water SRFs, for communities that meet a state’s affordability criteria, for individual ratepayers that will experience significant hardship from potential rate increases, and for projects that will achieve water-efficiency goals, energy-efficiency goals, stormwater runoff mitigation, or environmentally sensitive project planning, design, and construction.**
- **Includes economic incentives to encourage the adoption of energy- and water-efficient technologies and practices to maximize the potential for efficient water use, reuse, and conservation, and energy conservation, and realize the potential corresponding cost-savings for water treatment.**
- **Establishes water quality benefits as the primary criterion for determining which projects receive funding, and encourages watershed approaches to solving water quality problems.**

- Ensures the continued application of Federal prevailing wage protections (Davis-Bacon) and establishes Buy America provisions for the construction of treatment works projects funded pursuant to the Clean Water Act.

Title II – Alternative Water Source Projects

- Authorizes \$250 million in grants over five years for alternative water sources projects under section 220 of the Clean Water Act.

Title III – Sewer Overflow Control Grants

- Authorizes \$2.5 billion over five years for sewer overflow control grants under section 221 of the Clean Water Act.

Title IV – Clean Water Trust Fund

- Establishes a Clean Water Trust Fund that will be used to primarily provide capitalization grants for the Clean Water SRFs, while encouraging projects that utilize green infrastructure approaches, energy- or water- efficiency improvements, and/or the implementation of best management practices or measures identified in an approved nonpoint source management program under Section 319.
- Authorizes Clean Water Trust Fund proceeds to be utilized to: (1) facilitate the award of direct loans and guaranteeing obligations under the new clean water infrastructure loan guarantee program established in Title V; (2) assist states, tribes and interstate agencies to establish and maintain State Clean Water programs under section 106 of the Clean Water Act; and (3) fund Clean Water implementation grants under section 104 of the Act
- Directs the Congressional Budget Office to undertake a study of potential funding mechanisms and revenue sources to capitalize the trust fund in order to provide annual funding levels of \$10 billion a year for the activities mentioned above.

Title V – The Water Pollution Control Investment Act

- Authorizes the use of direct Federal loans and loan guarantees to finance the construction of water-related infrastructure, modeled after financing mechanisms for the construction of surface transportation projects through the Transportation Infrastructure Finance and Innovation Act (TIFIA) program.
- Authorizes the Administrator to make direct loans to existing State infrastructure financing authorities to be used to finance wastewater infrastructure projects for the same purposes and in the same manner as projects funded under the existing Clean Water SRF.

- **Loans to existing State authorities are based on the existing Clean Water Act allotment formula, and may be made for a period of 35 years. Individual borrowers must demonstrate that they will have the revenue stream necessary to ensure loan repayment.**
- **Authorizes the Administrator to manage a supplemental infrastructure loan guarantee program what would leverage additional investment from the private sector (in the form of low interest loans) to support large, public water infrastructure projects that are often of national or regional importance, but have difficulty accessing Clean Water SRF monies because of their cost.**
- **Ensures that contractors that carry out clean water infrastructure projects funded either through a direct loan or loan guarantee are paid at prevailing wage rates, as determined under the Davis-Bacon Act.**



112TH CONGRESS
1ST SESSION

H. R. 3145

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2011

Mr. BISHOP of New York (for himself, Mr. RAHALL, Mr. LATOURETTE, and Mr. PETRI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) IN GENERAL.—This Act may be cited as the
5 “Water Quality Protection and Job Creation Act of
6 2011”.

7 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Federal Water Pollution Control Act.

TITLE I—WATER QUALITY FINANCING

Subtitle A—Technical and Management Assistance

- Sec. 1101. Technical assistance.
- Sec. 1102. State management assistance.
- Sec. 1103. Watershed pilot projects.

Subtitle B—Construction of Treatment Works

- Sec. 1201. Sewage collection systems.
- Sec. 1202. Treatment works defined.

Subtitle C—State Water Pollution Control Revolving Funds

- Sec. 1301. General authority for capitalization grants.
- Sec. 1302. Capitalization grant agreements.
- Sec. 1303. Water pollution control revolving loan funds.
- Sec. 1304. Allotment of funds.
- Sec. 1305. Intended use plan.
- Sec. 1306. Annual Reports.
- Sec. 1307. Technical assistance; requirements for use of American materials.
- Sec. 1308. Economic hardship waiver.
- Sec. 1309. Authorization of appropriations.

Subtitle D—General Provisions

- Sec. 1401. Definition of treatment works.
- Sec. 1402. Funding for Indian programs.

Subtitle E—Tonnage Duties

- Sec. 1501. Tonnage duties.

TITLE II—ALTERNATIVE WATER SOURCE PROJECTS

- Sec. 2001. Pilot program for alternative water source projects.

TITLE III—SEWER OVERFLOW CONTROL GRANTS

- Sec. 3001. Sewer overflow control grants.

TITLE IV—CLEAN WATER TRUST FUND

- Sec. 4001. Establishment of Clean Water Trust Fund.
- Sec. 4002. Allocation of funds.
- Sec. 4003. Revenues for Clean Water Trust Fund.

TITLE V—WATER POLLUTION CONTROL INVESTMENT

- Sec. 5001. Short title.
- Sec. 5002. Definitions.
- Sec. 5003. Direct loans.
- Sec. 5004. Guarantees.
- Sec. 5005. Funding.

1 **SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CON-**
2 **TROL ACT.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Federal Water Pollution
8 Control Act (33 U.S.C. 1251 et seq.).

9 **TITLE I—WATER QUALITY**
10 **FINANCING**

11 **Subtitle A—Technical and**
12 **Management Assistance**

13 **SEC. 1101. TECHNICAL ASSISTANCE.**

14 (a) TECHNICAL ASSISTANCE FOR RURAL AND SMALL
15 TREATMENT WORKS.—Section 104(b) (33 U.S.C.
16 1254(b)) is amended—

17 (1) by striking “and” at the end of paragraph

18 (6);

19 (2) by striking the period at the end of para-
20 graph (7) and inserting “; and”; and

21 (3) by adding at the end the following:

22 “(8) make grants to nonprofit organizations—

23 “(A) to provide technical assistance to
24 rural and small municipalities and tribal gov-
25 ernments for the purpose of assisting, in con-
26 sultation with the State in which the assistance

1 is provided, such municipalities and tribal gov-
2 ernments in the planning, developing, and ac-
3 quisition of financing for eligible projects de-
4 scribed in section 603(e);

5 “(B) to provide technical assistance and
6 training for rural, small, and tribal publicly
7 owned treatment works and decentralized
8 wastewater treatment systems to enable such
9 treatment works and systems to protect water
10 quality and achieve and maintain compliance
11 with the requirements of this Act; and

12 “(C) to disseminate information to rural,
13 small, and tribal municipalities and municipali-
14 ties that meet the affordability criteria estab-
15 lished under section 603(i)(2) by the State in
16 which the municipality is located with respect to
17 planning, design, construction, and operation of
18 publicly owned treatment works and decentral-
19 ized wastewater treatment systems.”

20 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
21 104(u) (33 U.S.C. 1254(u)) is amended—

22 (1) by striking “and (6)” and inserting “(6)”;
23 and

24 (2) by inserting before the period at the end the
25 following: “; and (7) not to exceed \$100,000,000 for

1 each of fiscal years 2012 through 2016 for carrying
2 out subsections (b)(3), (b)(8), and (g), except that
3 not less than 20 percent of the amounts appro-
4 priated pursuant to this paragraph in a fiscal year
5 shall be used for carrying out subsection (b)(8)".

6 (c) SMALL FLOWS CLEARINGHOUSE.—Section
7 104(q)(4) (33 U.S.C. 1254(q)(4)) is amended—

8 (1) in the first sentence by striking
9 "\$1,000,000" and inserting "\$3,000,000"; and

10 (2) in the second sentence by striking "1986"
11 and inserting "2016".

12 **SEC. 1102. STATE MANAGEMENT ASSISTANCE.**

13 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
14 106(a) (33 U.S.C. 1256(a)) is amended—

15 (1) by striking "and" at the end of paragraph
16 (1);

17 (2) by striking the semicolon at the end of
18 paragraph (2) and inserting "; and"; and

19 (3) by inserting after paragraph (2) the fol-
20 lowing:

21 "(3) such sums as may be necessary for each
22 of fiscal years 1991 through 2011, and
23 \$300,000,000 for each of fiscal years 2012 through
24 2016;".

1 (b) TECHNICAL AMENDMENT.—Section 106(e) (33
2 U.S.C. 1256(e)) is amended by striking “Beginning in fis-
3 cal year 1974 the” and inserting “The”.

4 **SEC. 1103. WATERSHED PILOT PROJECTS.**

5 (a) PILOT PROJECTS.—Section 122 (33 U.S.C.
6 1274) is amended—

7 (1) in the section heading by striking “WET
8 WEATHER”; and

9 (2) in subsection (a)—

10 (A) in the matter preceding paragraph

11 (1)—

12 (i) by striking “for treatment works”
13 and inserting “to a municipality or munic-
14 ipal entity”; and

15 (ii) by striking “wet weather dis-
16 charge”;

17 (B) in paragraph (2) by striking “in reduc-
18 ing such pollutants” and all that follows before
19 the period at the end and inserting “to manage,
20 reduce, treat, or reuse municipal stormwater,
21 including low-impact development technologies
22 and other techniques that utilize infiltration,
23 evapotranspiration, and reuse of storm water on
24 site”; and

25 (C) by adding at the end the following:

1 “(3) WATERSHED PARTNERSHIPS.—Efforts of
2 municipalities and property owners to demonstrate
3 cooperative ways to address nonpoint sources of pol-
4 lution to reduce adverse impacts on water quality.

5 “(4) INTEGRATED WATER RESOURCE PLAN.—
6 The development of an integrated water resource
7 plan for the coordinated management and protection
8 of surface water, ground water, and stormwater re-
9 sources on a watershed or subwatershed basis to
10 meet the objectives, goals, and policies of this Act.

11 “(5) MUNICIPALITY-WIDE STORM WATER MAN-
12 AGEMENT PLANNING.—The development of a mu-
13 nicipality-wide plan that identifies the most effective
14 placement of storm water technologies and manage-
15 ment approaches, including green infrastructure, to
16 reduce water quality impairments from storm water
17 on a municipality-wide basis.”.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—The first
19 sentence of section 122(e)(1) is amended—

20 (1) by striking “and”; and

21 (2) by striking the period and inserting “, such
22 sums as may be necessary for each of fiscal years
23 2005 through 2011, and \$120,000,000 for each of
24 fiscal years 2012 through 2016”.

1 (c) REPORT TO CONGRESS.—Section 122(d) is
2 amended by striking “5 years after the date of enactment
3 of this section,” and inserting “October 1, 2013,”.

4 **Subtitle B—Construction of**
5 **Treatment Works**

6 **SEC. 1201. SEWAGE COLLECTION SYSTEMS.**

7 Section 211 (33 U.S.C. 1291) is amended—

8 (1) by striking the section heading and all that
9 follows through “(a) No” and inserting the fol-
10 lowing:

11 **“SEC. 211. SEWAGE COLLECTION SYSTEMS.**

12 **“(a) IN GENERAL.—No”;**

13 (2) in subsection (b) by inserting “POPULATION
14 DENSITY.—” after “(b)”; and

15 (3) by striking subsection (c) and inserting the
16 following:

17 **“(c) EXCEPTIONS.—**

18 **“(1) REPLACEMENT AND MAJOR REHABILITA-**
19 **TION.—**Notwithstanding the requirement of sub-
20 section (a)(1) concerning the existence of a collection
21 system as a condition of eligibility, a project for re-
22 placement or major rehabilitation of a collection sys-
23 tem existing on January 1, 2007, shall be eligible for
24 a grant under this title if the project otherwise

1 meets the requirements of subsection (a)(1) and
2 meets the requirement of paragraph (3).

3 “(2) NEW SYSTEMS.—Notwithstanding the re-
4 quirement of subsection (a)(2) concerning the exist-
5 ence of a community as a condition of eligibility, a
6 project for a new collection system to serve a com-
7 munity existing on January 1, 2007, shall be eligible
8 for a grant under this title if the project otherwise
9 meets the requirements of subsection (a)(2) and
10 meets the requirement of paragraph (3).

11 “(3) REQUIREMENT.—A project meets the re-
12 quirement of this paragraph if the purpose of the
13 project is to accomplish the objectives, goals, and
14 policies of this Act by addressing an adverse envi-
15 ronmental condition existing on the date of enact-
16 ment of this paragraph.”.

17 **SEC. 1202. TREATMENT WORKS DEFINED.**

18 Section 212(2)(A) (33 U.S.C. 1292(2)(A)) is amend-
19 ed—

20 (1) by striking “any works, including site”;

21 (2) by striking “is used for ultimate” and in-
22 serting “will be used for ultimate”; and

23 (3) by inserting before the period at the end the
24 following: “and acquisition of other lands, and inter-
25 ests in lands, which are necessary for construction”.

1 **Subtitle C—State Water Pollution**
2 **Control Revolving Funds**

3 **SEC. 1301. GENERAL AUTHORITY FOR CAPITALIZATION**
4 **GRANTS.**

5 Section 601(a) (33 U.S.C. 1381(a)) is amended by
6 striking “for providing assistance” and all that follows
7 through the period at the end and inserting the following:
8 “to accomplish the objectives, goals, and policies of this
9 Act by providing assistance for projects and activities
10 identified in section 603(c).”.

11 **SEC. 1302. CAPITALIZATION GRANT AGREEMENTS.**

12 (a) **REPORTING INFRASTRUCTURE ASSETS.**—Section
13 602(b)(9) (33 U.S.C. 1382(b)(9)) is amended by striking
14 “standards” and inserting “standards, including stand-
15 ards relating to the reporting of infrastructure assets”.

16 (b) **ADDITIONAL REQUIREMENTS.**—Section 602(b)
17 (33 U.S.C. 1382(b)) is amended—

18 (1) in paragraph (6)—

19 (A) by striking “before fiscal year 1995”;

20 (B) by striking “funds directly made avail-
21 able by capitalization grants under this title
22 and section 205(m) of this Act” and inserting
23 “assistance made available by a State water
24 pollution control revolving fund as authorized

1 under this title, or with assistance made avail-
2 able under section 205(m), or both,”; and

3 (C) by striking “201(b)” and all that fol-
4 lows through “513” and inserting “211 and
5 511(e)(1)”;

6 (2) by striking “and” at the end of paragraph
7 (9);

8 (3) by striking the period at the end of para-
9 graph (10) and inserting a semicolon; and

10 (4) by adding at the end the following:

11 “(11) the State will establish, maintain, invest,
12 and credit the fund with repayments, such that the
13 fund balance will be available in perpetuity for pro-
14 viding financial assistance in accordance with this
15 title;

16 “(12) any fees charged by the State to recipi-
17 ents of assistance that are considered program in-
18 come will be used for the purpose of financing the
19 cost of administering the fund or financing projects
20 or activities eligible for assistance from the fund;

21 “(13) beginning in fiscal year 2013, the State
22 will include as a condition of providing assistance to
23 a municipality or intermunicipal, interstate, or State
24 agency that the recipient of such assistance certify,

1 in a manner determined by the Governor of the
2 State, that the recipient—

3 “(A) has studied and evaluated the cost
4 and effectiveness of the processes, materials,
5 techniques, and technologies for carrying out
6 the proposed project or activity for which assist-
7 ance is sought under this title, and has selected,
8 to the extent practicable, a project or activity
9 that maximizes the potential for efficient water
10 use, reuse, and conservation, and energy con-
11 servation, taking into account the cost of con-
12 structing the project or activity, the cost of op-
13 erating and maintaining the project or activity
14 over its life, and the cost of replacing the
15 project or activity; and

16 “(B) has considered, to the maximum ex-
17 tent practicable and as determined appropriate
18 by the recipient, the costs and effectiveness of
19 other design, management, and financing ap-
20 proaches for carrying out a project or activity
21 for which assistance is sought under this title,
22 taking into account the cost of constructing the
23 project or activity, the cost of operating and
24 maintaining the project or activity over its life,
25 and the cost of replacing the project or activity;

1 “(14) the State will use at least 15 percent of
2 the amount of each capitalization grant received by
3 the State under this title after September 30, 2010,
4 to provide assistance to municipalities of fewer than
5 10,000 individuals that meet the affordability cri-
6 teria established by the State under section
7 603(i)(2) for projects or activities included on the
8 State’s priority list established under section 603(g),
9 to the extent that there are sufficient applications
10 for such assistance;

11 “(15) a contract to be carried out using funds
12 directly made available by a capitalization grant
13 under this title for program management, construc-
14 tion management, feasibility studies, preliminary en-
15 gineering, design, engineering, surveying, mapping,
16 or architectural related services shall be negotiated
17 in the same manner as a contract for architectural
18 and engineering services is negotiated under chapter
19 11 of title 40, United States Code, or an equivalent
20 State qualifications-based requirement (as deter-
21 mined by the Governor of the State); and

22 “(16) the requirements of section 513 will apply
23 to the construction of treatment works carried out in
24 whole or in part with assistance made available by
25 a State water pollution control revolving fund as au-

1 thorized under this title, or with assistance made
2 available under section 205(m), or both, in the same
3 manner as treatment works for which grants are
4 made under this Act.”.

5 **SEC. 1303. WATER POLLUTION CONTROL REVOLVING LOAN**
6 **FUNDS.**

7 (a) **PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-**
8 **SISTANCE.**—Section 603(e) (33 U.S.C. 1383(e)) is amend-
9 ed to read as follows:

10 “(e) **PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-**
11 **SISTANCE.**—The amounts of funds available to each State
12 water pollution control revolving fund shall be used only
13 for providing financial assistance—

14 “(1) to any municipality or intermunicipal,
15 interstate, or State agency for construction of pub-
16 licly owned treatment works;

17 “(2) for the implementation of a management
18 program established under section 319;

19 “(3) for development and implementation of a
20 conservation and management plan under section
21 320;

22 “(4) for repair or replacement of decentralized
23 wastewater treatment systems that treat domestic
24 sewage;

1 “(5) for measures to manage, reduce, treat, or
2 reuse municipal stormwater;

3 “(6) to any municipality or intermunicipal,
4 interstate, or State agency for measures to reduce
5 the demand for publicly owned treatment works ca-
6 pacity through water conservation, efficiency, or
7 reuse;

8 “(7) for the development and implementation of
9 watershed projects meeting the criteria set forth in
10 section 122; and

11 “(8) to any municipality or intermunicipal,
12 interstate, or State agency for measures to reduce
13 the energy consumption needs for publicly owned
14 treatment works, including the implementation of
15 energy-efficient or renewable-energy generation tech-
16 nologies.”.

17 (b) EXTENDED REPAYMENT PERIOD.—Section
18 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

19 (1) in subparagraph (A) by striking “20 years”
20 and inserting “the lesser of 30 years or the design
21 life of the project to be financed with the proceeds
22 of the loan”; and

23 (2) in subparagraph (B) by striking “not later
24 than 20 years after project completion” and insert-
25 ing “upon the expiration of the term of the loan”.

1 (c) FISCAL SUSTAINABILITY PLAN.—Section
2 603(d)(1) (33 U.S.C. 1383(d)(1)) is further amended—

3 (1) by striking “and” at the end of subpara-
4 graph (C);

5 (2) by inserting “and” at the end of subpara-
6 graph (D); and

7 (3) by adding at the end the following:

8 “(E) for any portion of a treatment works
9 proposed for repair, replacement, or expansion,
10 and eligible for assistance under section
11 603(e)(1), the recipient of a loan will develop
12 and implement a fiscal sustainability plan that
13 includes—

14 “(i) an inventory of critical assets
15 that are a part of that portion of the treat-
16 ment works;

17 “(ii) an evaluation of the condition
18 and performance of inventoried assets or
19 asset groupings;

20 “(iii) a certification that the recipient
21 has evaluated and will be implementing
22 water and energy conservation efforts as
23 part of the plan; and

24 “(iv) a plan for maintaining, repair-
25 ing, and, as necessary, replacing that por-

1 tion of the treatment works and a plan for
2 funding such activities;”.

3 (d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7)
4 (33 U.S.C. 1383(d)(7)) is amended by inserting before the
5 period at the end the following: “, \$400,000 per year, or
6 $\frac{1}{5}$ percent per year of the current valuation of the fund,
7 whichever amount is greatest, plus the amount of any fees
8 collected by the State for such purpose regardless of the
9 source”.

10 (e) TECHNICAL AND PLANNING ASSISTANCE FOR
11 SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is
12 amended—

13 (1) by striking “and” at the end of paragraph
14 (6);

15 (2) by striking the period at the end of para-
16 graph (7) and inserting a semicolon; and

17 (3) by adding at the end the following:

18 “(8) to provide grants to owners and operators
19 of treatment works that serve a population of
20 10,000 or fewer for obtaining technical and planning
21 assistance and assistance in financial management,
22 user fee analysis, budgeting, capital improvement
23 planning, facility operation and maintenance, equip-
24 ment replacement, repair schedules, and other activi-
25 ties to improve wastewater treatment plant manage-

1 ment and operations, except that the total amount
2 provided by the State in grants under this para-
3 graph for a fiscal year may not exceed one percent
4 of the total amount of assistance provided by the
5 State from the fund in the preceding fiscal year, or
6 2 percent of the total amount received by the State
7 in capitalization grants under this title in the pre-
8 ceding fiscal year, whichever amount is greatest; and
9 “(9) to provide grants to owners and operators
10 of treatment works for conducting an assessment of
11 the energy and water consumption of the treatment
12 works, and evaluating potential opportunities for en-
13 ergy and water conservation through facility oper-
14 ation and maintenance, equipment replacement, and
15 projects or activities that promote the efficient use
16 of energy and water by the treatment works, except
17 that the total amount provided by the State in
18 grants under this paragraph for a fiscal year may
19 not exceed one percent of the total amount of assist-
20 ance provided by the State from the fund in the pre-
21 ceding fiscal year, or 2 percent of the total amount
22 received by the State in capitalization grants under
23 this title in the preceding fiscal year, whichever
24 amount is greatest.”

1 (f) ADDITIONAL SUBSIDIZATION.—Section 603 (33
2 U.S.C. 1383) is amended by adding at the end the fol-
3 lowing:

4 “(i) ADDITIONAL SUBSIDIZATION.—

5 “(1) IN GENERAL.—In any case in which a
6 State provides assistance to a municipality or inter-
7 municipal, interstate, or State agency under sub-
8 section (d), the State may provide additional sub-
9 sidization, including forgiveness of principal and
10 negative interest loans—

11 “(A) to benefit a municipality that—

12 “(i) meets the State’s affordability
13 criteria established under paragraph (2);

14 or

15 “(ii) does not meet the State’s afford-
16 ability criteria if the recipient—

17 “(I) seeks additional subsidiza-
18 tion to benefit individual ratepayers in
19 the residential user rate class;

20 “(II) demonstrates to the State
21 that such ratepayers will experience a
22 significant hardship from the increase
23 in rates necessary to finance the
24 project or activity for which assistance
25 is sought; and

1 “(III) ensures, as part of an as-
2 sistance agreement between the State
3 and the recipient, that the additional
4 subsidization provided under this
5 paragraph is directed through a user
6 charge rate system (or other appro-
7 priate method) to such ratepayers; or

8 “(B) to implement a process, material,
9 technique, or technology to address water-effi-
10 ciency goals, address energy-efficiency goals,
11 mitigate stormwater runoff, or encourage envi-
12 ronmentally sensitive project planning, design,
13 and construction.

14 “(2) AFFORDABILITY CRITERIA.—

15 “(A) ESTABLISHMENT.—On or before Sep-
16 tember 30, 2012, and after providing notice
17 and an opportunity for public comment, a State
18 shall establish affordability criteria to assist in
19 identifying municipalities that would experience
20 a significant hardship raising the revenue nec-
21 essary to finance a project or activity eligible
22 for assistance under section 603(c)(1) if addi-
23 tional subsidization is not provided. Such cri-
24 teria shall be based on income data, population
25 trends, and other data determined relevant by

1 the State, including whether the project or ac-
2 tivity is to be carried out in an economically
3 distressed area, as described in section 301 of
4 the Public Works and Economic Development
5 Act of 1965 (42 U.S.C. 3161).

6 “(B) EXISTING CRITERIA.—If a State has
7 previously established, after providing notice
8 and an opportunity for public comment, afford-
9 ability criteria that meet the requirements of
10 subparagraph (A), the State may use the cri-
11 teria for the purposes of this subsection. For
12 purposes of this Act, any such criteria shall be
13 treated as affordability criteria established
14 under this paragraph.

15 “(C) INFORMATION TO ASSIST STATES.—
16 The Administrator may publish information to
17 assist States in establishing affordability cri-
18 teria under subparagraph (A).

19 “(3) PRIORITY.—A State may give priority to a
20 recipient for a project or activity eligible for funding
21 under section 603(c)(1) if the recipient meets the
22 State’s affordability criteria.

23 “(4) SET-ASIDE.—

24 “(A) IN GENERAL.—In any fiscal year in
25 which the Administrator has available for obli-

1 gation more than \$1,000,000,000 for the pur-
2 poses of this title, a State shall provide addi-
3 tional subsidization under this subsection in the
4 amount specified in subparagraph (B) to eligi-
5 ble entities described in paragraph (1) for
6 projects and activities identified in the State's
7 intended use plan prepared under section
8 606(c) to the extent that there are sufficient
9 applications for such assistance.

10 “(B) AMOUNT.—In a fiscal year described
11 in subparagraph (A), a State shall set aside for
12 purposes of subparagraph (A) an amount not
13 less than 25 percent of the difference be-
14 tween—

15 “(i) the total amount that would have
16 been allotted to the State under section
17 604 for such fiscal year if the amount
18 available to the Administrator for obliga-
19 tion under this title for such fiscal year
20 had been equal to \$1,000,000,000; and

21 “(ii) the total amount allotted to the
22 State under section 604 for such fiscal
23 year.

24 “(5) LIMITATION.—The total amount of addi-
25 tional subsidization provided under this subsection

1 by a State may not exceed 30 percent of the total
2 amount of capitalization grants received by the State
3 under this title in fiscal years beginning after Sep-
4 tember 30, 2011.”.

5 **SEC. 1304. ALLOTMENT OF FUNDS.**

6 (a) IN GENERAL.—Section 604(a) (33 U.S.C.
7 1384(a)) is amended to read as follows:

8 “(a) ALLOTMENTS.—

9 “(1) FISCAL YEARS 2012 AND 2013.—Sums ap-
10 propriated to carry out this title for each of fiscal
11 years 2012 and 2013 shall be allotted by the Admin-
12 istrator in accordance with the formula used to allot
13 sums appropriated to carry out this title for fiscal
14 year 2011.

15 “(2) FISCAL YEAR 2014 AND THEREAFTER.—
16 Sums appropriated to carry out this title for fiscal
17 year 2014 and each fiscal year thereafter shall be al-
18 lotted by the Administrator as follows:

19 “(A) Amounts that do not exceed
20 \$1,350,000,000 shall be allotted in accordance
21 with the formula described in paragraph (1).

22 “(B) Amounts that exceed \$1,350,000,000
23 shall be allotted in accordance with the formula
24 developed by the Administrator under sub-
25 section (d).”.

1 (b) PLANNING ASSISTANCE.—Section 604(b) (33
2 U.S.C. 1384(b)) is amended by striking “1 percent” and
3 inserting “2 percent”.

4 (c) FORMULA.—Section 604 (33 U.S.C. 1384) is
5 amended by adding at the end the following:

6 “(d) FORMULA BASED ON WATER QUALITY
7 NEEDS.—Not later than September 30, 2013, and after
8 providing notice and an opportunity for public comment,
9 the Administrator shall publish an allotment formula
10 based on water quality needs in accordance with the most
11 recent survey of needs developed by the Administrator
12 under section 516(b) and any other information the Ad-
13 ministrator considers appropriate.”.

14 **SEC. 1305. INTENDED USE PLAN.**

15 (a) INTEGRATED PRIORITY LIST.—Section 603(g)
16 (33 U.S.C. 1383(g)) is amended to read as follows:

17 “(g) PRIORITY LIST.—

18 “(1) IN GENERAL.—For fiscal year 2013 and
19 each fiscal year thereafter, a State shall establish or
20 update a list of projects and activities for which as-
21 sistance is sought from the State’s water pollution
22 control revolving fund. Such projects and activities
23 shall be listed in priority order based on the method-
24 ology established under paragraph (2). The State
25 may provide financial assistance from the State’s

1 water pollution control revolving fund only with re-
2 spect to a project or activity included on such list.
3 In the case of projects and activities eligible for as-
4 sistance under section 603(c)(2), the State may in-
5 clude a category or subcategory of nonpoint sources
6 of pollution on such list in lieu of a specific project
7 or activity.

8 “(2) METHODOLOGY.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this paragraph,
11 and after providing notice and opportunity for
12 public comment, each State (acting through the
13 State’s water quality management agency and
14 other appropriate agencies of the State) shall
15 establish a methodology for developing a pri-
16 ority list under paragraph (1).

17 “(B) PRIORITY FOR PROJECTS AND AC-
18 TIVITIES THAT ACHIEVE GREATEST WATER
19 QUALITY IMPROVEMENT.—In developing the
20 methodology, the State shall seek to achieve the
21 greatest degree of water quality improvement,
22 taking into consideration the requirements of
23 section 602(b)(5) and section 603(i)(3), wheth-
24 er such water quality improvements would be
25 realized without assistance under this title, and

1 whether the proposed projects and activities
2 would address water quality impairments asso-
3 ciated with existing treatment works.

4 “(C) CONSIDERATIONS IN SELECTING
5 PROJECTS AND ACTIVITIES.—In determining
6 which projects and activities will achieve the
7 greatest degree of water quality improvement,
8 the State shall consider—

9 “(i) information developed by the
10 State under sections 303(d) and 305(b);

11 “(ii) the State’s continuing planning
12 process developed under section 303(e);

13 “(iii) the State’s management pro-
14 gram developed under section 319; and

15 “(iv) conservation and management
16 plans developed under section 320.

17 “(D) NONPOINT SOURCES.—For categories
18 or subcategories of nonpoint sources of pollu-
19 tion that a State may include on its priority list
20 under paragraph (1), the State shall consider
21 the cumulative water quality improvements as-
22 sociated with projects or activities in such cat-
23 egories or subcategories.

24 “(E) EXISTING METHODOLOGIES.—If a
25 State has previously developed, after providing

1 notice and an opportunity for public comment,
2 a methodology that meets the requirements of
3 this paragraph, the State may use the method-
4 ology for the purposes of this subsection.”.

5 (b) INTENDED USE PLAN.—Section 606(c) (33
6 U.S.C. 1386(c)) is amended—

7 (1) in the matter preceding paragraph (1) by
8 striking “each State shall annually prepare” and in-
9 sserting “each State (acting through the State’s
10 water quality management agency and other appro-
11 priate agencies of the State) shall annually prepare
12 and publish”;

13 (2) by striking paragraph (1) and inserting the
14 following:

15 “(1) the State’s priority list developed under
16 section 603(g);”;

17 (3) in paragraph (4)—

18 (A) by striking “and (6)” and inserting
19 “(6), (15), and (17)”;

20 (B) by striking “and” at the end;

21 (4) by striking the period at the end of para-
22 graph (5) and inserting “; and”;

23 (5) by adding at the end the following:

24 “(6) if the State does not fund projects and ac-
25 tivities in the order of the priority established under

1 section 603(g), an explanation of why such a change
2 in order is appropriate.”.

3 (e) TRANSITIONAL PROVISION.—Before completion
4 of a priority list based on a methodology established under
5 section 603(g) of the Federal Water Pollution Control Act
6 (as amended by this section), a State shall continue to
7 comply with the requirements of sections 603(g) and
8 606(e) of such Act, as in effect on the day before the date
9 of enactment of this Act.

10 **SEC. 1306. ANNUAL REPORTS.**

11 Section 606(d) (33 U.S.C. 1386(d)) is amended—

12 (1) by striking “(d) ANNUAL REPORT.—Begin-
13 ning” and inserting the following:

14 “(d) ANNUAL REPORTS.—

15 “(1) STATE REPORT.—Beginning”;

16 (2) in paragraph (1) (as so designated) by
17 striking “loan amounts,” and inserting “loan
18 amounts, the eligible purposes under section 603(c)
19 for which the assistance has been provided,”; and

20 (3) by adding at the end the following:

21 “(2) FEDERAL REPORT.—The Administrator
22 shall annually prepare, and make publicly available,
23 a report on the performance of the projects and ac-
24 tivities carried out in whole or in part with assist-
25 ance made available by a State water pollution con-

1 trol revolving fund as authorized under this title
2 during the previous fiscal year, including—

3 “(A) the annual and cumulative financial
4 assistance provided to States under this title;

5 “(B) the categories and types of such
6 projects and activities;

7 “(C) an estimate of the number of jobs
8 created through carrying out such projects and
9 activities;

10 “(D) an assessment of the progress made
11 toward meeting the goals and purposes of this
12 Act through such projects and activities; and

13 “(E) any additional information that the
14 Administrator considers appropriate.”.

15 **SEC. 1307. TECHNICAL ASSISTANCE; REQUIREMENTS FOR**
16 **USE OF AMERICAN MATERIALS.**

17 Title VI (33 U.S.C. 1381 et seq.) is amended—

18 (1) by redesignating section 607 as section 610;

19 and

20 (2) by inserting after section 606 the following:

21 **“SEC. 607. TECHNICAL ASSISTANCE.**

22 “(a) **SIMPLIFIED PROCEDURES.**—Not later than 1
23 year after the date of enactment of this section, the Ad-
24 ministrator shall assist the States in establishing sim-

1 plified procedures for treatment works to obtain assistance
2 under this title.

3 “(b) PUBLICATION OF MANUAL.—Not later than 2
4 years after the date of the enactment of this section, and
5 after providing notice and opportunity for public comment,
6 the Administrator shall publish a manual to assist treat-
7 ment works in obtaining assistance under this title and
8 publish in the Federal Register notice of the availability
9 of the manual.

10 “(c) COMPLIANCE CRITERIA.—At the request of any
11 State, the Administrator, after providing notice and an op-
12 portunity for public comment, shall assist in the develop-
13 ment of criteria for a State to determine compliance with
14 the conditions of funding assistance established under sec-
15 tions 602(b)(13) and 603(d)(1)(E).

16 **“SEC. 608. BUY AMERICA.**

17 “(a) IN GENERAL.—Notwithstanding any other pro-
18 vision of law, funds made available from a State water
19 pollution control revolving fund established under this title
20 may not be used for a project for the construction of a
21 publicly owned treatment works unless the steel, iron, and
22 manufactured goods used for the project are produced in
23 the United States.

24 “(b) EXCEPTIONS.—Subsection (a) shall not apply to
25 a project for the construction of a treatment works if the

1 Administrator (in consultation with the Governor of the
2 State in which the treatment works will be constructed)
3 makes a finding that—

4 “(1) the steel, iron, or manufactured goods re-
5 quired for the project are a de minimis component
6 of the project, as determined in accordance with reg-
7 ulations to be issued by the Administrator;

8 “(2) the steel, iron, or manufactured goods re-
9 quired for the project are not produced in the
10 United States—

11 “(A) in sufficient and reasonably available
12 quantities; or

13 “(B) to a satisfactory quality; or

14 “(3) the use of steel, iron, and manufactured
15 goods produced in the United States for the project
16 will increase the total cost of the project by more
17 than 25 percent.

18 “(c) WAIVER REQUIREMENTS.—

19 “(1) PUBLIC NOTIFICATION AND OPPORTUNITY
20 FOR COMMENT.—

21 “(A) IN GENERAL.—At least 30 days be-
22 fore making a finding under subsection (b), the
23 Administrator shall provide notice of and an op-
24 portunity for public comment on the finding.

1 “(B) NOTICE REQUIREMENTS.—Any notice
2 provided under this subparagraph shall—

3 “(i) include a justification for the pro-
4 posed finding; and

5 “(ii) be provided by electronic means,
6 including on the Internet.

7 “(2) DETAILED JUSTIFICATION IN FEDERAL
8 REGISTER.—If the Administrator makes a finding
9 under subsection (b), the Administrator shall—

10 “(A) publish in the Federal Register a de-
11 tailed justification for the finding; and

12 “(B) provide notice of and an opportunity
13 for public comment on the detailed justification
14 at least 30 days before the finding takes effect.

15 “(3) ANNUAL REPORT.—Not later than Feb-
16 ruary 1 of each year beginning after the date of en-
17 actment of this section, the Administrator shall sub-
18 mit to the Committee on Transportation and Infra-
19 structure of the House of Representatives and the
20 Committee on Environment and Public Works of the
21 Senate a report that—

22 “(A) specifies each project with respect to
23 which the Administrator made a finding under
24 subsection (b) during the preceding calendar
25 year; and

1 “(B) describes the justification for each
2 such finding.

3 “(d) STATE REQUIREMENTS.—The Administrator
4 may not impose a limitation or condition on assistance
5 provided under this title that restricts—

6 “(1) a State from imposing requirements that
7 are more stringent than those imposed under this
8 section with respect to limiting the use of articles,
9 materials, or supplies mined, produced, or manufac-
10 tured in foreign countries for projects carried out
11 with such assistance; or

12 “(2) any recipient of assistance from a State
13 water pollution control revolving fund established
14 under this title from complying with such State re-
15 quirements.

16 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
17 dures established under subpart 9.4 of chapter 1 of title
18 48, Code of Federal Regulations, a person shall be ineli-
19 gible to receive a contract or subcontract funded with
20 amounts made available from a State water pollution con-
21 trol revolving fund established under this title if the Ad-
22 ministrators or a court determines that such person inten-
23 tionally—

24 “(1) affixed a label bearing a ‘Made in Amer-
25 ica’ inscription, or any inscription with the same

1 meaning, to any steel, iron, or manufactured goods
2 that—

3 “(A) were used in a project to which this
4 section applies; and

5 “(B) were not produced in the United
6 States; or

7 “(2) represented that any steel, iron, or manu-
8 factured goods were produced in the United States
9 that—

10 “(A) were used in projects to which this
11 section applies; and

12 “(B) were not produced in the United
13 States.

14 “(f) CONSISTENCY WITH INTERNATIONAL AGREE-
15 MENTS.—

16 “(1) IN GENERAL.—This section shall be ap-
17 plied in a manner that is consistent with United
18 States obligations under international agreements.

19 “(2) TREATMENT OF FOREIGN COUNTRIES IN
20 VIOLATION OF INTERNATIONAL AGREEMENTS.—The
21 Administrator shall prohibit the use of steel, iron,
22 and manufactured goods produced in a foreign coun-
23 try in a project funded with amounts made available
24 from a State water pollution control revolving fund
25 established under this title, including any project for

1 which the Administrator has made a finding under
2 subsection (b), if the Administrator, in consultation
3 with the United States Trade Representative, deter-
4 mines that the foreign country is in violation of the
5 terms of an agreement with the United States by
6 discriminating against steel, iron, or manufactured
7 goods that are produced in the United States and
8 covered by the agreement.”.

9 **SEC. 1308. ECONOMIC HARDSHIP WAIVER.**

10 Notwithstanding the requirements of section
11 602(b)(2) of the Federal Water Pollution Control Act (33
12 U.S.C. 1382(b)(2)), for fiscal years 2012 and 2013, the
13 Administrator of the Environmental Protection Agency
14 may waive the requirement that a State deposit an amount
15 equal to 20 percent of the State’s annual capitalization
16 grant into the State’s water pollution control revolving
17 fund established under title VI of that Act if the Adminis-
18 trator determines that the State is currently experiencing
19 a local, statewide, or regional economic hardship and that
20 providing such a deposit would adversely impact the
21 State’s ability to restore and maintain the chemical, phys-
22 ical, and biological integrity of waters located within the
23 State.

1 **SEC. 1309. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 610 (as redesignated by section 1307 of this
3 Act) is amended by striking paragraphs (1) through (5)
4 and inserting the following:

5 “(1) \$2,400,000,000 for fiscal year 2012;

6 “(2) \$2,700,000,000 for fiscal year 2013;

7 “(3) \$2,800,000,000 for fiscal year 2014;

8 “(4) \$2,900,000,000 for fiscal year 2015; and

9 “(5) \$3,000,000,000 for fiscal year 2016.”

10 **Subtitle D—General Provisions**

11 **SEC. 1401. DEFINITION OF TREATMENT WORKS.**

12 Section 502 (33 U.S.C. 1362) is amended by adding
13 at the end the following:

14 “(26) TREATMENT WORKS.—The term ‘treat-
15 ment works’ has the meaning given that term in sec-
16 tion 212.”

17 **SEC. 1402. FUNDING FOR INDIAN PROGRAMS.**

18 Section 518(c) (33 U.S.C. 1377) is amended—

19 (1) by striking “The Administrator” and insert-
20 ing the following:

21 “(1) FISCAL YEARS 1987–2011.—The Adminis-
22 trator”;

23 (2) in paragraph (1) (as so designated)—

24 (A) by inserting “and ending before Octo-
25 ber 1, 2011,” after “1986,”; and

26 (B) by striking the second sentence; and

1 (3) by adding at the end the following:

2 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

3 For fiscal year 2012 and each fiscal year thereafter,
4 the Administrator shall reserve, before allotments to
5 the States under section 604(a), not less than 0.5
6 percent and not more than 2.0 percent of the funds
7 made available to carry out title VI.

8 “(3) USE OF FUNDS.—Funds reserved under
9 this subsection shall be available only for grants for
10 projects and activities eligible for assistance under
11 section 603(c) to serve—

12 “(A) Indian tribes (as defined in section
13 518(h));

14 “(B) former Indian reservations in Okla-
15 homa (as determined by the Secretary of the
16 Interior); and

17 “(C) Native villages (as defined in section
18 3 of the Alaska Native Claims Settlement Act
19 (43 U.S.C. 1602)).”.

20 **Subtitle E—Tonnage Duties**

21 **SEC. 1501. TONNAGE DUTIES.**

22 (a) IN GENERAL.—Section 60301 of title 46, United
23 States Code, is amended by striking subsections (a) and
24 (b) and inserting the following:

25 “(a) LOWER RATE.—

1 “(1) IMPOSITION OF DUTY.—A duty is imposed
2 at the rate described in paragraph (2) at each entry
3 in a port of the United States of—

4 “(A) a vessel entering from a foreign port
5 or place in North America, Central America,
6 the West Indies Islands, the Bahama Islands,
7 the Bermuda Islands, or the coast of South
8 America bordering the Caribbean Sea; or

9 “(B) a vessel returning to the same port or
10 place in the United States from which it de-
11 parted, and not entering the United States
12 from another port or place, except—

13 “(i) a vessel of the United States;

14 “(ii) a recreational vessel (as defined
15 in section 2101 of this title); or

16 “(iii) a barge.

17 “(2) RATE.—The rate referred to in paragraph
18 (1) shall be—

19 “(A) 4.5 cents per ton (but not more than
20 a total of 22.5 cents per ton per year) for fiscal
21 years 2006 through 2011;

22 “(B) 9.0 cents per ton (but not more than
23 a total of 45 cents per ton per year) for fiscal
24 years 2012 through 2021; and

1 “(C) 2 cents per ton (but not more than
2 a total of 10 cents per ton per year) for each
3 fiscal year thereafter..

4 “(b) HIGHER RATE.—

5 “(1) IMPOSITION OF DUTY.—A duty is imposed
6 at the rate described in paragraph (2) on a vessel
7 at each entry in a port of the United States from
8 a foreign port or place not named in subsection
9 (a)(1).

10 “(2) RATE.—The rate referred to in paragraph
11 (1) shall be—

12 “(A) 13.5 cents per ton (but not more
13 than a total of 67.5 cents per ton per year) for
14 fiscal years 2006 through 2011;

15 “(B) 27 cents per ton (but not more than
16 a total of \$1.35 per ton per year) for fiscal
17 years 2012 through 2021, and

18 “(C) 6 cents per ton (but not more than
19 a total of 30 cents per ton per year) for each
20 fiscal year thereafter.”.

21 (b) CONFORMING AMENDMENTS.—Such title is fur-
22 ther amended—

23 (1) by striking the heading for subtitle VI and
24 inserting the following:

1 **“Subtitle VI—Clearance and**
2 **Tonnage Duties”;**

3 (2) in the heading for chapter 603, by striking
4 **“TAXES”** and inserting **“DUTIES”**;

5 (3) in the headings of sections in chapter 603,
6 by striking **“taxes”** each place it appears and in-
7 serting **“duties”**;

8 (4) in the heading for subsection (a) of section
9 60303, by striking **“TAX”** and inserting **“DUTY”**;

10 (5) in the text of sections in chapter 603, by
11 striking **“taxes”** each place it appears and inserting
12 **“duties”**; and

13 (6) in the text of sections in chapter 603, by
14 striking **“tax”** each place it appears and inserting
15 **“duty”**.

16 (c) CLERICAL AMENDMENTS.—Such title is further
17 amended—

18 (1) in the title analysis by striking the item re-
19 lating to subtitle VI and inserting the following:

“VI. CLEARANCE AND TONNAGE DUTIES60101”;

20 (2) in the analysis for subtitle VI by striking
21 the item relating to chapter 603 and inserting the
22 following:

“603. Tonnage Duties and Light Money 60301”;

23 and

24 (3) in the analysis for chapter 603—

1 (A) by striking the items relating to sec-
2 tions 60301 and 60302 and inserting the fol-
3 lowing:

“60301. Regular tonnage duties.
“60302. Special tonnage duties.”;

4 and

5 (B) by striking the item relating to section
6 60304 and inserting the following:

“60304. Presidential suspension of tonnage duties and light money.”.

7 **TITLE II—ALTERNATIVE WATER**
8 **SOURCE PROJECTS**

9 **SEC. 2001. PILOT PROGRAM FOR ALTERNATIVE WATER**
10 **SOURCE PROJECTS.**

11 (a) SELECTION OF PROJECTS.—Section 220(d)(2)
12 (33 U.S.C. 1300(d)(2)) is amended by inserting before the
13 period at the end the following: “or whether the project
14 is located in an area which is served by a public water
15 system serving 10,000 individuals or fewer”.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
17 220(j) (33 U.S.C. 1300(j)) is amended by striking
18 “\$75,000,000 for fiscal years 2002 through 2004” and
19 inserting “\$50,000,000 for each of fiscal years 2012
20 through 2016”.

1 **TITLE III—SEWER OVERFLOW**
2 **CONTROL GRANTS**

3 **SEC. 3001. SEWER OVERFLOW CONTROL GRANTS.**

4 (a) ADMINISTRATIVE REQUIREMENTS.—Section
5 221(e) (33 U.S.C. 1301(e)) is amended to read as follows:

6 “(e) ADMINISTRATIVE REQUIREMENTS.—A project
7 that receives assistance under this section shall be carried
8 out subject to the same requirements as a project that
9 receives assistance from a State water pollution control
10 revolving fund under title VI, except to the extent that
11 the Governor of the State in which the project is located
12 determines that a requirement of title VI is inconsistent
13 with the purposes of this section. For the purposes of this
14 subsection, a Governor may not determine that the re-
15 quirements of title VI relating to the application of section
16 513 are inconsistent with the purposes of this section.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
18 221(f) (33 U.S.C. 1301(f)) is amended to read as follows:

19 “(f) AUTHORIZATION OF APPROPRIATIONS.—

20 “(1) IN GENERAL.—There is authorized to be
21 appropriated to carry out this section \$500,000,000
22 for each of fiscal years 2012 through 2016.

23 “(2) MINIMUM ALLOCATIONS.—To the extent
24 there are sufficient eligible project applications, the
25 Administrator shall ensure that a State uses not less

1 than 20 percent of the amount of the grants made
2 to the State under subsection (a) in a fiscal year to
3 carry out projects to control municipal combined
4 sewer overflows and sanitary sewer overflows
5 through the use of green infrastructure, water and
6 energy efficiency improvements, and other environ-
7 mentally innovative activities.”

8 (c) ALLOCATION OF FUNDS.—Section 221(g) of such
9 Act (33 U.S.C. 1301(g)) is amended to read as follows:

10 “(g) ALLOCATION OF FUNDS.—

11 “(1) FISCAL YEAR 2012.—Subject to subsection
12 (h), the Administrator shall use the amounts appro-
13 priated to carry out this section for fiscal year 2012
14 for making grants to municipalities and municipal
15 entities under subsection (a)(2) in accordance with
16 the criteria set forth in subsection (b).

17 “(2) FISCAL YEAR 2013 AND THEREAFTER.—
18 Subject to subsection (h), the Administrator shall
19 use the amounts appropriated to carry out this sec-
20 tion for fiscal year 2013 and each fiscal year there-
21 after for making grants to States under subsection
22 (a)(1) in accordance with a formula to be established
23 by the Administrator, after providing notice and an
24 opportunity for public comment, that allocates to
25 each State a proportional share of such amounts

1 based on the total needs of the State for municipal
2 combined sewer overflow controls and sanitary sewer
3 overflow controls identified in the most recent survey
4 conducted pursuant to section 516 and any other in-
5 formation the Administrator considers appropriate.”.

6 (d) REPORTS.—The first sentence of section 221(i)
7 (33 U.S.C. 1301(i)) is amended by striking “2003” and
8 inserting “2013”.

9 **TITLE IV—CLEAN WATER TRUST**
10 **FUND**

11 **SEC. 4001. ESTABLISHMENT OF CLEAN WATER TRUST**
12 **FUND.**

13 Subchapter A of chapter 98 of the Internal Revenue
14 Code of 1986 (relating to the establishment of trust funds)
15 is amended by adding at the end the following new section:

16 **“SEC. 9512. CLEAN WATER TRUST FUND.**

17 **“(a) CREATION OF TRUST FUND.—**There is estab-
18 lished in the Treasury of the United States a trust fund
19 to be known as the ‘Clean Water Trust Fund’, consisting
20 of such amounts as may be appropriated or credited to
21 the Fund as provided in this section or section 9602(b).

22 **“(b) TRANSFERS TO TRUST FUND.—**There are here-
23 by appropriated to the Clean Water Trust Fund amounts
24 equivalent to—

1 “(1) fees, taxes, or other sources of revenue
2 specifically collected and deposited in the Fund or
3 received in the Treasury for the purposes provided
4 in this section; and

5 “(2) any penalty paid pursuant to section 309
6 of the Federal Water Pollution Control Act (33
7 U.S.C. 1319) (other than those that result of viola-
8 tions of section 311 of such Act).

9 “(c) APPROPRIATION OF ADDITIONAL SUMS.—There
10 are hereby authorized to be appropriated to the Clean
11 Water Trust Fund such additional sums as may be re-
12 quired to make the expenditures referred to in subsection
13 (d).

14 “(d) EXPENDITURES.—Amounts in the Clean Water
15 Trust Fund shall be available, as provided in appropria-
16 tions Acts, for the following purposes:

17 “(1) Capitalization grants under section 601 of
18 the Federal Water Pollution Control Act (33 U.S.C.
19 1381).

20 “(2) Grants to States and interstate agencies
21 under section 106(a) of that Act (33 U.S.C.
22 1256(a)).

23 “(3) Grants under sections 104(b) and 104(g)
24 of that Act (33 U.S.C. 1254(b) and 1254(g)).

1 “(4) To cover the cost of making direct loans
2 or guaranteeing obligations authorized under the
3 Water Pollution Control Investment Act.”.

4 **SEC. 4002. ALLOCATION OF FUNDS.**

5 Title VI (as amended by section 1307 of this Act)
6 is further amended by inserting after section 608 the fol-
7 lowing:

8 **“SEC. 609. CLEAN WATER TRUST FUND.**

9 “(a) ALLOCATION OF FUNDS.—The Administrator
10 shall allocate funds made available for a fiscal year out
11 of the Clean Water Trust Fund established by section
12 9512 of the Internal Revenue Code of 1986 among eligible
13 programs and activities as follows:

14 “(1) 80 percent for capitalization grants under
15 section 604.

16 “(2) 10 percent to cover the cost of making di-
17 rect loans or guaranteeing obligations authorized
18 under the Water Pollution Control Investment Act.

19 “(3) 7.5 percent for grants to States and inter-
20 state agencies under section 106(a).

21 “(4) 2.5 percent for grants under sections
22 104(b) and 104(g).

23 “(b) AMOUNTS MADE AVAILABLE FOR CAPITALIZA-
24 TION GRANTS.—To the extent there are sufficient applica-
25 tions, not less than 30 percent of the amounts allocated

1 for capitalization grants under subsection (a)(1) shall be
2 used for one or more of the following purposes:

3 “(1) Projects or activities to address green in-
4 frastructure.

5 “(2) Water or energy efficiency improvements
6 or other environmentally innovative activities.

7 “(3) The implementation of best management
8 practices or measures identified in an approved
9 nonpoint source management program under section
10 319.”.

11 **SEC. 4003. REVENUES FOR CLEAN WATER TRUST FUND.**

12 (a) **STUDY ON IDENTIFICATION OF REVENUES.**—Not
13 later than 45 days after the date of enactment of this Act,
14 the Director of the Congressional Budget Office, in con-
15 sultation with the Administrator of the Environmental
16 Protection Agency and the Secretary of the Treasury,
17 shall undertake a study of potential funding mechanisms
18 and revenue sources for the Clean Water Trust Fund es-
19 tablished by section 9512(d) of the Internal Revenue Code
20 of 1986 (as added by this Act) that are sufficient to sup-
21 port annual funding levels of at least \$10,000,000,000 for
22 the purposes identified in section 9512(d) of that Act.

23 (b) **CONDUCT OF STUDY.**—In carrying out the study,
24 the Director shall—

- 1 (1) take into consideration whether potential
2 funding mechanisms and revenue sources—
3 (A) are broad based;
4 (B) are equitably allocated; and
5 (C) can be efficiently collected;
- 6 (2) review and, to the extent practicable, utilize
7 existing studies and reports on potential sources of
8 revenue for a clean water trust fund, including—
9 (A) the report of the Government Account-
10 ability Office entitled “Clean Water Infrastruc-
11 ture: A Variety of Issues Need to Be Consid-
12 ered When Designing a Clean Water Trust
13 Fund” (GAO-09-037, May 2009); and
14 (B) the report of the Environmental Pro-
15 tection Agency entitled “Alternative Funding
16 Study: Water Quality Fees and Debt Financing
17 Issues” (EPA 832-R-96-001, June 1996);
- 18 (3) consult with Federal, State, tribal, and local
19 agencies, representatives of business and industry,
20 representatives of entities operating publicly owned
21 treatment works, representatives of conservation and
22 environmental organizations, representatives of rate-
23 payer organizations, and other interested persons;
24 and
25 (4) provide the opportunity for public hearings.

1 (c) REPORT TO CONGRESS.—Not later than 1 year
2 after the date of enactment of this Act, the Director shall
3 submit a report on the results of the study to—

4 (1) the Committee on Transportation and In-
5 frastructure, the Committee on Ways and Means,
6 and the Committee on the Budget of the House of
7 Representatives; and

8 (2) the Committee on Environment and Public
9 Works, the Committee on Finance, and the Com-
10 mittee on the Budget of the Senate.

11 **TITLE V—WATER POLLUTION** 12 **CONTROL INVESTMENT**

13 **SEC. 5001. SHORT TITLE.**

14 This title may be cited as the “Water Pollution Con-
15 trol Investment Act”.

16 **SEC. 5002. DEFINITIONS.**

17 In this title, the following definitions apply:

18 (1) ADMINISTRATOR.—The term “Adminis-
19 trator” means the Administrator of the Environ-
20 mental Protection Agency.

21 (2) BORROWER.—The term “borrower” means
22 a person who owes payments of interest or principal
23 on an obligation guaranteed under this title.

24 (3) COST OF A DIRECT LOAN.—The term “cost
25 of a direct loan” means the “cost of a direct loan”

1 as that term is used in section 502(5) of the Federal
2 Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

3 (4) COST OF A GUARANTEE.—The term “cost
4 of a guarantee” means the “cost of a loan guar-
5 antee” as that term is used in section 502(5) of the
6 Federal Credit Reform Act of 1990 (2 U.S.C.
7 661a(5)).

8 (5) DIRECT LOAN.—The term “direct loan” has
9 the meaning given that term in section 502 of the
10 Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

11 (6) GUARANTEE.—

12 (A) IN GENERAL.—The term “guarantee”
13 has the meaning given the term “loan guar-
14 antee” in section 502 of the Federal Credit Re-
15 form Act of 1990 (2 U.S.C. 661a).

16 (B) INCLUSION.—The term “guarantee”
17 includes a loan guarantee commitment (as that
18 term is defined in section 502 of the Federal
19 Credit Reform Act of 1990 (2 U.S.C. 661a)).

20 (7) LARGE WATER INFRASTRUCTURE
21 PROJECT.—

22 (A) IN GENERAL.—The term “large water
23 infrastructure project” means a project for con-
24 struction of a publicly owned treatment works
25 that qualifies for assistance under section

1 603(c) of the Federal Water Pollution Control
2 Act (33 U.S.C. 1383(c)), but because of its sig-
3 nificant scope and cost is not likely to receive
4 assistance under that Act, as determined by the
5 Administrator.

6 (B) GUIDELINES.—The Administrator
7 shall issue guidelines for determining whether a
8 project qualifies as a large water infrastructure
9 project.

10 (8) OBLIGATION.—The term “obligation”
11 means a loan or other debt obligation.

12 (9) STATE INFRASTRUCTURE FINANCING AU-
13 THORITY.—The term “State infrastructure financing
14 authority” means the State entity established or des-
15 ignated by the Governor of a State to receive a cap-
16 italization grant provided by, or otherwise carry out
17 the requirements of, title VI of the Federal Water
18 Pollution Control Act (33 U.S.C. 1381 et. seq.).

19 **SEC. 5003. DIRECT LOANS.**

20 (a) IN GENERAL.—

21 (1) USE OF LOANS.—The Administrator may
22 make a direct loan to a State infrastructure financ-
23 ing authority for use in the same manner, and sub-
24 ject to the same terms and conditions (unless other-
25 wise specified in this section), as a capitalization

1 grant made under section 601 of the Federal Water
2 Pollution Control Act (33 U.S.C. 1831).

3 (2) TERMS AND CONDITIONS.—The Adminis-
4 trator may make a loan under this section on such
5 terms and conditions (including requirements for au-
6 dits) as the Administrator determines appropriate.

7 (b) LOAN REQUIREMENTS.—

8 (1) MAXIMUM AMOUNT.—The amount of a loan
9 made under this section to a State infrastructure fi-
10 nancing authority shall not exceed the applicable
11 percentage for the State establishing such authority
12 of the total amount available under this title for dis-
13 bursement, based on the allotment for the State in
14 accordance with section 604 of the Federal Water
15 Pollution Control Act (33 U.S.C. 1384).

16 (2) TERM OF LOAN.—The final maturity date
17 of a loan made under this section shall not be later
18 than 35 years after the date on which funds are dis-
19 bursed to a State infrastructure financing authority.

20 (3) INTEREST RATE.—The Administrator may
21 make a loan under this section only if the Adminis-
22 trator determines that the interest rate on the loan
23 is appropriate, taking into account the prevailing
24 rate of interest in the private sector for similar
25 loans.

1 (4) SECURITY.—The Administrator shall re-
2 quire a State infrastructure financing authority re-
3 ceiving a loan under this section to use a rate cov-
4 enant, coverage requirement, or similar security fea-
5 ture adequate to ensure loan repayment.

6 (5) REPAYMENT.—

7 (A) SCHEDULE.—The Administrator shall
8 set a repayment schedule for each loan made
9 under this section based on the projected cash
10 flow to the State infrastructure financing au-
11 thority, including consideration of the effect on
12 such cash flow of the security features de-
13 scribed in paragraph (4).

14 (B) COMMENCEMENT.—Scheduled loan re-
15 payments of principal or interest on a loan
16 made under this section shall commence not
17 later than 5 years after the date on which the
18 loan is made.

19 (C) DEFERRAL OF PAYMENTS.—

20 (i) IN GENERAL.—If the Adminis-
21 trator determines that a State infrastruc-
22 ture financing authority lacks the re-
23 sources to make scheduled payments on a
24 loan made under this section based on cir-
25 cumstances not foreseeable at the time the

1 loan is made, the Administrator may allow
2 for the deferral of such payments.

3 (ii) INTEREST.—Any payment de-
4 ferred under clause (i) shall—

5 (I) continue to accrue interest
6 until fully repaid; and

7 (II) be amortized over the re-
8 maining term of the loan.

9 (D) PREPAYMENT.—Payments on the loan
10 may be made in advance with no penalty.

11 (e) SALE OF LOANS.—After notifying the State infra-
12 structure financing authority, the Administrator, in con-
13 sultation with the Secretary of the Treasury, may sell a
14 loan made under this section, if the Administrator deter-
15 mines that the sale can be made on favorable terms.

16 (d) CONFORMING REQUIREMENTS.—The require-
17 ments of sections 211, 511(c)(1), and 513 of the Federal
18 Water Pollution Control Act (33 U.S.C. 1291, 1371(c)(2),
19 and 1372) apply to the construction of a project carried
20 out in whole or in part with assistance made available
21 through a loan under this section in the same manner as
22 treatment works for which grants are made available
23 under the Federal Water Pollution Control Act.

24 (e) FEES.—The Administrator shall charge and col-
25 lect fees from State infrastructure financing authorities

1 receiving loans under this section in amounts the Adminis-
2 trator determines are sufficient to cover the administrative
3 expenses associated with carrying out this section and, as
4 provided in advance in appropriations Acts, use such
5 amounts to cover such expenses.

6 (f) RECORDS; AUDITS.—

7 (1) IN GENERAL.—A State infrastructure fi-
8 nancing authority receiving a loan under this section
9 shall keep such records and other pertinent docu-
10 ments as the Administrator shall prescribe by regu-
11 lation, including such records as the Administrator
12 may require to facilitate an effective audit of loans
13 made under this section.

14 (2) ACCESS.—The Administrator and the
15 Comptroller General of the United States, or their
16 duly authorized representatives, shall have access,
17 for the purpose of audits, to records and other perti-
18 nent documents kept under paragraph (1).

19 **SEC. 5004. GUARANTEES.**

20 (a) IN GENERAL.—

21 (1) USE OF GUARANTEES.—The Administrator
22 may make a guarantee under this title for an obliga-
23 tion for construction of a large water infrastructure
24 project in accordance with the requirements of this
25 section.

1 (2) SELECTION CRITERIA.—

2 (A) ESTABLISHMENT.—The Administrator
3 shall establish criteria for selecting among large
4 water infrastructure projects in making guaran-
5 tees under this title.

6 (B) CRITERIA.—In establishing selection
7 criteria under this paragraph, the Adminis-
8 trator shall include consideration of the fol-
9 lowing:

10 (i) The extent to which the project is
11 nationally or regionally significant.

12 (ii) The creditworthiness of the
13 project, including a determination by the
14 Administrator that any financing has ap-
15 propriate features to ensure repayment.

16 (iii) The extent to which the project
17 uses new technologies that enhance the en-
18 vironmental benefits of the project.

19 (iv) The cost of a guarantee under
20 this title.

21 (v) The extent to which the project
22 helps restore, maintain, or protect the en-
23 vironment.

24 (3) FISCAL YEAR LIMITATION.—The Adminis-
25 trator may not utilize more than 10 percent of the

1 funds made available under this title for a fiscal
2 year to make guarantees under this section during
3 that fiscal year.

4 (4) TERMS AND CONDITIONS.—The Adminis-
5 trator may make a guarantee for a large water in-
6 frastructure project under this title on such terms
7 and conditions (including requirements for audits)
8 as the Administrator determines appropriate.

9 (5) SECURITY.—The Administrator shall re-
10 quire a borrower to use a rate covenant, coverage re-
11 quirement, or similar security feature adequate to
12 ensure repayment of the obligation.

13 (b) GUARANTEE REQUIREMENTS.—

14 (1) PROBABILITY OF REPAYMENT.—The Ad-
15 ministrator may make a guarantee under this title
16 only if the Administrator determines that there is a
17 high probability of repayment by the borrower of the
18 principal and interest on the obligation.

19 (2) AMOUNT.—

20 (A) PERCENTAGE OF TOTAL COST.—The
21 Administrator may make a guarantee under
22 this title only if the amount of the obligation
23 does not exceed 75 percent of the total cost of
24 the large water infrastructure project, as esti-

1 mated at the time at which the guarantee is
2 issued.

3 (B) SUFFICIENCY.—The Administrator
4 may make a guarantee under this title only if
5 the Administrator determines that the amount
6 of the obligation, when combined with amounts
7 available from other sources, will be sufficient
8 to carry out the project.

9 (3) NONSUBORDINATION.—The Administrator
10 may make a guarantee under this title only if the
11 guarantee is not subordinate to other financing.

12 (4) INTEREST RATE.—The Administrator may
13 make a guarantee under this title only if the Admin-
14 istrator determines that the interest rate on the obli-
15 gation is appropriate, taking into account the pre-
16 vailing rate of interest in the private sector for simi-
17 lar obligations.

18 (5) TERM.—The Administrator may make a
19 guarantee under this title only if—

20 (A) repayment of the obligation is required
21 over a period not to exceed the lesser of—

22 (i) 35 years; or

23 (ii) 90 percent of the projected useful
24 life of the large water infrastructure

1 project to be financed by the obligation (as
2 determined by the Administrator); and

3 (B) payments on the obligation are sched-
4 uled to commence not later than 5 years after
5 the date of substantial completion of the large
6 water infrastructure project.

7 (c) CONFORMING REQUIREMENTS.—

8 (1) FISCAL SUSTAINABILITY PLAN.—The Ad-
9 ministrator may make a guarantee for a large water
10 infrastructure project under this title only if the
11 owner or operator of such project commits to de-
12 velop and implement a fiscal sustainability plan that
13 meets the requirements of section 603(d)(1)(E) of
14 the Federal Water Pollution Control Act, as added
15 by this Act.

16 (2) PRIORITY LIST.—The Administrator may
17 make a guarantee for a large water infrastructure
18 project under this title only if such project is on a
19 State priority list under section 603(g) of the Fed-
20 eral Water Pollution Control Act (33 U.S.C.
21 1383(g)), as amended by this Act.

22 (3) ADDITIONAL REQUIREMENTS.—The require-
23 ments of sections 211, 511(e)(1), and 513 of the
24 Federal Water Pollution Control Act (33 U.S.C.
25 1291, 1371(c)(2), and 1372) apply to the construc-

1 tion of a large water infrastructure project carried
2 out in whole or in part with financing made available
3 through an obligation guaranteed under this title in
4 the same manner as treatment works for which
5 grants are made available under the Federal Water
6 Pollution Control Act.

7 (d) DEFAULTS.—

8 (1) PAYMENT BY ADMINISTRATOR.—

9 (A) IN GENERAL.—If a borrower defaults
10 on an obligation guaranteed under this title (as
11 defined in regulations promulgated by the Ad-
12 ministrator and specified in the guarantee con-
13 tract), the holder of the guarantee shall have
14 the right to demand payment of the unpaid
15 amount from the Administrator.

16 (B) PAYMENT REQUIRED.—Within such
17 period as may be specified in the guarantee or
18 related agreements, the Administrator shall pay
19 to the holder of a guarantee the unpaid interest
20 on, and unpaid principal of, the obligation guar-
21 anteed under this title as to which the borrower
22 has defaulted, unless the Administrator finds
23 that there was no default by the borrower in
24 the payment of interest or principal or that the
25 default has been remedied.

1 (C) FORBEARANCE.—Nothing in this sub-
2 section precludes any forbearance by the holder
3 of a guarantee for the benefit of the borrower
4 which may be agreed upon by the parties to the
5 obligation and approved by the Administrator.

6 (2) SUBROGATION.—

7 (A) IN GENERAL.—If the Administrator
8 makes a payment under paragraph (1), the Ad-
9 ministrator shall be subrogated to the rights of
10 the holder of the guarantee as specified in the
11 guarantee or related agreements.

12 (B) SUPERIORITY OF RIGHTS.—The rights
13 of the Administrator, with respect to any prop-
14 erty acquired pursuant to a guarantee or re-
15 lated agreements, shall be superior to the rights
16 of any other person with respect to the prop-
17 erty.

18 (e) PAYMENT OF PRINCIPAL AND INTEREST BY AD-
19 MINISTRATOR.—

20 (1) IN GENERAL.—With respect to any obliga-
21 tion guaranteed under this title, the Administrator
22 may enter into a contract to pay, and pay, a holder
23 of the guarantee, for and on behalf of the borrower,
24 from funds appropriated for that purpose, the prin-
25 cipal and interest payments which become due and

1 payable on the unpaid balance of the obligation if
2 the Administrator finds that—

3 (A) the borrower is unable to meet the
4 payments and is not in default;

5 (B) it is in the public interest to permit
6 the borrower to continue to pursue the purposes
7 of the project;

8 (C) the probable net benefit to the Federal
9 Government in paying the principal and interest
10 will be greater than that which would result in
11 the event of a default; and

12 (D) the State or region in which the
13 project is located is experiencing a period of
14 local or regional economic hardship that has af-
15 fected the borrower's ability to meet the pay-
16 ments.

17 (2) AMOUNT.—The amount of the payment
18 that the Administrator is authorized to pay under
19 this subsection shall be no greater than the amount
20 of principal and interest that the borrower is obli-
21 gated to pay under the obligation.

22 (3) REIMBURSEMENT.—A payment may be
23 made under this subsection only if the borrower
24 agrees to reimburse the Administrator for the pay-

1 ment (including interest) on terms and conditions
2 that are satisfactory to the Administrator.

3 (f) FEES.—The Administrator shall charge and col-
4 lect fees from borrowers for guarantees made under this
5 title in amounts the Administrator determines are suffi-
6 cient to cover the administrative expenses associated with
7 carrying out this title and, as provided in advance in ap-
8 propriations Acts, use such amounts to cover such ex-
9 penses.

10 (g) RECORDS; AUDITS.—

11 (1) IN GENERAL.—A borrower shall keep such
12 records and other pertinent documents as the Ad-
13 ministrator shall prescribe by regulation, including
14 such records as the Administrator may require to fa-
15 cilitate an effective audit of guarantees made under
16 this title.

17 (2) ACCESS.—The Administrator and the
18 Comptroller General of the United States, or their
19 duly authorized representatives, shall have access,
20 for the purpose of audits, to records and other perti-
21 nent documents kept under paragraph (1).

22 (h) FULL FAITH AND CREDIT.—The full faith and
23 credit of the United States is pledged to the payment of
24 all guarantees made under this title.

1 **SEC. 5005. FUNDING.**

2 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
3 are authorized to be appropriated such sums as are nec-
4 essary to provide direct loans and the costs of guarantees
5 under this title.

6 (b) **ALTERNATE FUNDING MECHANISM.**—With re-
7 spect to a guarantee for a large water infrastructure
8 project under this title, in lieu of funding such guarantee
9 through a separate appropriation, the borrower of the obli-
10 gation to be guaranteed may pay a one-time guarantee
11 fee to the Administrator equal to the cost of the guar-
12 antee, and the Administrator may use such fee, as pro-
13 vided in advance in appropriations Acts, to make such
14 guarantee.

○

**State-by-State Funding Increases and Job Creation
H.R. 3145, the Water Quality Protection
and Job Creation Act of 2011**

October 11, 2011

State	Five-year Baseline Funding for SRF	Five-year Funding Under H.R.3145	Total Additional Funding from H.R.3145	Total Job Creation Under H.R.3145
Alabama	\$37,903,580	\$151,614,318	\$113,710,739	4,218
Alaska	\$20,287,319	\$81,149,274	\$60,861,956	2,258
Arizona	\$22,894,780	\$91,579,118	\$68,684,339	2,548
Arkansas	\$22,175,134	\$88,700,535	\$66,525,401	2,468
California	\$242,426,930	\$969,707,721	\$727,280,790	26,990
Colorado	\$27,112,239	\$108,448,956	\$81,336,717	3,017
Connecticut	\$41,525,239	\$166,100,957	\$124,575,717	4,621
Delaware	\$16,642,229	\$66,568,915	\$49,926,686	1,852
District of Columbia	\$16,642,229	\$66,568,915	\$49,926,686	1,852
Florida	\$114,416,996	\$437,667,983	\$323,250,987	12,734
Georgia	\$57,310,587	\$229,242,349	\$171,931,762	6,378
Hawaii	\$26,252,011	\$105,008,045	\$78,756,034	2,922
Idaho	\$16,642,229	\$66,568,915	\$49,926,686	1,852
Illinois	\$153,301,302	\$613,205,208	\$459,903,906	17,061
Indiana	\$81,691,519	\$326,766,077	\$245,074,557	9,092
Iowa	\$45,876,586	\$183,506,345	\$137,629,758	5,106
Kansas	\$30,596,664	\$122,386,655	\$91,789,991	3,405
Kentucky	\$43,141,932	\$172,567,728	\$129,425,796	4,801
Louisiana	\$37,260,919	\$149,043,676	\$111,782,757	4,147
Maine	\$26,238,622	\$104,954,490	\$78,715,867	2,920
Maryland	\$81,979,377	\$327,917,510	\$245,938,132	9,124
Massachusetts	\$115,086,434	\$460,345,735	\$345,259,301	12,808
Michigan	\$145,746,694	\$582,986,777	\$437,240,083	16,220
Minnesota	\$62,301,247	\$249,204,990	\$186,903,742	6,934
Mississippi	\$30,539,762	\$122,159,046	\$91,619,285	3,399
Missouri	\$93,965,665	\$375,862,659	\$281,896,993	10,458
Montana	\$16,642,229	\$66,568,915	\$49,926,686	1,852
Nebraska	\$17,338,444	\$69,353,777	\$52,015,333	1,930
Nevada	\$16,642,229	\$66,568,915	\$49,926,686	1,852
New Hampshire	\$33,873,563	\$135,494,251	\$101,620,688	3,770
New Jersey	\$138,516,764	\$554,067,055	\$415,550,291	15,416
New Mexico	\$16,642,229	\$66,568,915	\$49,926,686	1,852
New York	\$374,138,857	\$1,496,555,427	\$1,122,416,570	41,639
North Carolina	\$61,176,592	\$244,706,367	\$183,529,775	6,808
North Dakota	\$16,642,229	\$66,568,915	\$49,926,686	1,852
Ohio	\$190,823,302	\$763,293,208	\$572,469,906	21,237
Oklahoma	\$27,386,709	\$109,546,834	\$82,160,126	3,048
Oregon	\$38,291,854	\$153,167,414	\$114,875,561	4,262
Pennsylvania	\$134,269,180	\$537,076,719	\$402,807,539	14,943
Rhode Island	\$22,760,892	\$91,043,568	\$68,282,676	2,533
South Carolina	\$34,723,749	\$138,894,996	\$104,171,247	3,864
South Dakota	\$16,642,229	\$66,568,915	\$49,926,686	1,852
Tennessee	\$49,240,512	\$196,962,048	\$147,721,536	5,480
Texas	\$154,928,036	\$619,712,145	\$464,784,109	17,242
Utah	\$17,860,606	\$71,442,423	\$53,581,818	1,988
Vermont	\$16,642,229	\$66,568,915	\$49,926,686	1,852
Virginia	\$69,370,513	\$277,482,051	\$208,111,538	7,720
Washington	\$58,947,363	\$235,789,452	\$176,842,089	6,560
West Virginia	\$52,842,089	\$211,368,354	\$158,526,266	5,881
Wisconsin	\$91,636,021	\$366,244,083	\$274,608,062	10,198
Wyoming	\$16,642,229	\$66,568,915	\$49,926,686	1,852
American Samoa	\$3,042,596	\$12,170,383	\$9,127,787	339
Guam	\$2,202,451	\$8,809,804	\$6,607,353	245
Northern Marianas	\$1,412,514	\$5,650,057	\$4,237,543	157
Puerto Rico	\$44,209,686	\$176,838,742	\$132,629,057	4,920
Virgin Islands	\$1,767,316	\$7,069,265	\$5,301,949	197
Indian Tribes	\$68,310,000	\$273,240,000	\$204,930,000	7,602
Total	\$3,450,000,000	\$13,800,000,000	\$10,350,000,000	752,636

Mr. GIBBS. So ordered.

Mr. BISHOP. A couple things. Mr. Portune, you entered into or your community entered into the consent agreement that you have made reference to several times in 2004. Is that correct?

Mr. PORTUNE. It was originally entered into at that point. Subsequent to that we were sued by the Sierra Club, and that resulted in an amended and restated consent decree that was then ultimately approved after that.

Mr. BISHOP. When?

Mr. PORTUNE. I'm sorry, sir. I don't—

Mr. BISHOP. Let me—

Mr. PORTUNE. If I could—I want to say 2009, but I want to be precise on the date, and—

Mr. BISHOP. Let me—can I just ask what I really want to focus in on?

Mr. PORTUNE. Yes, sir.

Mr. BISHOP. You indicated that the consent decree that you entered into in 2004 suggested that you could propose alternative technologies, and you proposed a set of green technologies that would have saved you about \$1 billion. Is that right?

Mr. PORTUNE. That is a part of the amended and restated decree, not the original decree in 2004—

Mr. BISHOP. OK. So that amended and restated decree, which was pursuant to a legal action by the Sierra Club, was entered into in 2009. Is that correct?

Mr. PORTUNE. That is my recollection, sir. But I will supplement you with the exact date.

Mr. BISHOP. OK. The reason I am asking is it seems to me that there was—communities have been reluctant, for understandable reasons, to pursue green technologies because they had not been widely used. And thus, the evaluation mechanisms were not as well developed as they could have been.

One of the things that the Recovery Act—the much maligned Recovery Act—although, Mr. Strickland, I was interested to hear you say that—did I hear you say 3 ships are being built at a cost of \$150 million?

Mr. STRICKLAND. Correct.

Mr. BISHOP. I am assuming one or two people are working on building those ships. Am I right about that?

Mr. STRICKLAND. Probably a little bit more.

Mr. BISHOP. OK, thanks. Just wanted to be clear. There was a required set-aside in the monies that went to the State Revolving Fund of 20 percent for green technologies.

And my understanding—Ms. Baer, maybe you can help me with this—my understanding is that every State met that required set-aside. Am I right about that?

Ms. BAER. That is correct. Every State met or even exceeded that amount.

Mr. BISHOP. So there is now an increased usage of these technologies and modalities, which presumably would provide a greater frame of reference to evaluate their effectiveness. Am I right about that?

Ms. BAER. Yes, I think that is right. Both the States and the financing authorities, and the States are now more comfortable lend-

ing or granting out for those approaches, and the demand for those have been really high. In fact, there was a backlog of projects during that time period.

Mr. BISHOP. OK. Because this strikes me as a very positive development. That, the ARRA requirement, coupled with the October 27th memorandum from the EPA, which clearly embraces green technologies—and I would say, Mr. Suttle, you make the point that we need to live in the real world, and we have to accept the hard realities of life. And I think you are absolutely right. And it seems to me that the EPA's memorandum having to do with both integrated approaches and green technologies is the EPA's embrace of that very hard-headed assessment, which is that we have to accept the hard realities of life.

I mean I think we are on a good path here, going forward. And I am hopeful that the use of green technologies can both be more cost effective and become more broadly accepted, so that the EPA has a sufficient database to assess whether or not they actually work. And perhaps if, you know, the consent decree had been—you know, maybe if you were entering into it now, perhaps we would have had a different outcome. I don't know.

Mr. PORTUNE. If I may?

Mr. BISHOP. Yes, please.

Mr. PORTUNE. Thank you. First of all, just a footnote. Our decree was approved by the parties in June of 2009.

Mr. BISHOP. OK. Thank you.

Mr. PORTUNE. The court, however, didn't give its approval until 2010. So that is a little—off on the dates. I am sorry, sir.

Mr. BISHOP. OK.

Mr. PORTUNE. But it was 2009 when the parties agreed. I think that you are certainly on to something there. And it again is a reason why the idea of having pilot demonstration project communities may be one important for the committee to consider. They could be looked to to develop the data to a sufficient degree that it is then universally accepted and applied across the board. That is one of the reasons why our coalition of communities has focused so much on a demonstration project component of moving forward with a flexible approach and congressional oversight.

Mr. BISHOP. OK. Thank you very much, and thank you, Mr. Chairman.

Mr. GIBBS. Anybody else have any more questions? Go ahead.

Mrs. NAPOLITANO. I didn't know I was next. Thank you, Mr. Chair.

Several of you have indicated the need for private investment. But have anybody—does anybody have any suggestions how to encourage that investment in water protection, development, and management? And what would it take to encourage that? Has anybody been able to attract it? And has that been part of the dialogue for the League of Cities and Conference of Mayors and the counties?

Mr. STRICKLAND. I will take a first shot at this. One way to attract private investment is certainly to work through local codes. And it is part of our green infrastructure plan, going forward, to require new development, redevelopment, to manage stormwater on site. So that is certainly one way to go about it. We estimate

over the 20-year life of our plan, that will attract some \$900 million in green infrastructure investments.

Mrs. NAPOLITANO. Have you found any such investors yet?

Mr. STRICKLAND. It will happen developer by developer. So these rules actually haven't been finalized. They will be finalized probably this month. And when development cycle picks up, that will be built into the cost of new buildings and redevelopment.

One reason we are—we like this approach is at that time, when you are building a new roof and you want to build a green roof or what have you, you can build in technology that will be about .3 to 1.3 percent of overall development costs. So it is cheap to do it when you are building something new.

Mrs. NAPOLITANO. Anybody else?

Ms. BAER. Yes. I would add briefly that we have seen in places that have adopted fee and credit systems to charge for partial base stormwater runoffs, and Philadelphia, where they have a charge for—based on how much surface you have that is creating the pollution source. But then they give a full credit to people if they are able to retain water on site, which is most cost-effectively done with green infrastructure.

This has then created a market, so there is a whole suite of contractors who build, install, maintain green roofs who are now benefiting from that. And in discussions we have had with people, people are very excited about those business opportunities. And so that is a way to create sort of private market for investment, by having a strong local code that improves this.

And so, we have heard from other folks—small business in Maryland, for example, that—the regulations in that State for strong protected stormwater standards, encourage environmental site design. One small business owner told us he has quadrupled his employees because of that. So I think there is opportunity there.

Mrs. NAPOLITANO. So there is a market, but there is no concerted effort to try to identify for major projects, or to be able to help communities know where to go and find these investors is—am I right? Anybody? Yes, sir?

Mr. SUTTLE. I was told you asked about private investors coming in to the infrastructure market. U.S. Conference of Mayors does support having a mechanism in place where private investments can be done through some type of a financing mechanism. But we are going to need some changes in the tax code to incentivize that.

If you are inferring that the private industries can come in too and take over treatment plants and other water systems—

Mrs. NAPOLITANO. No, no, sir. Not at all.

Mr. SUTTLE. OK.

Mrs. NAPOLITANO. I am referring strictly to—

Mr. SUTTLE. To have them come in as investors, there needs to be a reason for them to do that, and they have to have some incentive from the tax sides. Because they are looking at it as an investment.

Mrs. NAPOLITANO. Right. Well, bonds usually are the way many communities go to be able to do major projects. And that, to me, would be something that would be attractive to Wall Street investors and others. Yes? No?

Mr. SUTTLE. Well, I think it would. But we need to look at it in a bigger picture of how those investors think when they buy those bonds.

Mrs. NAPOLITANO. Correct, and that is something that should be—along with the other steps that we are taking, be as another option.

Mr. SUTTLE. The point is well taken. It also gets us back into this debt issue, and that is how much debt can we absorb on the side of the government, the city, or the sewer agency, and how much is going to come over here and be investors from another—

Mrs. NAPOLITANO. I would really love to see the agencies move in that direction to start maybe finding out where these opportunities could be found.

Mr. Suttle, you mentioned your concerns that businesses would leave Omaha if the water and sewage rates were increased. Do you believe those businesses will stay in Omaha if the sewage overflows into the river, or if the quality of water was compromised? Do you know any businesses that might have left because of the increase to the cost of clean water?

Mr. SUTTLE. Well, I have 11 industries that have kind of organized and we have been dealing with now for over a year. We had an impasse some 4 weeks ago, and I now have—

Mrs. NAPOLITANO. OK. I need to cut it, sir. I am running out of—

Mr. SUTTLE. Yes. I now have lawyers in my office, because they are on their way to sue.

One of those industries is going to sue—and I made reference to it—its bill will go up here, starting next year. And it is on its course to a \$1.8 billion annual—

Mrs. NAPOLITANO. Do—

Mr. SUTTLE. This is all overhead cost.

Mrs. NAPOLITANO. Yes.

Mr. SUTTLE. And they cannot absorb it. I don't want to be spending my time trying to figure out how to keep these 11 industries in Omaha. I want to spend my time on getting 11 new industries to Omaha.

Mrs. NAPOLITANO. Understood, sir. Thank you. Mr. Chairman, one last question.

Have any of you tried to educate your Members of Congress on the reality of issues when it deals with your entities? Any of you?

Mr. PORTUNE. Yes.

Mrs. NAPOLITANO. You have? And staff? Because staff is important. It is critical. Because if we don't understand the issue, and then you come and try to pass a bill, that is not helpful to us. So may I suggest you continue educating them? Because this is where you will find the support that you will need.

Thank you, Mr. Chair.

Mr. GIBBS. Thank you. I just wanted to conclude here. On your last statement you talked about the 11 businesses that might be leaving Omaha, and their cost, and the cost that rate payers—we have heard that common theme.

The irony of it is if the rates go up so high you are going to lose population in the urban centers, and you are going to have less resources to deal with this issue. You are going to push industry

probably offshore, but you are also going to push residents out in the rural areas, and that creates other problems. So, I think the irony of the whole thing is it just kind of comes and goes around.

But I want to thank you for coming in today. I think we had a great discussion, and it was very informative and helpful as we move forward, because it is obvious that we are at a point where we have got to change the culture and how we kind of address these issues and give you the flexibility, because you are all dedicated to make sure we have clean water for your communities and across America. So again, thank you for being here.

And I am going to excuse you for the—well, stand at ease so the next panel will have a chance to get their seats. But you are more than welcome to stay and listen to the next panel. Thank you. We will be at ease for just a couple minutes.

At this time I would like to welcome Ms. Stoner. Ms. Stoner is the acting assistant administrator for water of the United States Environmental Protection Agency. And I think Ms. Giles must have just stepped out for a moment. But I think, Ms. Stoner, we can probably just go ahead with your opening statement.

Thank you.

TESTIMONY OF NANCY K. STONER, ACTING ASSISTANT ADMINISTRATOR, OFFICE OF WATER, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; AND CYNTHIA GILES, ASSISTANT ADMINISTRATOR, OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Ms. STONER. Thank you, Mr. Chairman, Ranking Member Bishop. It is a pleasure to be back here again before the subcommittee, and to talk with you, along with Assistant Administrator Giles, who will join me in a moment, to discuss our efforts at EPA to improve water quality for communities nationwide through integrated municipal stormwater and wastewater planning.

It is actually great to see that many of the ideas that we are promoting in terms of integration, prioritization, and green infrastructure have so much support from the first panel and all the communities that they represent and the organizations that they represent.

We have come a long way in improving water quality in the U.S. public health and the environment since Congress enacted the Clean Water Act almost 40 years ago. We have significantly reduced pollution entering streams, lakes, bays, and other waters nationwide, and our Nation's public water systems provide water that meets national health-based standards for contaminants in drinking water in nearly all cases.

However, there is significant drinking water and water pollution challenges that remain. Population growth, increases in impervious services, aging infrastructure, complex water quality issues, and the current economic challenges are stressing implementation of infrastructure and programs needed to fully attain Clean Water Act goals, and we certainly have heard about that this morning.

Many of our State and local government partners find themselves facing difficult financial conditions, and we recognize these

challenges. EPA is working with State and local governments to develop and implement new approaches that will achieve water quality goals at lower cost, while creating jobs and strengthening the economy.

So we view these challenges not just as challenges, but also as an opportunity, an opportunity for developing new products, new services, better ways of doing things. And that is what we are talking about today.

In the past, EPA, States, and municipalities have often focused on each Clean Water Act requirement individually, rather than managing their various water quality investments as a single coordinated effort. Such an approach may constrain a community's ability to address its most serious water quality issues in a cost-effective manner. And so, we believe a new commitment to integrated water quality planning and management offers municipalities an opportunity to meet Clean Water Act requirements in a more cost-effective manner to spend their dollars better, and in a way that achieves the highest priority goals more quickly.

To further reinforce this commitment, in October Assistant Administrator Giles and I signed a memo to EPA's 10 regional offices, emphasizing the Agency's commitment to integrated approaches to managing municipal stormwater and wastewater. The approach would provide interested municipalities with opportunities to develop a comprehensive plan that balances competing Clean Water Act requirements, allows municipalities to focus their resources on the most pressing public health and environmental protection issues.

Let me briefly describe for you what the integrated planning approach is and is not.

First, the integrated approach is voluntary, not mandatory. The development of integrated plans is best done by municipalities themselves, not by EPA. But we stand willing to work with States, municipalities, and partners to help them develop these plans.

Second, integrated plans should be tailored to the needs of the community, and can include the innovative techniques that we have been talking about today. The EPA's policies provide flexibility for EPA and States to evaluate a municipality's financial capacity, and to design solutions that meet the community's needs, including all the green infrastructure techniques.

Third, integrated planning approach does not entail lowering existing Clean Water Act standards. And we have heard a lot of support for that today. The approach takes advantage of the flexibilities in existing EPA regulations, policies, and guidance, including the potential for long-term compliance schedules to allow municipalities to sequence implementation of their Clean Water Act obligations to protect water quality and public health at a reduced cost.

Finally, this effort is still under development. We are currently developing a framework document. We will fully describe our initial thoughts on the integrated planning concept. This document will be informed by significant input from States, communities, and other stakeholders.

Cynthia and I look forward to working with the subcommittee, our State colleagues, cities, counties, utilities, and many other part-

ners, stakeholders, and citizens, and we are committed to listening carefully to the needs of States and municipalities as we work together to most effectively protect water quality and public health.

Mr. GIBBS. I would like to welcome Ms. Giles. Ms. Giles is the assistant administrator of the office of enforcement and compliance assurance of the U.S. EPA. Welcome.

Ms. GILES. Thank you very much, Mr. Chairman, for giving me the opportunity to make a few comments. I am here—happy to be here today, along with my colleague, Nancy Stoner, to talk about the collaboration between EPA's headquarter's and regions' permitting and enforcement programs to achieve better water quality through integrated municipal stormwater and wastewater planning.

We have made a lot of progress in clean water over the last 40 years, as has been mentioned here today. Investments in clean water treatment and infrastructure, as well as good work in permitting and enforcement at the State and the Federal level have all contributed to these successes. Governments at all levels, as we heard here today, as well as wastewater utilities, are in agreement that we need to maintain the existing standards to protect people's health and to protect clean water under the Clean Water Act.

What we are working on now, and what we are discussing here today are ways we can continue to make progress on the goal we all share, cleaner water, by making smart choices about priorities, taking advantage of innovations, and making sure that the most important work is done first. That is what many communities have been asking us to do, and that is the effort we have launched, working with States, utilities, and communities across the country.

This effort is not about expanding enforcement. Sometimes an enforcement agreement is a helpful way to address the many complex issues that communities face in addressing stormwater and extensive wastewater systems. Often a permit is a useful mechanism to accomplish those goals.

One of the topics that is on the table in this effort is the best way to get a community on the path towards cleaner water that sets priorities and sequences the work to get the most benefits upfront. We are open to everyone's ideas on this subject.

We also agree that when new approaches are identified and that can make more progress or achieve the goals at a lower cost, then it is appropriate to make changes in the existing agreements. We have done that on a number of agreements recently, and that continues to be an approach that makes sense where better answers are identified.

EPA has been, and we will continue to work with all the interested parties to better use the existing flexibilities to reach these common goals.

I am happy to answer any questions you may have.

Mr. GIBBS. Thank you. I guess I will start off with the first questions.

First of all, I want to appreciate for you sitting through the last panel to hear their testimony and their responses to the questions. And it is pretty obvious to me—I hope it was to you—that, you know, the concern about enforcement versus permitting, or consent decrees versus permitting. And from your testimony, from both of

you, the gist I get from you just saying that, you want to move EPA towards the more permitting concept, versus consent decrees and enforcement? Is that a correct statement?

Ms. GILES. Well, I think, Mr. Chairman, that what we are saying is that the right option for each community is definitely an issue that is on the table. We are open to both options. We think there are some advantages in permits, and there can be sometimes advantages to pursuing it through enforcement.

You have heard many of the people on the prior panel say that one of the things these communities are looking for is certainty and a schedule over the long term. Sometimes a consent decree is a good vehicle for providing that degree of certainty. However, even within an enforcement document there are plenty of flexibilities that we have, and have been exercising.

I would note that the Mayor Suttle, representing the Conference of Mayors, made quick reference to the fact that they have noticed recently greater degrees of flexibility by EPA in working with communities in consent decrees. I am pleased to hear that they have noticed that. That is something that we have been really working on, and we can continue in this effort to do that.

Mr. GIBBS. Well, to carry that further, would you say that enforcement actions would be the last resort, and permitting would be the first priority?

Ms. GILES. I think the answer will vary by community. I would say that where we have longstanding issues in a community, especially where there is significant health or environmental threats involved, and there has been longstanding violations, enforcement, of course, remains an option on the table.

But we are committed to and have been working with communities on—and are going to continue to do so—committed to having flexibilities in the system—

Mr. GIBBS. Yes, well, let's talk about communities that are currently under a consent decree. Would they have the option, the flexibility, to go this other route? Or would they—or they would not have that option?

Ms. GILES. Yes, they would have that option, and we have—there is—let me give you one recent example where the city of Indianapolis, who is under a consent decree, came to us and said, "We have a better way to achieve the clean water results that we are trying to achieve here, and we think it will save us money." We looked at that, we agreed, we amended the consent agreement. And I think that everyone has been very pleased that we have been able to find cheaper, better solutions to these problems.

Mr. GIBBS. Ms. Stoner, do you think the current permitting process allows enough flexibility? Or do you need more flexibility to say, a municipality that adopts the integrated plan, and maybe it is going to take 10 or 15 years—do you need a different type of a permit schedule, or do you have that flexibility under current law, or do you have any limitations that we need to address?

Ms. STONER. We think we have a lot of flexibility now, including to have compliance schedules that are longer for a lot of different elements that you would find in a Clean Water Act permit. I think there is improvement to be made, innovation to be made, in terms of watershed permits, in terms of multi-agency permits—for exam-

ple, having stormwater and wastewater under the same permit. I think there are things that we can do. We feel like we can do those things, most of those things that need to be done, under existing law.

Keep in mind, though, Mr. Chairman, that States run 46 of the programs. So it is very key to think about how States will work in this process. A permitting process will be largely State-run, and so that is why we are working very closely with States, to explore the flexibilities they have under their State water quality standards and their permitting programs.

Mr. GIBBS. OK, because I am just concerned if a municipality adopts the plan and everybody agrees on the goals, but it is going to take maybe 15 years to get there, and they set their priorities, that halfway through, when things change and agendas change, that they might be reluctant to move forward that way if they don't have the long-term assurance that, you know, they have got some protections.

Ms. STONER. We think we can find those mechanisms to provide longer term schedules. But the other benefit that you actually get from permitting is that they are—those permits are reissued every 5 years. So, as circumstances change, and innovation—which we spent a lot of time talking about today—as new techniques are developed, new products are available, they can be incorporated into the next permit.

So, the adaptive management approach works very well with permitting.

Mr. GIBBS. Now—just my last question, because I am out of time. Does the permit give the municipalities, the local governments, assurances from third-party lawsuits, some protection versus—because my understanding of the consent decrees, those are sometimes issued just to protect the local municipality from third-party lawsuits.

Ms. STONER. Well, let me start, and then let me ask my colleague to join me.

So there is a permit shield provision in the Clean Water Act. So an entity that is in compliance with its clean water permit is in compliance with the law, and is shielded from third-party lawsuits.

Mr. GIBBS. Even though they might not be in compliance right away, but they would be in compliance to what the permit sets.

Ms. STONER. The scope of the obligation—

Mr. GIBBS. Yes.

Ms. STONER [continuing]. Is what the permit says that it is. Yes.

Mr. GIBBS. Oh, OK.

Ms. STONER. That is right.

Mr. GIBBS. OK, that is very helpful.

Ms. GILES. And consent decree is another vehicle that can lay out a long-term course of schedule—setting priorities and schedules that is available to deal with some of these questions. And it is the case that where the Federal Government has entered into a Federal court consent decree, that that sets the standard that citizen groups would expect to hold municipalities to.

Mr. GIBBS. OK. Mr. Bishop?

Mr. BISHOP. Thank you very much, Mr. Chairman. Thank you. Thank you both.

You know, we frequently hear the EPA described as taking a one-size-fits-all approach. And yet, Ms. Giles, I just heard you twice in response to questions from the chairman, talk about finding the right option for the community, which seems to suggest that you don't take a one-size-fits-all approach.

So, could you, A, respond to the concern that the EPA takes a one-size-fits-all approach, and do so—if it is not true, which, presumably, it is not, given your testimony, can you give us some examples of how the EPA is—presents flexible responses and flexible plans for communities that relate to those specific communities?

Ms. GILES. Yes. First let me agree, that we understand and completely hear these communities, that their circumstances differ and the scope of the problems that they are facing varies. So you heard the commissioner from New York talk about that CSOs are their principal issue and they need to address those. Other communities have stormwater problems that are dominant over CSO issues. Other communities have separated storm-sewer issues.

We try to craft our solution that—in a way that is tailored to the issues that the community is facing. And part of this integrated approach is to make sure we are doing that, we are looking across the spectrum of Clean Water Act obligations and concerns that the community is facing, and tailor our solution to those. Let me give you one example, you asked for an example.

Mr. BISHOP. Please.

Ms. GILES. We recently reached agreement with the city of Cleveland's system. And they wanted to come forward with a lot of green infrastructure solutions, which we embraced in our agreement with the city. And it was very much this adaptive management learn-by-doing approach that we have been talking about here, where they were going to take some blighted areas in the city and convert those to places that will capture stormwater, providing clean water benefits, reduced stormwater, and revitalization of the communities where those green spaces would be located.

Mr. BISHOP. OK. Thank you very much. And Ms. Stoner, I just—I think you answered this, but I think it is so important, so I just want to make sure we are all clear.

The flexibility, if you will, that is embodied in the October memorandum, I think most everyone has welcomed that. We have heard people—and it is clear that this is flexibility that would be applied prospectively.

We have also heard people express the opinion, the concern, that this flexibility also ought to be available to communities that are currently operating under consent decrees.

Just be clear. Does the EPA currently provide or will it provide that kind of flexibility to communities that are currently operating under consent decrees?

Ms. STONER. Yes. We already have done it in a number of cases, as Cynthia mentioned. And we are open to better ideas that will achieve more environmental protection cost-effectively for these communities, even for communities that are currently under consent decrees.

Mr. BISHOP. OK. Ms. Giles?

Ms. GILES. I agree.

Mr. BISHOP. OK. All right. Thank you both very much. I yield back.

Mr. GIBBS. Representative—

Mrs. NAPOLITANO. Thank you, Mr. Chair. Welcome, Administrator Stoner, and thank you for being diligent in your effort to protect and help our water resources. I can tell you that we have had multiple hearings in the past on EPA, and it is not always being treated as kindly. And I tell you EPA, my region in San Francisco, has always been very responsive to my councils of government. And thank you for that.

Ms. STONER. Great.

Mrs. NAPOLITANO. And then I also heard that there is always new regs coming up. And maybe very minimally. Can you shed light on why? Because I know there is new pollutants being found that—they endanger health and endanger marine life, endanger agriculture, E. coli, et cetera, et cetera. Would you elaborate, just minimally? Because I have other questions.

Ms. STONER. Yes. The first point I would like to make is that most of the obligations that we have been talking about today are not new. They are actually very old obligations that came into effect in the 1970s or the 1980s, with the combined sewer overflow policy. That is 1994. So these are actually longstanding obligations, not new obligations.

It is certainly true that as we identify new problems, we do try to find new ways to address them. There was a question about stormwater regulations. Those are not done yet. But what we are contemplating is actually mechanisms that would help municipalities like the ones that we saw here today address their stormwater problems. That is what we are working on.

Mrs. NAPOLITANO. There are—with the coordination of—in fact, in my district, in LA County, water is used in many areas 17 times. It is re-used, recycled, which requires coordination of county, local, State, and Federal agencies. And what you are proposing is common sense, to evaluate waste, integrate, and work together.

There are 28 Federal agencies alone dealing with water, Federal agencies, most often in separate silos of regulation and mission. Do you see this as a—the proposed integration effort as a tool to integrate across the various agencies, or do you see this primarily an effort to clean up things within EPA?

And then, as a followup to that, do you see this effort as a model for other water programs in EPA?

Ms. STONER. This is more of an integration effort among levels of government, the Federal, State, and local, than it is across. But one of the main ways in which we fund green infrastructure in communities across the U.S. is by actually putting together funding opportunities from different Federal agencies. So HUD has money, DOT has money, USDA has money—

Mrs. NAPOLITANO. OK, OK—

Ms. STONER [continuing]. EPA has—so we put it all together to achieve a package that will achieve that community—

Mrs. NAPOLITANO. So you do talk to each other.

Ms. STONER. Absolutely.

Mrs. NAPOLITANO. OK.

Ms. STONER. And we are working closely together, particularly on that kind of initiative—

Mrs. NAPOLITANO. Is the new technology part of it, addressing the new technology, the green technology, the methodology, et cetera?

Ms. STONER. Absolutely.

Mrs. NAPOLITANO. OK. Then another question that I have is several individuals have spoken to the need for private investments. From your perspective, what will it take to convince private investors to put up money to support water infrastructure and water reuse, recycling, et cetera? And have you helped, do you know if you can help, or how do we address this?

Ms. STONER. Well, I think there is lots of good information in reports coming out about what a good investment it is, particularly water and wastewater infrastructure, how many jobs are created, how many different kinds of jobs are created, and how it is beneficial for U.S. manufacturers, how we have a positive trade surplus for water and wastewater services. There is all kinds of information out there that I think the savvy investor is already on to, in terms of this investment. Hopefully more will be on over time.

Mrs. NAPOLITANO. Thank you. There are so very many other questions I would have, and I would put them into writing later, Mr. Chair. I yield back.

Mr. GIBBS. Ms. Edwards. Do you have questions?

Ms. EDWARDS. Thank you, Mr. Chairman, and thank you to both of you also for your patience.

You know, on the earlier panel, when I described “our consent decree,” I don’t want to suggest at all that it is a bad idea for us to have entered into a consent decree covering the Washington Suburban Sanitary Commission, which, you know, has a responsibility for providing clean water for over 2 million of our residents. In fact, I actually think that the implementation and the existence of the consent decree actually helped us to move forward in a way that we may not have under other circumstances.

Before this consent decree in the Metropolitan Washington suburbs, we had 4.8 million gallons of sewer overflow in 2004. After the consent decree in 2010 we had 581,000 gallons of overflow, and there has been a lot of work that has gone into the system and into the coordination that has taken place in the jurisdiction around these issues. And so I think the consent decree, in fact, put us on a long-term pathway for dealing with these issues. That may work in some communities and other things may work in other places.

I note also that we—about a quarter of our overflow is still related to fats, oils, and grease, stuff that actually should be dealt with with a lot of public education.

But I want to turn my attention to the idea of green infrastructure, because I also note that in the \$500 million or so of enhancements in the WSSC system, under the consent decree about a third of that is dedicated to green infrastructure. And so it seemed to be—at least in our working locally—that EPA, our department of the environment, and the utility were able to come up with a strategy that also incorporated green infrastructure.

And so, I want to give you an opportunity, Ms. Stoner, to comment on the kinds of things that EPA is looking at when it con-

siders green infrastructure as part of these plans, and also give you an opportunity to give us some thoughts about the importance of creating, at least regionally, as I have thought about regionally, these centers for excellence for developing green infrastructure techniques and technologies, and the benefit that would have to communities.

Ms. STONER. Thank you. But both of those questions are related, because green infrastructure is an evolving field. So we know very well already what a lot of green infrastructure techniques can do at the site level. What we are working toward—and this is really important for these consent decrees and for permitting—is to see what they can do at a sewer shed level, at a watershed level.

And so, that is where the technology is evolving, and the research is evolving. And so that is something that communities can share with each other, is what techniques they are using, how they are working, how they are measuring results. And that will help us move forward in using more of these over time, achieving greater results, and creating the wide range of jobs that are associated with implementing green infrastructure.

Ms. EDWARDS. Ms. Giles?

Ms. GILES. Well, I am very pleased to hear that your consent decree is working so well for your community, and that we were able to find a way to advance some of these innovative technologies.

I would add that I hear the same thing from many communities. When we started out, maybe a little more challenging relationship, but evolved to a very collaborative relationship, where we are mutually trying to find solutions to these problems, and helping to create a pathway forward for these communities that provides them both certainty and the clean water that they are very much in favor of achieving.

Ms. EDWARDS. Thank you. And then finally, Ms. Stoner, I wonder if you can tell me how the EPA plans to identify municipalities that could make the best use of an integrated plan approach, and whether these municipalities have already begun implementing some of the techniques and areas most in need of new strategies.

Ms. STONER. Yes. So we are working to come up with an approach, again, in discussions with many others. But part of it is that they have done some thinking about how to prioritize for their community, what the tradeoffs are, what the sequencing would be, what smart investments are.

One thing we don't want to do is delay further improvement while we plan. So we are looking for communities who have done that planning to be some of our leaders, and to demonstrate for others how it can be done.

That being said, we are open to talking to all about where they are in the process.

Ms. EDWARDS. And what role do you think the Federal Government has in helping to develop the private sector to mature the technologies?

Ms. STONER. I think that we do have some innovation efforts, partnership efforts that we have underway that are led by our office of research and development office out in Cincinnati. And we are trying to work to help spur interest in investment in these new technologies.

If I could quickly tell a story, I was up in the Three Rivers Conference in Pittsburgh a little over a year ago. And they had vendors outside the conference itself. And I went around and talked to all the vendors there. And there were probably 50, 75 vendors. And all except one—the one imported rubber products from overseas—every other vendor made their product in the USA. So those are all products that are innovative products that are water and wastewater investment products being made in the USA and implemented, serviced in the USA. That is creating jobs.

Ms. EDWARDS. Thank you. And I look forward to seeing you tomorrow in Edmonston in our Green Street Project. Thank you.

Ms. STONER. I look forward to it, as well.

Mr. GIBBS. Got just a couple more questions. You heard a lot in the previous panel my concerns, my questioning about the stormwater and sanitary water. In your October memorandum to your regional offices for achieving water quality through the integrated municipal planning and permitting, you placed a lot of emphasis on stormwater, in addition to the wastewater permitting.

How does the EPA—how do you plan to integrate the stormwater and wastewater permitting process?

Ms. STONER. Well, that is what we spent yesterday over at NACWA talking about, how to do that, because they are often separate permits. So I think there are ways of doing it as a combined permit, as a watershed permit, maybe also using a memorandum of agreement or memorandum of understanding. There are other approaches. That is where we need to do some innovation on the permitting side.

But we think we have the tools we need, we just need to figure out how to do it together.

Mr. GIBBS. What is the status on any new stormwater regulations?

Ms. STONER. We are continuing to work on those. We are behind schedule.

Mr. GIBBS. Do you have a time table?

Ms. STONER. Not one that I can share with you today. We are working hard on that. We consider them very important.

And as I mentioned, part of the point of the stormwater regulations is to help communities figure out how to cost-effectively address stormwater pollution. So it would be very beneficial to the communities we saw here today.

Mr. GIBBS. Will you be supplying a report to Congress on the proposed stormwater regulations?

Ms. STONER. We will be submitting the report to Congress before we are proposing anything. Yes, Congressman.

Mr. GIBBS. And we will have time to have a hearing if we need to, or to have feedback, back and forth?

Ms. STONER. I look forward to hearings on the issue with you, Mr. Chairman.

Mr. GIBBS. OK, that is great. Just one last question. You heard a lot of discussion on the previous panel about doing maybe 15, 20 pilot projects, because there are over 700 communities that have this issue. Are you open to developing a pilot plan to—with this integrated approach?

Ms. STONER. Yes, that is what I was talking about in terms of those who have already done a lot of thinking and planning. We are hoping those could be initial pilots for us, and others could learn from their successes.

Mr. GIBBS. That is going to be laid out here in the near future?

Ms. STONER. Our strategy that we are working on now would identify how we would like to work with communities through pilot projects and other means, as well.

Mr. GIBBS. Do you think we will have something moving forward by spring?

Ms. STONER. Yes.

Mr. GIBBS. Great. I am done with my questions. Is there any more questions over here?

I guess this will conclude our hearing. And thanks for coming.

And one thing I do have to say in kind of a closing statement—I said it to the last panel, and—because this is kind of changing the whole paradigm of how we operate. And it is quite clear to me—and I hope it was to you, when you heard the last panel—where municipalities and States improve this infrastructure and move towards making progress in this area, in clean water.

But if we don't do it right, they are going to lose resources. Because as you heard from the mayor from Omaha, 11 businesses, substantial-sized businesses, that are looking to leave Omaha. And that is across the country. And if we layer so much red tape and additional cost, we won't achieve what my goal and your goal is. And so we have really got to be careful how we handle that, because the resources won't be there. And I think that is something we should always keep in the back of our minds, that we can't achieve enhanced environment if we add costs there to chase people away. And I think we always need to remember that.

Ms. STONER. That is why we are looking for cost-effective solutions.

Mr. GIBBS. That is great to hear. And I look forward to working with you in the future.

So that will conclude this hearing. And have a good day. Thank you.

[Whereupon, at 12:44 p.m., the subcommittee was adjourned.]



Committee on Transportation and Infrastructure

Subcommittee on Water Resources and Environment

Hearing on “Integrated Planning and Permitting: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality.”

Wednesday, December 14, 2011

Statement – Congressman Jason Altmire (PA-04)

Mr. Chairman, I have heard many reports of tension between the Environment Protection Agency (EPA) and municipalities and townships in my district in western Pennsylvania regarding water quality investments. Communities located within the Pine Creek Watershed have been targeted for compliance with a Total Maximum Daily Load (TMDL) that could soon be issued by EPA. Since none of these communities knew anything about this matter until recently when EPA representatives held a public hearing, they feel they were left out of the process.

That is why I believe it is important to voice the concerns of our townships and boroughs in this forum. When EPA conducts testing in a local watershed area, the local governments and communities that are located within this test area should be notified since they are stakeholders.

My constituents feel that they were depicted as bad stewards of the environment even though they had already voluntarily taken steps to address concerns in the watershed. Community leaders also believe the methods used to test the waters by EPA officials were questionable, and they did not have an opportunity to present those concerns because they were not notified prior to the testing. Communication with local stakeholders should be a priority for EPA.

Another concern is prioritization of funding. Representatives of EPA indicated numerous concerns to municipalities regarding compliance with the Clean Water Act and the lack of funding available at the federal and state levels to address them. As such, my constituents believe it is time for EPA to recognize the current fiscal reality and prioritize their level of concern based on environmental effects and the amount of funding assistance that can be made available to the local communities to address these concerns.

I thank the subcommittee for holding this hearing and for the ability to relay my constituents' concerns to the EPA and my colleagues on the subcommittee.

###



Statement of Congressman Gerald E. Connolly
Water Resources and Environment Subcommittee Hearing
December 14th, 2011

Chairman Gibbs and Ranking Member Bishop, thank you for the opportunity to submit comments on Clean Water Act financing for water quality improvement projects. In the absence of earmarks, it is imperative that State Revolving Fund (SRF) and other clean water financing mechanisms provide sufficient flexibility to implement water quality improvement plans in diverse communities around the country.

I represent a suburban and exurban district in Northern Virginia which illustrates the need for SRF flexibility. While most of my constituents use publicly-owned wastewater treatment plants, the residents of Dale City, in Prince William County, have a non-profit, privately owned wastewater treatment system. When developers started building Dale City nearly a half-century ago, Prince William County did not have the capacity to build or maintain a public sewer system. What used to be a distant exurban community is now surrounded by other suburban neighborhoods. To provide this infrastructure, the developer established a private non-profit, Dale City Service Corporation, to provide wastewater treatment and disposal for Dale City. Today, Dale City's wastewater treatment system could achieve additional reductions in nitrogen and phosphorus pollution entering the Potomac River and Chesapeake Bay, but unlike public water authorities which are eligible for SRF assistance, Dale City residents would bear the full cost of those treatment upgrades.

Restoring the Chesapeake Bay and other great American watersheds will require close collaboration at the federal, state, and local levels, including with non-profit organizations ranging from land trusts to infrastructure providers. As the Water Resources and Environment Subcommittee considers the SRF structure, I hope you will consider providing sufficient flexibility so a variety of service providers such as Dale City in Prince William County can participate in federal clean water infrastructure programs. Thank you for your consideration and for the opportunity to comment on this issue. I appreciate your Subcommittee's leadership in holding this hearing.



Statement of Congresswoman Eddie Bernice Johnson
Transportation & Infrastructure Subcommittee on Water Resources and Environment
Hearing On:
Environmental Protection Agency's Integrated Planning and Permitting Initiative
December 14, 2011, 10:00 a.m.

This past October marked the 39th anniversary of the Clean Water Act. As part of the Act, Congress authorized Federal-State partnerships to protect our Nation's drinking water and to promote improved water quality. As the former Chairwoman of this subcommittee, I worked on a bipartisan basis to address the significant investment in water infrastructure, conservation, and pollution control. Substantial strides have been made in these endeavors, but there is still much work to be done.

Sadly, there are still areas in this country where Americans do not have access to safe drinking water. Also, the initial Clean Water Act investments made in water treatment infrastructure require continued maintenance and innovation to

accommodate the expanding population. Our country's aging water infrastructure endangers the health, safety, and livelihood of Americans.

While we are reminded on a daily basis of the current economic outlook, and the need to get Americans back to work, we are provided with the unique opportunity to both renew our commitment to invest in our country's wastewater infrastructure, and to create thousands of jobs that would spur economic growth. I thank the Chairman and Ranking Member for holding this hearing, and hope we use this forum as means to explore job creation through water infrastructure investment.



**Testimony of the Honorable Jim Suttle
Mayor of Omaha
On Behalf of The U.S. Conference of Mayors**

***Integrated Planning and Permitting: An Opportunity for EPA to
Provide Communities with Flexibility to Make Smart Investments in
Water Quality***

**Water Resources Subcommittee - House Transportation and
Infrastructure Committee**

December 14, 2011

Written Testimony for Mayor Jim Suttle
Water Resources Subcommittee - House Transportation and Infrastructure Committee
December 14, 2011

I would like to thank the Chairman and this committee for inviting me. My name is Jim Suttle and I've been the Mayor of Omaha, Nebraska since 2009. I also served as Vice Chair of the Board and Executive Vice President for HDR Engineering, I was the Public Works Director for Omaha, and I am a licensed professional engineer.

I am testifying on behalf of The U.S. Conference of Mayors. The Conference of Mayors is the official non-partisan organization representing cities with populations of 30,000 or more through its chief elected official, the Mayor. The Conference of Mayors was created in 1932 as a result of the Great Depression. A time that is markedly similar to today – times with high unemployment and tough economic conditions.

At the Conference of Mayors, I serve as an active member of the Mayors Water Council and have been part of the discussions that led to EPA's Integrated Planning Memorandum.

My background gives me a unique perspective to comment on the matter before this subcommittee today.

I am here today to give you some background as to why the Mayors of this nation are concerned about Combined and Sanitary Sewer Overflow (CSO/SSO) solutions and other unfunded water related mandates, what we hope EPA's Integrated Planning Policy memo will address, and what we think the Congressional role should be regarding the Integrated Planning Policy. In particular I would like to address the following issues - Affordability, Green solutions, New technology, Grant Funding, and suggesting that the current Enforcement Process should be replaced with a permitting process instead.

It should be clear from the start that the USCM fully recognizes that EPA's issuance of policy directives to their Regional Offices on green infrastructure and Integrated Planning is directly responsive to requests for the same from the USCM. Further, the Integrated Planning Policy memo is recognized as a landmark departure from the traditional regulatory model of rule-by-silo approach. The USCM here suggests that the successful implementation of this policy approach requires local, state and federal government offices and officials to take equal responsibility to make it happen.

Background

Several dozen member cities urged The United States Conference of Mayors (USCM) in 2009 to review the U. S. Environmental Protection Agency (EPA) and U. S. Department of Justice (DOJ) enforcement actions regarding Combined Sewer Overflows and/or Sanitary Sewer Overflows (CSO/SSO). These, and additional member cities, expressed grave concern that the enforcement actions, which trigger consent agreement negotiations, and, ultimately Court ordered consent decrees, typically result in overly costly, overly prescriptive long term control plans (LTCP).

These plans most often require cities holding National Pollution Discharge Elimination System (NPDES) permits to make major capital investments and commit to significant recurring annual operating and maintenance costs.

In 2009 the USCM made a request to EPA and DOJ to enter into a dialogue to review what cities are experiencing in the EPA Regions via consent agreement negotiations. In October of 2010 the USCM submitted a set of policy recommendations focusing on areas of flexibility in existing law that could improve the consent agreement process and provide some relief to cities without compromising water quality standards or goals. Prominent among the recommendations was a request for EPA Headquarters to issue policy guidance to the Regional Agency Offices to work with cities to incorporate flexibility. After several more meetings EPA requested that Agency and city technical staff meet to discuss what cities find objectionable about the consent negotiation process; and this meeting was held in Washington, DC on March 22, 2011.

In April of 2011 EPA issued policy guidance to the Regions to work with cities, wastewater utilities and other stakeholders to try to find ways to incorporate green infrastructure into LTCPs. And, on October 28, 2011 EPA issued the Integrated Planning policy statement to the Regions. Both of these policy documents are directly responsive to the USCM request. The USCM applauds and appreciates the EPA's actions. It is, from the USCM's perspective, a landmark departure from the EPA's "normal" approach to the regulated community. It has great potential, but, it is currently statement of policy intention, and will not provide the requested flexibility until EPA completes and adopts the policy implementation framework (which they are in the process of developing), and it is tested in the field at the EPA Regional enforcement and permit writer's level.

Congress can play an important oversight role by following this policy approach as it unfolds. If it turns out that we cannot accomplish this goal administratively, we will request that Congress to act legislatively. But a legislative remedy would be premature at this time.

Critical Concerns

50 PERCENT GRANT FUNDING FROM THE FEDERAL GOVERNMENT

The mounting cost of rehabilitating and expanding wastewater systems in the United States is challenging the budgets of our cities and our ratepayers; and straining the limits of long term debt and our ability to borrow money. Local government spent over \$103 billion on water and wastewater in 2009, (see Table A). \$46.4 billion of the \$103 billion was spent on wastewater in 2009; and \$18.7 billion of the \$46.4 billion was in the form of capital investments.

Local government finances mimic both the federal budget deficit and the national debt situation, (Table A). Local governments across the nation are spending more money than they raise in revenues, (deficit spending). All local government spending in 2009 (the latest data of record from the US Census) exceeded revenues by 15 percent. Local government in some states (i.e., California, Maryland, Massachusetts, Michigan, New York) spent 20 percent or more than revenues, while some states exceeded 30 percent of revenues (i.e., District of Columbia, Illinois).

Long term debt of local governments has experienced phenomenal growth of over 80 percent between 2000 and 2009, and for the latest year of record, 2009, long term debt was \$1.6 trillion. In some states the growth in debt is remarkable: Indiana 131%; Missouri 144%; Tennessee 111%; Texas 143%.

The recent recession does not fully explain the deficit spending or the growth in long term debt since its effects are more likely to be felt in 2010 and 2011. These trends send a message that deficit spending and growth in debt are systemic trends among local government, and suggest that they are likely not sustainable practices over the long run.

Similarly, spending on wastewater and water supply has also experienced significant growth. In 2009 over \$103 billion was spent on these categories; a 65 percent increase over spending in the year 2000. Notable increases are reported by local government in: New York (96.6%); Hawaii (107.6%); and, Washington (119.3%). Spending on wastewater and water supply increased by 65.4 percent, while national GDP increased by about 40 percent from 2000 to 2009.

Given the current economic downturn and high unemployment it is not reasonable to assume that ratepayers can support additional significant increases in water related spending. Congress can help cities by providing 50 percent grants for capital investments to meet federal mandates. A 50 percent grant would cover less than 25 percent of overall spending for compliance because cities would provide the other 50 percent of capital investment, but 100 percent of operations and maintenance cost which are roughly 60 percent of overall cost today.

If Congress does not or will not provide the sorely needed grants they should make every effort to support EPA's Integrated Planning policy to lessen the cost burden of federal mandates by exercising the flexibility allowed by the Clean Water Act.

AFFORDABILITY

If local government could afford to invest in LTCPs as designed by consent agreements there would be no need for the Integrated Planning policy or this hearing in the Subcommittee. The information presented above suggests that we are on an unsustainable financial path and cannot meet the mandates. Therefore, the critical discussion on water related unfunded mandates is one of "affordability".

Aside from recent exceptions where EPA has been more flexible with regard to green infrastructure as part of an LTCP, and some extended compliance schedules, the trend can be described as the 4-2-20 model:

- 4 overflows or less in a year;
- 2 percent of Median Household Income (MHI) as a target for local spending on a long term control plan (LTCP); and,
- 20 years or less as a compliance schedule timeframe.

This approach locks local government into overly costly, overly prescriptive and overly restrictive plans. There is no room, under this approach, for innovation and/or cost efficiencies.

Nor is the requirement to reduce overflows to 4 or less a year based on science- it is an administratively arbitrary determination.

The 2 percent of MHI as a financial capability target is vague, and does not capture the disproportionate impact on households of low and moderate income. All public revenues come from the same ratepayer's pockets whether they are households or businesses. Adding unnecessary rate increases are no longer a reasonable option. Mayors are concerned about the overall burden on those people and businesses, and as rates increase, they pose a greater burden. Merely assessing the additional impact of rate increases on MHI from a CSO enforcement action does not address the overall burden.

Some important financial considerations:

- a) Rates have a disproportionate impact on households, particularly low and medium-income households.
- A household with a \$25,000 annual income that pays \$1,000 a year for water and sewer bills allocates 4 percent of that income for this purpose.
 - A \$250 increase in rates raises household spending to 5 percent of income.
 - A \$500 a year increase in rates raises household spending to 6 percent.

EPA and Congress should no longer ignore the regressive financial impacts caused by unfunded mandates on low and moderate income households.

- b) Businesses and other organizations are often significant ratepayers because they are large volume users of municipal wastewater services.

For industrial users wastewater is a variable cost of doing business. History has demonstrated that industry is footloose, and will leave a community to seek favorable water and sewer rates. If one or more of these industrial ratepayers flee, local government must reapportion rates accordingly. This means that businesses that remain as well as households pay a larger share. This in turn can cause more businesses to flee, and a reduction in employment opportunities makes a city a less desirable place to live. It will also result in a greater cost share allocation to households.

Another potentially undesirable outcome is that industry that flees a city could locate in surrounding jurisdiction(s). While this may be advantageous for an industrial entity it increases sprawl and carbon footprint. Density of development is a solution to sprawl and increased carbon footprint.

NEW TECHNOLOGY

The trend in CSO/SSO consent agreements has resulted almost predominantly in gray infrastructure Long Term Control Plans. Only recently, and for a very short period, has EPA

been open to allowing cities to incorporate green infrastructure components in their legally binding consent agreements. With some notable exceptions the general rule is that a city is locked into a gray infrastructure control plan that is neither imaginative nor cost-efficient.

While each plan has many components, the intent of the plan is to capture and retain very large volumes of water to prevent it from entering a lake, stream or estuary until it is treated to remove contaminants. This can be accomplished a number of ways, but the way that EPA enforcement and permit authorities prefer, as demonstrated by the agreements they approve, is where the permit holder conveys stormwater and sewer overflows into large retention basins or miles long tunnels. When overflows subside, the water is then pumped at great cost and utilization of electricity that increases carbon emissions.

Locking into a gray infrastructure solution is very expensive, and once you do that there is no incentive for cities to consider employing innovative technology that might be better and cheaper to install and operate, or that might have a lower energy-carbon emission.

This new technology dilemma has been described as follows. It's like purchasing a mobile phone and locking in a mobile phone contract for 10 to 20 years knowing full well that the technology will rapidly evolve, but the city will be stuck with a costly arrangement and obsolete technology.

The Integrated Planning approach can provide flexibility by locking in long term water quality goals and using the wastewater permitting mechanism to adjust the plan over time to take advantage of green infrastructure and technology advances.

GREEN INFRASTRUCTURE

The Conference of Mayors assembled experts on green infrastructure with city wastewater managers to review its potential to achieve water quality standards at a lower cost than gray infrastructure. This was confirmed by several expert dialogues in several meetings held over a one and half year period. On October 27, 2010 the Conference of Mayors submitted policy recommendations to EPA, and also requested that EPA issue guidance to its Regional Offices to not only allow, but also promote the use of green infrastructure.

In April of 2011 EPA issued Guidance to its Regional Offices to both allow and promote green infrastructure in CSO/SSO consent agreements. We thank EPA for taking this step; and we recognize that several recent consent agreements incorporates green infrastructure as part of their Long Term Control Plans. We look forward to working with EPA to implement and expand this policy.

ACHIEVING WATER QUALITY GOALS IS BETTER ACCOMPLISHED THROUGH THE PERMITTING PROCESS RATHER THAN ENFORCEMENT VIA CONSENT DECREES

A list of local governments who are subject to EPA's enforcement strategy related just to CSOs is listed in Appendix B. We do not have a reliable list of local governments subject to SSO enforcement.

Every morning mayors and responsible local government officials wake up as "criminals" in the United States by definition of EPA's enforcement strategy. It doesn't matter if the mayor was elected 10 years ago or took office yesterday; they are, by definition "criminals". Why? Because their wastewater systems have sewer overflows, primarily as a result of a storm event- a "natural act", often referred to in contracts as an uncontrollable circumstance

The overflow is itself a violation of the Clean Water Act, therefore the Mayor responsible for the system is not in compliance with the Clean Water Act. If only Mayors had the money required to prevent sewer overflows they could escape this automatic violation of the Clean Water Act. But they do not have the resources to do so.

The chosen enforcement mechanism is an extraordinary legal remedy usually reserved for the most intractable cases of egregious violations of the Clean Water Act. But EPA has set it as the default regulatory mechanism. Part of their reasoning is that it saves the permit holder (in this case a local government) from the dire consequences of a citizen suit.

Using enforcement actions as the default option sends the message via the mass media to our citizens that mayors are not trustworthy, and that they condone water pollution. It is hard to identify any other federal administrative policy that has done so much to damage the intergovernmental partnership between federal and local elected officials and it should be ended immediately.

EPA can accomplish the same water quality goals through the permitting process, and by helping states and local government develop watershed water quality plans to protect this precious resource. If the threat of citizen suits circumvents remedies afforded by the permitting process, then the Clean Water Act has procedural deficiencies that are terribly flawed and need to be corrected.

What Congress Can Do

As I mentioned earlier, the Integrated Planning policy still needs to be developed by the Agency and implemented in the field. If this approach does not create a path to help cities allocate limited resources for the right environmental outcome – then, it will have accomplished nothing.

We need Congress to provide oversight and to remember that EPA has this authority because of the way the Clean Water Act was written. We need a paradigm shift where together – local, state, and the federal officials exercise practical leadership and work together to determine what our environmental and spending priorities should be. We owe our constituents with the most science-based, cost-efficient methods to provide them with a safe and clean environment that is economically sustainable.

The Conference of Mayors is working on a set of recommendations to implement the Integrated Planning Policy. The Conference plans to provide these recommendations to the EPA in the near

future, and they would like to send them to the subcommittee at that time. Of particular note is that we would like Drinking Water Provisions to be included in an Integrated Plan, if a local government wants to include it.

Thank you again for this opportunity to address you.

Table A: Local Government Finances and Water and Wastewater Spending

Category	Expenditures For Every Dollar of Revenue 2009 (\$)	Change in Long Term Debt 2009 vs 2000 (%)	Wastewater and Water Supply Spending 2009 (\$ thou)	Change in Wastewater and Water Supply Spending 2009 vs 2000 (%)
United States ¹	1.15	81.76	103,453,483	65.4
Alaska	1.12	17.86	208,078	13.3
Arkansas	1.09	68.76	714,627	88.0
California	1.27	98.17	20,670,260	89.2
District of Columbia	1.31	91.44	506,621	-10.0
Florida	1.11	79.57	6,566,127	65.3
Hawaii	1.08	98.23	662,341	107.6
Illinois	1.32	83.84	3,564,791	32.8
Indiana	1.00	131.42	1,580,761	81.9
Louisiana	1.03	63.00	1,019,521	70.4
Maryland	1.22	22.50	1,145,049	24.7
Massachusetts	1.20	53.79	1,550,883	42.1
Michigan	1.26	72.33	3,662,040	35.3
Minnesota	1.10	53.38	1,306,531	31.3
Missouri	1.22	144.86	1,516,238	58.3
New York	1.26	75.96	6,802,296	96.6
Ohio	1.03	93.91	3,722,271	52.3
Oklahoma	1.01	49.41	981,284	55.2
Pennsylvania	1.08	38.56	2,816,532	25.2
Tennessee	1.08	111.80	1,663,679	35.7
Texas	1.15	143.34	8,569,326	80.2
Washington	1.04	56.53	3,045,259	119.3
West Virginia	1.01	-0.80	391,013	35.2
Wisconsin	1.13	43.33	1,407,606	39.0

¹ Interpretation: Local government in the USA spent \$1.15 for every \$1 raised in revenue; long term debt rose 811.76% from 200 to 2009; wastewater and water supply spending in 2009 by local government was \$103.4 billion; and, wastewater and water supply spending increased by 65.4 % in 2009 from a base year of 2000.

150

9

APPENDIX A

Letter from the USCM, NLC and NACO thanking EPA for Integrated permitting



November 18, 2011

Ms. Nancy Stoner
Acting Assistant Administrator
Office of Water
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue NW
Mail Code: 4101M
Washington, DC 20460

Ms. Cynthia Giles
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue NW
Mail Code: 2201A
Washington, DC 20460

Dear Ms. Stoner and Ms. Giles,

On behalf of the nation's counties, cities, and mayors, we wish to thank you for your October, 27, 2011 Memorandum on Achieving Water Quality Through Integrated Municipal Stormwater and Wastewater Plans ("Memorandum"). As you express in the Memorandum, this new approach will have a tremendous impact on the ability of local stormwater and wastewater systems to meet the requirements and objectives of the Clean Water Act in an efficient and cost effective manner.

We applaud the U.S. Environmental Protection Agency (EPA) for developing a policy framework that provides the flexibility local governments need to continue progress toward improving our nation's waterways, while focusing the investment of limited dollars to address the most pressing health and welfare issues first. The Memorandum demonstrates recognition of the need for continued coordination between local governments and Agency policy at all levels. We are hopeful that in the future this flexible approach can be extended to the requirements of the Safe Drinking Water Act and other regulatory programs under EPA.

Ms. Nancy Stoner
Ms. Cynthia Giles
November 18, 2011
Page Two

Again, thank you for your leadership and commitment to this important issue. The nation's cities and counties look forward to working in good faith effort with EPA and the state regulatory bodies to realize the public benefits made possible by this policy statement.

Sincerely,



Larry E. Naake
Executive Director
National Association of Counties



Donald J. Borut
Executive Director
National League of Cities



Tom Cochran
CEO and Executive Director
The United States Conference
of Mayors

APPENDIX B

List of local governments identified for possible enforcement actions.

SOURCE: www.epa.gov/npdes
 United States Environmental Protection Agency
 Office of Water (4203)
 Washington, D.C. 20460 www.epa.gov/npdes

December 2001 PA 833-R-01-003

Report to Congress

Implementation and Enforcement of the Combined Sewer Overflow Control Policy

Appendix D of EPA Report
 (Listed Alpha by State)

<u>EPA</u>	<u>Reg</u>	<u>State</u>	<u>Zip</u>	<u>Entity Name</u>	<u>Number of CSOs</u>
10	Alaska	AK0023213		Juneau-Douglas WWTP	3
9	California	CA0037681		Oceanside WPCP and Westside Wet Weather CSO System	7
9	California	CA0038610		Bayside Wet Weather Facilities WPCP	28
9	California	CA0079111		Sacramento Regional County S.D.	6
3	District of Columbia	DC0021199		District of Columbia WWTP	60
5	Illinois	IL0044911		Village of Schiller Park CSO	1
5	Illinois	IL0045012		Chicago CSOs	231
5	Illinois	IL0030660		City of Peru STP	23
5	Illinois	IL0029424		LaSalle WWTP	3
5	Illinois	IL0029467		Lawrenceville STP	4
5	Illinois	IL0029564		Lincoln STP	3
5	Illinois	IL0029831		Mattoon WWTP	5
5	Illinois	IL0029874		City of Metropolis STP	1
5	Illinois	IL0030015		Morton STP	2
5	Illinois	IL0030384		Ottawa STP	14
5	Illinois	IL0030503		Quincy STP	7
5	Illinois	IL0030783		Rock Island	5
5	Illinois	IL0031216		Spring Valley WWTP	9
5	Illinois	IL0031356		Taylorville S.D. STP	2
5	Illinois	IL0031852		Wood River STP	1
5	Illinois	IL0033472		East St. Louis CSOs	2
5	Illinois	IL0034495		Pekin STP	1

5 Illinois IL0030457 Pontiac STP 5
5 Illinois IL0068365 Marshall STP 3
5 Illinois IL0035084 City of Casey STP 1
5 Illinois IL0043061 Prophetstown STP 3
5 Illinois IL0037818 Minonk STP 3
5 Illinois IL0023272 Milford STP 4
5 Illinois IL0023281 Gibson City STP 3
5 Illinois IL0023825 Cairo STP 3
5 Illinois IL0028053 MWRDGC Stickney, West-Southwest STP 19
5 Illinois IL0028061 MWRDGC Calumet Water Reclamation Plant 15
5 Illinois IL0028088 MWRDGC- Northside Water Reclamation Plant 9
5 Illinois IL0028231 Cowden STP 2
5 Illinois IL0028321 S.D. of Decatur Main STP 4
5 Illinois IL0028622 Effingham STP 4
5 Illinois IL0028657 Fox River WRD-South STP 16
5 Illinois IL0023388 Havana STP 2
5 Illinois IL0027464 City of Alton STP 6
5 Illinois IL0027839 Canton-West STP 4
5 Illinois IL0027731 Bloomington/Normal WRD/STP 11
5 Illinois IL0024996 City of Oglesby STP 7
5 Illinois IL0025135 Beardstown S.D. 1
5 Illinois IL0026450 Dixon STP 9
5 Illinois IL0027367 Addison 3
5 Illinois IL0047741 MWRDGC James C. Kire WRP 1
5 Illinois IL0021253 Monmouth Main WWTP 7
5 Illinois IL0021377 Paris STP 2
5 Illinois IL0021601 Fairbury STP 12
5 Illinois IL0021661 Jacksonville STP 3
5 Illinois IL0021792 Wenona WWTP 2
5 Illinois IL0021873 City of Belleville STP #1 18
5 Illinois IL0021890 Shelbyville STP 3
5 Illinois IL0020818 Fox Metro Water Reclamation District 1
5 Illinois IL0021113 City of Morris STP 6
5 Illinois IL0021059 Marseilles STP 2
5 Illinois IL0020184 City of Oregon STP 10
5 Illinois IL0020621 Litchfield STP 2
5 Illinois IL0023141 Galesburg Sanitary District 41
5 Illinois IL0022462 Farmer City STP 3
5 Illinois IL0022322 City of Georgetown STP 1
5 Illinois IL0022331 Granville STP 4
5 Illinois IL0022519 City of Joliet-Eastside STP 12
5 Illinois IL0022543 City of Batavia WWTF 1
5 Illinois IL0022675 Carlinville STP 2
5 Illinois IL0022161 Watseka STP 7
5 Illinois IL0021971 Sugar Creek STP 3
5 Illinois IL0021989 Spring Creek STP 7

5 Illinois IL0022004 City of Streator STP 17
5 Illinois IL0052426 Village of Dolton CSOs 3
5 Illinois IL0052469 Village of Melrose Park CSO 1
5 Illinois IL0044920 Village of River Grove CSO 6
5 Illinois IL0044890 Brookfield CSOs 7
5 Illinois IL0052451 Lincolnwood CSOs 2
5 Illinois IL0052434 Skokie CSOs 2
5 Illinois IL0044881 City of Calumet City CSOs 7
5 Illinois IL0052418 Summit CSOs 4
5 Illinois IL0044954 Village of Lyons CSOs 3
5 Illinois IL0052442 City of Blue Island CSOs 4
5 Illinois IL0045080 City of Harvey CSOs 7
5 Illinois IL0037800 City of Peoria CSOs 18
5 Illinois IL0036536 City of Evanston CSOs 14
5 Illinois IL0033618 Village of Villa Park CSOs 4
5 Illinois IL0033588 LaGrange Park CSOs 3
5 Illinois IL0028592 Metro East S.D. CSOs 4
5 Illinois IL0047147 Village of Maywood CSOs 8
5 Illinois IL0021423 Village of Hartford CSO 1
5 Illinois IL0046795 Village of River Forest CSOs 4
5 Illinois IL0044733 Park Ridge CSOs 4
5 Illinois IL0029416 Lansing CSO 1
5 Illinois IL0048518 Aurora CSOs 15
5 Illinois IL0045039 Village of Western Springs CSOs 3
5 Illinois IL0045047 Village of Arlington Heights CSO 1
5 Illinois IL0045055 Village of South Holland CSOs 4
5 Illinois IL0045063 Village of Calumet Park CSO 1
5 Illinois IL0045071 Village of North Riverside CSOs 2
5 Illinois IL0044725 Dixmoor CSO 1
5 Illinois IL0037885 City of Markham CSO 1
5 Illinois IL0043133 Posen CSO 1
5 Illinois IL0045021 Riverside CSOs 5
5 Illinois IL0045098 Village of Riverdale CSOs 4
5 Illinois IL0045101 Village of Forest Park CSOs 2
5 Illinois IL0046175 Village of Morton Grove CSOs 2
5 Illinois IL0046418 Franklin Park CSOs 4
5 Illinois IL0042901 Village of Burnham CSOs 3
5 Illinois IL0039551 Village of Lemont CSOs 2
5 Illinois IL0044717 Des Plaines CSO 1
5 Illinois IL0066818 Hinsdale CSOs 4
5 Illinois IL0069981 Wilmette CSO 1
5 Illinois IL0070505 City of Elgin CSOs 12
5 Illinois IL0072001 Bloomington CSOs 6
5 Illinois IL0052477 Village of Niles CSOs 10

5 Indiana IN0020044 City of Alexandria WPCP 4
5 Indiana IN0020095 Portland Municipal STP 16
5 Indiana IN0020001 Ridgeville WWTP 3
5 Indiana IN0020109 Greenfield 0
5 Indiana IN0020117 Montpelier WWTP 4
5 Indiana IN0020125 Royal Center WWTP 2
5 Indiana IN0020133 Greensburg WWTP 3
5 Indiana IN0020168 City of Noblesville WWTP 7
5 Indiana IN0020176 Monticello Municipal STP 5
5 Indiana IN0020222 Attica 2
5 Indiana IN0025585 City of Marion WWTP 8
5 Indiana IN0025666 City of Madison WWTP 7
5 Indiana IN0025658 Washington Municipal STP 6
5 Indiana IN0021016 Tell City WWTP 5
5 Indiana IN0025640 City of Mishawaka WWTP 18
5 Indiana IN0021067 Rockport WWTP 1
5 Indiana IN0025631 Muncie Sanitary District 25
5 Indiana IN0025755 City of Goshen WWTP 6
5 Indiana IN0025607 City of Terre Haute POTW 10
5 Indiana IN0025763 City of Crownpoint WWTP 5
5 Indiana IN0025577 LaPorte Municipal STP 1
5 Indiana IN0025232 Town of Akron WWTP 3
5 Indiana IN0024821 West Lafayette WWTP 5
5 Indiana IN0024805 Warsaw WWTP 1
5 Indiana IN0024791 Warren 4
5 Indiana IN0024775 Wakarusa WWTP 6
5 Indiana IN0024741 City of Wabash WWTP 7
5 Indiana IN0024716 Veedersburg WWTP 4
5 Indiana IN0025615 William Edwin Ross WWTP 5
5 Indiana IN0032875 City of Kokomo Municipal Sanitation Utility 30
5 Indiana IN0039314 City of Decatur WWTP 4
5 Indiana IN0038318 Milford 1
5 Indiana IN0035696 Mt. Vernon WWTP 3
5 Indiana IN0033073 Evansville East WWTP 8
5 Indiana IN0032972 Civil Town of Speedway WWTP 3
5 Indiana IN0025674 City of Elkhart WWTP 39
5 Indiana IN0032956 Evansville Westside WWTP 15
5 Indiana IN0024554 City of Sullivan WWTP 5
5 Indiana IN0032719 Elwood 15
5 Indiana IN0032573 City of Columbus POTW 3
5 Indiana IN0032476 Anderson WWTP 19
5 Indiana IN0032468 Lafayette 13
5 Indiana IN0032336 Connersville 5
5 Indiana IN0032328 City of Peru WWTP 16
5 Indiana IN0032191 City of Fort Wayne WWTP 41
5 Indiana IN0031950 Indianapolis-South Port 0

5 Indiana IN0032964 City of Crawfordsville WWTP 2
5 Indiana IN0021628 Hartford City 17
5 Indiana IN0022683 Town of Crothersville WWTP 4
5 Indiana IN0022624 Columbia City WWTP 16
5 Indiana IN0022608 City of Clinton POTW 6
5 Indiana IN0022578 Chesterton Municipal STP 1
5 Indiana IN0022462 Butler 1
5 Indiana IN0022420 Boonville 1
5 Indiana IN0022411 City of Bluffton WWTP 1
5 Indiana IN0024660 Elden Kuehl Pollution Control Facility 2
5 Indiana IN0021652 Eaton 2
5 Indiana IN0022977 Gary WWTP 13
5 Indiana IN0021474 Tipton Municipal STP 8
5 Indiana IN0021466 Nappanee 13
5 Indiana IN0021385 City of Knox WWTP 1
5 Indiana IN0021369 Berne 3
5 Indiana IN0021342 Oxford WWTP 3
5 Indiana IN0021296 City of Angola WWTP 3
5 Indiana IN0021270 Rushville 3
5 Indiana IN0021245 Town of Brownsburg WWTP 2
5 Indiana IN0022144 Albion 2
5 Indiana IN0023604 City of Logansport WWTP 16
5 Indiana IN0024520 City of South Bend WWTP 42
5 Indiana IN0024473 City of Seymour WWTP 1
5 Indiana IN0024414 Rensselaer 16
5 Indiana IN0024406 Town of Redkey POTW 6
5 Indiana IN0024023 Paoli Municipal STP 8
5 Indiana IN0023914 City of New Castle WWTP 8
5 Indiana IN0023752 Michigan City 2
5 Indiana IN0022829 East Chicago S.D. 2
5 Indiana IN0023621 Lowell Municipal STP 1
5 Indiana IN0022934 Frankfort 1
5 Indiana IN0023582 Ligonier WWTP 6
5 Indiana IN0021105 Fairmount 16
5 Indiana IN0021202 Plainfield Municipal STP 5
5 Indiana IN0023302 Jeffersonville 16
5 Indiana IN0023183 Indianapolis-Belmont 133
5 Indiana IN0023132 City of Huntington WWTP 14
5 Indiana IN0023060 Hammond WWTP 20
5 Indiana IN0024562 Summitville 3
5 Indiana IN0023736 Markle WWTP 2
5 Indiana IN0020664 Avilla WWTP 4
5 Indiana IN0020672 Auburn WWTP 4
5 Indiana IN0020711 Waterloo Municipal STP 3
5 Indiana IN0020745 Ossian WWTP 6
5 Indiana IN0021211 Brazil Municipal STP 4

5 Indiana IN0020362 North Manchester STP 8
5 Indiana IN0020427 Bremen WWTP 4
5 Indiana IN0020451 North Vernon WWTP 2
5 Indiana IN0020516 Winamac Municipal STP 5
5 Indiana IN0020567 South Whitley Municipal STP 2
5 Indiana IN0020656 City of Kendallville WWTP 1
5 Indiana IN0020770 Middletown 4
5 Indiana IN0020940 Remington Municipal STP 1
5 Indiana IN0020877 North Judson Municipal STP 2
5 Indiana IN0020907 Rossville 2
5 Indiana IN0020958 Fortville WWTP 12
5 Indiana IN0020991 Plymouth Municipal STP 10
5 Indiana IN0020346 New Haven STP 4
5 Indiana IN0022560 Chesterfield WWTP 3
5 Indiana IN0050903 City of Aurora WW Collection System 2

3 Maryland MD0021601 Patapsco WWTP 2
3 Maryland MD0021636 Cambridge WWTP 14
3 Maryland MD0021598 Cumberland WWTP 16
3 Maryland MD0021571 Salisbury WWTP 2
3 Maryland MD0067423 Frostburg CSOs 15
3 Maryland MD0067407 Allegany County CSOs 3
3 Maryland MD0067547 LaVale CSOs 3
3 Maryland MD0067384 Westernport Town 3

1 Massachusetts MA0100137 Montague WPCF 3
1 Massachusetts MA0100455 South Hadley WWT 3
1 Massachusetts MA0102351 MWRA, Deer Island WWTP 12
1 Massachusetts MA0101630 Holyoke WPCF 15
1 Massachusetts MA0101621 Haverhill WWTF 23
1 Massachusetts MA0101508 Chicopee WPCF 40
1 Massachusetts MA0101389 West Springfield 1
1 Massachusetts MA0100382 Fall River WWTP 19
1 Massachusetts MA0100986 Fitchburg WWTF 27
1 Massachusetts MA0100447 Greater Lawrence Sanitary District 4
1 Massachusetts MA0100897 Taunton WWTP 1
1 Massachusetts MA0100781 New Bedford WWTF 35
1 Massachusetts MA0100633 Lowell Regional WWU 9
1 Massachusetts MA0100625 Gloucester WPCF 5
1 Massachusetts MA0100552 Lynn WWTF 4
1 Massachusetts MA0101168 Palmer WPCF 21
1 Massachusetts MA0101338 Town of Ludlow CSOs 1
1 Massachusetts MA0101192 Boston Water and Sewer Commission 37
1 Massachusetts MA0101877 Chelsea 4
1 Massachusetts MA0101974 City of Cambridge 11
1 Massachusetts MA0101982 Somerville DPW 3

1 Massachusetts MA0102997 Worcester Combined Overflow Facility 1
1 Massachusetts MA0103331 Springfield CSOs 32

5 Michigan MI0026069 Grand Rapids WWTP 19
5 Michigan MI0020214 Norway WWTP 1
5 Michigan MI0022802 Detroit WWTP 86
5 Michigan MI0022284 Bay City WWTP 5
5 Michigan MI0022152 Adrian WWTP 2
5 Michigan MI0021695 Blissfield WWTP 2
5 Michigan MI0021440 Wakefield WWSL 1
5 Michigan MI0021083 Croswell WWTP 1
5 Michigan MI0020656 Marysville WWTP 1
5 Michigan MI0020362 Manistee WWTP 4
5 Michigan MI0023001 Gladwin WWTP 1
5 Michigan MI0020591 St. Clair WWTP 1
5 Michigan MI0023973 Saginaw Township WWTP 1
5 Michigan MI0025631 Menominee WWTP 1
5 Michigan MI0025577 Saginaw WWTP 15
5 Michigan MI0022853 East Lansing WWTP 2
5 Michigan MI0022918 Essexville WWTP 1
5 Michigan MI0023833 Port Huron WWTP 19
5 Michigan MI0023701 Niles WWTP 8
5 Michigan MI0023647 Mt. Clemens WWTP 1
5 Michigan MI0023515 Manistique WWTP 1
5 Michigan MI0023400 Lansing WWTP 32
5 Michigan MI0023205 Iron Mountain-Kingsford WWTP 1
5 Michigan MI0024058 Sault Ste Marie WWTP 7
5 Michigan MI0026077 Grosse Pointe Farms CSO 7
5 Michigan MI0025453 Martin RTB 2
5 Michigan MI0025500 Milk River CSO 1
5 Michigan MI0025534 Birmingham CSO 1
5 Michigan MI0025542 Dearborn CSO 20
5 Michigan MI0026085 Grosse Pointe Shores CSO 0
5 Michigan MI0025585 Chapaton RTB 2
5 Michigan MI0051811 Dearborn Heights CSO 1
5 Michigan MI0051829 Redford Township CSO 1
5 Michigan MI0051837 Inkster/Dearborn Heights CSO 1
5 Michigan MI0051560 Wayne County/Livonia/Westland CSO 1
5 Michigan MI0051551 Wayne County/ Livonia CSO 3
5 Michigan MI0051462 Wayne County/ Inkster/Dearborn Heights CSO 2
5 Michigan MI0026115 Oakland County SOCSDS 12 Towns RTF 1
5 Michigan MI0026735 St. Joseph CSO 5
5 Michigan MI0028819 River Rouge CSO 1
5 Michigan MI0036072 Southgate/Wyandotte CSO RTF 2
5 Michigan MI0037427 Oakland County-Acacia Park CSO 1
5 Michigan MI0043982 North Houghton County W&SA CSO 2

5 Michigan MI0051802 Livonia CSO 1
5 Michigan MI0048879 Crystal Falls CSO 2
5 Michigan MI0051471 Wayne County/Inkster CSO 10
5 Michigan MI0051489 Wayne County/Dearborn Heights CSO 7
5 Michigan MI0051497 Wayne County/Westland CSO 1
5 Michigan MI0051501 Wayne County/Westland/Wayne CSO 0
5 Michigan MI0051535 Wayne County/Redford/ Livonia CSO 8
5 Michigan MI0051543 Wayne County/Garden City/Westland CSO 0
5 Michigan MI0048046 Bloomfield Village CSO 1

5 Minnesota MN0024571 Red Wing 1
5 Minnesota MN0025470 MCWS-St. Paul 2
5 Minnesota MN0046744 MCWS-Minneapolis 6

7 Missouri MO0024911 Kansas City, Blue River STP 5
7 Missouri MO0117960 Moberly East WWTP 8
7 Missouri MO0050580 Cape Girardeau WWTP 3
7 Missouri MO0025178 MSD, Bissell Point WWTP 3
7 Missouri MO0025151 MSD, Lemay WWTP 12
7 Missouri MO0024929 Kansas City, Westside STP 2
7 Missouri MO0023221 Macon WWTF 6
7 Missouri MO0023043 St. Joseph WWTP 2
7 Missouri MO0023027 Sedalia North WWTP 8

2 New York NY0026131 Ward Island WPCP 77
2 New York NY0026221 NYCDEP Rockaway WWTP 27
2 New York NY0026212 NYCDEP 26th Ward 3
2 New York NY0026204 Newtown Creek WPCP 83
2 New York NY0026191 NYCDEP-Hunt's Point WPCP 28
2 New York NY0026182 NYCDEP Coney Island WPCP 4
2 New York NY0026174 NYCDEP Oakwood Beach WPCP 57
2 New York NY0026247 North River WPCF 50
2 New York NY0026158 NYCDEP Bowery Bay WPCP 52
2 New York NY0026255 Poughkeepsie WPCP 6
2 New York NY0026115 NYCDEP Jamaica WPCP 7
2 New York NY0026107 Port Richmond WPCF 36
2 New York NY0026018 Plattsburgh WPCP 14
2 New York NY0025984 Watertown WPCP 17
2 New York NY0025780 Oneida County WPCP 1
2 New York NY0025151 Carthage West WPCF 0
2 New York NY0026166 NYCDEP Owls Head WPCP 16
2 New York NY0027081 Syracuse Metro WWTP 62
2 New York NY0029173 Waterford WWTP 4
2 New York NY0029114 City of Oswego, East Side STP 6
2 New York NY0029050 Glens Falls WWTP 1
2 New York NY0028339 Frank E. VanLare STP 6

2 New York NY0028240 Saratoga County Sewer District 1 0
2 New York NY0027961 Dunkirk WWTP 1
2 New York NY0026239 Tallman Island WPCP 20
2 New York NY0027545 Clayton Village WTF 2
2 New York NY0027073 Red Hook WPCP 34
2 New York NY0027057 Lockport WWTP 29
2 New York NY0026875 Albany North WWTP 0
2 New York NY0026867 Albany South WWTP 0
2 New York NY0026689 Yonkers Joint WWTP 26
2 New York NY0026336 Niagara Falls WWTP 9
2 New York NY0026310 Newburgh WPCP 12
2 New York NY0026280 North Tonawanda WWTP 13
2 New York NY0027766 Lewiston Master S.D. 1
2 New York NY0020494 Boonville WWTP 1
2 New York NY0023256 Village of Holley STP 1
2 New York NY0022403 Little Falls WWTP 3
2 New York NY0022136 Erie County S.D. #6 1
2 New York NY0022039 Hudson STP 10
2 New York NY0021903 Auburn STP 16
2 New York NY0021873 Medina WWTP 13
2 New York NY0020818 Potsdam WPCP 1
2 New York NY0020516 Schenectady WPCP 2
2 New York NY0020389 Catskill WWTP 5
2 New York NY0020290 Amsterdam WWTP 3
2 New York NY0020117 Gouverneur STP 1
2 New York NY0024414 Binghamton-Johnson City Joint WWTF 0
2 New York NY0020621 Wellsville WWTP 3
2 New York NY0029262 Owego STP 8
2 New York NY0029106 Oswego-West Side STP 1
2 New York NY0028410 Bird Island WWTF 65
2 New York NY0183695 Washington County S.D. 2 11
2 New York NY0087971 Rensselaer County 0
2 New York NY0036706 Ticonderoga S.D. #5 WPCP 2
2 New York NY0033545 Village of Coxsackie STP 3
2 New York NY0031208 Dock Street STP 0
2 New York NY0031194 Massena WWTP 10
2 New York NY0029939 Tupper Lake WPCP 3
2 New York NY0029831 Ogdensburg WWTP 17
2 New York NY0029807 Canastota WPCF 7
2 New York NY0029351 Kingston WWTF 7
2 New York NY0035742 Chemung County-Elmira S.D. STP 11
2 New York NY0029297 Owasco S.D. #1 Overflows 3
2 New York NY0024406 Binghamton CSO 7
2 New York NY0024481 Lewiston ORF 1
2 New York NY0026026 Rensselaer CSO 8
2 New York NY0030899 Watervliet CSO 5

2 New York NY0031046 Cohoes CSO 16
2 New York NY0031429 Utica CSO 82
2 New York NY0033031 Green Island CSO 3
2 New York NY0099309 Troy CSO 49
2 New York NY0248941 City of Mechanicville CSO 3
2 New York NY0025747 Albany CSO 12

5 Ohio OH0024139 City of Bowling Green 1
5 Ohio OH0022471 Deshler WWTP 14
5 Ohio OH0025151 Forest WWTP 3
5 Ohio OH0025135 Findlay Water Pollution Control Center 18
5 Ohio OH0025127 Fayette WWTP 15
5 Ohio OH0025003 City of Elyria WWTP 27
5 Ohio OH0024929 Delphos WWTP 7
5 Ohio OH0024899 Defiance 43
5 Ohio OH0024759 Columbus Grove 4
5 Ohio OH0024741 Columbus-Southerly 2
5 Ohio OH0025291 Fremont WWTP 13
5 Ohio OH0024686 City of Clyde WWTP 4
5 Ohio OH0025364 City of Girard WWTP 5
5 Ohio OH0023981 City of Avon Lake 14
5 Ohio OH0023957 Village of Attica 12
5 Ohio OH0023914 Ashtabula 3
5 Ohio OH0023884 Village of Ansonia WWTP 3
5 Ohio OH0023833 City of Akron 38
5 Ohio OH0023400 City of Wauseon 7
5 Ohio OH0023396 Ohio City 5
5 Ohio OH0022624 Marshallville WWTP 1
5 Ohio OH0028118 City of Willard 2
5 Ohio OH0024732 Columbus-Jackson Pike 29
5 Ohio OH0026565 Village of Mingo Junction 6
5 Ohio OH0027987 Warren 4
5 Ohio OH0027952 Wapakoneta WWTP 4
5 Ohio OH0027910 Van Wert 6
5 Ohio OH0027898 Utica 1
5 Ohio OH0027740 Toledo 38
5 Ohio OH0027511 Steubenville 16
5 Ohio OH0027332 City of Sandusky 17
5 Ohio OH0027197 Portsmouth 10
5 Ohio OH0025160 Fort Recovery WWTP 3
5 Ohio OH0026671 Newark WWTP 26
5 Ohio OH0022322 Put-In-Bay WWTP 3
5 Ohio OH0026522 Middletown WWTP 8
5 Ohio OH0026514 Middleport WWTP 13
5 Ohio OH0026352 Marion Water Pollution Control 3
5 Ohio OH0026263 City of McComb WWTP 3

5 Ohio OH0026069 City of Lima WWTP 19
5 Ohio OH0026026 Lancaster WWTP 31
5 Ohio OH0026018 Lakewood WWTP
5 Ohio OH0025852 Ironton WWTP 9
5 Ohio OH0025771 Hicksville 3
5 Ohio OH0026841 Oak Harbor 9
5 Ohio OH0022578 Green Springs WWTP 1
5 Ohio OH0020192 Village of Bradford 9
5 Ohio OH0020117 North Baltimore 2
5 Ohio OH0020001 Upper Sandusky 7
5 Ohio OH0020338 Village of Paulding 2
5 Ohio OH0020451 City of Milford WWTP 2
5 Ohio OH0020974 Delta WWTP 11
5 Ohio OH0022110 Newton Falls WWTP 28
5 Ohio OH0021831 Montpelier WWTP 4
5 Ohio OH0021725 Pomeroy 13
5 Ohio OH0021491 Bremen 1
5 Ohio OH0021466 McConnelsville 9
5 Ohio OH0021326 Village of Payne WWTP 2
5 Ohio OH0021261 Elmore WWTP 5
5 Ohio OH0021148 Village of Pandora WWTP 10
5 Ohio OH0021105 Hamler WWTP 6
5 Ohio OH0020214 Toronto WWTP 7
5 Ohio OH0021008 Perrysburg Water Pollution Control 4
5 Ohio OH0027481 Springfield STP 58
5 Ohio OH0020940 Arcanum WWTP 14
5 Ohio OH0020893 Napoleon WWTP 3
5 Ohio OH0020851 Bluffton WWTP 20
5 Ohio OH0020664 Crestline WWTP 1
5 Ohio OH0020591 Woodville 18
5 Ohio OH0020559 Village of Caldwell WWTP 23
5 Ohio OH0020524 Village of Swanton 27
5 Ohio OH0020486 Village of Greenwich WWTP 14
5 Ohio OH0021016 Village of Genoa 6
5 Ohio OH0028177 Woodsfield WWTP 5
5 Ohio OH0028185 Wooster 3
5 Ohio OH0028223 City of Youngstown WTP 80
5 Ohio OH0028240 Zanesville WWTP 25
5 Ohio OH0029122 Village of Gibsonburg 3
5 Ohio OH0031062 Euclid 18
5 Ohio OH0043991 Northeast Ohio Regional Sewer District 126
5 Ohio OH0048321 Dunkirk 6
5 Ohio OH0049999 Eastern Ohio Regional Wastewater Authority
5 Ohio OH0052604 City of Norwalk 3
5 Ohio OH0052876 Port Clinton 2
5 Ohio OH0052922 City of Bucyrus 22

5 Ohio OH0052744 City of Fostoria 5
5 Ohio OH0052949 Tiffin 39
5 Ohio OH0058971 Luckey STP 4
5 Ohio OH0058408 Metamora 12
5 Ohio OH0126268 Lisbon WWTP 9
5 Ohio OH0094528 Village of Malta 10
5 Ohio OH0020613 Village of New Boston 2
5 Ohio OH0105457 Hamilton County Commissioners 182

3 Pennsylvania PA0028223 Corry City Municipal Authority 3
3 Pennsylvania PA0027014 Altoona City Authority-East 1
3 Pennsylvania PA0027120 Warren City 4
3 Pennsylvania PA0027197 Harrisburg Authority 61
3 Pennsylvania PA0027227 Farrell City 6
3 Pennsylvania PA0026689 Philadelphia Water Department - Northeast 59
3 Pennsylvania PA0028207 Reynoldsville Sewer Authority 6
3 Pennsylvania PA0026671 Philadelphia Water Department - Southwest 83
3 Pennsylvania PA0036650 Titusville City 5
3 Pennsylvania PA0037711 Everett Borough Municipal Authority 5
3 Pennsylvania PA0038920 Burnham Borough 7
3 Pennsylvania PAG066134 Township of Lett
3 Pennsylvania PA0027421 Norristown MWA 2
3 Pennsylvania PA0021571 Marysville Municipal Authority 3
3 Pennsylvania PA0020346 Punxsutawney Sewer Authority STP 4
3 Pennsylvania PA0020397 Bridgeport Borough 6
3 Pennsylvania PA0021237 Newport Borough Municipal Authority 3
3 Pennsylvania PA0026832 Ellwood City Borough 1
3 Pennsylvania PA0021539 Williamsburg Borough 1
3 Pennsylvania PA0026743 Lancaster City 4
3 Pennsylvania PA0022209 Bedford Borough Municipal Authority 2
3 Pennsylvania PA0023175 Kane Borough 1
3 Pennsylvania PA0026174 Franklin City General Authority 4
3 Pennsylvania PA0026182 Lansdale Borough 2
3 Pennsylvania PA0026191 Huntington Borough 6
3 Pennsylvania PA0026662 Philadelphia Water Department - Southeast 35
3 Pennsylvania PA0021521 Smethport Borough 1
3 Pennsylvania PA0070386 Shenandoah STP 13
3 Pennsylvania PA0037818 Saltsburg Borough STP 6
3 Pennsylvania PA0092355 North Belle Vernon WPCP 16
3 Pennsylvania PA0070041 Mahanoy City (MCSA) STP 1
3 Pennsylvania PA0046159 MSA of Houtzdale Borough 1
3 Pennsylvania PA0043885 Greater Pottsville Area Sewer Authority 54
3 Pennsylvania PA0043877 Greater Pottsville Area Sewer Authority (West End) 4
3 Pennsylvania PA0043273 Hollidaysburg Regional WWTP 4
3 Pennsylvania PA0042234 Kittanning Borough STP 9
3 Pennsylvania PA0039489 Garrett Boro SIP 2

3 Pennsylvania PA0026107 Wyoming Valley Sewer Authority 54
3 Pennsylvania PA0096229 Marianna-West Bethlehem STP 1
3 Pennsylvania PA0037044 Ford City WTP 3
3 Pennsylvania PA0026492 Scranton WWTF 69
3 Pennsylvania PA0027006 Tamaqua Borough Sewer Authority 16
3 Pennsylvania PA0026981 City of Duquesne STP 4
3 Pennsylvania PA0026921 Hazelton WTP 14
3 Pennsylvania PA0026913 McKeesport WPCP 28
3 Pennsylvania PA0026905 Connellsville STP 16
3 Pennsylvania PA0026891 Charleroi STP 12
3 Pennsylvania PA0038164 Borough of Confluence 2
3 Pennsylvania PA0027057 Williamsport Sanitary Authority Central 3
3 Pennsylvania PA0026476 Coaldale Landsford-Summitt Hill TP 6
3 Pennsylvania PA0026361 Lower Lackawanna Valley Sanitary Authority 24
3 Pennsylvania PA0026352 Coraopolis WPCF 6
3 Pennsylvania PA0026310 Clearfield Municipal Authority 9
3 Pennsylvania PA0026301 Erie City STP 20
3 Pennsylvania PA0026204 Oil City STP 16
3 Pennsylvania PA0026158 Monongahela Valley WWTP 21
3 Pennsylvania PA0026140 Rochester Area Joint Sewer Authority WTP 3
3 Pennsylvania PA0026581 Scottsdale STP 8
3 Pennsylvania PA0027430 Jeannette WWTP 5
3 Pennsylvania PA0036820 Galeton Borough Authority 4
3 Pennsylvania PA0028673 Borough of Gallitzin WWTP 6
3 Pennsylvania PA0028631 Mid-Cameron Authority 1
3 Pennsylvania PA0028436 Elizabeth Borough STP 6
3 Pennsylvania PA0028401 Dravosburg Borough STP 1
3 Pennsylvania PA0027693 Minersville Sewer Authority 10
3 Pennsylvania PA0027651 West Newton Borough STP 13
3 Pennsylvania PA0027626 Kiski Valley STP 32
3 Pennsylvania PA0027022 Altoona West STP 1
3 Pennsylvania PA0027456 Greater Greensboro STP 39
3 Pennsylvania PA0027049 Williamsport Sanitary Authority West Plant 1
3 Pennsylvania PA0027391 Upper Allegheny Joint Sanitary Authority STP 19
3 Pennsylvania PA0027324 Shamokin-Coal Township Joint Sewer Authority 5
3 Pennsylvania PA0027111 New Kensington STP 5
3 Pennsylvania PA0027103 DELCORA Chester STP 26
3 Pennsylvania PA0027090 Lackawanna River Basin Sewer Authority- Throop 25
3 Pennsylvania PA0027081 Lackawanna River Basin Sewer Authority- Clinton 9
3 Pennsylvania PA0027065 Lackawanna River Basin Sewer Authority- Archbald 16
3 Pennsylvania PA0027570 Brush Creek STP 3
3 Pennsylvania PA0026557 Municipal Authority of the City of Sunbury 6
3 Pennsylvania PA0026824 Clairton STP 5
3 Pennsylvania PA0025755 Borough of Freeport STP 6
3 Pennsylvania PA0021610 Blairsville Borough STP 16
3 Pennsylvania PA0024686 Mid Mon Valley WPCP 8

3 Pennsylvania PA0024716 Freeland WWTP 1
3 Pennsylvania PA0024864 Ligonier Boro STP 2
3 Pennsylvania PA0021407 Point Mariah WWTP 6
3 Pennsylvania PA0024511 Redbank Valley Municipal Authority 2
3 Pennsylvania PA0025224 St. Clair S.A. WWTP 7
3 Pennsylvania PA0024490 Rockwood Boro STP 5
3 Pennsylvania PA0021113 Glassport STP 5
3 Pennsylvania PA0025810 Shade-Central City STP 3
3 Pennsylvania PA0020940 Tunkhannock Borough Municipal Authority 2
3 Pennsylvania PA0020702 Fayette City WWTP 2
3 Pennsylvania PA0023469 Honesdale STP 20
3 Pennsylvania PA0025950 City of Monongahela 1
3 Pennsylvania PA0021148 Mt. Pleasant STP 6
3 Pennsylvania PA0023736 Tri-Borough Municipal Authority WWTP 2
3 Pennsylvania PA0023248 Berwick Area Joint Sewer Authority 4
3 Pennsylvania PA0022331 West Elizabeth WWTP 1
3 Pennsylvania PA0022306 Brownsville Municipal Authority-Shady Avenue STP 4
3 Pennsylvania PA0022292 Ebensburg WWTP 2
3 Pennsylvania PA0022241 California Borough STP 3
3 Pennsylvania PA0021814 Mansfield WWTP 4
3 Pennsylvania PA0024589 Leetsdale STP 6
3 Pennsylvania PA0023701 Midland Borough Municipal Authority STP 1
3 Pennsylvania PA0020681 Sewickley WWTP 4
3 Pennsylvania PA0024163 Cambria Township Sewer Authority (Revloc STP) 1
3 Pennsylvania PA0024341 Canton Borough Authority 1
3 Pennsylvania PA0024406 Mt. Carmel Municipal Authority 19
3 Pennsylvania PA0024449 Youngwood Borough STP 2
3 Pennsylvania PA0024481 Meyersdale STP 5
3 Pennsylvania PA0021687 Wellsboro Municipal Authority 2
3 Pennsylvania PA0023558 Ashland Borough 9
3 Pennsylvania PA0025984 Allegheny County Sanitary Authority 21
3 Pennsylvania PA0026069 Latrobe Borough 18
3 Pennsylvania PA0026042 Bethlehem WWTP 3
3 Pennsylvania PA0020613 Waynesbug STP 2
3 Pennsylvania PA0020125 Boro of Monaca STP 6
3 Pennsylvania PAG066102 Braddock Borough 8
3 Pennsylvania PAG066109 McDonald Sewage Authority 20
3 Pennsylvania PA0217611 City of Pittsburgh 217
3 Pennsylvania PAG062201 Easton City 2
3 Pennsylvania PAG062202 Lackawanna River Basin Authority-Moosic 4
3 Pennsylvania PAG064801 Shamokin City 33
3 Pennsylvania PAG066101 Pitcairn Borough 1
3 Pennsylvania PAG066103 Borough of Homestead 1
3 Pennsylvania PAG066104 Bureau of Wilmerding 9
3 Pennsylvania PAG066105 Borough of Rankin 2
3 Pennsylvania PAG066106 Girty's Run JSA, Millvale 9

3 Pennsylvania PAG066107 Township of Stowe 7
3 Pennsylvania PAG064802 Coal Township 33
3 Pennsylvania PAG066110 Borough of Crafton 4
3 Pennsylvania PAG066108 Larimer Avenue CSO 2
3 Pennsylvania PAG066129 Mayview State Hospital 2
3 Pennsylvania PAG066130 Export Borough 5
3 Pennsylvania PAG066131 Freedom Borough 3
3 Pennsylvania PAG066132 East Rochester Borough 1
3 Pennsylvania PAG066127 Munhall Boro 4
3 Pennsylvania PAG066126 Carnegie Borough 1
3 Pennsylvania PAG066119 Borough of Etna 8
3 Pennsylvania PAG066111 Emsworth Borough 1
3 Pennsylvania PAG066112 Borough of McKee Rocks 3
3 Pennsylvania PAG066113 Borough of Aspinwall 3
3 Pennsylvania PAG066114 Borough of North Braddock 1
3 Pennsylvania PAG066115 Ferndale Borough 5
3 Pennsylvania PAG066116 West View Borough 2
3 Pennsylvania PAG066128 Borough of Swissvale 1
3 Pennsylvania PAG066118 Borough of Turtle Creek 10
3 Pennsylvania PAG066120 Borough of East Pittsburgh 3
3 Pennsylvania PAG066121 City of Arnold 2
3 Pennsylvania PAG066122 East Conemaugh Borough 2
3 Pennsylvania PAG066123 Borough of West Homestead 2
3 Pennsylvania PAG066124 Dale Borough 7
3 Pennsylvania PAG066125 Sharpsburg Borough 6
3 Pennsylvania PAG066117 City of Uniontown 28

4 Tennessee TN0024210 Chattanooga 18
4 Tennessee TN0020656 Clarksville 2
4 Tennessee TN0020575 Nashville 30

10 Washington WA0024074 City of Mt. Vernon WWTP 2
10 Washington WA0023973 City of Port Angeles WWTP 5
10 Washington WA0023744 City of Bellingham WWTP 2
10 Washington WA0020257 City of Anacortes WWTP 3
10 Washington WA0024490 Everett WPCF 18
10 Washington WA0029181 West Point STP 34
10 Washington WA0024473 Spokane WWTP and CSOs 24
10 Washington WA0037061 City of Olympia 3
10 Washington WA0029548 Snohomish WWTP 2
10 Washington WA0029289 Bremerton WWTP 16
10 Washington WA0031682 City of Seattle Collection System 110

3 West Virginia WV0105279 City of Piedmont
3 West Virginia WV0023205 Charleston 58
3 West Virginia WV0024473 Marlinton 1

3 West Virginia WV0024392 Keyser 1
3 West Virginia WV0023353 Fairmont 43
3 West Virginia WV0023302 City of Clarksburg 84
3 West Virginia WV0023299 Nitro 7
3 West Virginia WV0023264 City of Moundsville 5
3 West Virginia WV0024732 City of Hinton 6
3 West Virginia WV0023183 Beckley 2
3 West Virginia WV0023175 St. Albans 12
3 West Virginia WV0023167 Martinsburg 1
3 West Virginia WV0023159 Huntington 23
3 West Virginia WV0023124 City of Morgantown 33
3 West Virginia WV0023094 Princeton 1
3 West Virginia WV0022080 Town of Bethany 3
3 West Virginia WV0022063 City of Parsons 4
3 West Virginia WV0023230 Wheeling 211
3 West Virginia WV0029289 City of Belington 7
3 West Virginia WV0084042 Flatwoods-Canoe Run PSD 6
3 West Virginia WV0054500 City of Shinnston 12
3 West Virginia WV0035939 Boone County PSD 1
3 West Virginia WV0033821 City of Logan 12
3 West Virginia WV0024562 City of Wayne 3
3 West Virginia WV0032336 Buckhannon 6
3 West Virginia WV0024589 Welch 28
3 West Virginia WV0028118 Dunbar 16
3 West Virginia WV0028088 Weston 5
3 West Virginia WV0027472 New Martinsville 4
3 West Virginia WV0027324 Monongah 6
3 West Virginia WV0026832 Wellsburg 10
3 West Virginia WV0025461 City of Bridgeport 11
3 West Virginia WV0024848 Town of Davis 3
3 West Virginia WV0021881 Kingwood 3
3 West Virginia WV0033804 Terra Alta
3 West Virginia WV0022039 Point Pleasant 2
3 West Virginia WV0020273 City of Follansbee 5
3 West Virginia WV0021865 Town of Farmington 3
3 West Virginia WV0021857 City of Philippi 13
3 West Virginia WV0021822 Grafton 35
3 West Virginia WV0021792 Petersburg 2
3 West Virginia WV0021750 Marmet 3
3 West Virginia WV0021741 Smithers 3
3 West Virginia WV0020681 Mullens 3
3 West Virginia WV0020621 Montgomery 5
3 West Virginia WV0022004 Richwood 2
3 West Virginia WV0020150 Moorefield 3
3 West Virginia WV0020141 McMechen 3
3 West Virginia WV0020109 Town of West Union 7

3 West Virginia WV0020028 City of Elkins 19
3 West Virginia WV0020648 City of Benwood 9
3 West Virginia WV0023221 Vienna 2
3 West Virginia WV0024449 City of Westover 5
3 West Virginia WV0035637 Cedar Grove 1
3 West Virginia WV0035912 City of Kenova 2
3 West Virginia WV0081434 City of Barrackville 9
3 West Virginia WV0084310 Greater Paw Paw Sanitary District 10
3 West Virginia WV0100901 Nutter Fort 2

5 Wisconsin WIL024767 Milwaukee MSD-Jones Island 120
5 Wisconsin WI0025593 Superior Sewage Disposal System 3



STATEMENT OF

**THE HONORABLE JOE REARDON
MAYOR/CEO, UNIFIED GOVERNMENT OF KANSAS CITY,
KANSAS AND WYANDOTTE COUNTY**

**BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE**

**SUBCOMMITTEE ON WATER RESOURCES AND
ENVIRONMENT**

**DECEMBER 14, 2011
WASHINGTON, DC**

Statement of

Joe Reardon
Mayor/CEO of the Unified Government of Kansas City, Kansas and
Wyandotte County

On behalf of the National League of Cities

Before the House Transportation and Infrastructure Committee,
Subcommittee on Water Resources and Environment

*“Integrated Planning and Permitting: An Opportunity for EPA to Provide
Communities with Flexibility to Make Smart Investments in Water Quality”*

December 14, 2011

Good morning, Chairman Gibbs, Ranking Member Bishop and Members of the Committee. I am Joe Reardon, Mayor and CEO of the Unified Government of Kansas City, Kansas and Wyandotte County. I am here today on behalf of the National League of Cities (NLC), the oldest and largest organization representing cities and towns across America. I appreciate the opportunity to share our perspective on the important role of clean water infrastructure investment in our communities and how the U.S. Environmental Protection Agency (EPA) and Congress can partner more effectively with local governments to make smart investments in water quality.

The availability of clean water is the backbone of a modern society and a livable community, and the nation’s water infrastructure systems are assets that help support the backbone by protecting public health, as well as the nation’s precious water resources. To the extent that America’s water infrastructure is properly maintained and can adequately meet the needs of our communities, it will help ensure the long-term vitality of our communities.

To help achieve this goal, cities need a modern policy framework and resources to invest in our nation’s water infrastructure systems.

The Case for a New Policy Framework

The EPA integrated planning memorandum, “Achieving Water Quality Through Integrated Municipal Stormwater and Wastewater Plans,” comes at a time when the nation’s cities are still reeling from the effects of the economic recession on city finances. Indeed, the EPA memorandum recognizes this challenge: “[W]e must be mindful that many of our state and local government partners find themselves facing difficult financial conditions. Their ability to finance improvements by raising revenues or issuing bonds has been significantly impacted during the ongoing economic recovery.”

According to NLC's 2011 *City Fiscal Conditions* report¹, general city revenues are continuing to fall, with a projected -2.3 percent decrease over 2010 by the end of 2011. This is the fifth straight year of declines in revenue with probable further declines in 2012. Cities are responding to these declines by cutting personnel (72 percent), delaying infrastructure projects (60 percent), increasing service fees (41 percent), and modifying employee health benefits (36 percent).

Cities also have been forced to contend with significant decreases in state aid, adding to the fiscal pressures. According to NLC's report, since 2009, cities report state cuts in general aid (50 percent), shared revenues (49 percent), and reductions in reimbursements and other transfers (32 percent). As states make these cuts to balance their budgets, it puts greater budgetary pressure on local governments that must balance their budgets as well.

There can be no doubt that in Kansas City and in cities around the country, city officials are making difficult decisions and are working hard to find innovative solutions to reenergize our communities. But, without more resources and more cooperation from the federal government, the outlook will continue to be challenging.

In my own city, we've responded to these challenges by cutting millions of dollars from our annual budgets; reducing our workforce by 15 percent, or more than 300 employees; and mandating that the remaining employees take three weeks of unpaid furlough time. In addition, the governing body has raised property taxes and sewer and water fees to avoid even deeper cuts to service and to meet increasing unfunded mandates.

However, at a time when financial resources are increasingly limited, the federal government continues to impose costly federal regulatory requirements to carry out the objectives of the Clean Water Act (CWA) without regard for the efficacy of the regulation or a prioritization scheme. Given the limited pool of financial resources, it is appropriate for local governments and our citizens to insist on a regulatory approach that prioritizes ratepayer and public investments in a way that will maximize water quality benefits and public health and safety protections.

I'm particularly concerned about this in light of the fact that my city is currently negotiating a consent decree with EPA and the U.S. Department of Justice (DOJ) to address combined sewer overflows. A crushing financial burden is not the price our citizens should have to pay for improved water quality.

Let me tell you a little about Kansas City, Kansas. Of the approximately 155,000 residents, 25 percent fall below the poverty line. Sixty-six percent of the residents living in the combined sewer overflow area are minorities, many living below the poverty line and many more struggling to make ends meet.

¹ Hoene, Christopher W. and Michael A. Pagano, *City Fiscal Conditions in 2011*, National League of Cities, September 2011. (See addendum or <http://www.nlc.org/find-city-solutions/research-innovation/finance/city-fiscal-conditions-in-2011>)

So, when I consider the terms of the pending consent decree, I ask myself, "Are regulations which are so costly to comply with really reasonable? Are the economic hardships these forced regulations will create really in the best interest of the public?" I think the answer is, "No." Citizens expect and deserve their governments to work cooperatively to solve problems and reach our national goal of cleaner water. But, when the playing field is so uneven and one side ends up with an "agreement" that is unaffordable and will damage the economic viability of the community, no one benefits. Our citizens and our communities deserve a better policy approach.

In the past three years, the City of Kansas City has had to increase sewer fees by 40 percent. To meet the consent decree requirements that EPA and DOJ are proposing, sewer fees would have to increase 400 percent in the next five years. With all due respect, our citizens simply can't afford more.

To state it differently, the cost of meeting the combined sewer overflow mandate for our city is four times our annual municipal budget. We would spend more dollars fixing the combined sewer problem than we spend in four years on police and fire protection, the courts and jail, roads and bridges, parks and recreation, social service programs and every other function of municipal government. And, to finance this, we have to borrow more money and carry a level of public debt that would violate the laws of the State of Kansas and EPA's own guidelines.

EPA guidelines say the cost of fixing the combined sewer situation should be no more than two percent of median household income. Yet, the consent decree now being negotiated would cost 3.1 percent of median household income over the next 25 years. Sewer fees would have to increase from about \$27 a month to nearly \$104 a month. For a family of 4 living at the poverty level, which is approximately \$1862 a month, \$104 a month to repair sewers is just too much. While that family might agree having cleaner water is a worthwhile goal for the nation, they would likely think buying groceries to feed their children, paying the electric bill so they can heat their house, and paying their rent is more important. We shouldn't force our families to make these kinds of false choices. By partnering together, we can do better.

I offer up my city for a pilot study with the federal government to develop and implement a different approach—an approach in which the city and the federal government work together as partners, not as adversaries. An approach in which city, state and federal officials work together to meet the high standards of public service by crafting a solution that truly serves and benefits the people we all represent and serve. Let's create a new approach of cooperation and partnership with a goal of developing a solution that is cost effective and affordable, instead of a system and process based on adversarial and unfunded mandates that the citizens I, and you, represent cannot afford. Let's explore more diversified and alternative funding mechanisms than simply looking down at cities and our citizens to shoulder the entire cost burden.

I know I speak for city leaders across the country when I say we are encouraged by EPA's steps to establish a new policy framework whereby local governments can collaborate with their state and federal counterparts on an approach to regulatory prioritization based on principles of affordability and financial capability, while maximizing environmental benefit, to meet the requirements and objectives of the CWA. Such a policy framework can provide the flexibility local governments need to continue progress toward improving our nation's waterways, while

focusing the investment of limited dollars to address the most pressing health and welfare issues first. This new integrated planning approach will have a tremendous impact on the ability of local stormwater and wastewater systems to meet the requirements and objectives of the CWA in an efficient and cost effective manner.

In addition, in order to enhance the framework as a tool for achieving water quality through integrated municipal stormwater and wastewater plans, we recommend that the EPA framework include recognition that the primary implementation method or process for “integrated plans” are the National Pollutant Discharge Elimination System (NPDES) permits and not administrative or civil enforcement. The use of long-term compliance schedules to implement CWA requirements established under the NPDES permit program is critical to provide sufficient time for local governments to finance and build collection and treatment facilities to control combined sewer overflows and sanitary sewer overflows, and to build treatment facilities to attain water quality standards criteria for nutrients and other pollutants. Because only the states have the authority to provide long-term compliance schedules to implement state water quality standards enforceable in NPDES permits, federal judicial consent decrees or EPA administrative orders are unnecessary for those purposes.

Kansas City, Kansas, and cities across the country would benefit from a working relationship with EPA where there is a consideration of the cumulative effect of all regulatory mandates. In so doing, more holistic approaches to priority setting, affordability, and cost benefit analysis could occur. This would further our city’s interest in making smart strategic decisions in the context of the other priorities in our overall city budget.

Moving Forward – Funding for Water Infrastructure

Addressing the policy challenges is just one part of the equation to addressing our nation’s water quality challenges. Last summer, the National League of Cities sponsored *Building Cities, Building Futures*—a national tour that explored the impact infrastructure investment has on regional development and economic growth. Stops on the tour took place in Houston, Los Angeles, Charlotte, and Chicago.

While these events brought local stakeholders, which included public and private sector leaders, together to discuss regional issues, the key findings and commonalities that echoed across all of the regions included the need for infrastructure investment at the local, regional and national levels; the opportunities associated with such investment; and the solutions that can help cities and regions develop the infrastructure they need to grow sustainable economies for the years and decades to come.

A combination of population growth, variations in water availability, and aging water infrastructure are factors driving the need for significant investments in water infrastructure at the local, regional, and national levels. These factors also present a challenge in meeting current and future needs of our communities. The lack of quality infrastructure threatens local and regional economies, the environment and public health and safety. A key takeaway from the *Building Cities, Building Futures* infrastructure tour was that cities cannot continue to thrive as

appealing places to live, work and do business if they do not make sustainable infrastructure investments and development a priority.

For these reasons, NLC supports the purposes of the Water Quality Protection and Job Creation Act of 2011 (H.R. 3145), which include authorizing appropriations for state water pollution control revolving funds and establishing a new sewer overflow control grant for municipalities.

NLC is a long-time supporter of the EPA Clean Water State Revolving Loan Fund (SRF). The Clean Water SRF, along with the Drinking Water SRF, are integral tools used by our communities for providing clean, drinkable, and swimmable water to the American people. Additionally, a new grant program for municipalities to carry out projects to control municipal combined sewer overflows and sanitary sewer overflows will aid in pollution control and help protect our nation's water resources.

As you know, despite the fact that local governments fund 95 to 98 percent of all water and wastewater infrastructure investment, the needs in our communities continue to grow according to EPA surveys. The EPA's most recent Clean Watersheds Needs Survey indicates that the 20 year investment needed to upgrade our nation's total wastewater and stormwater management infrastructure to meet the water quality goals set in the CWA to be \$298.1 billion. And, in our estimation, these investment levels are actually an underestimate given the advancing age of our infrastructure, the burden of unfunded federal regulatory mandates, and factors not yet known as a result of our changing climate.

Accordingly, local governments need a reliable, long-term source of substantial capital for municipal water infrastructure systems to help close the gap between current expenditures and anticipated needs to enhance and maintain critical water infrastructure in our communities. NLC supports water infrastructure funding through the SRF programs and other alternative mechanisms of financing water infrastructure improvements and investments, such as, for example, mechanisms that lower the cost of borrowing that will help leverage local funding, offer direct loans and loan guarantees from the federal government to cities, or remove the federal volume cap on tax-exempt bonds for water and wastewater infrastructure projects.

Conclusion

In closing, you should know that local governments remain committed to meeting the growing water infrastructure needs in our communities. We hope the federal government remains committed to being a full partner in this important endeavor. Because the nation's cities are working to improve aging infrastructure, meet federal regulatory requirements, create and retain jobs, and foster a climate of economic growth in our communities, a federal investment in our nation's infrastructure is essential. We look forward to working with you on a long-term solution to our nation's water infrastructure needs.

Thank you for the opportunity to speak on behalf of America's cities and towns. I look forward to your questions.

NATIONAL LEAGUE of CITIES | Research Brief on America's Cities

By Christopher W. Hoene & Michael A. Pagano¹

SEPTEMBER 2011

City Fiscal Conditions in 2011

The nation's city finance officers report that the fiscal condition of cities continues to weaken in 2011 as cities confront the persistent effects of the economic downturn.² Local and regional economies, characterized by struggling housing markets, slow consumer spending and high levels of unemployment, are driving declines in city revenues. In response, cities are continuing to cut personnel, infrastructure investments and key services. Findings from the National League of Cities' latest annual survey of city finance officers include:

- As finance officers look to the close of 2011, they project declining revenues, with corresponding spending cutbacks in response to the economic downturn;
- The pace of decline in property tax revenues quickened in 2011, reflecting the inevitable and lagged impact of real estate market declines in recent years;
- Ending balances, or "reserves," while still at high levels, decreased for the third year in a row as cities used these balances to weather the effects of the downturn;
- Fiscal pressures on cities include declining local economic health, infrastructure costs, employee-related costs for health care, pensions and wages and cuts in state aid; and,
- Confronted with these pressures and conditions, cities are making personnel cuts, delaying or cancelling infrastructure projects and cutting local services — cuts that have implications for jobs and national economic recovery.

MEETING FISCAL NEEDS — A "NEW NORMAL?"

Since 2008, nearly all reflections on the economy and on government fiscal position mention the Great Depression of the 1930s that began with the stock market crash on Black Tuesday, October 29, 1929. "Not since the Great Depression..." is an oft-used prelude to many descriptions of the current period. A similar refrain is heard when policy analysts and citizens discuss cities. In reality, however, the Great Recession that began with the bursting of the housing bubble in 2007 and the sharp drop in stock markets in 2008 did not begin to wreak havoc on cities' revenue profiles until later.

For cities, the collective impact of property values continuing at levels far below their 2007 peaks, consumer spending slowing, consumer confidence eroding and markets possibly entering a double-dip recession is the worst since the Great Depression. Yet, America's cities are not looking to the past as a guidepost for the future. Indeed, lower property values and declining sales may portend something entirely new, a "new normal."

¹ Christopher W. Hoene is Director of the Center for Research and Innovation at the National League of Cities. Michael A. Pagano is Dean of the College of Urban Planning and Public Affairs at the University of Illinois at Chicago. The authors would like to acknowledge the 272 respondents to this year's fiscal survey. The commitment of these cities' finance officers to the project is greatly appreciated.

² All references to specific years are for fiscal years as defined by the individual cities. The use of "cities" or "city" in this report refers to municipal corporations.

The City Fiscal Conditions Survey is a national mail and online survey of finance officers in U.S. cities conducted in the spring-summer of each year. This is the 26th edition of the survey, which began in 1986.



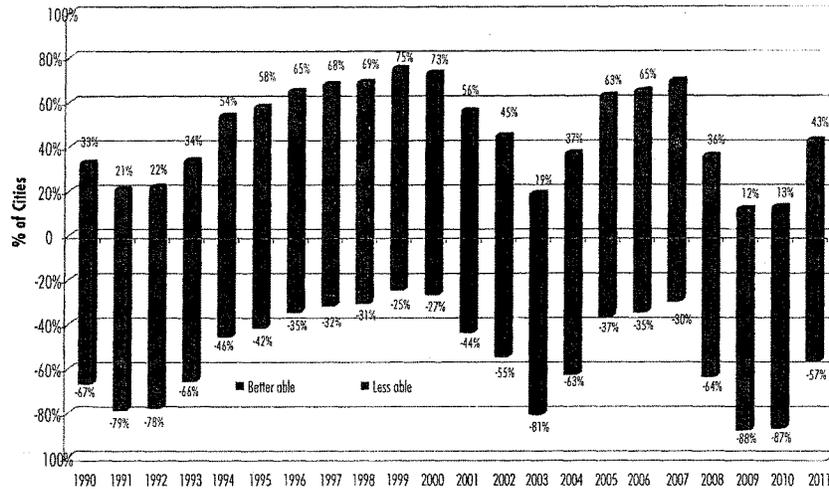


Figure 1: Percent of Cities "Better Able/Less Able" to Meet Financial Needs

In 2011, 57 percent of city finance officers report that their cities are less able to meet fiscal needs than in 2010 (See Figure 1). City finance officers' comparative assessment of their cities' fiscal conditions from year to year in 2011 improved from their 2010 assessment, when 87 percent of city finance officers said their cities were less able to meet fiscal needs than in 2009, the highest level in the history of NLC's 25-year survey. The 2011 findings suggest that city finance officers' perceptions are still mostly negative, but they are not necessarily worsening and may reflect a new normal in terms of their assessment and expectations of meeting nearer-term financial needs. Finance officers in cities that rely more upon property taxes (73%) — the most common local tax source — are more likely to say that their cities are less able to meet fiscal needs in 2011 than those in cities reliant upon sales taxes (50%) or income taxes (47%) (See Figure 1A).

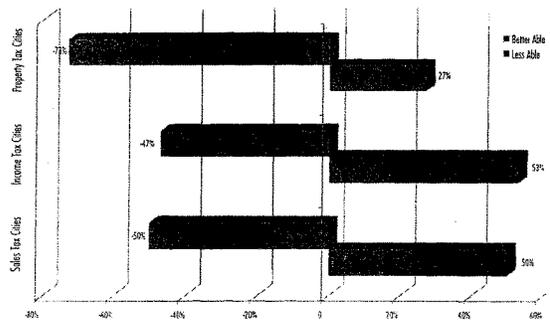


Figure 1A: Percent of Cities "Better Able/Less Able" to Meet Financial Needs in FY 2011 by Tax Authority

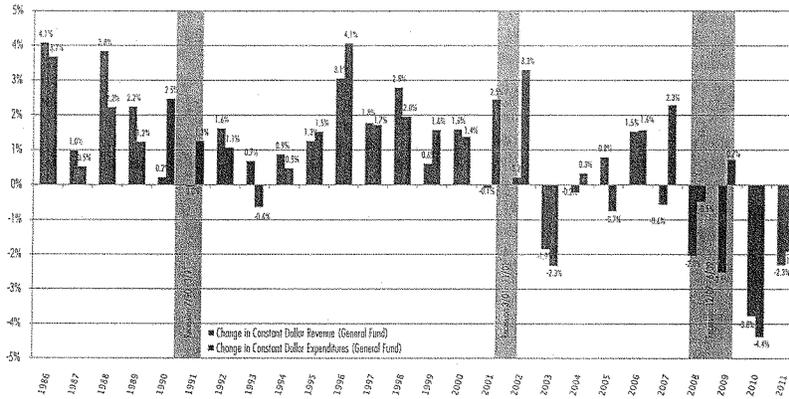


Figure 2: Year-to-Year Change in General Fund Revenues and Expenditures (Constant Dollars)

REVENUE AND SPENDING TRENDS

Cities ended fiscal year 2010 with the largest year-to-year reductions in general fund revenues and expenditures in the 26-year history of the survey.³ In constant dollars (adjusted to account for inflationary factors in the state-local sector), general fund revenues in 2010 declined -3.8 percent from 2009 revenues, while expenditures declined by -4.4 percent.⁴ Looking to the close of 2011, city finance officers project that general fund revenues will decline by -2.3 percent and expenditures will decline by -1.9 percent (See Figure 2).

Revenue and spending shifts in 2010 and 2011 portray a worsening fiscal picture for America's cities. The projected decline in 2011 revenues represents the fifth straight year-to-year decline going back to 2007. Over the same period, year-to-year expenditures have declined in three of the last four years. In comparison to previous periods, the most recent decade, with recessions in 2001 and 2007-09, continues to be characterized by volatility in city fiscal conditions. With a national economic recovery that has been weak or stalled, and taking into account a lag between economic shifts and the effects for city budgets, it seems very likely that cities will confront further revenue declines and cuts in city spending in 2012. (For more on the lag between economic changes and city revenues, see page 9.)

TAX REVENUES

The fiscal condition of individual cities varies greatly depending on differences in local tax structure and reliance. While an overwhelming majority of cities have access to a local property tax, many are also reliant upon local sales taxes, and some cities (fewer than 10% nationally) are reliant upon local income or wage taxes. Understanding the differing performance of these tax sources and the connections to broader economic conditions helps explain the forces behind declining city revenues.⁵

³ The General Fund is the largest and most common fund of all cities, accounting for approximately 55% of city revenues across the municipal sector.

⁴ "Constant dollars" refers to inflation-adjusted dollars. "Current dollars" refers to non-adjusted dollars. To calculate constant dollars, we adjust current dollars using the U.S. Bureau of Economic Analysis (BEA) National Income and Product Accounts (NIPA) estimate for inflation in the state and local government sector. Constant dollars are a more accurate source of comparison over time because the dollars are adjusted to account for differences in the costs of state and local government.

⁵ For more information on variation in local and state tax structures, see "Cities and State Fiscal Structures," OIG, 2008 at [http://www.ik.org/Files/Library/Find City Solutions/Research/Innovation/Finance/Cities-state-fiscal-structure-2008-q1.pdf](http://www.ik.org/Files/Library/Find%20City%20Solutions/Research/Innovation/Finance/Cities-state-fiscal-structure-2008-q1.pdf).

Property Taxes. Local property tax revenues are driven primarily by the value of residential and commercial property, with property tax bills determined by local governments' assessment of the value of property. Property tax collections lag the real estate market because local assessment practices take time to catch up with changes. As a result, current property tax bills and property tax collections typically reflect values of property from anywhere from 18 months to several years prior.

The effects of the well-publicized downturn in the real estate market in recent years are increasingly evident in city property tax revenues in 2011. Property tax revenues in 2010 dropped by -2 percent compared with 2009 levels, in constant dollars, the first year-to-year decline in city property tax revenues in 15 years. Property tax collections for 2011 point to worsening effects from the downturn in real estate values, projected to decline by -3.7 percent. The full weight of the decline in housing values is now evident in city budgets, and property tax revenues will likely decline further in 2012 and 2013 as city property tax assessments and collections catch up with the market (See Figure 3).

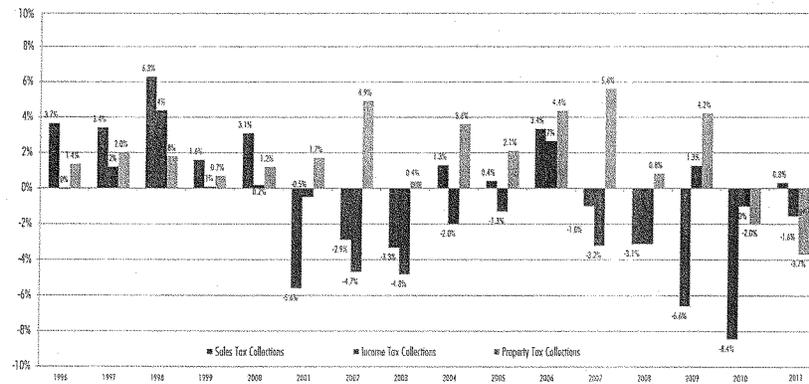


Figure 3. Year-to-Year Change in General Fund Tax Receipts (Constant Dollars)

Sales Taxes. Changes in economic conditions are also evident in terms of changes in city sales tax collections. When consumer confidence is high, people spend more on goods and services and city governments with sales-tax authority reap the benefits through increases in sales tax collections. For much of this decade, consumer spending was also fueled by a strong real estate market that provided additional wealth to homeowners. The struggling economy and the declining real estate market have reduced consumer confidence, resulting in less consumer spending and declining sales tax revenues. City sales tax receipts declined in 2010 over previous year receipts by -8.4 percent in constant dollars, the largest year-to-year decline in 15 years. However, in 2011, city sales tax revenues are projected to essentially remain flat (increase of 0.3%) over 2010 levels.

Income Taxes. City income tax receipts have been fairly flat, or have declined, for most of the past decade in constant dollars. Local income tax revenues are driven primarily by income and wages, not capital gains. The lack of growth in these revenues suggests that the economic recovery following the 2001 recession was, as many economists have noted, a recovery characterized by a lack of growth in jobs, salaries and wages. Projections for 2011 are for a decrease of -1.6 percent in constant dollars, as wages and salaries continue to reflect local job losses and with a national unemployment rate hovering around 9 percent.

City finance officers are therefore predicting decline or little growth in all three major sources of tax revenue for cities in 2011. With national economic indicators pointing to continued struggles, and the lag between changing economic conditions and local revenue collections, all indications point to continuing challenges for city budgets in the coming years.

FACTORS INFLUENCING CITY BUDGETS

A number of factors combine to determine the revenue performance, spending levels and overall fiscal condition of cities. Each year, NLC's survey presents city finance directors with a list of factors that affect city budgets.⁶ Respondents are asked whether each of the factors increased or decreased from the previous year and whether the change is having a positive or negative influence on the city's overall fiscal picture. Leading the list of factors that finance officers say have increased over the previous year are employee health benefit costs (86%) and pension costs (84%). Infrastructure (79%) and public safety (63%) demands were most often noted as increasing among specific service arenas. Increases in prices, in general, were also oft-mentioned (84%). Leading factors that city finance officers report to have decreased are levels of state aid to cities (60%), the local tax base (53%) and the health of the local economy (42%) (See Figure 4).

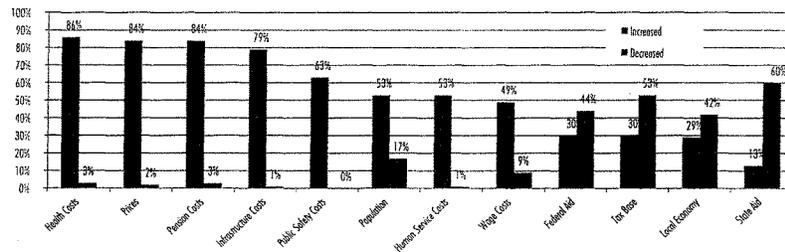


Figure 4: Change in Selected Factors in FY 2011

When asked about the positive or negative impact of each factor on city finances in 2011, at least seven in 10 city finance officers cited employee health benefit costs (82%), pension costs (80%), prices (78%) and infrastructure demands (70%) as negatively effecting city budgets. A majority of city finance officers also cited the level of state aid (58%), employee wage costs (56%) and public safety costs (54%) as having a negative influence (See Figure 5).

REVENUE ACTIONS AND SPENDING CUTS

City finance officers were also asked about specific revenue and spending actions taken in 2011. As has been the case for much of the past two decades, regardless of the state of the economy, the most common action taken to boost city revenues has been to increase the levels of fees for services. Two in five (41%) city finance officers reported that their city has taken this step. One in four cities also increased the number of fees that are applied to city services (23%). Twenty percent of cities increased the local property tax in 2011. Since the mid-1990s, irrespective of economic conditions, the percentage of city finance officers reporting increases in property tax rates in any given year has been at about this same level. Increases in sales, income or other tax rates have been far less common, as continued to be

⁶ The factors include: infrastructure needs, public safety needs, human service needs, education needs, employee wages, employee pension costs, employee health benefit costs, prices and inflation, amount of federal aid, amount of state aid, federal non-environmental mandates, federal environmental mandates, state non-environmental mandates, state environmental mandates, state tax and expenditure limitations, population, city tax base and the health of the local economy.

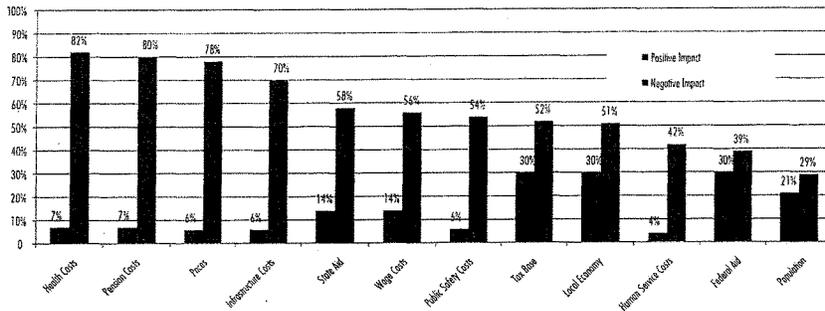


Figure 5: Impact of Selected Factors on 2011 Budgets

the case in 2011 (See Figure 6).

When asked about the most common responses to prospective shortfalls this fiscal year, by a wide margin the most common responses were instituting personnel-related cuts (72%) and delaying or cancelling capital infrastructure projects (60%). Two in five (42%) reported that their city is making cuts in services other than public safety and human-social services (services that tend to be higher in demand during economic downturns), such as public works, libraries, parks and recreation programs. One in three finance officers (36%) reported modifying health care benefits for employees (See Figure 7).

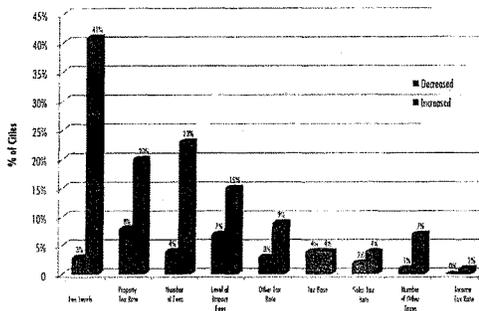


Figure 6: City Revenue Actions in 2011

The 2011 survey also asked about specific types of personnel-related cuts made in 2011 (See Figure 8). The most common cut was a hiring freeze (68%). Half (50%) of cities reported salary or wage reductions or freezes and nearly one in three (31%) cities reported employee layoffs or reducing employee health care benefits (30%). Other personnel actions included early retirements (25%) and furloughs (19%). Many cities have used some combination of these types of actions in an effort to reduce personnel costs. The combination of these personnel-related cuts is resulting in a significant reduction in the size of local government workforces. In 2010, a separate NLC survey on local jobs projected a total reduction in city and county employment of nearly 500,000 positions from 2009 to 2011.⁷ More recently, the U.S. Bureau of Labor Statistics' latest national unemployment numbers, as of August 2011, revealed that total local government employment in the U.S.

⁷ See "Local Governments Cutting Jobs and Services" (NLC, 2010) or [http://www.nlc.org/FileLibrary/Find City Solutions/Research Innovation/Finance/local-governments-cutting-jobs-and-services-spr110.pdf](http://www.nlc.org/FileLibrary/Find%20City%20Solutions/Research%20Innovation/Finance/local-governments-cutting-jobs-and-services-spr110.pdf).

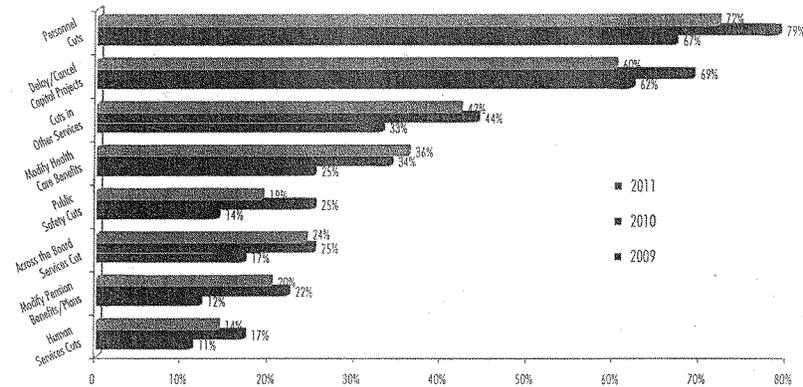


Figure 7: City Spending Actions 2009-2011

had decreased by 550,000 jobs from peak levels in 2008.⁸

STATE ACTIONS

State budgets have also been confronted with several years of shortfalls and constraints. The Center on Budget and Policy Priorities reports that states are facing their fourth year in a row of budget-cutting, with the 2012 cuts being deeper than in previous years.⁹ In many cases, the cuts that states are making reduce aid and transfers to city governments. NLC's 2011 survey asked city finance officers about the types of state actions they've encountered since 2009, including cuts in general aid (50%), cuts in state-shared and/or state-collected revenues (49%), revocation or reduction of reimbursement programs or other transfers (32%), cuts in funding for services that cities and other local governments deliver on behalf of state governments (22%) and transfer of state program responsibility (17%). Amid the politics of state budget-balancing, sometimes state actions are also taken that reduce or limit local authority (13%).

This mix of state actions taken by state leaders to balance state budgets adds to the cyclical economic pressures and constraints that cities and other local governments are confronting. Looking across state and local actions in response to fiscal stress reveals the pro-cyclical nature of state-local fiscal

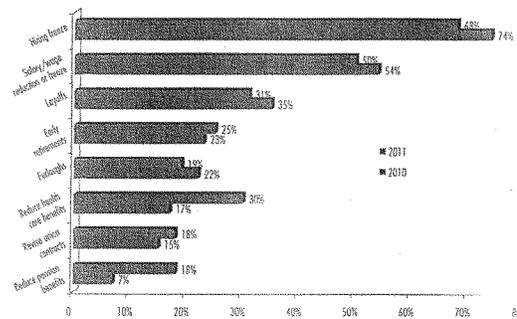


Figure 8: City Personnel-Related Cuts 2010 & 2011

⁸ See http://www.lis.gov/news_release/empjobcut.html.
⁹ See <http://www.cbpp.org/cms/index.cfm?id=3526>.

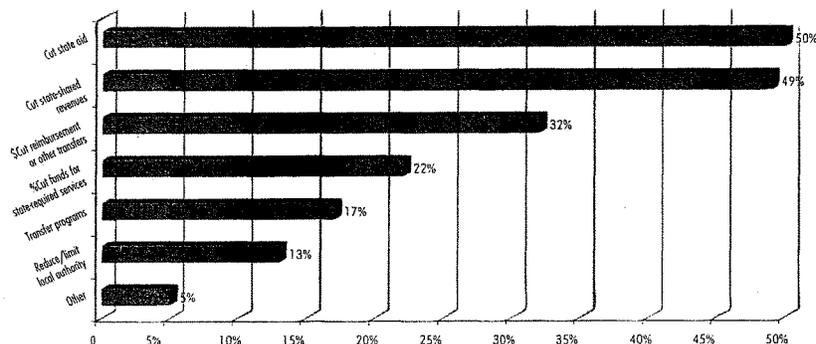


Figure 9: State Actions Since 2009

actions — that during economic downturns, the decisions that state and local leaders make to balance budgets often exacerbate the effects of the downturn for other levels of government, for jobs and for the quality of life and well-being of individuals and communities.

ENDING BALANCES

One way that cities prepare for future fiscal challenges is to maintain adequate levels of general fund ending balances. Ending balances are similar to reserves, or what might be thought of as cities' equivalents to "rainy day funds," in that they provide a financial cushion for cities in the event of a fiscal downturn or the need for an unforeseen outlay. Unlike states' "rainy day funds," there is no trigger mechanism — such as an increase in unemployment — to force release of reserves; instead, reserves are available for spending at any time or for saving for a specific purpose. Ending balances, which are transferred forward to the next fiscal year in most cases, are maintained for many reasons. For example, cities build up healthy balances in anticipation of unpredictable events such as natural disasters and economic downturns. But ending balances are also built up deliberately, much like a personal savings account, to set aside funds for planned events such as construction of water treatment facilities or other capital projects. Bond underwriters also look at reserves as an indicator of fiscal responsibility, which can increase credit ratings and decrease the costs of city debt, thereby saving the city money. Finally, as federal and state aid to cities has become a smaller proportion of city revenues, cities have become more self-reliant and are much more likely to set aside funds for emergency or other purposes.

Prior to the recession, as city finances experienced sustained growth, city ending balances as a percentage of general fund expenditures reached an historical high for the NLC survey of 25 percent. However, as economic conditions have made balancing city budgets more difficult in recent years, ending balances have been increasingly utilized to help fill the gap. In 2010, cities reduced their ending balances to 17.4 percent of expenditures, and in 2011, city finance officers projected ending balances at 15.4 percent of expenditures (See Figure 10). If this projection holds, since the high point in 2008, cities will have drawn down total ending balances by nearly 40 percent (from the high of 25.2% to 2011's 15.4%).

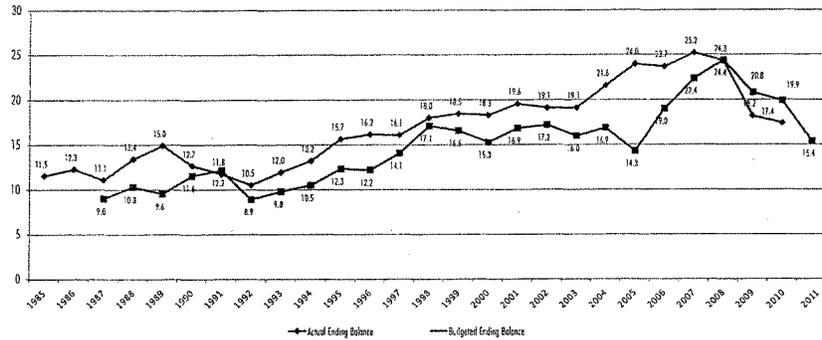


Figure 10: Ending Balances as a Percentage of Expenditures (General Fund)

BEYOND 2011

2011 reveals a number of continuing and troubling trends for city fiscal conditions. The impacts of the economic downturn are clear in city projections for final 2011 revenues and expenditures and in the actions taken in response to changing conditions. The local sector of the economy is now fully in the midst of realizing the effects of the recession from 2007-2009 and the, to date, anemic economic recovery. The effects of depressed real estate markets, low levels of consumer confidence and high levels of unemployment will continue to play out in cities through 2011, 2012 and beyond. The fiscal realities confronting cities include a number of persistent concerns:

- Real estate markets continue to struggle and tend to be slow to recover from downturns; projections indicate a very slow recovery of real estate values, meaning that cities will be confronted with declines or slow growth in future property tax collections not just in 2011 but most likely through 2012 and 2013;
- Other economic conditions — consumer spending, unemployment and wages — are also struggling and will weigh heavily on future city sales and income tax revenues;
- Large state government budget shortfalls in 2011 and 2012 will likely be resolved through cuts in aid and transfers to many local governments;
- Two of the factors that city finance officers report as having the largest negative impact on their ability to meet needs are employee-related costs for health care coverage and pensions. Underfunded pension and health care liabilities will persist as a challenge to city budgets for years to come; and
- Facing revenue and spending pressures, cities are likely to continue to make cuts in personnel and services, and to draw down ending balances in order to balance budgets.

THE LAG BETWEEN ECONOMIC & CITY FISCAL CONDITIONS

We often refer to the lag between changes in the economic cycle and the impact on city fiscal conditions.

What does this mean? The lag refers to the gap between when economic conditions change and when those conditions have an impact on reported city revenue collections. In fact, cities likely feel the impacts of changing economic conditions sooner. However, because reporting of city fiscal conditions occurs, in most cases, on an annual basis, whether through annual budget reporting or NLC's annual survey, those impacts tend to not become evident until some point after the changes have started.

How long is the lag? The lag is typically anywhere from 18 months to several years, and it is related in large part to the timing of property tax collections. Property tax bills represent the value of the property in some previous year, when the last assessment of the value of the property was conducted. A downturn in real estate prices may not be noticed for one to several years after the downturn began, because property tax assessment cycles vary across jurisdictions: some reassess property annually, while others reassess every few years. Consequently, property tax collections, as reflected in property tax assessments, lag economic changes (both positive and negative) by some period of time. Sales and income tax collections also exhibit lags due to collection and administration issues, but typically no more than a few months.

Figure 2 shows year-to-year change in city general fund revenues and expenditures. It also includes markers for the official U.S. recessions from 1991, 2001 and 2007-2009, with low points, or "troughs," occurring in March 1991, November 2001 and June 2009, respectively, according to the National Bureau of Economic Research (NBER). Comparing the dates of the recessions to the low point of city revenue and expenditures as reported in NLC's annual survey (typically conducted between April and June of every year), we see that the low point for city revenues and expenditures after the 1991 recession occurred in 1993, approximately two years after the trough of the U.S. economic recession (March 1991 to March 1993). After the 2001 recession, the low point for city revenues and expenditures occurred in 2003, approximately 18 months after the trough of the U.S. economic recession (November 2001-April 2003). Our reporting on this lag is dependent upon when the annual NLC survey is conducted, meaning that there is some degree of error in the length of the lag — for instance, had the survey been conducted in November of 1992, rather than April of 1993, we might have seen the effects of changing economic conditions earlier. Nevertheless, the evidence suggests that the effects of changing economic conditions tend to take 18-24 months to be reflected in city budgets.

ABOUT THE SURVEY

The City Fiscal Conditions Survey is a national mail and email survey of finance officers in U.S. cities. Surveys were mailed and emailed to a sample of 1,055 cities, including all cities with populations greater than 50,000 and, using established sampling techniques, to a randomly generated sample of cities with populations between 10,000 and 50,000. The survey was conducted from April to June 2011. The 2011 survey data are drawn from 272 responding cities, for a response rate of 26 percent. The responses received allow us to generalize about all cities with populations of 10,000 or more.

Throughout the report, the data are occasionally compared for cities with different tax structures and population sizes. The response rates for these categories are provided in the table below.

CATEGORIES	NUMBER OF SURVEYS SENT	NUMBER RETURNED	RESPONSE RATE
TOTAL	1055	272	25.8%
POPULATION			
>300,000	59	36	61.0%
100,000-299,999	179	64	35.8%
50,000-99,999	315	90	28.6%
10,000-49,999	502	82	16.3%
TAX AUTHORITY			
Property	384	82	21.4%
Sales & Property	534	165	31.0%
Income & Property	110	25	22.7%

The number and scope of governmental functions influence both revenues and expenditures. For example, many Northeastern cities are responsible not only for general government functions but also for public education. Some cities are required by their states to assume more social welfare responsibilities than other cities. Some assume traditional county functions. Cities also vary according to their revenue-generating authority. Some states, notably Kentucky, Michigan, Ohio and Pennsylvania, allow their cities to tax earnings and income. Other cities, notably those in Colorado, Louisiana, New Mexico and Oklahoma, depend heavily on sales tax revenues. Moreover, state laws may require cities to account for funds in a manner that varies from state to state. Therefore, much of the statistical data presented here must also be understood within the context of cross-state variation in tax authority, functional responsibility and state laws. City taxing authority, functional responsibility and accounting systems vary across the states.¹⁰

When we report on fiscal data such as general fund revenues and expenditures, we are referring to all responding cities' aggregated fiscal data included in the survey. As a consequence, the data are influenced by the relatively larger cities that have larger budgets and that deliver services to a preponderance of the nation's cities' residents. When asking for fiscal data, we ask city finance officers to provide information about the fiscal year for which they have most recently closed the books (and therefore have verified the final numbers), which we generally refer to as FY 2010, the year prior (FY 2009) and the budgeted (estimated) amounts for the current fiscal year (FY 2011).

When we report on non-fiscal data (such as finance officers' assessment of their ability to meet fiscal needs, fiscal actions taken or factors affecting their budgets), we are referring to percentages of responses to a particular question on a one-response-per-city basis. Thus, the contribution of each city's response to these questions is weighted equally.

¹⁰ For more information on differences in state and local fiscal structure see "Cities and State Fiscal Structure," (IMC, 2008) at <http://www.ohio.gov/The Library/Find City Solutions/Research/Innovation/Finance/Cities-and-state-fiscal-structure-2008-est.pdf>

ABOUT THE NATIONAL LEAGUE OF CITIES

The National League of Cities is the nation's oldest and largest organization devoted to strengthening and promoting cities as centers of opportunity, leadership and governance. NLC is a resource and advocate for more 1,600 member cities and the 49 state municipal leagues, representing 19,000 cities and towns and more than 218 million Americans. Through its **Center for Research and Innovation**, NLC provides research and analysis on key topics and trends important to cities, creative solutions to improve the quality of life in communities, inspiration and ideas for local officials to use in tackling tough issues and opportunities for city leaders to connect with peers, share experiences and learn about innovative approaches in cities.

ABOUT THE AUTHORS

Christopher W. Hoene, Ph.D. is the Director of the Center for Research and Innovation at the National League of Cities (NLC). He oversees NLC's efforts to identify, research, and share innovative local practices and trends on subjects including public finance, economic development, housing, infrastructure, sustainability, and governance. Hoene's areas of expertise include urban affairs, local and state public finance, federalism, and local government structure. He is a Fellow of the National Academy of Public Administration.

Michael A. Pagano, Ph.D. is Dean of the College of Urban Planning and Public Affairs at the University of Illinois at Chicago (UIC). His work focuses on the life blood of municipalities, which is their finances, and its relationship to the intergovernmental system. He is a Fellow of the National Academy of Public Administration, co-editor of *Urban Affairs Review*, and Faculty Fellow of UIC's Great Cities Institute. Since 1991, he has written the annual City Fiscal Conditions report for the National League of Cities.

**Commissioner Todd Portune
Board of Commissioners
Hamilton County, Ohio
On Behalf of the "Perfect Storm" Communities Coalition**

**Testimony Before the U.S. House of Representatives
Water Resources and Environment Subcommittee
Committee on Transportation and Infrastructure**

**Oversight Hearing on
"Integrated Planning and Permitting: An Opportunity for EPA to Provide Communities with
Flexibility to Make Smart Investments in Water Quality"
December 14, 2011**

Good afternoon, Chairman Gibbs, Ranking Member Bishop, and Members of the Subcommittee. My name is Todd Portune, and I serve as a Commissioner on the Hamilton County, Ohio Board of Commissioners. I am here today testifying on behalf of the "Perfect Storm" Communities Coalition (Coalition). The Coalition is made up of communities dealing with the "perfect storm" of high unemployment, high home foreclosure rates, stagnant economic growth, and an exodus of business and industry, while being required to meet expensive CSO/SSO wet weather consent decrees and stormwater regulations.

The Coalition agrees that a legislative approach that amends the Clean Water Act (CWA) may be a good long-term approach to providing the Environmental Protection Agency (EPA) with the regulatory flexibility and authorities to help communities such as ours more effectively address wet weather challenges. In the short term, however, it is the Coalition's intent to work with you and the Water Resources Subcommittee of the House Committee on Transportation and Infrastructure (Subcommittee) as we work with the EPA to find a regulatory approach, consistent within the CWA and existing regulations, to provide communities like ours the flexibility to meet these huge regulatory challenges in a more affordable and cost-effective way.

We appreciated EPA's announcement that it has crafted a new policy, as stated in the final regulatory review required by the President's Executive Order 13563, to allow municipalities to prioritize their water quality investments; and, to create a new, integrated permitting approach for dealing with stormwater, wet weather management and CSOs in order to allow this prioritization to occur. However, absent congressional involvement and oversight, we have concerns whether there will be any significant improvements as a result of these policy changes.

We believe that Congress must ensure such EPA policy changes are implemented in a meaningful and determined manner, and that they result in real, cost effective wet weather solutions for communities dealing with these challenges. Congress should provide oversight and direction to the EPA in promoting cost effective tools such as green infrastructure and other alternative measures that can provide innovative wet weather solutions. We believe allowing communities to prioritize these alternative solutions will ensure that practical, accountable and affordable remedies are approved and used to reduce and eliminate CSO violations. The EPA memorandum to EPA Regional Offices on Integrated Stormwater and Wastewater Planning directed these offices to provide as much flexibility as possible under current laws and

regulations in applying innovative, cost effective approaches to solve the many wet weather challenges we currently face, and we believe this congressional oversight hearing is timely and can help ensure this flexibility is actually realized by communities such as ours. Because many Coalition members and other communities are now operating under judicial or administrative consent decrees, it's also important that EPA and the U.S. Department of Justice make a clear, written commitment to updating and modifying these decrees more frequently in the future so that their terms do not delay or hinder "regulatory flexibility" from truly taking effect. The Committee's oversight into whether existing and future consent decrees are regularly and effectively revised across the nation will be important.

The costs of using traditional methods to meet federal wet weather mandates are enormous, costing billions of dollars per community and leading to massive rate increases for local taxpayers. Under normal economic conditions, these mandates are not affordable; and in the current economy, incurring these costs will have long-term negative impacts. To lessen the financial impact, communities are developing alternative wet weather management approaches and have found that they can achieve the same or better water quality results at a lower cost using locally-driven solutions that combine watershed approaches, green infrastructure, low impact development, grey infrastructure, and other innovative techniques to reduce wet weather impacts.

In my own community of Hamilton County, our judicial consent decree has been in force since 2004 and thus far nearly \$400 million of sewer district funds have been raised and spent locally to address CSO and SSO issues. However, the EPA approved implementation plan is expected to cost an additional \$800 million in the next 7-years. And that is just Phase 1 of a two Phase plan. The EPA-required total investment is projected to cost over \$3.1 billion (in 2006 dollars). And virtually every penny of that comes from our community ratepayers. A major chunk of Phase 1 spending (nearly \$245 million) is slated to construct a deep tunnel that EPA has required, and as a result, our ratepayers face double digit rate increases each year for three years and we are in the middle of an expected 8% per annum rate increase for the next five years.

Rate increases at this level are crushing to our citizens. Rate increases at those levels result in the average middle class homeowner facing an increase in his or her sewer bill that will do more to chase people and jobs out of my community than any increases in taxes could ever do. And, we are not alone. In the Coalition, the same horror story is repeated by each jurisdiction involved.

As an elected official, I have a responsibility to my constituents that their sewer rates are well spent and return the best possible results for the dollar invested. Because of this approach, we are working hard locally to identify an alternative to that investment to present to EPA that would return stormwater to area streams and use "green infrastructure" to control stormwater, with the goal of saving money in both construction and long-term operation and maintenance costs. We estimate that a "green infrastructure" approach could save our ratepayers as much as \$1 billion over the life of the program, while producing the same or better results quicker. When my constituents are footing the entire bill those are important considerations. Absent a compelling reason against using a "Green Build" approach, it is difficult if not impossible to justify the expenditures called for in our consent decree.

Across the nation, affected communities recognize the need to effectively manage their stormwater and improve water quality, particularly at a cost affordable to local taxpayers. We understand that ignoring wet weather issues, such as combined sewer overflows and stormwater runoff, can contribute to damaging floods, extensive erosion and the release of pollutants into water bodies. Yet, given the tremendous costs associated with traditional grey infrastructure (e.g. stormwater retention tunnels) to control wet weather events, communities must be allowed to prioritize investing their limited resources in the most cost-effective, accountable solutions that can result in the greatest immediate water quality benefits for local watersheds.

Some examples of these lower cost innovative techniques include:

- Reducing other sources of pollutants in the watershed that are more cost effective;
- Enhancement and restoration of riparian and in-stream aquatic habitats;
- Implementing green infrastructure technology to control stormwater runoff, such as green roofs, stormwater gardens and resurfacing areas with permeable materials;
- Creek bed stabilization to reduce erosion by diverting high flows away from streambanks and controlling the slope of the creek bed.

The federal CWA, in our collective opinion, is not allowing and encouraging the use of new technologies/green solutions, and unfortunately, results in inefficient and high-cost investments in water quality improvements. The current “siloed” policies do not encourage innovative, comprehensive watershed management techniques, as already authorized by the CWA in Section 1274. In fact, even as EPA is encouraging stormwater to be removed from combined sewers, it is moving ahead on another track to create new regulatory requirements for the further treatment of that stormwater. This risks an even longer “perfect storm” situation where, just as we address CSO issues, we may face new regulations and new enforcement for the very stormwater we are removing under judicial and administrative consent decrees. The current EPA regulatory policies and enforcement-led approaches through consent decrees simply direct local communities to pay for massive, expensive and, in some instances, outdated concrete and steel approaches. In addition, the current enforcement policies are applied inconsistently and unevenly across the various EPA regions and focus too much on numbers of violations and levels of fines as opposed to proactively helping communities implement water quality improvements for the benefit of water quality in rivers and streams.

Our Coalition has asked the EPA to establish 15-20 demonstration partnerships in each of the next five years in communities across the nation currently facing these wet weather challenges. While the EPA included an effort to highlight partnership communities in promoting green infrastructure, we want to see these partnerships broadened beyond just green infrastructure implementation to show how the EPA and local communities can work together to implement flexible, practical, affordable wet weather solutions. These demonstration communities will also show that using new, innovative approaches can result in the same or better water quality results for a smaller investment of local taxpayer dollars.

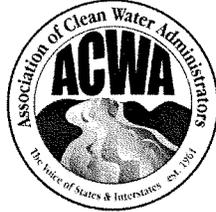
We believe the only way to accountably measure EPA’s success in implementing integrated stormwater and wastewater planning is to focus on these pilot demonstration communities. The

Coalition seeks to work with your Subcommittee and the EPA in attaining the regulatory flexibility and providing adequate timelines that will allow these pilot communities to design and implement wet weather management demonstration projects that achieve water quality improvements at a lower cost over a reasonable period of time.

Results from the demonstration partnerships could help pave the way for broader CWA policy changes at EPA that could lead to greater flexibility and affordability for communities to meet water quality requirements. We envision such demonstration partnership investments to include innovative water quality improvement projects that can be implemented for a lower cost, inform future investments in water quality infrastructure through adaptive management, and provide the local public a better, cost-effective investment to reduce pollution in our watersheds.

The "Perfect Storm" Communities Coalition looks forward to working with you, Mr. Chairman, and the Subcommittee, as well as with the EPA, in developing and ensuring the implementation of innovative, flexible approaches in meeting wet weather challenges, including the creation of demonstration communities that would showcase cost effective alternative approaches to expensive water quality wet weather challenges faced by the member communities of our Coalition.

Thank you for the opportunity to provide testimony at today's hearing and I would stand for any questions that you and Members of the Subcommittee may have.



ASSOCIATION OF CLEAN WATER ADMINISTRATORS
1221 CONNECTICUT AVENUE, N.W., 2ND FLOOR
WASHINGTON, DC 20036
TEL: 202-756-0600
FAX: 202-756-0605
WWW.ACWA-US.ORG

December 14, 2011

***Testimony of Walter L. Baker, P.E.
President, Association of Clean Water Administrators
Director, Division of Water Quality,
Utah Department of Environmental Quality***

United States House of Representatives

***Committee on Transportation and Infrastructure
Subcommittee on Water Resources and Environment***

Regarding

Clean Water Act Integrated Planning and Permitting

Good morning, Chairman Gibbs, Ranking Member Bishop, and Members of the Subcommittee,

My name is Walt Baker. I am the Director of Utah's Department of Environmental Quality, Division of Water Quality, and the President of the Association of Clean Water Administrators (ACWA). I have over 27 years of experience in implementing Clean Water Act Programs.

The Association, 50 years old this year, is the national, nonpartisan voice of State and Interstate officials responsible for the implementation of water protection programs throughout the nation. Our members work closely with the U.S. Environmental Protection

Agency (EPA) as the co-regulators responsible for implementing the Clean Water Act (CWA). We offer technical and program support, increase state capacity, initiate dialogue, share information and resources, and ensure that states retain important flexibility to implement federal programs and initiatives in a way that makes good sense and yields the most beneficial environmental results possible. We are on the front lines of CWA monitoring, permitting, inspection, compliance, and enforcement across the country. In 46 states, we are the CWA National Pollutant Discharge Elimination System (NPDES) permitting authority. We are dedicated to Congress' goal of restoring and maintaining the chemical, biological, and physical integrity of our nation's waters.

I am pleased to present testimony on behalf of the Association today regarding EPA's recent effort to explore the concept of integrated planning and integrated permitting for municipalities and utilities.

The backbone of the country's infrastructure is aging. In the current economic climate, this infrastructure liability, coupled with addressing the demands of an increasing population and meeting other water quality challenges, such as nutrients, sanitary sewer overflows, combined sewer overflows and storm water, is taxing the ability of many of our municipalities and utilities to keep up. A thoughtful identification of approaches that promote cost-effective and synergistic solutions has never been more important. EPA, states, and local governments are all faced with mounting water quality problems and limited dollars. States face the same economic challenges as municipalities and utilities, and we fully understand the importance of prioritizing and maximizing the effectiveness of infrastructure dollars. We look for the same opportunities to leverage and extend funds when we disperse our limited Clean Water State Revolving Funds (CWSRF). Prioritizing is crucial. As the adage goes, if everything is a priority, nothing is a priority.

We appreciate EPA's October 27 memorandum, which focuses on the need for integrated planning in the area of storm and wastewater requirements, while still meeting CWA objectives. Since the Agency's release of the memorandum, the concept has broadened

in discussions to include integrated planning of other CWA investments and obligations, such as upgrades to meet total maximum daily loads (TMDLs) or to control nutrients. We believe that this expansion makes sense, as significant investments may be needed in some communities to address these water quality challenges. Under a Framework to-be-developed with co-regulator and stakeholder input, EPA will encourage municipalities to bring to their permitting authorities plans that outline effective ways to manage CWA water quality obligations. As we understand it, the plans must demonstrate how water quality goals will be achieved, but will allow consideration to be given to priorities, cost-effectiveness and innovation, and will provide increased flexibility. EPA's memorandum encourages incorporating green infrastructure into municipal solutions, which we also support.

While prioritization and innovation would be beneficial to alleviate some of the pressure on limited state and local resources, we must keep the ultimate end goal in mind – the improvement and protection of water quality. EPA has stated that integrated permitting will not entail a lowering of existing regulatory standards. We must ensure that this is in fact true and that public health and environment are not jeopardized in this new process. We must stay engaged in the process and ensure that all relevant stakeholders participate so that water quality does not suffer in a quest to prioritize responsibilities and to work towards new innovative solutions.

Moving from the appealing concepts in the memorandum, to a Framework, to actual implementation will require commitment by all parties. Integrated planning is one thing – the implementation of this planning through the CWA's rigorous permitting process may be quite another. The reality is, as the example below shows, elements of the CWA and its regulations may limit our ability to integrate multi-year obligations into an enforceable permit that ensures compliance with water quality standards. Without this, permits will be vulnerable to appeal, and instead of the integrated effort reducing our workloads – they will increase.

States have vast experience using reasonable compliance schedules in permits to allow a permittee to bring technology on-line to come into compliance with standards. Their use has been clarified a few times, including by the Environmental Appeals Board in the *Star-Kist Caribe* decision and in a follow-up May 2007 EPA memo on the subject. A compliance schedule can clearly be used to phase in integrated plan elements – and to provide a community with sufficient time to achieve compliance.

I would like to take a moment to point out a possible legislative fix to make implementation of EPA's integrated permitting process a bit more manageable. In July 2011, ACWA commented on the Presidential Memorandum, *Administrative Flexibility, Lower Costs, and Better Results for State, Local and Tribal Governments*. In our comments, we recommended the extension of the National Pollutant Discharge Elimination System (NPDES) permit cycle from five years to ten years, as a means to help achieve greater administrative flexibility for states. Because community plans oftentimes involve activities beyond five years, a 10-year permit term would make sense and support an integrated permitting approach. Let me be clear – this is not a necessary legislative amendment to bring integrated permitting to life. But it would be a helpful CWA amendment – even if it was limited to certain types of permittees by industrial code.

There are a few areas of integrated planning and permitting that we think merit attention in the coming months, as follows:

- 1) It is important to think about the effect of integrated planning on existing state consent decrees and orders. Re-opening existing consent decrees may be appropriate but this should be done on a case-by-case basis after deliberation by the parties involved so as to minimize the risk of third-party lawsuits or the delay of pending investments.
- 2) CWA programs that ignore the individual circumstances of states and municipalities can turn into a black hole that consumes precious time and resources and can

distract us from addressing the most pressing water quality problems. There are circumstances where a "one-size-fits-all" approach is warranted and there are circumstances where clearly it is not.

- 3) If integrated permitting is to be successful, EPA and other stakeholders will need to place renewed faith in permits as a key tool for municipal dischargers, as enforcement has been EPA's main approach to addressing adverse water quality impacts from municipalities over the past decade. We recognize and are encouraged that EPA's Offices of Water and of Enforcement and Compliance Assurance have jointly committed to an Integrated Planning process. Communication between these offices at both a headquarters and regional level has not always been what it could or should be. These distinct offices must improve their ability to work together and support states in integrated permitting.
- 4) As the discussions have evolved, EPA has referenced a "prioritization agreement," which municipalities and utilities will enter into following analysis. At these early stages of discussion, it is difficult to know what these agreements will look like, and what effect they may have. For example – will they help protect a discharger from a third party suit, and how flexible are the agreement elements?
- 5) EPA has suggested it plans to work to identify communities in which to pilot these approaches. Early on, states must be directly involved with this identification process.

Let me conclude by again saying that state regulators are supportive of EPA's development of a Framework for integrated planning and permitting. The Association has previously called on EPA to streamline, consolidate, and eliminate duplicative aspects of CWA programs. This Framework may be a step in the right direction for municipalities. However, as the permitting authorities, we must keep at the forefront of our minds the objectives set forth in the CWA: "to restore and maintain the chemical, physical, and

Association of Clean Water Administrators Testimony
December 14, 2011
Page 6 of 6

biological integrity of the nation's waters." It is our job, under the CWA and complimentary stand-alone state authorities, to protect water quality. Our charge must center on implementation. We look forward to working with EPA and other stakeholders on a Framework that allows us to promote reasonable, innovative, and cost-effective solutions with the greatest environmental impact.

Mr. Chairman, Members of the Subcommittee, I thank you for this opportunity to share our Association's thoughts on the development and implementation of EPA's integrated permitting initiative. I will be happy to answer any questions that you may have.

* * * * *

**Testimony of Carter H. Strickland, Jr.
Commissioner, New York City Department of Environmental Protection
before the
Subcommittee on Water Resources
Committee on Transportation and Infrastructure
U.S. House of Representatives**

**December 14, 2011
2165 Rayburn**

Good afternoon Chairman Gibbs, Ranking Member Bishop, and Committee Members, I am Carter Strickland, Commissioner of the New York City Department of Environmental Protection, or as we're known in New York City, "DEP." On behalf of Mayor Michael R. Bloomberg, thank you for the opportunity to testify about EPA's integrated planning framework, a subject of great interest to DEP, as our budget and operations are significantly affected by federal law and regulation.

To give the Subcommittee some background on my agency, DEP manages a regional water supply system that serves New York City residents, commuters and visitors as well as one million persons who reside in nearby counties. DEP provides over 1 billion gallons of water each day from several watersheds that extend more than 125 miles from the City, through a network of 19 reservoirs, numerous aqueducts, and 6,600 miles of water mains and distribution pipes. DEP also collects and treats wastewater. Averaged across the year, our system treats approximately 1.3 billion gallons of wastewater per day collected through 7,400 miles of sewers and 95 pumps stations to one of our 14 in-City treatment plants. In wet weather, our system can treat up to 3.5 billion gallons per day of combined storm and sanitary flow. In addition to the treatment plants, we also have four combined sewer overflow (CSO) storage facilities.

DEP has one of the largest capital budgets in the region, with \$14 billion of work currently under construction and in design. Our capital program will generate almost 3,000 construction jobs per year over each of the next four years. DEP is funded almost exclusively through rates paid by our customers. State and federal assistance – primarily in the form of grants – has accounted for less than 1% since Mayor Bloomberg took office in 2002. If you add ARRA funding, it is less than 2%, even though 69% of the \$22 billion in capital investments that DEP has made over the last 10 years has funded construction necessary to meet federal and state mandates. In these times of economic hardship, the imbalance between federal support and federal mandates burdens local governments, especially when federal rules all too often fail to account for local conditions and needs.

Cities prioritize needs to produce a balanced budget every year, and that experience has shaped draft prioritization legislation developed by the National Association of Clean Water Agencies. We are encouraged that EPA has recognized that such an approach is critical.

Although EPA's integrated planning framework is new and still taking shape, I am hopeful that the program will bring more collaboration between federal regulators and municipal agencies like DEP that are struggling to maintain an affordable rate structure while making difficult

choices as to which investments will produce the greatest benefits and, therefore, should be at the top of the list. On the wastewater side of our business, DEP has a multi-billion dollar program to address mandates for CSOs and treatment plant upgrades, and also for non-mandated but still critical programs to build storm sewers, replace storm and sanitary lines, and replace or maintain equipment according to a prudent asset management review.

At the same time, DEP must launch programs to address stormwater discharges and nutrient loadings while planning for potential new requirements concerning total residual chlorine and other elements of the waste stream. There are still thousands of New Yorkers who lack sanitary sewers and tens of thousands in New York City who lack storm sewers. Completing the full build-out of the storm and sanitary sewer system is an important priority for the City of New York, but we have had to defer many projects until mandated work on treatment facilities is complete. It is DEP's hope that integrated planning will offer a way for EPA, state regulators, and municipalities to sit down and prioritize these various water quality efforts, so that there will be less "top-down decision making" and more collaboration and consensus among government agencies. This would vest maximum discretion in local governments to invest scarce dollars in projects that meet critical needs and will achieve the greatest public health benefits.

Since DEP and many other utilities manage drinking water-related programs as well, and our customers pay one rate for both water and wastewater services, it is critical that EPA expand the integrated planning framework to include mandates for drinking water programs.

We have many questions about how the integrated planning process would work, including the fundamental issue of the overall metrics or standards that could be used to prioritize investments and the criteria EPA or delegated state programs would use to approve a successful integrated plan. These are difficult questions with no easy answers but we are confident that it can be done. In planning documents such as *PlaNYC 2030*, the *New York City Green Infrastructure Plan*, and DEP's *Strategy 2011-2014* the Bloomberg Administration has taken on the same challenge of articulating goals and identifying ways to measure progress toward them. We think our experience in creating those plans will be helpful as we engage EPA about our goals for an integrated wastewater and stormwater plan for New York City.

Our general support for integrated planning is based on an assumption that the process will result in regulators and municipalities agreeing that not all wastewater or stormwater problems are equal, in terms of costs and benefits, and that some problems should be addressed sooner and some later – without fear of being held in noncompliance or paying penalties for failure to address the lesser ones. In New York City, for example, water quality data for New York Harbor support the conclusion that CSOs are the dominant water quality issue, and stormwater runoff is a lesser issue. While CSOs contribute slightly over 50% of total flow as compared to stormwater discharges and direct drainage (overland runoff), CSOs are estimated to contribute approximately 97% of total pathogen loading citywide. As we understand it, the integrated planning process would provide a way for New York City to discuss with its regulators the merits of focusing more resources on CSO abatement efforts and less on stormwater sources.

The Administration's Executive Order 13563 recognized the need for both flexibility and the use of cost-benefit principles, and EPA's resulting plan, published in August 2011, *Improving our Regulations: Final Plan for Periodic Retrospective Reviews of Existing Regulations*, is a

promising start. Of particular interest to DEP is EPA's commitment to review its application of the Combined Sewer Overflow Policy and requirements for covering drinking water reservoirs under the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule). EPA has already deferred the implementation of the LT2 rule in New York City, which would require a \$1.6 billion concrete cover over a 90-acre reservoir – a project that our evidence shows would produce no public health benefit. It is critical that EPA follow through on its commitment to a prompt review of the 35 mandates in its review plan, and we believe that this Subcommittee can provide a valuable service in overseeing that effort. And EPA could better coordinate the efforts of its enforcement office, which are all too often independent of its program offices, such as the Office of Water.

The integrated planning framework that EPA has proposed – and its recent flexibility with respect to CSOs, green infrastructure, and the LT2 rule – is a promising start to bridging the gap between federal enforcement, scarce funding, and local goals, and to prioritizing our investments in environmental improvements. We can and must spend our money wisely.

Thank you for the opportunity to testify. I'd be happy to answer any questions you may have.



Testimony of:

David Williams

Director of Wastewater
East Bay Municipal Utility District
Oakland, California

President
National Association of Clean Water Agencies
1816 Jefferson Place, NW
Washington, DC

Subcommittee on Water Resources and Environment
House Transportation and Infrastructure Committee
U.S. House of Representatives
December 14, 2011

Introduction

Chairman Gibbs, Ranking Member Bishop, and members of the Subcommittee, thank you for the opportunity to appear before you today. My name is David Williams and I am the Director of Wastewater for East Bay Municipal Utility District (EBMUD) in Oakland, California. I also serve as the President of the National Association of Clean Water Agencies (NACWA) and it is my pleasure to testify on NACWA's behalf today.

NACWA's primary mission is to advocate on behalf of the nation's publicly owned wastewater treatment works (POTWs) and the communities and ratepayers they serve. NACWA public agency members collectively treat the majority of the nation's wastewater. The employees of these agencies are public servants and true environmentalists who ensure that the Nation's waters are clean and safe, meeting the strict requirements of the Clean Water Act (CWA).

NACWA applauds the Subcommittee for holding this important hearing on the issue of integrated planning under the CWA. NACWA has consistently played a leadership role in advocating for an integrated planning approach, including longstanding and related efforts over the past decades to advance an integrated watershed approach and a more flexible and realistic approach to community affordability determinations under the CWA. NACWA also launched its *Money Matters... Smarter Investment to Advance Clean Water™* campaign several years ago to shed a light on the growing financial and compliance challenges posed by CWA regulations and calling for an integrated approach based on prioritizing these competing requirements to achieve maximum water quality benefit.

NACWA believes that the Subcommittee has a responsibility to communities and their ratepayers across the United States to encourage the U.S. Environmental Protection Agency (EPA) to act boldly and in a timely manner in putting its integrated planning framework together. This testimony seeks to place the integrated planning initiative into the appropriate historical context and explain, from the perspective of NACWA's nearly 300 public clean water agency members, what some of the key elements of this approach must be to ensure it is relevant and successful.

EPA's Integrated Planning Effort Is a Timely and Unique Opportunity

In October 2012, the CWA will mark its 40th anniversary. There are those who will celebrate the many successes and the water quality gains made under the Act over the past four decades. Others may take a different approach, questioning whether the Act continues to be relevant to meet complex 21st century challenges. Both perspectives are valid and the integrated planning effort, if designed and implemented correctly, can be the bridge between these two important perspectives. Integrated CWA planning has the potential to be a valuable tool that can help put municipal, state and federal water quality efforts on a more sustainable path.

There is little doubt that the Nation's water quality has improved as a result of the CWA. In 1972, approximately 90 percent of the Nation's waterways were impaired due to pollution. Today, EPA estimates that approximately 45 percent of these waterways remain impaired – constituting a dramatic and unprecedented improvement over the past four decades. The vast network of treatment plants across our country, and the untold number of rivers, lakes and streams that they

have improved, are viewed by many as evidence of the most successful environmental public works program in our Nation's history.

At the same time, over four decades, the command and control nature of the CWA has led to an accretion of costly regulations on the Nation's communities and on the rate-paying residents and industries that foot the bill to ensure CWA compliance. The list is well-known — from wet weather-based requirements including combined sewer overflows, sanitary sewer overflows, and stormwater regulations — to specific requirements for nutrients and other pollutants driven by water quality standards and total maximum daily loads. At the same time that regulations continue to expand, so too have enforcement actions. Nearly 100 cities across the country have signed off on sewer overflow consent decrees, with some costing individual cities billions of dollars — often to meet a single CWA requirement. Recently, municipal clean water agencies were also hit with a stringent reinterpretation of the Clean Air Act (CAA), which if not overturned by administrative, judicial, or legislative action would force enormous costs to communities who have sewage sludge incinerators. Ideally, Clean Air Act and Safe Drinking Water Act obligations should also be considered in terms of the overall costs and affordability burdens that public agencies face.

Separate and apart from regulatory requirements, public clean water agencies face a looming crisis with their aging network of pipes and systems that EPA estimates will cost between \$300-500 billion over the next twenty years. Simply put, agencies are seeing the writing on the wall that the current prescription of rate increases and expanding municipal debt loads are not sustainable. Absent a new approach to regulatory compliance and prioritization, the future of maintaining — let alone adding to — the record of water quality gains is at risk. Public clean water agencies are also seeing a troubling disconnect between the growing cost of these requirements and the decreasing water quality benefits these investments are yielding. With ratepayers wanting to see the greatest bang for the buck the argument for rate increases grows more difficult as the benefits to the ratepayer become less clear.

It is also critical to focus on the impacts of the ongoing economic downturn and how it has forced the Nation to re-examine how to best invest in its future while continuing to protect the environment. The downturn has had one distinct benefit in the water quality arena — it has made it clear to policy makers and politicians what utility leaders have known for a long time now — well before the downturn came along — that the way we implement the CWA must change.

I think the case of EBMUD and the communities we serve offer a prime example. In the 1980s our service area was experiencing many sanitary sewer overflows due to peak wet weather flows. To address this public health issue, EBMUD, the regional treatment provider, and the communities we serve collaborated with EPA in developing a comprehensive wet weather program that resulted in EBMUD building \$350 million of wet weather treatment facilities and the satellite communities spending a similar amount on rehabilitating their collection systems. The program was a huge success in that untreated overflows were dramatically reduced. However in the early 2000's the combination of a new interpretation of the secondary treatment regulations as they relate to our wet weather treatment facilities and new regulations dealing with trace amounts of metals, pesticides and other pollutants has resulted in a court order that requires EBMUD to stop discharging from

the wet weather treatment plants and the communities to embark on further capital programs to reduce their peak wet weather flows. Satellite communities we serve are already dealing with huge budget deficits and undoubtedly will have affordability issues as it attempts to meet the requirement of the court order. An integrated planning approach would seek to balance the regulatory requirements on our communities to ensure that there is a prioritization which results in achieving the highest net environmental benefits as quickly as possible recognizing the financial constraint of the communities.

NACWA's Recommendations on Integrated Planning

It would be easy given this confluence of events to simply seek a relaxation of requirements under the CWA. As public servants tasked with carrying out the lofty objectives of the CWA, however, NACWA — and this is a point that must be clearly underscored — does not believe that regulatory rollbacks are appropriate and adheres to the principle that there must be no backsliding on improvements made to date under the CWA.

The way we implement the CWA, however, must change. Ratepayers — residential and industrial — cannot be asked to foot a bill for all of these requirements and upgrades *all at once*. As NACWA's *Money Matters . . . Smarter Investment to Advance Clean Water™* campaign has made clear, *if everything is a priority nothing is*. And what all stakeholders fear most is the potential paralysis that could result from competing requirements and investment needs that cannot be fulfilled. It is precisely this concern that the integrated planning initiative can help avoid.

As the NACWA *Money Matters™* campaign has made clear, an integrated planning approach should be focused on achieving four key policy goals:

- 1) Pursuing a watershed-based approach to solving water quality challenges through an adaptive management framework;
- 2) Recommitting all levels of government to new technology and pioneering innovation;
- 3) Entrusting local experts and leaders to use limited dollars to maximize a community's water quality progress through a net environmental benefit approach; and
- 4) Developing a rational, holistic and flexible approach to assessing community affordability.

(Visit NACWA's website at www.nacwa.org and click on the *Money Matters* icon for more information.)

If done properly, integrated CWA planning can help speed up water quality improvement; incentivize new and innovative technologies, techniques and management approaches; and serve as a key tool to help usher in an era of sustainable water quality improvement.

EPA's Office of Water and Office of Enforcement and Compliance Assurance (OECA) have been working closely to develop a framework for a new integrated planning approach. The historic importance of these two EPA offices working so closely together deserves to be applauded and demonstrates the need for such an approach from both a policy and legal standpoint. NACWA believes that the Agency's integrated planning framework, however, must make it clear that the CWA

permitting program will be the focal point for implementation, not enforcement. This is one of a number of key topics that was discussed at a meeting between NACWA member agencies, EPA, and other key stakeholders on December 13. NACWA is also working closely with an array of key stakeholder groups, including the American Public Works Association, the U.S. Conference of Mayors, the Water Environment Federation, and the Association of Clean Water Administrators to ensure this effort reaches the finish line.

Some have raised the concern that this effort could be little more than a Trojan horse for a more antagonistic, legal/enforcement-dominated approach, with the end-product looking more like a consent decree than a permit. In the unlikely event this is the track EPA takes, NACWA will be the first to seek the Subcommittee's support for ensuring this does not happen. The integrated planning process must also not be about symbolic actions and should not simply result in giving communities a couple more years to comply with their schedules. It must provide real flexibility in terms of compliance with rules and guidance and to applying relief mechanisms (such as variances and compliance schedules) in an effective way. It must also account for utilities that are currently under a consent decree because, as a matter of equity, they deserve to be able to have the same access to the benefits of this new framework.

This integrated planning framework must account for a broader compliance period – perhaps 25 years or more – with municipal investment prioritized to meet those requirements that will yield their communities the greatest water quality benefits first. In short, all requirements must of course be met but the core of this new initiative rests in the development of viable and prioritized plans with clear benchmarks/milestones – perhaps reviewed every five years – for meeting the array of prioritized requirements. The framework must also make clear that the permit document provides municipal clean water agencies with a shield against legal action absent a clear violation of these agreed-to schedules. Furthermore, the framework must allow for joint plans. For example, in the stormwater arena there will be multiple municipal jurisdictions tasked with carrying out parts of the pending stormwater regulations. This is critical to ensure that an integrated approach can be successful. The same concept of joint planning would potentially hold true, for example, between a public wastewater treatment agency and a separate satellite collection system as well.

Additionally, concepts of equity and the needed flexibility to respond to significant changed circumstances must be key components of EPA's framework. For example, there may be an agreement under such a permit to move forward with a certain technology but, if it becomes clear that in the interim a new technology or technique is now available that is equally effective yet significantly cheaper, there should be built-in mechanisms to allow permit terms to be altered accordingly. To some extent, this is exactly what is happening with the advent of green infrastructure approaches that in certain circumstances offer cost savings and an equally effective alternative to some grey infrastructure approaches.

Similarly, if EPA has agreed within the terms of an integrated plan to a compliance schedule based on data regarding a community's financial circumstances and those circumstances substantially and unforeseeably change, the utility's permit should allow for an appropriate modification to ensure that compliance remains affordable. These are simply a couple of examples of changed

circumstances, among others that NACWA believes are vital, and which will be a focus for ongoing discussions with EPA as this framework takes shape.

Conclusion

We are at a crossroads. This is a unique opportunity to put the federal, state and local partnership back on track to help meet our communities' water quality needs. The Subcommittee can play a vital role by following this effort closely and encouraging EPA to stay on the right course to produce a viable end-product pursuant to a clear deadline.

NACWA recognizes the Subcommittee's concerns with the growing cost of compliance with CWA regulations — no entity is more concerned about this than NACWA — but we remain optimistic that EPA can advance a solid new framework that addresses our mutual concerns. NACWA has also shared with the Subcommittee its draft legislation for a viable integrated permitting approach, which we stand ready to advance with your help at the appropriate time if necessary. We look forward to continuing to work with the Subcommittee on this and other important clean water initiatives.

Thank you for the opportunity to appear before you today, I look forward to any questions the Subcommittee may have regarding my testimony.



**Testimony of Katherine Baer
Senior Director, Clean Water Program, American Rivers**

**Committee on Transportation and Infrastructure
Subcommittee on Water Resources and the Environment**

U.S. House of Representatives

**“Integrated Planning and Permitting: An Opportunity for EPA to Provide
Communities with Flexibility to Make Smart Investments in Water Quality”
December 14, 2011**

INTRODUCTION

Mr. Chairman, Ranking Member, and members of the Subcommittee. Thank you for inviting me to testify before you today. My name is Katherine Baer and I am Senior Director of the Clean Water Program for American Rivers. Founded in 1973, with offices throughout the nation, American Rivers is the leading voice for healthy rivers and the communities that depend upon them.

We believe that EPA’s effort to create a more integrated approach to water management warrants support. For too long there have been unnecessary silos between the management and planning for stormwater, wastewater and drinking water, thus missing important opportunities to use smarter and more sustainable approaches to protect our clean water. As long as the fundamental standards and requirements established in the Clean Water Act to protect public health and the environment are preserved, this integrated approach could lead to improved consolidation of water services that benefit ratepayers, taxpayers, communities and the environment.

I’ll briefly address the following main points: 1) the need to maintain strong clean water safeguards as part of integrated permitting and 2) the opportunity to advance more sustainable and cost-effective solutions as part of this process.

THE IMPORTANCE OF CLEAN WATER PROTECTIONS

The landmark Clean Water Act is responsible for improving the quality of water across the country – since 1972, for instance, the number of streams, rivers and lakes meeting water quality standards has doubled. Yet, there is much to be done – 40 percent of America’s rivers and 46 percent of our lakes are too polluted for fishing, swimming, or aquatic life, and every year up to 3.5 million people become sick from contact with water contaminated by sewage.^{1,2} Challenges to clean water range from population growth, to sprawling development, to increasingly severe and frequent floods and droughts that tax the systems that manage water. As we look to the future, meeting these challenges will require us to direct limited dollars toward cost-effective solutions for clean water that produce multiple community benefits.

At the same time, the fundamental structure and goals of the Clean Water Act must be preserved. Water quality standards are the backbone of the Act and serve to protect human and environmental health. Any integrated permitting approach must be directed to reaching Clean Water Act goals in the most sensible, efficient way, and not towards weakening the Act’s fundamental protection of our streams and rivers that provide drinking water for roughly two-thirds of all Americans.

A SMART AND SUSTAINABLE APPROACH TO CLEAN WATER

This hearing is aptly about “smart” investments in clean water, which indicates comprehensive and sustainable approaches to clean water that maximize benefits for every dollar invested. No longer can we continue to invest solely in outdated infrastructure approaches that are based on assumptions from the 19th and 20th century focused only on the pipes, pumps and reservoirs needed to move the drinking

¹ Blatt, Harvey. *America’s Environmental Report Card: Are We Making the Grade?* Boston: Massachusetts Institute of Technology, 2011, p. 25.

² U.S. Environmental Protection Agency, Notice of Proposed Rulemaking, National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Sanitary Sewer Collection Systems, Municipal Satellite Collection Systems, and Sanitary Sewer Overflows, 4 January 2001.

water, waste and stormwater through the system or store it until needed. Instead, we must adopt a strategy that recognizes the integration of the built and natural environments and comprehensively manage water infrastructure as a unified system of these mutually dependent systems. Healthy floodplains, small streams, wetlands, and streamside buffer zones are key parts of our water infrastructure and should be considered our first line of defense against floods, droughts and pollution. In both developed and developing areas, we must integrate techniques such as green roofs and rain gardens to reduce, reuse and clean our water. Such smart infrastructure approaches have far-reaching benefits – they reduce stormwater runoff and sewage overflows, increase recharge of drinking water supplies, and create valuable green space. In this current fiscal climate, we must seek these sorts of approaches that provide multiple benefits for every dollar invested.

In many cases, these forward-thinking infrastructure approaches will cost less than traditional pipes, treatment plants, and reservoirs. Sanitation District No. 1 in northern Kentucky, for instance, developed an integrated watershed plan including green and grey infrastructure that will save the community \$800 million and produce better clean water results than the original all “grey infrastructure” plan. In Bremerton, Washington, a city of 40,000, the City has used both green and grey approaches to reduce combined sewer overflows. A program to disconnect downspouts from homes and businesses kept water out of the sewer system and instead soaked it into the ground. Using this and other methods, such as permeable pavement, Bremerton calculated that it was ten times cheaper to treat the water naturally that way, even with the cost of providing an incentive payment to landowners factored into the total project cost.

Because the integrated permitting approach under discussion today is driven largely by the question of how best to pay for clean water, approaches that are cost-effective and can address two problems at once – for example treating water on site to reduce both polluted stormwater and sewer overflows – are ideal. Funding sources that do exist, however, are not always aligned to support these smart investments. Bonds are

limited in their ability to fund anything other than fixed, central treatment plants. However, there is now increasing interest in aligning funding to support integration. In recent years, EPA has provided clear guidance to states on defining green infrastructure projects eligible for SRF funding, and states are starting to leverage this money for a broad range of projects to save water, energy and achieve clean water. Similarly, local governments are finding that providing a financial credit for treating stormwater on site is beginning to create a secondary market for local contractors, expanding local job opportunities. We should also support efforts to formally recognize natural assets as part of the accounting process – protecting a city's drinking water supply through source water protection should be valued on the books and provide an asset against which to borrow for further investments. Although federal funding is not increasing, these trends warrant noting as we should look for opportunities to strategically direct what federal investment exists to prioritize integrated approaches.

The sustainable approaches demonstrated in communities in Washington and in Northern Kentucky are working in communities across the country and are officially recognized by EPA's Office of Water and Office of Enforcement and Compliance Assurance as a cost-effective way to meet Clean Water Act requirements. Yet, such sustainable approaches remain in the minority. This integrated permitting effort can only work if it provides the opportunity to further advance green infrastructure, water efficiency, capture and reuse, and other innovative approaches into the regular planning and evaluation for Clean Water Act permitting. Only by analyzing these approaches on equal footing with traditional approaches will we be able to achieve the integration needed to move us forward.

CONCLUSION

I recently had the chance to visit Milwaukee and tour one of the many green roofs in the City. The leaders there have committed to using green infrastructure as a key tool to reduce sewer overflows and flooding – the City is increasingly vibrant and the Milwaukee Water Council has further galvanized industry and research, reflecting the

diverse benefits of this strategy. We would agree that there is a benefit to moving toward more integrated infrastructure through better planning, evaluation and sequencing of investments, but only if a vision for smarter infrastructure is driving this process, and only if green infrastructure and other sustainable solutions are on equal footing as part of this process. People and businesses across the country, regardless of their means, need clean water, and upholding the Clean Water Act's goals for public health and the environment will be critical to the success of this effort.

Thank you for the opportunity to testify and I would be happy to answer your questions.

**TESTIMONY OF NANCY K. STONER
ACTING ASSISTANT ADMINISTRATOR
OFFICE OF WATER
U.S. ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES**

DECEMBER 14, 2011

Chairman Gibbs, Ranking Member Bishop, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the U.S. Environmental Protection Agency (EPA)'s efforts to achieve better water quality improvements through integrated municipal stormwater and wastewater planning and innovative approaches for meeting our infrastructure challenges.

Introduction

The nation has certainly come a long way in improving water quality, public health and the environment since Congress enacted the Clean Water Act (CWA) almost 40 years ago. We have improved water quality and increased public health protection in streams, lakes, bays, and other waters nationwide. Our nation's public water systems provide water that, in nearly all cases, meets national health-based standards for contaminants in drinking water. However, significant drinking water and water pollution challenges remain. We face difficult and expensive infrastructure and engineering challenges in providing advanced treatment for nutrients and controlling combined sewer overflows (CSOs), sanitary sewer overflows (SSOs), and stormwater.

Population growth, increases in impervious surfaces, aging infrastructure, complex water quality issues, and the current economic challenges are stressing implementation of infrastructure and programs needed to fully attain CWA goals. Many of our state and local government partners find themselves facing difficult financial conditions. Their ability to finance improvements by raising revenues or issuing bonds declined during the economic downturn and ongoing economic recovery. We recognize the challenging financial conditions that many municipalities are facing, and EPA is working with states and local governments to develop and implement new approaches that will achieve water quality goals at lower costs while creating jobs and strengthening the economy. Two key elements of this effort are our support for integrated planning for water infrastructure investments and wider deployment of innovative approaches such as “green infrastructure” and asset management.

Integrated Planning

In the past, the EPA, states, and municipalities have often focused on each CWA requirement individually without full consideration of all CWA obligations or how various water quality investments can be coordinated and managed as a single effort. This uncoordinated approach may have the unintended consequence of constraining a municipality from addressing its most serious water quality issues in a cost-effective manner.

We believe a new commitment to integrated water quality planning and management offers municipalities an opportunity to meet CWA requirements in a more cost-effective manner and in a way that achieves the highest priority goals more quickly. The EPA recently reached settlement agreements with Indianapolis, Cleveland, St. Louis and others that have begun to embrace integrated planning approaches. These agreements demonstrate how we can help

communities across America meet a range of clean water goals at lower cost, create jobs, and strengthen our economy.

To further encourage this trend, on October 27, 2011, Assistant Administrator Cynthia Giles and I signed a memorandum to the EPA Regions that expresses the agency's commitment to integrated approaches to managing municipal stormwater and wastewater. The approach provides interested municipalities with an opportunity to develop a comprehensive plan that balances competing CWA requirements and allows municipalities to focus their resources on the most pressing public health and environmental protection issues.

The integrated approach is optional, and the responsibility to develop an integrated plan rests with municipalities. Once a municipality has developed a plan, the EPA and/or the state will work with the municipality to develop appropriate implementation requirements and schedules. The integrated planning approach, however, will not lower existing regulatory standards. Rather, the approach will take advantage of the flexibilities in existing EPA regulations, policies and guidance to allow municipalities to sequence implementation of their CWA obligations to protect water quality and public health at a reduced cost.

For example, EPA's existing regulations and policies provide EPA and states flexibility to evaluate a municipality's financial capability in tough economic times and to set appropriate compliance schedules, allow for implementing innovative solutions, and sequence critical waste- and storm-water capital projects and operation and maintenance-related work in a way that ensures human health and environmental protection. We recognize that such an integrated approach will necessarily involve balancing all of a municipality's competing CWA priorities with the public health and welfare objectives of the CWA. In doing so, we must be diligent in

ensuring that a municipality be positioned to address its most pressing public health and welfare issues first.

In addition to the October memorandum, we are developing a framework document that will more fully describe the integrated planning concept. Yesterday, the National Association of Clean Water Agencies (NACWA) sponsored a forum with major stakeholders, including representatives from states, municipalities, wastewater and stormwater utilities, environmental advocacy groups, and the EPA, to discuss the best ways to proceed with integrated planning approaches.

In early 2012, the EPA will hold several public meetings around the country to discuss a draft of the integrated planning framework and to gather feedback from states, municipalities, and other stakeholders. We are also identifying municipal leaders who are currently developing, or have developed, integrated plans that can serve as models for this work.

Innovative Approaches

The EPA is also encouraging municipalities to pursue innovative approaches to stormwater and wastewater management. These innovative approaches can include the expanded use of “green infrastructure” technologies and “asset management” approaches that provide a better basis for decision making on a utility-wide basis and support the long-term financial sustainability of the municipality. Both green infrastructure and asset management practices complement the integrated infrastructure planning that we are promoting.

The EPA has strongly encouraged these innovative approaches for several years. Some cities and communities have implemented green infrastructure approaches and are starting to see that the value of such projects goes beyond protecting water resources. On a regional scale,

green infrastructure consists of a network of open spaces and natural areas (such as forested areas, floodplains and wetlands) that improve water quality while providing recreational opportunities and wildlife habitat. On the local scale, green infrastructure consists of site-specific management practices, such as rain gardens, porous pavements, green roofs and cisterns, that are designed to maintain natural hydrologic functions by absorbing and infiltrating precipitation where it falls, and by returning it to the atmosphere via plants. Green infrastructure has a number of other environmental and economic benefits in addition to improving water quality, including recharge of ground water and surface water supplies; cleaner air; reduced urban temperatures; reduced energy demand; carbon sequestration; reduced flooding; and community benefits, such as improved aesthetics; improved human health; additional recreational and wildlife areas; and potential cost savings associated with lower capital costs compared to building large stormwater collection and conveyance systems.

The EPA is also promoting the use of an asset management approach for water and wastewater systems. An asset management approach is a framework that helps to pursue and achieve sustainable infrastructure by managing infrastructure capital assets to minimize the total cost of owning and operating the infrastructure while delivering the desired service levels. Asset management approaches can prolong asset life, better meet customer demands; improve rate-setting and budgeting; improve security and emergency response; and reduce overall costs. The EPA works in collaboration with partner organizations to develop and share best practices and tools, provide training, and encourage the adoption of asset management principles within our nation's water and wastewater systems

Conclusion

We at the EPA look forward to working with this Subcommittee, our state colleagues, municipalities and the many other partners, stakeholders, and citizens. We are committed to maintaining improvements in water quality and moving toward full attainment of water quality and human health goals. Thank you again for inviting me to testify, and Cynthia or I would be happy to respond to any questions you may have.

Responses to Questions for the Record
from Ranking Member Tim Bishop

Subcommittee on Water Resources and Environment
Hearing on Integrated Planning and Permitting
December 14, 2011

(1) During today's hearing, you commented on how water and wastewater infrastructure spending is a "good investment" for this country, not only in terms of job creation, including for U.S. manufacturers, but also with helping create a domestic trade surplus for water and wastewater services.

(a) Can you elaborate on and quantify how investment in water and wastewater infrastructure has a net-positive impact on job creation, not only in terms of direct construction jobs, but also to other industry sectors that support water and wastewater infrastructure?

Investment in water and wastewater infrastructure has a direct net-positive impact on job creation, particularly given current construction labor market conditions. Beyond funds being spent directly on salaries, a portion of the funding spent on infrastructure goes towards the purchase of equipment and supplies manufactured in the U.S. According to the International Trade Administration (ITA), water equipment and chemicals accounted for \$26.6 billion in economic activity in 2009. Wastewater treatment works and water utility services accounted for \$44.1 billion and \$40.6 billion, respectively. Moreover, as you are aware, a report from the Senate Committee on Environment and Public Works highlighted that each dollar of economic output in the water and wastewater industry also increases the economic output of other industries by \$2.62.

(b) Can you elaborate on and quantify how investment in water and wastewater infrastructure has resulted in a domestic trade surplus for water and wastewater services?

Investment in water and wastewater infrastructure has led to the development of a strong domestic environmental technology sector for these products and services. According to the ITA, the wastewater and drinking water sector accounts for approximately \$38.6 billion in total economic activity, including U.S. domestic sales, U.S. exports, and U.S. imports. The ITA estimates that U.S. domestic sales account for \$22.7 billion in economic activity, while exports account for \$9.9 billion and imports account for only \$6 billion. A valuable source of information and analysis is the ITA's report entitled, "Environmental Technologies Industries – FY 2010 Industry Assessment."

(2) During today's hearing, you commented that investment in and use of "green infrastructure" or other innovative technologies, such as those encouraged through appropriations for the Clean Water state revolving fund in the American Recovery and Reinvestment Act (Pub. L. 111-5), are "achieving greater results" in improving water quality, and "creating a wide range of jobs that are associated with implementing" these technologies.

(a) Can you elaborate on and quantify how investment in and use of green infrastructure or other innovative technologies are achieving greater results in improving water quality, and how these technologies can achieve such results in a cost-effective manner?

Green infrastructure is a demonstrated approach that many cities are using as a cost-effective means for reducing the volume of wet weather discharges and the pollutants contained within stormwater. By managing rain nearer to where it falls, green infrastructure can help prevent polluted stormwater from entering local waterways and degrading water quality. In cities with combined sewer systems, green infrastructure helps prevent stormwater from entering the sewer systems and reduces the volume of combined sewer overflows (CSOs). Green infrastructure can be contrasted with traditional “grey” infrastructure, which involves the construction of drains, pipes, and sewers to take stormwater away from where it falls rather than capturing it on site.

Examples where green infrastructure is being used for enhanced environmental and economic outcomes include:

- Onondaga County, New York is investing approximately \$80 million in green infrastructure practices as a part of its program to reduce CSOs. This investment is anticipated to save up to \$20 million when compared to a grey infrastructure-only remedy.
- Portland, Oregon is investing \$86 million in both green and grey infrastructure to improve the performance of the combined sewer system in its Brooklyn Creek Basin. Using green streets, trees and restoring natural vegetated areas as part of the solution is anticipated to save the city \$58 million compared to the grey infrastructure-only approach.
- Kansas City, Missouri is investing in a green and grey infrastructure improvement within the 100-acre Middle Blue River Basin to reduce CSOs. The green/grey solution is projected to provide 500,000 gallons of additional stormwater capacity when compared to the grey infrastructure-only option and is anticipated to cost \$10 million less to construct.

The EPA is working hard with communities across the country to promote the more widespread adoption of green infrastructure practices that have both environmental and economic benefits.

(b) Can you elaborate on and quantify how investment in and use of green infrastructure or other innovative technologies are creating domestic jobs, and promoting private investment in our communities?

Investments in green infrastructure require a number of professional and labor skills to design, construct, and maintain. Because many green infrastructure practices enhance and preserve natural vegetated and landscaped areas, their construction and maintenance is most often performed by local construction and contracting crews. The aesthetic benefits of green infrastructure can also improve community amenities and has been found to encourage private investment in certain instances. Greenville, South Carolina, for example, spent \$13 million to build a 20-acre garden around a restored urban stream; within two years, over \$100 million of private investment was created around the park. Many communities encourage private investments by updating local ordinances to require or incentivize green infrastructure approaches to stormwater management during development or redevelopment.



Your Comprehensive
Public Works Resource

www.apwa.org
2945 Grand Blvd., Suite 700
Kansas City, MO 64108-3625
816-424-6100 (2014) APWA
Fax 816-472-1610
1775 K Street NE, Suite 710
Washington, DC 20002-4083
202-462-9941
Fax 202-495-0542

Hearing on *Integrated Planning and Permitting: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality*

House Transportation & Infrastructure Committee
Water Resources & the Environment Subcommittee

Statement of
Diane Linderman, P.E., PWLF
President of the American Public Works Association

December 14, 2011

PRESIDENT
Diane Linderman, P.E., PWLF
Richmond, VA
EXECUTIVE DIRECTOR
Peter S. King

Mr. Chairman, Ranking Member Bishop and members of the Subcommittee, thank you for the opportunity to submit testimony relating to the recent hearing on *Integrated Planning and Permitting: An opportunity for EPA to provide communities with flexibility to make smarter investments in water quality*. My name is Diane Linderman, President of the American Public Works Association (APWA). I submit this statement encouraging the committee to ensure that EPA acts in a timely manner to meaningfully implement the critical policy changes outlined in the October 27, 2011 memorandum on behalf of the more than 28,500 public works professionals who are members of APWA.

APWA is an organization dedicated to providing sustainable public works infrastructure and services to millions of people in rural and urban communities, both small and large. Working in the public interest, APWA members plan, design, build, operate and maintain transportation, water supply and wastewater treatment systems, waste and refuse disposal systems, public buildings and grounds and other structures and facilities essential to the economy and quality of life nationwide.

We welcome and commend the recent attention you have given to EPA's Offices of Water and Compliance and Enforcement Assistance October 27, 2011 memorandum, *Achieving Water Quality Through Integrated Municipal Stormwater and Wastewater Plans* (October 27 Memorandum).

We are cautiously optimistic that this new approach, if implemented in a meaningful, reasonable and timely way, offers the best opportunity for providing necessary regulatory flexibility and will help communities more effectively and cost consciously address Clean Water Act (CWA) requirements. If structured and implemented properly and with significant input from public works professionals and utility managers, this integrated planning approach can help speed up water quality improvements, incentivize new adaptive management approaches and innovative technologies and lessen the overwhelming compliance burden on local governments. We look forward to working in partnership with the agency, this committee and our partners on ensuring the agency moves forward swiftly with implementing this new approach so that local governments and utilities see the relief they need.

The Problem

It has been almost 40 years since the passage of the CWA, and since that time the nation has made much progress in improving water quality and public health in the nation's waters. The original command and control regulatory approach set forth in the CWA enabled public works

professionals to make early gains in improving water quality by focusing on discharges from point sources. However, today's water quality challenges are different and diffuse. They do not necessarily emanate from a single point source, and they often require technologically advanced and expensive engineering and infrastructure solutions. Increased population growth, increased development, aging infrastructure and current economic conditions at the local level are making it increasingly difficult and expensive to meet the goals of the CWA.

In the past, regulators have focused on individual CWA requirements at a utility without giving consideration to the utility's entire CWA obligation. This stove-piped approach has led to uncoordinated investments that result in solutions that only provide a single benefit to the community. A coordinated, integrated approach would enable localities to more efficiently and cost effectively sequence projects and take advantage of the multiple benefits many new innovative clean water solutions can provide. Smarter investments and innovative approaches have far reaching and multiple benefits. They can reduce stormwater runoff and sewer overflows, increase groundwater recharge, create or enhance ecological resources and reduce heat island effects. At a time when local economies are still struggling, smarter investment is essential.

Cities and other public agencies must prioritize their needs every year and produce a balanced budget that meets their citizen's needs and expectations while maintaining an affordable rate structure. EPA's October 27 Memorandum to regional offices comes at an opportune time as local governments continue to suffer from the economic downturn and buckle under the weight of a growing number of regulatory mandates. Local governments continue to reduce or eliminate community services, lay off employees and postpone or cancel critical infrastructure projects. The collaborative and flexible approach outlined in the October 27 Memorandum should help local governments in determining which investments will produce the greatest water quality benefits in the most cost effective manner.

In addition to the economic realities challenging local governments and utility managers, the list of regulatory priorities imposed by EPA continues to grow – from wet weather and CSO/SSO requirements, stormwater regulations, nutrients and TMDL requirements to emerging contaminants. This onslaught of unfunded mandates forces utility managers to defer necessary operation and maintenance costs or non-regulatory, but planned, priorities until mandated work is completed, thereby placing more strain on an already burdened and crumbling infrastructure. Many of these mandates force utilities to invest in costly infrastructure solutions that require

significant rate increases on an already financial strapped citizenry or take on added debt loads that are not sustainable for a community.

At the same time as unfunded CWA mandates are growing many communities are also facing serious enforcement actions that cost billions of dollars to solve. Enforcement actions typically result in overly costly and prescriptive remedies. To make matters even more frustrating for public works professionals and utility managers, these solutions do not necessarily lead to measurable water quality results for the cost expended. As engineering and water quality professionals, public works professionals and utility managers are in the best position to determine how best to prioritize, sequence and design solutions that will achieve water quality results and spend tax dollars in a smarter way. Public works professionals, however, are stuck in a no-win situation as they struggle to meet the expectation to get the biggest-bang for the local dollar while simultaneously keeping up with EPA regulations. This paradigm is simply not sustainable, and we must change the way we approach CWA regulatory compliance and prioritization. If we do not, the gains in water quality we have made since the passage of the CWA will be lost, and no new progress will be made.

The Solution

Public works professionals are hopeful that the new planning approach announced in the October 27 Memorandum will result in a new direction that is cooperative and not adversarial. We need a relationship with EPA that recognizes the role public works and utility managers play every day in ensuring that the nation's waters are clean and safe. The new model proposed by the agency has the potential to be a valuable tool in overcoming the many challenges facing water utilities.

It is clear given the current fiscal and political climate that there is little to no appetite either for opening up the CWA to amend it to better deal with today's pollution problems or for providing significant new federal funding to help local communities fulfill their CWA regulatory mandates. Therefore, EPA and regulated communities must be smarter and take advantage of the inherent flexibility in the CWA to meet requirements in a more cost effective manner and that address the highest priority water quality goals more quickly.

Although the new EPA integrated planning and permitting framework is still taking shape and many details as to how the new planning framework will operate are not yet available, we look forward to working with the agency and this Committee to ensure that the new planning approach is one that:

1. Maximizes water quality returns for every dollar invested by making science based water quality investment decisions on a watershed basis in order of greatest water quality gains per dollar invested;
2. Reduces pollution prevention or elimination unit costs through rapid introduction of new technology and innovative management practices;
3. Provides flexibility so that public works professionals can manage their systems and water resources in a manner that balances the priorities of the CWA and local public health and the environmental priorities and can easily adapt to changing conditions and priorities;
4. Rationally assesses community financial capacity to pay for improvements;
5. Preserves the current requirements under the CWA and does not allow backsliding;
6. Makes the permitting program the focal point for implementation, not enforcement; and
7. Accounts for a longer compliance period for localities to prioritize investments to achieve the most cost-effective and greatest water quality improvements first.

If EPA pursues a new integrated planning approach that includes all of these elements we are confident that it will be a key tool in ensuring the sustainability of continued water quality improvement.

Conclusion

Mr. Chairman and Ranking Member Bishop and members of the Committee, thank you for holding this hearing and continuing to oversee EPA's growing regulatory stance. We are especially grateful to you and Committee members for the opportunity to submit this statement. APWA stands ready to assist the agency and the Committee as we move forward toward changing the water quality regulatory and enforcement paradigm.