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

(113–79)

HEARING

BEFORE THE

SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

JULY 24, 2014

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

U.S. GOVERNMENT PUBLISHING OFFICE

88–819 PDF WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
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[1] Questions for the record are not typically issued to an organization that was not a hearing witness. In this case, however, the U.S. Environmental Protection Agency was invited to be a hearing witness and was unable to attend, and so it submitted a written statement for the record (see page 108).

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

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Washington, DC 20515

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July 18, 2014

James H. Zoia, Democrat Staff Director

SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Water Resources and Environment
FROM:	Staff, Subcommittee on Water Resources and Environment
RE:	Water Resources and Environment Subcommittee Hearing on "Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality"

PURPOSE

The Water Resources and Environment Subcommittee is scheduled to meet on Thursday, July 24, 2014, at 10:00 a.m., in Room 2167 of the Rayburn House Office Building, to receive testimony from a city mayor, a county commissioner, a city director of environmental services, and an interstate water pollution control commission executive director on the status of the Environmental Protection Agency's (EPA) integrated planning and permitting initiative and legislative efforts being made to supplement the program.

BACKGROUND

The Water Resources and 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 establishes the technological and water quality-based treatment requirements for point source dischargers, including municipalities' wastewater treatment works. Title IV of the CWA establishes 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 CWA, 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.

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 systems with insufficient capacity to address wet weather conditions, and for communities lacking sufficient independent financing ability. In recent years, EPA has established the elimination of CSOs and SSOs and contaminated stormwater as a national enforcement priority, which has resulted in focused enforcement attention on those municipalities with these ongoing challenges.

EPA enforcement actions have resulted in many larger cities and smaller municipalities entering into enforcement settlements, by signing consent agreements with the U.S. government 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.

Additionally, there have been a number of additional federal and state regulatory obligations imposed on communities to address other ongoing water quality challenges that are placing a further demand for resources on municipalities' utilities. A large portion of these obligations are going unfunded by the federal and state governments. In the absence of increased federal and state financial resources, the cost of many of these obligations ultimately rests with local governments and ratepayers. Today, local government provides the majority of the capital required to finance water infrastructure investments through loans, grants, bonds, and user fees.

Need for Greater Regulatory Flexibility and Prioritization

Municipalities have urged EPA officials to provide the communities with increased flexibility to comply with the Clean Water Act's wastewater and stormwater requirements, especially given municipalities' dwindling revenues due to the economic downturn.

Municipalities have argued that integrating stormwater and wastewater requirements has the potential to help address municipalities' concerns because it would encourage EPA to further evaluate a municipality's financial capabilities to address pending requirements, and to prioritize investments in wastewater and stormwater management based on the greatest public and environmental health benefit and in recognition of a municipality's ability to pay. Municipalities are encouraging EPA to prioritize and support those activities that provide the highest environmental return per dollar spent.

Municipalities have long asked for the authority to holistically address the statutory obligations facing them, and have the flexibility to establish CSO and SSO containment strategies that best reflect local circumstances.

Municipalities are seeking a more collaborative approach where EPA and state water regulators work with communities to yield better solutions that achieve the goal of eliminating sewer overflows and addressing other water quality issues.

EPA's Integrated Planning and Permitting Initiative

In January 2012, EPA formally released a proposed framework, entitled *Draft Integrated Planning Approach Framework*, to provide EPA, states, and local governments with guidance to develop and implement effective integrated planning approaches to municipal wastewater and stormwater management. The proposed framework identified EPA's vision of operating principles and essential elements of an integrated municipal wastewater and stormwater management plan.

Through public workshops and written comments, stakeholders urged EPA to, among other things, be proactive in collaboratively assisting communities across the Nation, as pilot demonstration communities, to develop integrated plans that will show how EPA, state regulatory agencies, and local communities can all work together to implement flexible, practical, and affordable wet weather solutions in a more integrated, cost-effective, and flexible manner, and also pass muster with the regulators; to create a new EPA national integrated wet weather compliance permit that supersedes any and all local water quality permits for a set trial period and that includes all regulatory requirements under the CWA; and to take into account a pilot community's "capability to pay" when determining monetary investment into an integrated wet weather improvement plan and permit.

In June 2012, EPA released the issuance of their final framework, entitled *Integrated Municipal Stormwater and Wastewater Planning Approach Framework*. (The final framework document is dated May 2012, and the framework's cover memo is dated June 5, 2012; see copy of memo and framework, attached.) The seven-page document outlines principles for letting

communities structure plans for addressing multiple CWA obligations one at a time in an effort to reduce costs. The final integrated planning framework is similar to the draft.

EPA's framework is intended to provide EPA regional offices and states with a guide on how to help cities prioritize costly wastewater and stormwater infrastructure improvements that are needed to address water quality issues, including preventing CSOs, SSOs, and other pollution releases during heavy precipitation events.

The final policy was initially received by some stakeholders with cautious optimism and hope that the framework will be a step forward in dealing with mounting financial obligations facing cities under the CWA. Many noted that how EPA implements the policy will be critical to evaluating its success, as there is not a lot of detail in the final policy.

The document indicated that the Agency will rely on both permits and enforcement actions to implement the new integrated approach. The Agency says plans developed using the framework cannot be the basis for delaying either permits or enforcement actions.

Some municipal groups have criticized the policy because they believe it includes inconclusive language saying that a financial capability plan should be conducted and included as a reference point in the plan, and that such an assessment "should take into consideration current sewer rates, stormwater fees, and other revenue, planned rate or fee increases, and the costs, schedules, anticipated financial impacts to the community of other planned stormwater or wastewater expenditures, and other relevant factors impacting the utility's rate base," but it does not set a definitive affordability threshold (for example, of two percent of a community's median household income) as the maximum amount that all infrastructure can cost.

There have been extensive discussions between EPA and stakeholders concerning the affordability framework for CWA compliance. Stakeholders are pushing for financial considerations beyond median household income (MHI), which, municipalities believe, labels a cost that is less than two percent of MHI as "affordable." The affordability framework being discussed is designed to support EPA's integrated planning framework.

Municipalities are also urging EPA to consider the cost of a municipality's Safe Drinking Water Act (SDWA) obligations when assessing the community's ability to pay for CWA compliance. EPA has stated that "[while] costs for drinking water treatment and distribution would not be used to estimate metrics such as the residential indicator [i.e., MHI indicator] identified in EPA's Financial Capability Assessment guidance, the financial burden associated with projects not required by the CWA may be considered when evaluating the overall financial health of a community."[1] The affordability discussions between EPA and stakeholders are continuing.

Many stakeholders are pleased that the final policy includes new language endorsing the use of adaptive management practices to ease communities' ability to comply with permit and enforcement requirements. Many believe the inclusion of adaptive management language is

[1] EPA's "Integrated Municipal Stormwater and Wastewater Planning: Frequently Asked Questions", dated July 15, 2013.

encouraging, because it means that there is some acknowledgment by EPA that circumstances surrounding a project do sometimes change.

Finally, in May, 2014, EPA announced the availability of federal funding to municipalities for technical assistance in developing municipal integrated plans. EPA requested interested communities to apply for this funding, totalling $335,000, which EPA stated would likely assist up to five communities to develop integrated plans. The application process for the funding ended in June; however, EPA has yet to announce the recipients.

Relevant Legislative Proposals

In June, 2014, the President signed the Water Resources Reform and Development Act (WRRDA) of 2014 into law (Pub. L. 113-121). WRRDA, among other things, amends the CWA to increase the affordability of wastewater infrastructure funding for municipalities. For example, WRRDA increases the length of time for which municipalities can repay loans from the Clean Water SRF from 20 years to 30 years, thus increasing the affordability of this funding to local communities. In addition, WRRDA authorizes state infrastructure managers to provide additional subsidization to communities with affordability concerns (based on low-income populations). Finally, WRRDA encourages communities, as they develop their wastewater treatment plans, to develop plans to reduce water and energy consumption, which, over the long-term, should result in reduced costs to communities.

There are several legislative proposals under development that attempt to address the various issues and concerns related to EPA's integrated planning initiative. These proposals include H.R. 2707 (Clean Water Compliance and Ratepayer Affordability Act of 2013), H.R. 3862 (Clean Water Affordability Act of 2014), and the draft bill entitled the Water Quality Improvement Act of 2013.

The Clean Water Compliance and Ratepayer Affordability Act of 2013 was introduced by Rep. Steve Chabot (OH-1) in September 2013. The bill requires selection by EPA of at least 15 municipalities for participation in a pilot program geared toward a cooperative effort between EPA and the communities to develop wastewater and stormwater strategies that are both flexible and cost-effective in a manner consistent with EPA's Integrated Municipal Stormwater and Wastewater Approach Framework. This bill would allow for the prioritization of CWA requirements by a municipality according to the most cost-effective and environmentally-beneficial outcomes. Also provided is clarity on the standards a municipality's integrated plan must meet in order to be approved.

The Clean Water Affordability Act of 2014 was introduced by Rep. Robert Latta (OH-5) in January of 2014. The bill is an amendment to the CWA and would require the Administrator of EPA to look at publicly-owned permittees, such as a publicly-owned treatment works, and create an integrated planning approach to the permittees' permit and pollutant discharge obligations. Additionally, the bill attempts to establish mechanisms to give additional assistance to municipalities experiencing significant financial hardship raising the funds to complete wastewater treatment construction projects and activities required of them under the CWA.

Finally, a draft bill (the Water Quality Improvement Act of 2013) is being circulated by several members of the U.S. Conference of Mayors to address concerns with CWA requirements and provide greater flexibility to cities in addressing the federal regulatory mandates being imposed on them. The draft bill seeks to address CWA mandates through a partnership between municipalities and the federal government and takes steps to allow for and encourage the issuance of integrated permits. Among other things, the draft bill requires EPA to issue at least one integrated permit in each of the 10 EPA regions within one year of the draft bill's enactment, prohibits EPA from imposing penalties for past violations on a municipality that has come forward with a desire to achieve CWA compliance, and requires EPA to update its affordability guidance. Additionally, the draft bill authorizes $3 billion per year, for five years, in federal grants to help fund controls and updates required by the CWA. This amount is less than three percent of the $111 billion that is spent annually by municipalities to meet water and wastewater mandates.

At Thursday's hearing, the Subcommittee on Water Resources & Environment will hear from state and local government representatives to get their views on the status of negotiations on the final framework, in addition to thoughts on the foregoing proposed legislation related to the integrated permitting initiative. The complete list of witnesses for the hearing follows, below.

WITNESSES

Mr. David Berger
Mayor of the City of Lima, Ohio
[representing the U.S. Conference of Mayors, Mayors Water Council]

Mr. Todd Portune
Commissioner
Hamilton County, Ohio Board of Commissioners

Mr. Steven Meyer
Director of Environmental Services
City of Springfield, Missouri
[representing the National Association of Clean Water Agencies]

Mr. Ron Poltak
Executive Director
New England Interstate Water Pollution Control Commission
[representing the Association of Clean Water Administrators]

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

THURSDAY, JULY 24, 2014

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

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

Mr. GIBBS. The Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure will come to order.

A couple of housekeeping issues first. I ask unanimous consent that Mr. Bucshon from Indiana be included in today's hearing.

Hearing no objection, so ordered.

I ask unanimous consent that the hearing record be kept open for 30 days after this hearing in order to accept written testimony for the hearing record. Is there any objection?

[No response.]

Mr. GIBBS. Without objection, so ordered.

I also ask unanimous consent that written testimony submitted on behalf of the following be included in the hearing record: jointly from Representatives Chabot and Fudge; jointly from Representatives Latta and Walz; from the mayor of the city of Akron, Ohio; from the Environmental Protection Agency; and jointly from American Rivers, Clean Water Action, Natural Resources Defense Council, and the Southern Environmental Law Center.

Is there objection?

[No response.]

Mr. GIBBS. Without objection, so ordered.

Today we have one panel. We will welcome our witnesses in a few minutes, but I will open here with a statement.

First of all, I would like to welcome everyone here to our hearing today for "Integrated Planning and Permitting Framework: An Opportunity for the EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality."

This is a followup to hearings we held last Congress on EPA's integrated planning framework. In our previous hearings, we heard

about how communities all across the Nation are facing increasing regulatory enforcement and financial pressures not only to address sewer overflows and other aging wastewater infrastructure issues, but also to deal with numerous other burdensome regulatory issues that recently have become national priorities.

These include more stringent and widespread regulation of stormwater discharges, nutrients and other pollutants, total maximum daily loads, and public drinking water systems, which could lead to many communities having to install and operate at great expense advanced treatment, removal and prevention technologies.

All of these initiatives are piling up additional layers of regulatory requirements and economic burdens on our communities, and somehow our communities have to deal with it. A large portion of these regulatory mandates are going unfunded by the Federal and State governments, with the result that many municipalities have had to make substantial increases in investments in wastewater and public water infrastructure in recent years. Local communities and ratepayers are now increasingly getting economically tapped out.

In response to some of these issues, EPA developed an integrated planning and permitting policy in 2012 that was intended to provide some flexibility on how communities managed their regulatory and enforcement mandates under the Clean Water Act. The policy outlines how communities can prioritize multiple Clean Water Act obligations and develop plans for addressing those obligations in a flexible manner and reduce their cost burdens.

At earlier hearings we heard from witnesses about the implementation of the policy. Concerns that were raised included inadequate consideration of strained municipal budgets and affordability, especially in setting compliance timelines; the continued focus on using enforcement mechanisms in the integrated planning process rather than permit; and insufficient regulatory flexibility to adapt to new or changed circumstances.

Some of the witnesses also urged the EPA to become more proactive and collaboratively assist communities through technical assistance and pilot demonstration projects to develop flexible, practical, and affordable integrated plan.

I am concerned that 2 years have passed since the EPA released the final policy, and little seems to have been done to successfully implement it. I understand that while several local governments are working on integrated plans, no such plans have been approved, and one has been disapproved.

EPA has still not done enough to define the roles and responsibilities of the EPA, the States and the communities in implementing the policy. It has not provided clear standards for approval of integrated plans.

It appears that some at the EPA, particularly in a number of Agency regional offices, still may not be willing to provide flexibility to communities and limit EPA's enforcement efforts even when the goal is to achieve a more efficient compliance with the Clean Water Act.

A continued emphasis on an enforcement approach, including consent decrees and a resistance to considering affordability and innovative approaches to addressing water quality issues, will un-

dermine the flexibility that the EPA ostensibly is trying to seek to provide under this policy.

However, there might be some cause for optimism that the EPA is finally starting to become more supportive of implementing an integrated planning policy. I am pleased that back in May the EPA announced the availability of some Federal funding to a few communities for technical assistance in developing municipal integrated plans. This will be an important first step in demonstrating support for and implementing the policy, although EPA still needs to do more.

To help with this, I and jointly with Ranking Member Tim Bishop have written a letter to the House Appropriations Committee requesting their support in directing EPA resources towards pilot projects to assist communities in developing integrated plans.

There are several legislative proposals under development that attempt to address various issues and concerns related to the EPA's integrated planning initiative. These proposals include H.R. 2707, the Clean Water Compliance and Ratepayer Affordability Act of 2013, introduced by Congressman Chabot; H.R. 3862, the Clean Water Affordability Act of 2014, introduced by Congressman Latta; and the draft bill entitled "The Water Quality Improvement Act of 2013" being circulated by members of the U.S. Conference of Mayors, including Mayor Berger who is one or our witnesses today.

I would like to hear from today's witnesses about their thoughts on EPA's implementation of the integrated planning policy today and whether EPA has adequately addressed their concerns.

In addition, I would also like to hear from our witnesses about the pending legislative proposals and how specifically the proposals could help address their concerns and any impediments that stand in the way of making an effective initiative for both communities and the regulators.

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

Our goal is clean water, and that is best achieved by focusing more on facilitating compliance and less on punitive enforcement mechanisms. Hopefully, this initiative will truly give our communities the flexibility they need to prioritize their water quality requirements and address the huge, unfunded costs associated with the growing number of mandates stemming from the EPA water rules and enforcement actions.

Lastly, I should mention that we had invited the EPA to participate in this hearing in order to get the Agency's perspective on implementing the policy. Unfortunately, however, the EPA declined to participate due to what the Agency said was other commitments.

I yield to my ranking member, Mr. Bishop, for any remarks you may have.

Mr. BISHOP. Thank you very much, Mr. Chairman, for holding this morning's hearing.

In my view, today's hearing demonstrates the challenges and the frustrations of two intersecting trends in our efforts to improve the overall quality of the Nation's waters. As I have noted in the past,

there is significant evidence that in the last decade this Nation has stopped making significant progress in improving the overall quality of its waters.

For example, if one reviews the last three State assessments of water quality covering the years from 2008 through 2012, the results should be alarming. For rivers and streams, State assessments show a steady decline in water quality from 50 percent of assessed rivers and streams not meeting their State water quality standards in 2008, to 52 percent of these waters not meeting State water quality standards today.

Similarly for lake and reservoirs, the 2008 State assessments showed that 64 percent of these waters failed to meet State water quality standards. Today 68 percent of assessed lakes and reservoirs fail to meet these standards.

Finally, in 2008, State data shows that 45 percent of assessed coastal shoreline miles failed to meet State water quality standards. Today a shocking 86 percent of assessed coastal shoreline miles fail to meet State standards.

These trends are also reflected in the Environmental Protection Agency's recent wadeable streams assessment. For example, in 2006, EPA noted that nationally 41.9 percent of the Nation's wadeable streams were given a poor rating for biological condition, while only 28.2 percent were given a good assessment. In 2013, EPA's followup report noted that 55.3 percent of the Nation's wadeable streams have a poor rating, but only 20.7 percent have a good rating.

This information suggests that we are moving in the wrong direction in improving the quality of our Nation's water resources. Yet the reality is that any significant additional improvements in water quality will be complicated, more expensive, and more politically challenging.

The second trend highlighted at this morning's hearing focuses back on the Congress and how the Federal Government has stopped making significant Federal investments in improving our Nation's water quality. For example, only 4 years ago Congress appropriated over $6 billion to the Clean Water SRF to finance the cost of necessary wastewater infrastructure, $2.1 billion through the regular appropriations process and an additional $4 billion through the Recovery Act.

Since that time, annual appropriations for the Clean Water SRF have been declining from an appropriation of $1.5 billion in fiscal year 2011 to a recommendation of $1 billion in the chairman's mark of the Interior and Environmental Appropriations Bill for 2015. Not surprising as Federal investments in water quality improvements decrease, we hear more and more concern about the risk in unfunded Federal mandates.

To be clear, I do not share the view that the recent actions of EPA or the Corps are the result of overzealous Federal agencies. In my view, these agencies are simply doing the job that we, the Congress, told them to do over 40 years ago, to "restore and maintain the chemical, physical and biological integrity of the Nation's waters."

EPA and the State regulatory agencies see the same trend lines in declining water quality that I mentioned earlier and are trying

to do something about them. However, in carrying out the job we gave them, they are exposing the difficulties that I also mentioned earlier: that continued improvement in restoring and protecting water quality will be more complicated, more expensive, and more politically challenging.

To our witnesses, let me clearly say that I am sympathetic to all that the States and local communities are compelled to accomplish with limited funding. However, I am not convinced that our constituents have thrown up the white flag on making further improvements to our Nation's water quality. We should not be satisfied that, as some have suggested, our waters are as clean as they can ever be.

We must continue to make progress in achieving the goals we established over four decades ago, and we, the Congress, must be willing to put resources on the table for States and localities to accomplish this task.

Earlier this summer the President signed into law the Water Resources Reform and Development Act, which includes the first reauthorization of the Clean Water State Revolving Fund ever. This new law will provide additional financial flexibilities to States and to communities to make the cost of building water infrastructure more affordable. Enactment of WRRDA was a tremendous first step and one that we should take pride in discussing.

However, I think we all agree it is only the first step. Now we must follow through on providing the Federal resources necessary to partner with our States and our communities to get this job done. If we remain committed to the goals of fishable and swimmable waters, then we must be willing to commit to providing a portion of the funds to do so.

Investing in our water infrastructure network, like so many of the things we do in this committee, is an investment in our Nation's future. Let us not shortchange the public environmental and economic health for generations to come by failing to meet this commitment.

I yield back the balance of my time.

Mr. GIBBS. At this time I yield to Mr. Bucshon for a unanimous consent request.

Dr. BUCSHON. Thank you, Mr. Chairman.

I would ask unanimous consent to submit a letter from Lloyd Winnecke, mayor of the city of Evansville, Indiana, to Chairman Gibbs and to Ranking Member Bishop.

Mr. GIBBS. So ordered.

[The letter presented by Dr. Bucshon follows:]

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July 23, 2014

The Honorable Bob Gibbs
Chairman
Water Resources & Environment Subcommittee
Committee on Transportation & Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Tim Bishop
Ranking Member
Water Resources & Environment Subcommittee
Committee on Transportation & Infrastructure
2163 Rayburn House Office Building
Washington, DC 20515

Re: Hearing on EPA's Integrated Planning, Green Infrastructure, and Affordability Initiatives

Dear Chairman Gibbs and Ranking Member Bishop,

Thank you for holding a hearing on EPA's efforts to make wastewater infrastructure improvements more affordable for local governments through integrated planning, the use of green infrastructure, and more realistic evaluations of affordability.

You are receiving testimony from Mayor David Berger of Lima, Ohio on behalf of the U.S. Conference of Mayors regarding the challenges facing local governments and the their interaction with the above-referenced EPA initiatives.

Like many cities, Evansville is addressing sewer overflow issues. Since 2004, Evansville has invested over $100 million to upgrade its stormwater and wastewater infrastructure. Following EPA's Integrated Planning Framework, in May 2013, we submitted a $540 million plan to EPA to comprehensively address these issues. However, just last month, EPA Region 5 rejected Evansville's plan, demanding that my city build additional controls that are not supported by the Clean Water Act or EPA's recent guidance on integrated planning and that will result in costs that are more than my citizens can afford. As a member, I have shared Evansville's experiences with the U.S. Conference of Mayors, and I would now like to share them with you.

Evansville's Environmental Challenges

The City of Evansville Water and Sewer Utility owns, operates, and maintains wastewater facilities that serve approximately 67,700 households in the City and portions of Vanderburgh County, with a

population served of over 160,000. The system contains over 800 miles of combined and separate sanitary sewer pipelines (40% combined and 60% separate), two WWTPs with a total combined dry-weather capacity of 67 million gallons per day, and 90 lift stations. It has a 65-square-mile service area.

Approximately 100 years ago, Evansville and many other cities across the United States began building sewers to carry stormwater away from homes, businesses, and streets to nearby rivers and streams. Later, when indoor plumbing was introduced, homes and businesses connected their sewage lines to those same storm sewers, making them "combined" sewers (sewer pipes that by design carried both stormwater and wastewater to adjacent waterways). In the mid-20th century, Evansville and other cities upgraded the sewer infrastructure to include intercepting sewers along rivers and other waterways that route most of these flows to treatment plants.

In dry weather, wastewater is sent to wastewater treatment plants for treatment. During rain events or snowmelt, CSOs occur when stormwater fills the pipes, exceeding their capacity, resulting in overflows of storm and wastewater into local water bodies. The CSOs occur by design to prevent backups and overflows from occurring inside the city in homes, businesses, and neighborhoods. Like most cities, as a result of infiltration and inflow, Evansville also has overflows from the part of its system that conveys only sanitary waste to the treatment plants. These are called sanitary system overflows or SSOs. Finally, due to its location along the Ohio River, Evansville is subject to flooding and the Army Corps of Engineers operates flood control structures along the River, which are near the locations of the Evansville combined sewer outfalls.

So, Evansville has the significant challenge of addressing CSOs and SSOs with solutions that are designed to prevent water from going into the Ohio River. At the same time, Evansville has to maintain consistency with the Ohio River flood control projects, which have the competing objective of moving move water back into the Ohio River as quickly as possible.

Evansville's Economic Challenges

Of the approximately 67,700 households served by Evansville, approximately 50,300 are in the City and approximately 17,400 reside outside of the City in Vanderburgh County.

The households in Vanderburgh County outside of the City have an estimated median household income (MHI) of $60,500 (in 2011). In contrast, the MHI of households within the City was $35,900 in 2011. A blended district MHI of $40,800 (in 2011) masks the lower City incomes and is 14% higher than the City's 2011 MHI even though 74% of the Utility customers reside in the City.

With an MHI of only 35,900 in 2011, the City's MHI was only 71% of the 2011 national MHI. Thirty-four percent of the households in the City earned less than $25,000 per year in 2011. In 2011, 19.2% of the population was living below the poverty level, and 14.5% of the households in the City were receiving Food Stamps and Supplemental Nutrition Assistance Program benefits. When compared to the 2011 national average (15.9% below the poverty level and 13% receiving Food Stamps and Supplemental Nutrition Assistance Program benefits), it becomes apparent that a high percentage of residents are already highly burdened by the cost of wastewater services. The comparison of Evansville's economic factors to national averages is set forth in Table 1, below.

Table 1. Evansville Local Economic Factors

Indicator	Evansville	National Average	Variance
Poverty Level	19.2%	15.9%	121%
Household Income (less than $25,000)	22.3%	17.4%	128%
Receives Public Assistance	14.5%	13%	112%
2010 MHI	$35,939	$50,502	(141%)

For all of these reasons, Evansville is focused on keeping sewer rates affordable for the 50,300 households that reside in the City.

Evansville's Solution

In 2009, EPA and the Indiana Department of Environmental Management (IDEM) sued Evansville, initially demanding the city develop a plan to address CSOs and SSOs within six months and implement the plan within 10 years. In 2010, Evansville entered into a Consent Decree with EPA and IDEM that resolved the litigation. That Decree, which was approved by a federal court in June 2011, required Evansville to develop within two years a twenty to twenty five-year plan to address both CSOs and SSOs and submit that plan to EPA and the state for approval. Evansville submitted its Integrated Overflow Control Plan to the agencies in May 2013.

Evansville's plan will reduce the number of CSO events from approximately 50 activations a year to no more than 12 and will increase the percent of the capture of CSO volume from 35 to 92%. This level of control will protect the water quality of the Ohio River (designated a sensitive area near the City) and Pigeon Creek from CSO discharges.

This is consistent with EPA's CSO Control Policy, which seeks to have cities reduce overflows to 0–12 times per year and increase percent capture to 75 to 100%. It also meets the requirements of the Clean Water Act, which requires protection of water quality. Further reductions are not affordable and a robust water quality analysis of Pigeon Creek and the Ohio River has shown that the waterways are significantly impaired when they reach the City and reducing the City's CSO activations to less than 12 in a typical year result in no additional days of water quality compliance.

To achieve these reductions, Evansville prioritizes a green infrastructure project to capture and treat all of the discharge from its largest CSO outfall in a typical year and will use additional green infrastructure projects to reduce flows elsewhere in the city.

Evansville's plan also will address SSOs by using an adaptive management approach to SSO control that focuses on continuous improvement and effective asset management.

Thus, Evansville's plan used EPA's Integrated Planning Framework to employ prioritization, green infrastructure and adaptive management to achieve environmental benefits in a manner that is the least unaffordable for the City.

The plan put forward by the City will result in an investment of $540 million (2013 dollars) in clean water infrastructure over 28 years, the largest investment in the City's history. Evansville plans to

impose its rate increases to provide the funding when it is needed. However, the rate increases are front loaded and from 2014 to 2019, the annual sewer bills will double, which places a rapid and heavy burden on low income households.

As demonstrated in Table 1, below, even under the plan proposed by Evansville, by 2019 48.6% of households will be paying over 2% of their household income on sewer bills, 34% will be paying over 3.5% of their income, and over 11% will be paying 7% of their household income on their sewer bills as a result of the plan that the City has put forward. Thus, additional financial burden is not tenable.

MHI Level	Assumed Household Income	Cumulative Distribution of MHI Level	Cumulative Distribution of In-City Customers	*% of Evansville Households in Category*	*Suggested CPH as a % of MHI (in 2019)**
Less than $10,000	$ 10,000	11.2%	5,678	11.2%	7.0%
$10,000 to $14,999	$ 12,500	20.0%	10,158	8.8%	5.6%
$15,000 to $24,999	$ 20,000	34.0%	17,286	14.0%	3.5%
$25,000 to $34,999	$ 30,000	48.6%	24,719	14.6%	2.3%
$35,000 to $49,999	$ 42,500	65.5%	33,323	16.9%	1.6%
$50,000 to $74,999	$ 62,500	83.0%	42,202	17.5%	1.1%
$75,000 >	$ 75,000	100.0%	50,864	17.0%	0.9%

** To support its plan, Evansville must double its rates by 2019; CHP and MHI are both based on growth in both rates and MHI by that year.*

EPA's Response

In September 2013, EPA told Evansville that it thought the City could afford to spend more money addressing CSOs and SSOs but offered no details and did not respond directly to the City's financial analysis. In June 2014, EPA disapproved Evansville's $540 plan and suggested, again without providing details, that Evansville could afford a plan that would result in zero overflows.

It appears that EPA has rejected both Evansville's plan to use green infrastructure – a treatment wetlands -- and the City's affordability analysis. In fact, EPA appears to be suggesting that the City should add a grey technology treatment system to the wetland treatment system, notwithstanding the fact that the City's $540 million plan is already beyond the limit of affordability for most of its ratepayers and the wetland treatment system will meet the requirements of the Clean Water Act.

This disapproval is very disappointing in light of EPA's October 2013 Green Infrastructure Strategic Agenda. EPA Headquarters recognizes that: "Lacking familiarity with the technology, its performance, and associated performance measures, state and local permitting and enforcement professionals may be reluctant to include green infrastructure in wet weather permits and control plans." To overcome that reluctance, the Green Infrastructure Strategic Agenda directs EPA enforcement personnel to "ensure all water enforcement actions consider the use of green infrastructure" and to "consider green infrastructure approaches in the development of orders and settlements related to SSOs, CSOs and MS4s and incorporate green infrastructure as part of injunctive relief where appropriate."

This disapproval also is very disappointing in light of EPA's January 2013 memorandum on "Assessing Financial Capability for Municipal Clean Water Act Requirements." In that memorandum, EPA stated that when evaluating affordability it will look beyond the simplistic metric of "median household income" set forth in its 1997 Guidance for Financial Capability Assessment, and consider impacts on low income households.

EPA is asking for zero overflows even though Evansville has demonstrated to EPA that any further reduction in the number of overflows will not increase the number of days that water quality standards will be met. However, although a year has passed since we submitted our integrated plan, we do not yet know what EPA is asking Evansville to do, or at what cost. The City has scheduled a meeting with EPA to get answers to these questions and understand why it disapproved Evansville's plan. But, nothing will change the fact that Evansville's plan is already beyond the limit of affordability for my community and any changes have to remain within the budget we have set forth.

Thank you for your interest in the problems of cities like Evansville and your oversight of EPA.

Sincerely,

Lloyd Winnecke, Mayor
City of Evansville

LW/mc

cc: Senator Dan Coats
Senator Joe Donnelly
Congressman Larry Buschon, M.D.

Mr. GIBBS. I also ask unanimous consent for Mr. Chabot to sit on the committee. Any objection?

[No response.]

Mr. GIBBS. So ordered.

At this time other Members who have testimony may enter it for the record.

I want to call on Mr. Chabot to allow him to introduce one of our witnesses today.

Mr. CHABOT. Thank you, Mr. Chairman.

I will be very brief. I want to thank you and the committee for holding this very important hearing, and I want to especially thank one of the county commissioners from Hamilton County, Todd Portune, who has held that office for quite a few years, and prior to that he was also a member of Cincinnati City Council, and I was actually a member of both of those fine institutions as well.

We are different parties, but this is an issue that we agree on, and that is what we ought to give local communities more flexibility so that they can meet the same high clean water standards that are required now, but do it at a more reasonable cost to the ratepayers and the taxpayers.

So I want to commend him for his leadership in this area. He has worked with a whole coalition of other similarly situated elected officials across the country, and this is bipartisan legislation introduced by another Democratic Member of Congress, Marcia Fudge from Cleveland, and she is also the head of the Congressional Black Caucus and also a different party than myself, but this is an issue that we agree on.

And I want to thank Mr. Portune for his leadership in this area and look forward to hearing his testimony today.

Thank you.

Mr. GIBBS. Thank you.

Also today we have Mr. David Berger, who is the mayor of the city of Lima, Ohio. He is representing the U.S. Conference of Mayors and is a member of USCM's Mayors Water Council.

We also have Mr. Stephen Meyer, who is the director of the Department of Environmental Services for the city of Springfield, Missouri. He is representing the National Association of Clean Water Agencies.

And we have Mr. Ron Poltak. Did I say it right?

Mr. POLTAK. Poltak.

Mr. GIBBS. Poltak. OK. It was close. I am doing better. Executive director of the New England Interstate Water Pollution Control Commission, and he is representing the Association of Clean Water Administrators.

Welcome to all today, and thank you for being here, and we will turn it over to Mayor Berger for your testimony, and the floor is yours. Welcome.

TESTIMONY OF HON. DAVID BERGER, MAYOR, CITY OF LIMA, OHIO, ON BEHALF OF THE UNITED STATES CONFERENCE OF MAYORS; TODD PORTUNE, COMMISSIONER, HAMILTON COUNTY BOARD OF COMMISSIONERS, ON BEHALF OF THE "PERFECT STORM" COMMUNITIES COALITION; STEPHEN MEYER, P.E., DIRECTOR, DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY OF SPRINGFIELD, MISSOURI, ON BEHALF OF THE NATIONAL ASSOCIATION OF CLEAN WATER AGENCIES; AND RON POLTAK, EXECUTIVE DIRECTOR, NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION, ON BEHALF OF THE ASSOCIATION OF CLEAN WATER ADMINISTRATORS

Mr. BERGER. Good morning. Thank you for inviting me to provide an update on integrated planning from the perspective of the U.S. Conference of Mayors.

In my written testimony, which is some 40 pages, I cover in detail four topics: the challenges local governments face with their water and wastewater systems; the integrated planning dialogue between EPA and the Conference of Mayors; the actual experiences of individual cities; and finally the legislation the Conference of Mayors has developed.

I will now concentrate on the experiences of cities which serves as the basis of our draft Clean Water Improvement Act, which is designed to provide solutions.

Local government, not the Federal Government, is where the job of providing water and wastewater services gets done and is paid for. We are on an unsustainable path, however, when it comes to public water investment and unfunded mandates. We must change or we will bankrupt communities and permanently impoverish households in those communities.

EPA is to be commended for their high level and sustained involvement in this integrated planning dialogue, including Deputy Administrator Bob Perciasepe, Assistant Administrator Cynthia Giles, and Acting Assistant Administrator Nancy Stoner. Their leadership resulted in the issuance of a green infrastructure memorandum and an integrated planning memorandum.

The third anticipated product of the dialogue is a memorandum to the regional offices on how they can be more flexible. Unfortunately, local governments trying to address water issues with the regional offices have not been afforded the flexibility discussed with EPA Headquarters. While EPA has told us that over a dozen local governments are working on integrated plans, no plan has been approved and one has been disapproved.

EPA recently disapproved Evansville's $540 million integrated plan even though they used EPA's integrated planning framework to integrate SSO, CSO and flood controls. Their plan uses an adaptive management approach, relies on green infrastructure, and recommends a 28-year implementation period to try to remain affordable. It appears EPA has rejected both Evansville's plan to use green infrastructure and the city's affordability analysis.

Akron, Ohio's original plan was estimated to cost $865 million, and the city passed rate increases totaling over 150 percent to pay for the plan. Late last year the city advised EPA about escalating costs to implement its plan which has now risen from $865 million

to $1.4 billion. An analysis of the newly estimated cost by income distribution shows that nearly 15 percent of households within the city would pay over 10 percent, 10 percent of their annual incomes to implement the plan.

My community, Lima, Ohio, has a median household income of $26,900. The impact of rate increases necessary to meet our proposed $100 million-plus integrated plan include the fact that some 47 percent of households in my community would experience rates above 4 percent of their household incomes.

We have seen EPA's integrated planning framework as a very promising initiative that would allow us to protect the environment in an affordable and economically sensible way. Yet more than 2 years after the integrated planning framework was issued, we are still waiting for EPA to say yes to Lima's integrated plan.

Cities around the Nation are finding that little or no change has occurred in the regional offices in dealing with the challenges of the Clean Water Act. While headquarters prioritizes integrated planning, the regional offices actively resist proposals that require flexibility, longer time tables, and priority settings and instead focus on high-cost approaches, fixed deadlines, and penalties.

While cities applaud the continuing engagement and good faith efforts of EPA Headquarters, we must report that the message is not getting through to the regional offices.

To fill the gap between EPA assurances and EPA action, the Conference of Mayors developed a Water quality Improvement Act. Mayors greatly appreciate the interest shown by Members of Congress, and we are happy several pieces of legislation have been developed to address them. However, we are concerned that some of the bills will not solve the real world problems identified by the Conference of Mayors.

We are looking for legislation that can benefit all cities through all parts of the country that does not leave relief for local governments subject to the discretion of the EPA. EPA discretion is what we have now, and we are not seeing EPA use its discretion in ways that recognize that environmental improvements must be affordable.

We need Congress to provide relief. We need Congress to provide oversight and to remember the EPA has its authority because of the way the Clean Water Act was written and enacted by the Congress. We need Congress to act.

Thank you.

Mr. GIBBS. Thank you.

Mr. Portune, the floor is yours. Welcome.

Mr. PORTUNE. Mr. Chairman, Ranking Member Bishop, members of the subcommittee, thank you for this opportunity to be here today.

As you heard from my good friend and Congressman, and he is my Congressman, the Honorable Steve Chabot, my name is Todd Portune, and I serve as commissioner for Hamilton County, Ohio, and I am here testifying on behalf of the "Perfect Storm" Communities Coalition in my home community in favor of H.R. 2707, the Clean Water Compliance and Ratepayer Affordability Act.

The coalition that I represent is made up of communities that are dealing with the "Perfect Storm," combinations of high unem-

ployment, high home foreclosure rates, stagnant economic growth, and an exodus of business and industry, all while being mandated to meet expensive wet weather consent decrees and stormwater regulations. We very much appreciate the subcommittee holding this hearing and want to thank personally Representative Chabot and fellow Ohioan, Representative Marcia Fudge, for their leadership in introducing the bill and the bill's 13 bipartisan cosponsors.

Hamilton County and our coalition emphatically support H.R. 2707, the Clean Water Compliance and Ratepayer Affordability Act, and in answer to your question, Mr. Chairman, EPA's integrated planning policy framework and the Agency's implementation of it is inadequate to meet the needs of local communities. It has been inadequate to address the concerns expressed by this community, and it has failed the American people who want clean water, but want clean water met in ways that are flexible, affordable and reasonable, and the current approach is not.

The bill, H.R. 2707, does not gut the Clean Water Act, nor limit EPA's authorities, but on the contrary it provides congressional authorization, direction and guidance in implementing EPA' own integrated planning and permitting framework.

H.R. 2707, however, will require the EPA to carry out a program to work cooperatively with up to 16 specifically identified showcase communities each year for 5 years to develop and implement integrated plans to meet their wastewater obligations under the Clean Water Act, and in doing so, to develop a credible body of data that EPA, the Department of Justice and the Congress can rely upon with respect to a new approach, green infrastructure approaches to the obligations of the Clean Water Act that are more efficient, more effective, and more economical to local communities.

By naming specific showcase communities, the EPA would offer a promising opportunity to provide transparency in how it is applying these flexible and new and cost effective compliance technologies that are being optimized within the framework.

The stake are high, extremely high for the hundreds of communities across the Nation that are working diligently to conform with EPA mandates. Over the last 10 years along over $40 billion in mandated wastewater and stormwater upgrades have been required of communities large and small. In fact, 18 of that $40 billion, or 44 percent compliance, falls on distressed communities, communities that are experiencing some of the worst economic conditions in decades.

Hamilton County is one of those communities. Between 2000 and 2012, our poverty rate for individuals in the county ballooned by over 66 percent. Forty percent of the county households have incomes of less than $35,000 per year, and one in ten in 2012 had annual incomes of less than $10,000 per year.

These are the families that are hardest hit by the rate increases that we project, 350 percent rate increased in order to meet the obligations of the Clean Water Act under current conditions, and yet those same families will benefit the most from the savings that will be realized though the flexibility and new technologies that will be allowed through H.R. 2707 and the showcase communities program.

As matters stand today, a green billed approach will result in a $500 million savings for Hamilton County alone, and with the adoption of 2707, that will translate into additional savings for our community and for our residents who are struggling to make ends meet and yet to also afford the rates that are increasing to meet Clean Water Act obligations.

Mr. Chairman and members of the committee, we believe that H.R. 2707 is the best immediate solution to this issue of integrated planning and permitting execution. Other proposed legislative changes will require significant changes to the Clean Water Act or billions of dollars of additional appropriations, neither of which appear to be politically or legislatively feasible at this time.

Our communities need relieve now. We cannot wait for a better solution to wind its way through the difficult legislative path, but H.R. 2707 will provide relief immediately if adopted.

Hamilton County, Ohio, and the "Perfect Storm" Communities Coalition look forward to continuing to work with you, Chairman Gibbs, Ranking Member Bishop and members of this subcommittee, as well as working with the EPA in enacting and implementing H.R. 2707.

I thank you for this opportunity to provide testimony and am ready, willing and able to answers any questions you may have.

Thank you.

Mr. GIBBS. Thank you.

Mr. Meyer, welcome. The floor is yours.

Mr. MEYER. Chairman Gibbs, Representative Bishop and members of the subcommittee, thank you for the opportunity to appear before you.

My name is Stephen Meyer. I am the director of the Department of Environmental Services for the city of Springfield, Missouri. I am also the president of the Association of Missouri Clean Water Agencies, and I serve on the board of directors for the National Association of Clean Water Agencies, and that is who I am testifying on behalf of today.

I applaud the subcommittee for holding this important hearing on the issue of clean water affordability and the U.S. Environmental Protection Agency's integrated planning framework for municipal wastewater and stormwater requirements. I am also pleased to testify in support of H.R. 3862, the Clean Water Affordability Act of 2014.

NACWA applauds Representatives Bob Latta and Tim Walz for leading the efforts in the House to raise awareness of these affordability concerns and to help craft practical solutions to address them.

The Clean Water Affordability Act of 2014 does three critical things:

One, it codifies EPA's integrated planning framework and incentivizes its adoption by extending NPDES permit terms for communities with an approved integrated plan.

Two, it helps small rural communities more affordably finance their clean water obligations by ensuring at least 15 percent of the State revolving funds are set aside for them.

Third, require EPA to revise and broaden its guidance for determining a community's financial capabilities to more accurately reflect a community's financial challenges.

I urge every member of this subcommittee to cosponsor this important legislation.

I also thank you, Chairman Gibbs and Representative Bishop, for being part of a bipartisan group of Members in the House and Senate who have requested $5 million for this upcoming fiscal year to support an integrated planning pilot program at EPA, and I am pleased that the House has included an appropriation in support of this request in its fiscal year 2015 spending proposal.

Like many others across the Nation, the city of Springfield and Green County region are addressing the challenges of increasingly stringent environmental regulations from every front. From stormwater, to wastewater, to air quality, and drinking water, as regulations continue to evolve, our community is required to devote more money and resources to comply.

Currently the city of Springfield is operating under a 7-year, $50 million amended consent judgment to correct sanitary sewer overflows through investments in inflow and infiltration reduction in our collection systems. After the 7-year period concludes, we will anticipate having to move more investments at the treatment plant and collection system to completely eliminate overflows which will likely cost hundreds of millions of dollars.

We also have a stormwater related TMDL developed for several of our river segments impaired by bacteria, metals, nutrients and other pollutants that need to be address.

While the city of Springfield is currently in attainment under the Clean Water Act, forthcoming Clean Water Act related regulations will likely cause us to go out of attainment quickly.

And finally, we have two closed landfills listed as Superfund sites requiring remediation under CERCLA.

The median household income in Springfield is $42,000. Twenty-five percent of our citizens' household income is $20,000 or less.

Because our challenges involve multiple Federal statutes, we believe an integrated plan approach is really the only practical and affordable way forward to ensure optimization of taxpayer resources. At the heart of Springfield's integrated plan are six guiding principles: affordability; effectiveness—that assures the biggest bang for the buck—fairness to ensure all citizens are being treated fairly and equally; attainability, to ensure measures can be reasonably accomplished; measurability, that ensures progress is tracked over time; adaptability so that we can adapt and improve based on experiences and results.

We know we will achieve success when community resources are directed toward managing environmental issues using the most effective solutions to address the most significant problems in a way that is affordable to our citizens:

When we are in compliance with all Federal and State regulations while addressing the specific needs of our community;

When we have the ability to address water, air and solid waste issues holistically, allowing both our community and the regulators to operate more efficiently;

When our community has a high level of trust that resources are being used to address environmental issues effectively and efficiently;

When our community has a clear understanding of how funding and other resources will be used to improve environmental quality;

When our community realizes a competitive advantage toward growth and economic development and increases in quality of life as a consequence of this plan. We have identified specific goals relevant to each environmental resource.

In conclusion, Springfield's integrated plan will offer a practical yet effective approach to addressing water, land and air challenges. NACWA remains optimistic that with Congress' help EPA can advance its framework to address mutual concerns.

I thank you for the opportunity to appear before you today, and I look forward to addressing any questions you may have of me.

Thank you.

Mr. GIBBS. Thank you.

Mr. Poltak, welcome. The floor is yours.

Mr. POLTAK. Good morning. Thank you, Chairman Gibbs. Thank you, Mr. Bishop.

My name is Ron Poltak. I am the Executive Director of the New England Interstate Water Pollution Control Commission; been in that position for 32 years; started my career with Senator Muskie writing aspects of the Clean Water Act; been around a long time, but I am a young, energetic 66-year-old. So I will try to be as quick as I possibly can this morning.

I am here representing ACWQ, the Association of Clean Water Administrators. ACWA has been very active over the course of the inception of the concept of the integrated planning approach. We have been extremely supportive of EPA and the framework and been working earnestly to try and make it happen.

Our members agree that when the integrated plan is designed and implemented properly, it will promote innovative solutions that deliver results. We have collaborated with EPA. We have collaborated with our partners here in DC, and we have brought, as my case in New England, three workshops where States, communities, municipalities of a larger proportion, meaning cities as well as towns, and in addition, the consultant private sector community together to talk about implementing the integrated planning approach of which there is tremendous interest and respect thereto.

Cities in each and every one of our New England States, as well as New York, are vitally interested in moving forward with this concept.

During the workshops, what I wanted to share with you this morning is a range of implementation challenges were identified, including the potential increased burden on State resources, consistency and interpretation and application between EPA Regional offices and EPA Headquarters; the level of detail necessary for plan approval; and how best to handle financial capability issues.

The workshops also exposed several statutory and regulatory challenges to implementation that must be overcome for this effort to move forward. Progress has been made, but there still is yet a lot to be done.

It is clear that the integrated planning framework anticipates a prominent role for State permitting authorities, and we appreciate the Agency's recognition of our role as coregulators responsible for ensuring that the goals of the Clean Water Act are met. Yet the details of the role are still not clear.

The framework makes clear that the State permitting authorities will need to approve the integrated plan as developed by municipalities, but it does not provide details on how exactly States should perform this role. EPA has repeatedly stated that it intends to provide practical examples and guidance as it works through the first integrated planning efforts, but active members are still waiting for these details to be fleshed out.

The committee can assist the States by encouraging EPA to move more quickly, to develop case studies and practical examples of how integrated planning works, and by sustaining adequate Federal funding to support these programs.

In addition to the lack of clarity with regard to the responsibilities of State permitting authorities, ACWA members are concerned that while EPA anticipates States taking the primary role in reviewing and approving integrated plans, EPA's authority will linger over the process until the Agency makes clear that it will support State decisions.

State time and resources are at a premium, and States are concerned that they will invest time and resources in the plan review and approval only to have EPA question that decision in the end.

States are also concerned that EPA will object to a permit based on an integrated plan that was approved by a State.

Finally, the States are concerned that after a plan is developed and implementation is underway that EPA could come in and order more stringent or different controls or approaches to manage pollution.

Certainly this type of action by the Agency would undermine the economic savings envisioned by integrated planning. The role of the States and EPA needs to be clearly defined so that the integrated approach agreed upon by the States and municipalities can be relied on by all stakeholders.

We are very much engaged and intentioned to move forward with this process. ACWA encourages EPA to begin exploring the ways that the permits can legally and effectively incorporate integrated plan elements into each and every permit that is employed. The Agency could begin developing a set of guidelines or a model permit where the Agency is the Clean Water Act permitting authority. The process of developing a model permit would help identify any barriers to implementation and enable the Agency and the regulated entities to test out solutions to overcoming the challenges that many of our municipalities as well as the States are faced with.

A model permit or case study completed in a State where EPA is the permitting authority would tremendously help the process move along. We need a template, and we are finding that we do not have one.

To conclude, I want to emphasize that ACWA's members are supportive of the integrated planning framework and we appreciate EPA's efforts and receptivity to our comments and concerns. However, many of the concerns I have outlined here today will not be

put to rest until there are more real world case studies and guidance for the States to follow. We encourage EPA to quicken the pace of identifying and conducting case studies to test and evaluate the best way to move forward with developing and implemented integrated plans for all of the communities, for example, that I have in my district of authority who are anxious to move forward without hesitating.

Thank you.

Mr. GIBBS. Thank you. I want to thank you all for coming in again, and your dedication to enhancing and improving the environment, protecting the environment, and also to protect your ratepayers or your customers.

And I have got to single out Mr. Berger. I just understand that your flight was canceled last night, and you got in your car and drove last night from Lima. That is a good 10-hour drive so I can understand you might want to take a nap later.

First of all, I wanted to start out with kind of the theme here. You know, we are trying to figure out why the EPA came to this committee 2 years ago and put this forth, and it looks like there has not been the leadership from Washington, DC, into the regional offices, and the first part of my question is: is it because there is a culture within the EPA?

I know Mr. Berger talked a little bit about the enforcement and the penalties, and what has been frustrating to me is to see when an entity, such as the entities that you all represent, is working hard to do what you need to do to comply with the Clean Water Act and at the same time you are being fined with enforced penalties.

Do you think that there has been the lack of leadership from Washington to the regional offices or is it just a culture within the whole EPA that we have got a whole cultural problem and they cannot adapt?

Does anybody want to answer?

Mr. PORTUNE. Mr. Chairman, Ranking Member and members of the committee, our experience has been that there may be cultural aspects connected to it. There are differences between the permitting side and the enforcement side of EPA. Sometimes it just simply comes down to individuals and their experience, what their experience has been.

But the bottom line is that there is not consistency in terms of delivering the message that we are receiving out there in the field. So sometimes we are seeing differences between districts or regions, I should say, in the approach, and even within a region it depends on who shows up as a regulator sometimes in terms of how the approach is going to be, and that is why we believe that there is definitely a need for congressional oversight, definitely a need for new legislation.

And that is why H.R. 2707 has embraced within it real transparency and accountability.

Mr. GIBBS. Let me ask kind of a followup and anybody else can address it, too.

Like in Lima you have been working to develop an integrated plan, what is the involvement of the EPA during the development? Are they there working with you or what is the status of that?

Mr. BERGER. We have been not only developing a plan but also negotiating a consent decree, and I can say that that has been an entirely frustrating process. The last time we were at the table in Chicago, folks from headquarters were in the room and had they not been there, it would not have gone well. It was only the presence and the active engagement of folks from headquarters that actually moved the discussion. Otherwise the discussion would have been over very quickly.

So I would assert that you can use the term "culture," but the fact is that the regional offices do not believe in integrated planning. They are actively resisting it, and headquarters has not had the ability to discipline those offices to make certain that things are happening.

I think that the issues of penalties that you raise are a very real part of not just culture. It is policy. It is policy at DOJ and EPA to penalize cities and other POTWs as a way of enforcing, bludgeoning, goading people and intimidating folks.

It has nothing to do with the shared stewardship responsibility that cities, States and the agencies have. And that policy needs to change, and I have had direct conversations with folks at the White House. They have said to me they agree, but nothing yet is happening.

That policy of requiring penalties simply extracts money from local communities that have nothing. I mean, we have lots of things to do with those resources, and paying hundreds of thousands or millions of dollars in penalties that go into the U.S. Treasury effects nothing in terms of good public policy in my community or any other community around the country.

Mr. GIBBS. I also see in Mr. Meyer's testimony you talked about I think it was four points, examining community priorities, prioritizing the solutions, and then the financial capability. I like that approach, and it goes on here in your testimony and you talk about we have got to find the source of the pollutant as the major problem, mitigating that, and move on to the next pollutant.

Of course part of this whole concept of integrated permitting is to give you that flexibility to address your needs because the needs of Lima, Ohio, are probably different than the needs in New York City or Dallas, Texas, or wherever. Then also it gives you that flexibility.

So I think legislation is needed here because we are hearing this testimony, but I want to ask Mr. Meyer when you say out these phases and do this, what are you hearing from the EPA when you are saying you have got this plan?

We are doing this. We are trying to work with the local community, and then we also take in the financial capabilities of the local community to support this.

Mr. MEYER. To start off with, we were taking a Missouri solution to clean water. Find the pollutant, find the source, remediate the source. It is very simple, and it should be very effective.

We then move on to the next pollutant. We have formed a citizens priorities task force which is currently gathering, and they are helping us to determine what the community's priorities are.

The first pollutant may be a water pollutant. The second pollutant may be an air pollutant. We want to be flexible enough that we can move around to different sources.

EPA Region 7, Dr. Brooks and Director Pauley of the Missouri Department of Natural Resources, when we developed our proposal, we invited them in and explained what our proposal was. They seemed very supportive. We had a very good discussion.

In Missouri, EPA Region 7 had delegated that responsibility for consent decree negotiations for Springfield to the Missouri Department of Natural Resources as well as the integrated plan development. We have had Missouri Department of Natural Resources in all of our technical committees, as well as a technical resource to the citizens committee. They have been very active and very supportive.

So far we have presented to EPA twice, to the senior staff. We have kept the headquarters as well as Region 7 up to date. Every time we have a movement forward we update them, and so far EPA Region 7 has not said stop.

Mr. GIBBS. I am out of time, but just a quick followup. One of the things in integrated permitting is to get longer permit time extension. It is currently 5 years, maybe 10 years or longer. When any of you have had discussions with EPA on that, do you feel real push-back on that or is that a nonissue on the permit extensions?

Mr. PORTUNE. Chairman Gibbs, if I may, since in Hamilton County we are in a consent decree, it is about $4 billion that local rate payers are paying, and one of the programs that we were required to do within the original consent decree under the new integrated planning and flexibility, we were allowed to present a green bill alternative to that.

But here is where the flexibility and the time extension stopped. Number one, we did not have help in terms of working with EPA as a partner on that. We had to design it on our own. So the consent decree required a gray build solution that cost about twice as much as a green build approach, but we had to come up with a green build approach by a date certain. We had to do all of the research and the evaluation behind it, and if we wanted to follow that approach, we were not given the extension of time in order to meet the requirement of dealing with that one issue.

So if our green build solution was not approved, we had to have a gray build solution that was ready to go or else we faced very, very stiff penalties.

Mr. GIBBS. OK.

Mr. PORTUNE. So what we had to do was go forward on parallel tracks and design both, very expensive, very time consuming, resources wasted, as opposed to there being a flexible approach. It was still very much in the adversarial relationship as opposed to a partnership relationship, which is what we need in local communities and working with EPA.

Mr. GIBBS. OK. Thank you.

Mr. Bishop.

Mr. POLTAK. Could I just add relative to the 5-year permit just one quick?

Mr. GIBBS. Go ahead.

Mr. POLTAK. The 5-year permits that ensure compliance with water quality standards are a real problem in terms of not being able to extend that time period associated with being able to meet in a conceptual sense the requirements that we are trying to address under an integrated planning approach. I mean it just goes without saying.

Mr. GIBBS. Thank you.

Mr. Bishop.

Mr. BISHOP. Thank you very much, and thank you to the panel both for your work on this very important issue and for you testimony.

I want to stay on this 5-year permit issue, and I understand the concern that water quality solutions obviously could take longer than 5 years, and if you have a 5-year permit what happens at the end of it.

But my understanding is that the EPA has built in extended periods of compliance to 5-year permits. For example, the city of Boise has a permit that memorializes obligations for 10 years after the permit begins; the same with the city of Chicago. For Milwaukee it is 7 years.

So I guess my question is: is this an example of selective use of discretion on the part of the EPA such that it is not something that all communities can count on?

So I guess my fundamental question, Mr. Poltak, is if the EPA is willing to do it for the communities that I have cited, and I am sure there are others, why is it that there is not the capacity to do it for other communities?

Mr. POLTAK. The way I can answer is we would expect that to be the case nationwide. Our communities in our region are saying that there is no financial forgiveness in the integrated planning process, and the cities are well aware of that.

But in terms of being able to deliver on the mandates that are mounting and the costs that are escalating, we have to have that way of thinking incorporated into our regions through headquarters as a message. It has to be the case to make this work.

Mr. BISHOP. So I am sorry. I want to just put this in my own words. So you are saying that the regional offices, let us say, that have jurisdiction over Boise, they are getting the message from headquarters, but the other regional offices are not. Is that basically what you are saying?

Mr. POLTAK. I think what I am imply saying is what we are talking about here in terms of added flexibility and extended permit time limit has to become a national policy that is allowed to be negotiated.

Mr. BISHOP. Anyone else want to comment on this particular issue? Mr. Berger.

Mr. BERGER. I do think it is based upon individual cities, individual relationships that get built between cities and certain Administrators.

I think what is also important here is not just the idea of longer permits, but the adaptive management approaches and also building that into approaches that are outside consent decrees, allowing these to be part of the natural, the framework of permitting that

is allowed and that gives cities the shelter that the Agency believes the consent decrees give from citizen lawsuits.

These are things that ought to be a part of the framework available to every city, and I want to emphasize that idea of every city in the United States having the opportunities under the Clean Water Act framework. Part of our concern from the Conference of Mayors with the other 2 bills that are offered is that the pilot program is limited to a number of cities, 15 per year, and with the Clean Water Affordability Act, discretion remains entirely with the Agency.

We believe that there has to be a real opportunity within the law that limits the EPA's discretion; that, in fact, gives cities shelter they can rely upon, not relying upon individuals, not relying upon the personalities of regional offices or even personalities here in headquarters.

A big concern I have right now is that Mr. Perciasepe has announced that he is going to be leaving. A concern we have is how much momentum is going to be lost because his leadership is leaving the Agency, and does that signal to those in the regional offices that the pressure is now off and it is back to business as usual?

Mr. BISHOP. Thank you.

I just have one more question and, Mr. Portune, it is for you. You spoke in your testimony quite favorably about using green infrastructure approaches as both a means of addressing a problem and as well as saving money over both the short term and the long term. Can you talk more about that, just what sort of broad-based advantages green infrastructure approaches provide to municipalities?

Mr. PORTUNE. Yes. Ranking Member Bishop, thank you very much.

Our experience is that green infrastructure, watershed management, daylighting streams, riparian issues, detention areas to keep rainwater out of sewers, things of that nature give us an opportunity, number one, to transform neighborhoods because the green solutions are also the kinds of things that people want in their communities, so not huge gray build, overbuild type of things that dominate a neighborhood, but they lend themselves to community beautification and other quality of life issues that are very important.

Second, the green build approaches tend to be less expensive, and yet they are more efficient and quicker to put into place. So the benefit that we see there obviously is we can get the job done quicker. We can also get the job done cheaper, which is important to our ratepayers.

The one issue that I mentioned earlier with respect to the two approaches where we still had to meet the deadline, there as a savings of about $250 million. The gray build approach was almost twice as expensive as the green building approach. So, therefore, having the flexibility to implement new technologies, new science, green build approaches, adaptive management, watershed management is very important to local communities for those reasons.

I did want to say one other thing, Chairman Gibbs, if I may, with respect to Mayor Berger's comment about H.R. 2707. The 15 showcase communities is not a limitation in terms of flexibility or the

full implementation of an integrated planning process. We embrace that fully for all cities. That flexibility has to be built in for all cities, and what that bill does is it requires reporting, accountability, transparency with respect to all of that, and congressional oversight so that we have EPA consistently implementing its policy completely.

The 15 communities is to build a partnership relationship that becomes cultural within the Agency and to build the data so that EPA becomes much more comfortable with green build approaches than they are today.

Mr. BISHOP. Thank you very much.

I am way over my time, Mr. Chairman. Thank you for your indulgence.

Mr. GIBBS. No problem. Mr. Crawford.

Mr. CRAWFORD. Thank you, Mr. Chairman.

I have just a quick question of all of you. In my district in Arkansas, we are kind of struggling with the critical habitat designation that will affect about 41 percent of the States. So as you can imagine, there are a lot of small cities and towns, a lot of municipalities that are concerned about how that will impact them in obtaining permits.

I am just wondering from each of you if you can comment if you have had any experience with obtaining permits from the EPA because of an endangered species or the potential of an endangered species that resides in a body of water like, for example, a river that you might utilize for discharge after treatment.

Any comments on that? We will start with Mr. Berger.

Mr. BERGER. No experience in water, but we have dealt with Indiana bat habitat issues and associated concerns like that.

Mr. CRAWFORD. OK. Thank you.

Mr. PORTUNE. I wish I could help you, but no direct experience with that, Congressman, in Cincinnati, Hamilton County, with what we are doing at this point.

Mr. CRAWFORD. OK.

Mr. MEYER. Congressman, since we are neighbors, we have similar problems. Our DNR is trying to implement ammonia to protect mussels. Missouri is unfortunately mussel rich, and we have plenty of them. Some of the smaller communities will see increases from $32.75 a month to $354 per month just to address ammonia for mussels.

This is a community that has 155 residents, 45 connections. They have absolutely no way to pay for it. The permit was issued.

Mr. CRAWFORD. Thank you.

Mr. POLTAK. Representative, we have had a lot of experience in New England associated with that type of issue. It is a long, costly, negotiated process to get to an endpoint. I would be glad to put my staff in touch with yours and follow up to any level of detail you might be looking for in that regard.

Mr. CRAWFORD. That would be great, any input you could have based on your experience and how you might expedite the process. I know that it can be a problem.

Mr. Meyer, you mentioned the mussel. That is primarily the issue that we are having in Arkansas is the Neosho Mucket and

the rabbitsfoot mussel. So we are experiencing a similar problem downstream from you.

Mr. MEYER. In our opinion, mussels are very delicious.

Mr. CRAWFORD. Thank you.

Mr. Chairman, I yield back.

Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chairman Gibbs and Ranking Member Bishop, for holding this very important hearing on the affordability and flexibility within the EPA permits.

As a former mayor, I know how devastating unfunded mandates are to our communities that are trying to do their best and the right thing in addressing the environmental needs of our Nation's communities, but also let us not forget and be aware that more new laws and their unintended consequences could have a problem with you.

Cities have been facing budget restrictions, and the recession has hit them hard, and with more unfunded mandates this is not necessarily something that we want to go over lightly, but be sure that we do protect our cities.

EPA's integrated planning framework is a very good first step towards addressing the financial burden that many cities are facing with meeting their obligations under the Clean Water Act, but more, much more needs to be done to address the current and growing disparity in the water costs on the poor, and I stress that, the poor.

The biggest problem facing my district in Los Angeles County is the expected cost of implementing a new municipal stormwater permit. It has increased the amount of total maximum daily loads, the TMDLs, of pollutants regulated to 33 from the last permit, which was two TMDLs.

The Public Works Department of L.A. County, 13 million people, say the permit will cost at least $850 million per year to comply. That is million. That means every city with 50,000 residents will have to pay approximately $10 million per year.

Mr. Chairman, I ask to submit for the record a letter to you and Ranking Member Bishop from my constituent, mayor of California's city of Monrovia, Mary Ann Lutz, with an attached report from the U.S. Conference of Mayors regarding financial impact of Clean Water Act permits on just some of the economically vulnerable cities in Los Angeles County.

Mr. GIBBS. So ordered.

Mrs. NAPOLITANO. Thank you, sir.

Mayor Lutz is the leader in the L.A. County water quality issues and helping our cities and the Council of Governments deal with the new MS–4 stormwater permits. She states that "it has become readily apparent that the cost for water and wastewater mandates has grown to an alarming rate and is disproportionately impacting our poorest and our most vulnerable citizens."

The problem is EPA established affordability guidelines based on median household income at a maximum of 4.5 percent, which does not take into account personal household income. This means that poor people pay far more as a percentage of their income towards their water bill than anybody else.

The Conference of Mayors report cites examples from communities in the L.A. region that were surveyed, and that is in the record. Every city experiences the greatest financial impact amongst the lower median income household groups, especially those households with annual income below $15,000.

Residents of the city of La Verne in my district currently experience regressive financial impacts from public water costs in households earning up to $50,000 in annual income. The poorest households in several cities are spending a significant amount of their actual income over a 10-year period on public water services and the compliance with various Federal and State regulations: in the city of Inglewood, $30 million; La Verne, $25 million; Redondo Beach, $29 million, and La Mirada, $9 million; the poorer half of the American households currently bear a disproportional financial burden paying for public water services. With the new L.A. County stormwater permit, this proportionate burden will creep into the middle-class income groups.

Mr. Chairman, we need to seriously look at this issue and try to find some commonsense solutions that still protect public health and the environment, but do it in a way that does not necessarily burden our low-income and middle-income residents.

And to that I want to add that we need to help cities develop information for their public-private partnerships and be able to find other means of being able to support doing the remedies that are expected of all of us. We have, of course, in the U.S. some of the best water than other countries, and we need to be able to protect that, but also ensure that this proportionate impact does not hurt those communities that really cannot afford any more unfunded mandates.

And with that I return the balance of my time.

Mr. GIBBS. Thank you.

Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

I am glad my colleague from California talked about the affordability issue. That is, frankly, why we are here. I know it was addressed a little earlier before about the disconnect between what happens here in Washington versus what happens on the ground in the regional offices that regulate States like mine.

As a matter of fact, just a few weeks ago in this hearing room a Deputy Administrator from the EPA told me he was at a loss when I brought up the fact that they were regulating aboveground septic discharge units in Illinois when we were talking about the new proposed rule under the Clean Water Act.

So it does not surprise me when we hear examples that Mr. Meyer talked about of a community that is going to face a burden upwards from $30 a month to $300 a month just to get water due to the impacts of regulations out here in Washington, and it is affordability. All Americans when you look at statistics, the wages for American families have gone down every year since 2007. American families are not living in a healthy economy right now, and they are having to do more with less.

It seems as though while we are asking American families to do more with less, agencies like the EPA are asking cities to provide more regardless of the cost. Now, this affordability issue has got to

be addressed because in the end, the burden falls on the taxpayers, falls on the hard working families in this country.

So on the affordability issue, and I want to ask each of you to respond, how optimistic are you that the EPA will adjust its affordability guidelines and move away from its enforcement approach to the clean water requirements in order to allow communities like yours, Mr. Meyer, and like yours in Hamilton County, to prioritize your requirements based upon the cost versus the environmental impact?

And what suggestions do you have to us as a legislative body to make some positive changes in this arena?

Mr. BERGER. I have a couple of things to say in that regard. The first would be that we applaud the current discussion. We want to see integrated planning go forward.

But in addition Congress needs to change the Clean Water Act because the language of the act has enabled this set of regulatory actions to be fostered in a thoroughly unlimited way, and so, for example, there is language in the act that says there will be no sanitary sewer overflows. It is absolute, regardless of what the environmental impact is.

And I have sanitary sewer overflows in my community.

Mr. DAVIS. Most communities do.

Mr. BERGER. There is no demonstrable public health or environmental impact from spending millions of dollars to eliminate those SSOs, but the Agency has no discretion because of the way the act is written.

Furthermore, there is in the law what are called use attainability analyses, and it is the fact that law requires that the Agency is to determine that certain uses can, in fact, be obtained, but the Agency minimizes that, discourages States from using it. The law needs to be changed to make certain that this provision for use attainability analyses of the Clean Water Act, in fact, undergirds all the regulatory decisions that are being made so that we are not spending money on streams.

I have an intermittent stream. That term means it dries up in the summer. So when we start looking at all of the range of potential wildlife in the stream, the river may not ever make it just because it all dries up in the summer.

Those kinds of language changes within the law are necessary. So we must have integrated planning. It must work. The regional offices must get the message, but we have to have changes in the Clean Water Act as well.

Mr. DAVIS. Thank you.

Mr. Portune.

Mr. PORTUNE. Congressman, thank you for asking the question and also Congresswoman Napolitano for raising the issue of affordability, both of you in bringing our attention around to that. It is critically important.

First, in direct answer to your question, we do not believe anything short of an act of Congress is going to compel the EPA to effectively and responsibly address the issue of affordability in a way that provides real relief to those who need it. There is no sense of proportionality or balance with EPA on this issue at all.

My general fund budget for everything we do as a county, sheriff, corrections, the courts, coroner, auditor, treasurer, general government services is $210 million a year. I have to raise in excess of $220 million a year new, on top of that, just to meet our consent decree obligations under the Clean Water Act, and when we raise those issues, the reaction that we get typically is, "Well, it is the law. You have to do what the law requires."

So there is no sense of proportionality in terms of prioritization, of what is more important or things of that nature. We need Congress to act.

Now, I applaud what the Conference of Mayors is doing and others that want to change provisions in the Clean Water Act. Those things will provide immediate relief. We have avoided proposing that in H.R. 2707 because we thought that would, frankly, result in a long, elongated, contentious legislative process that might not get anything done, and we need help now. We need relief now.

So what H.R. 2707 does is, one, it codifies this entire process of integrated planning, flexible approaches, adaptive management practices, and compels annual reporting on that and compliance with that and consistency among the regions and within the regions on that. That will be of direct help.

And, second, the showcase communities program will develop a body of data that all communities can benefit from with respect to an entire new way of addressing these issues that save dollars.

The poorest in my community are poverty stricken families. Households have gone up by 60 percent in the last 10 years. I have got over 50 percent of children living in poverty in my community, but those are the very families that will benefit from the $500 million to $1 billion in savings that we will realize from a mandated flexible approach that allows us to prioritize and use new processes, new approaches that will save money.

To us a dollar saved is just as important as a dollar given, and being able to save money is critically important, and we need that help now.

Mr. DAVIS. Thank you.

If the chairman will allow him to answer.

Mr. GIBBS. Go ahead.

Mr. MEYER. I agree that Congress needs to act. We would like to see this committee to cosponsor H.R. 3862. We believe that does bring some responsibility to EPA.

We also have ephemeral streams. They only flow 3 to 4 days after it rains, yet they are classified and must be fishable/swimmable. Can you imagine somebody fishing in a gravel bed? And that is what it would amount to. They only flow when it rains.

There are a number of cities that have the experience that I just mentioned to you. They are smaller communities. We see absolutely no way that they can afford these permits, and it has been issued. In fact, the only way that we can see this village can meet their regulations is to close their treatment systems and use the facilities in Unionville 30 miles away.

Mr. DAVIS. Thank you.

Mr. GIBBS. Go ahead.

Mr. POLTAK. I will be quick. When I go around and talk to young college students and I talk to young adults associated with the his-

tory in our Nation of clean water, I always emphasize that the Clean Water Act is probably one of if not the most successful statutes we have had in place over time to deal with clean water issues. That is, in fact, the case.

I just give you Boston Harbor as an example. I use a picture of my son who is now 32 years old standing in Boston Harbor when we could not get on a boat when he was 3 years old because it was too contaminated to spend a day out in the harbor, and now he is fishing for stripers off the shore in his professional working career when he has time off.

I hate to elaborate, but my point is that the EPA has also done a wonderful job over the years. I do not tend to bash them. Without the EPA we would be nowhere respectful of the success stories that we can share here today.

I want to plea to you all associated therewith that the mandates we are talking about, the elimination of nutrients, phosphorus, the like in our water bodies which is existing throughout New England as a matter of course, the nonpoint source program is voluntary. We cannot continue to ratchet down on treatment facilities and utilities to get the job done when we are trying to at this point—well, we just cannot go much further with it.

With that said, my point is that we need help out of Congress. The age-old way of funding water may not be the way of the future. We cannot sustain our needs and the obligation that the Federal Government has to make, which has assured success in the past, without a recommitment and reinvigorating new concept, idea, commitment, whatever it takes.

The fact of the matter is that the greater good is served by further Federal dollars associated with the point of clean water, and without it we cannot get the job done. It becomes unaffordable, and the level of commitment and burden that is placed on our citizens is intolerable. So I mean, that is where I am coming from.

Mr. GIBBS. Thank you.

Ms. Edwards. We lost her. Mr. Mullin.

Mr. MULLIN. Well, I will leave it to Rodney to do that. I appreciate it because it sped me up. I thank you for that.

Panel, thank you for being here. Is it Berger? Is that right, Mr. Berger?

Mr. BERGER. Yes, sir.

Mr. MULLIN. Just what the chairman said about you driving 10 hours to be here shows your dedication to your town and the importance that this has on all the communities around the country.

This is also something I have dealt with. See, I have been in this business for over 17 years, not politics, but this right here. I am actually a licensed operator. I operate plants, and I have operated plants, and I saw a great shift over the last 7 years where DEQ used to regulate me, and that is where I still receive my licensing from, and I am sure that is still where you receive your license from, but yet they have zero impact anymore because it is the EPA now that is calling all the shots.

My question to the panel, and I will let you kind of elaborate on this: is where does the role play now with DEQ?

I mean, I used to complain about DEQ all the time, the Oklahoma DEQ, Oklahoma Department of Environmental Quality, and

I have worked in many of your all's States with the company that we own that is called Mullin Environmental, and we process waste and water, and the compliancy now that the EPA is putting out there, you cannot comply with it, not with the technology that is here, not on the backs of these small communities.

Yet DEQ had some common sense to them because they lived, worked, and breathed in the same communities. Now that the EPA has come in there, and I have heard this over and over again from the panel, there is no common sense. There is no justification or rhyme or reason, but yet you are having to pay for it.

Mr. Meyer, I heard you say that one community, which I represent a very rural community, all the actually rural communities in Oklahoma on the eastern side; one community where their water bill is going to go from $30 to $300 to comply with the new mandates. Did I hear that right?

Mr. MEYER. Yes, sir. That is correct.

Mr. MULLIN. Because of the EPA requirements. Now, has anybody gotten sick in that community? Has DEQ failed to do their job?

Mr. MEYER. No, sir. Nobody has gotten sick. We see very little impact on the human health due to SSOs. We need to stop them, but let's do it in an affordable manner.

Mr. MULLIN. But is the EPA's role here not to protect the health and safety of others when it comes to pollution and clean water, what we are drinking, right?

Mr. MEYER. That is correct.

Mr. MULLIN. Was that not the same role that DEQ was playing inside the State?

Mr. MEYER. We have found that our DNR, and it feels great to be here today. I have got Illinois. I have got Oklahoma. I have got Arkansas.

Mr. MULLIN. Well, Oklahoma is better. We all know that. I mean, come on.

[Laughter.]

Mr. MULLIN. I mean look at us. You know which one looks better.

Mr. MEYER. But our Department of Natural Resources is centered in Jefferson City. They have delegated the work with us to the region, which is in Springfield, Missouri. We have found that the people on the ground do understand the issues. They do understand affordability, but they also do have their hands tied.

Mr. MULLIN. So, Mr. Berger, inside your community?

Mr. BERGER. We had a long-term control plan actually approved by the State of Ohio.

Mr. MULLIN. By DEQ?

Mr. BERGER. By our Ohio EPA, and that was preempted 10 years ago after 5 years of our beginning implementation, and that price tag on that approved plan was $60 million.

What we are now negotiating is a consent decree that we have been working on for over 10 years. That price tag is approaching $150 million.

And so the State's EPA, Ohio's EPA was neutered in the process, and we are the ones that had to insist in the last year and a half that they needed to be back at the table because we were getting

caught between obligations on our NPDS permit versus what the consent decree was now obligating us to.

So, again, it goes back to the issue of a balance of relationships, a stewardship approach that is now lacking. It is much more a top down approach from the regional office to us and to the State.

Mr. MULLIN. I think it was you, sir, that had mentioned about the fines.

Mr. BERGER. Yes, sir.

Mr. MULLIN. Can you elaborate a little bit just for the record of what these fines are being paid for because of?

Mr. BERGER. My understanding is that the fines are a part of a consent decree process which is in itself necessary because of our violations of the Clean Water Act.

Mr. MULLIN. But you have not had any violations with your State agencies. These are all from Washington, DC. They are the ones giving you the fines, right?

Mr. BERGER. Correct.

Mr. MULLIN. And how much have you spent in your community?

Mr. BERGER. We are now in the process of spending another $25 million. We had spent $10 million up to that point.

Mr. MULLIN. In just fines?

Mr. BERGER. Not in fines, no.

Mr. MULLIN. In trying to comply.

Mr. BERGER. The fines we have not yet paid, and I am unwilling to pay them.

Mr. MULLIN. And I support you in that, too. You have critical infrastructure needs. You are trying to comply with unfunded mandates, and if they are going to throw it out, then they should be giving the States the financial resources to be able to do it, not put it on the backs of these small communities.

But so many of these agencies, they have never even lived in these communities, and yet they do not understand the impact it is going to have like, Mr. Meyer, you saying one community with 150 people and their water bill is going to go from $30 a month to $300 a month, and most of them will not be able to afford that.

Do you want to respond to that?

Mr. Chairman, do you mind if he responds to that?

Mr. MEYER. That is absolutely correct. I just want to say that is absolutely correct.

Mr. MULLIN. Thank you, panel, for being here.

And I went over my time. Chairman, thank you for entertaining my lateness.

Mr. GIBBS. Mr. Davis from Illinois wanted a rebuttal, but we are not going to let him do it.

I want to thank all of the witnesses for coming in. This has been very helpful, and it is my intent and commitment that we need to move forward with some legislation to address all of your issues, and we will be working that. But this hearing today was very helpful to get to that point.

So thank you for coming and have a safe trip back.

That concludes the hearing.

[Whereupon, at 11:25 a.m., the subcommittee was adjourned.]

Testimony of the Honorable David Berger
Mayor of Lima
On Behalf of The U.S. Conference of Mayors

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

Water Resources Subcommittee - House Transportation and Infrastructure Committee
July 24, 2014

Good morning. Chairman Gibbs, Ranking Member Bishop, and members of the Subcommittee, thank you for inviting me once again to address you. It was two years ago on July 25, 2012 that I was first here to address this topic of Integrated Planning, and I am pleased to be back to provide you an update from my perspective and from the perspective of The U.S. Conference of Mayors.

The U.S. Conference of Mayors is a national nonpartisan organization, representing cities of 30,000 or more through their chief elected official, the Mayor. We were formed in 1932, as a result of the Great Depression, over the issues that were facing cities at that time – high unemployment and a stagnant economy. Today we have those same issues as well as additional challenges including decaying infrastructure and unfunded mandates.

I am Dave Berger and I am in my 25th year of serving as the Mayor of Lima, Ohio. I am also in the 18th year of negotiating with Ohio EPA and USEPA over a Long Term Control Plan and my 2nd year of attempting to get approval on an Integrated Plan. As a member of the Mayors Water Council, I have participated in nearly five years of discussions around EPA's Integrated Planning Memorandum, including the issues of green infrastructure and affordability. So a significant portion of my professional life over the past quarter century has been spent on this and related matters.

I would like to cover four topics in this testimony. First, I would like to describe the challenges local governments face to maintain and improve their water and wastewater treatment systems. Second, I would like to provide the Subcommittee with an update on the dialogue between EPA and The U.S. Conference of Mayors on Integrated Planning and Affordability. Third, I would like to provide you with an update on the experiences of individual cities that are trying to gain EPA approval of Integrated Plans. Fourth, I would like to brief you on legislation that the U.S. Conference of Mayors Water Council has developed to bridge the gap between our dialogue with EPA and the experiences of individual cities and ask for your support.

I. The Challenge

Local government -- not the federal government -- is where the job of providing water and wastewater services gets done and is paid for. I am here to tell you, on behalf of the Conference of Mayors and my city, that we are on an unsustainable path when it comes to public water infrastructure investment and unfunded mandates. We must have change or we will bankrupt communities and permanently impoverish households in those communities.

Public water systems now serve most urban, suburban, and increasingly, rural populations in America. Through 2013, local governments have invested over $2 trillion in water and sewer infrastructure and continue to spend over $115 billion a year. With this investment, local governments have substantially improved drinking water and water quality.

Public water infrastructure and services are ultimately paid for by customers, many of which are residential households. They pay for the annual operations, and they pay for the borrowed capital through the rates they pay every month. Public water customers are financially exposed to rate increases regardless of the cause. The cumulative costs of unfunded federal mandates on public

water infrastructure and services that are paid by customers have reached or exceeded thresholds of clear economic burden on low and fixed income households. The burden is both substantial and widespread, affecting 25 percent or more of customers in many different cities throughout the nation. Thus, this spending has become unaffordable for families, making all too real James Baldwin's assertion, "Anyone who has ever struggled with poverty knows how extremely expensive it is to be poor."

I put this question to the Chairman and Committee Members, all whom are elected and accountable like mayors for how federal agencies interact with our local constituents -- how much of societies', of a community's resources should be dedicated to sustaining the health and environmental benefits we have achieved versus how much more should be directed by EPA to achieve national water goals if the federal government provides negligible financial assistance or regulatory flexibility?

The Mayors of this nation believe that future investments should be prioritized to first ensure the sustainability of existing public water infrastructure and associated public health, economic and environmental benefits. Additional improvements that will achieve additional benefits should be prioritized second. But investments that do not have commensurate public health, economic and environmental benefits do not belong on the priority list, even if the language of the federal laws and regulations require it. Local governments should not be forced to divert scare resources for such investments.

II. EPA Dialogue on Integrated Planning and Affordability

The Mayors Water Council (MWC) has worked directly with the U.S. Environmental Protection Agency (EPA) and the Department of Justice (DOJ) since 2009 to address concerns expressed by mayors across the country about the high cost of reinvesting in aging water and wastewater infrastructure and the added financial challenge of complying with increasing federal and state regulations. The widespread financial impacts of addressing wastewater and stormwater controls is felt by many local governments, and during this period of 'Dialogue' with EPA and DOJ we were joined in our efforts to seek greater flexibility by the National Association of Counties (NACo) and the National League of Cities (NLC). Together, counties, municipalities and townships are responsible for over 70% of all local government investment in public water systems and services.

EPA is to be recognized and commended for their high level and sustained involvement in this 'Dialogue'; including - Deputy Administrator Bob Perciasepe; Assistant Administrator Cynthia Giles; and, Acting Assistant Administrator Nancy Stoner. Through their leadership they were able to initiate a framework for change to the way the Agency works with local government on water issues. To date, the effort has resulted in a Green Infrastructure (GI) Memorandum and an Integrated Planning Memorandum sent from HQ to the EPA Regional Offices- and that is where local government says the flexibility is most needed.

Both of these memoranda provide guidance to the Regions to promote GI, and be receptive to the need for local government to prioritize water related investments. Both of the Memoranda make

possible the opportunity for local government to save money, and pass the savings and/or cost containment benefits to our citizens, especially low and fixed income households.

The third anticipated product of the 'Dialogue' is a clarification Memorandum to the Regions on how they can incorporate flexibility in the Financial Capability Assessment (FCA) process first adopted by EPA in 1997. The rigidity with which the 1997 Guidance is being implemented in the Regions is largely the reason why the Conference of Mayors, National Association of Counties, and the National League of Cities joined together in the 'Dialogue' with EPA and DOJ. We maintain that flexibility can provide some relief from financial burdens related to compliance costs without compromising on safe and clean water. This Memorandum is expected to be complete this summer.

We are working with our local government partners to help EPA draft expansions to the 1997 Guidance to incorporate a greater number of relevant factors that better characterize the unique economic situation of any community. The modifications are intended to clarify what additional local economic information should be considered by the EPA Regional staff, and how more flexibility in terms of compliance timeframes can be incorporated into the process. The MWC has also requested that EPA establish a process whereby local government can appeal to a review panel when they determine that the consent decree or permit process results in overly costly requirements. While not every local concern can or will be addressed through these Memoranda they do open the door to redefining the federal-state-local intergovernmental partnership, and the opportunity to align local public water investments with national clean and safe water goals.

In order to give credit where it is due, it must be said that sometimes EPA expresses the opinion that substantial financial distress caused by regulatory compliance costs in addition to other important costs (such as shelter costs) imposes a substantial economic burden for families. In connection with this admission, EPA has developed "affordability" criteria to indicate when such mandates would cause substantial and widespread economic distress in the community. In those cases, EPA has told us the Agency might be willing to exercise some flexibility in the mandate.

From our perspective, if EPA affordability criteria functioned properly, the economic hardship imposed on lower-income households might be alleviated in many communities by considering more flexible approaches that take advantage of longer timeframes, compliance goals that are guided by local economic conditions of the community and by prioritizing investment where the greatest public good can be achieved given limited resources.

III. City Experiences with Integrated Planning and Affordability.

While we applaud the steps that EPA has taken to date, unfortunately, local governments that are trying to address water infrastructure issues have not been afforded the flexibility and cooperation that has been discussed with EPA Headquarters.

While EPA has told us that over a dozen local governments are working on integrated plans no integrated plan has been approved and one has been disapproved. The experiences of Evansville,

Indiana, Akron, Ohio, and Lima, Ohio are summarized below. We also provide perspectives from the experiences of other communities around the country.

Evansville, Indiana

Like many cities, the City of Evansville, Indiana is addressing sewer overflow issues. Since 2004, Evansville has invested over $100 million to upgrade its stormwater and wastewater infrastructure. In May 2013, under a 2011 Consent Decree, Evansville submitted one of the first sewer overflow control plans developed using EPA's Integrated Planning Framework. Unfortunately, EPA disapproved Evansville's integrated plan last month.

Evansville's plan will reduce the number of CSO events from approximately 50 activations a year to no more than 12 and will increase the percent of the capture of CSO volume from 35 to 92%. This level of control will protect the water quality of the Ohio River (designated a sensitive area near the City) and Pigeon Creek from CSO discharges.

Evansville's plan is consistent with EPA's CSO Control Policy, which seeks to have cities reduce overflows to 0–12 times per year and increase percent capture to 75 to 100%. It also meets the requirements of the Clean Water Act, which requires protection of water quality. Further reductions are not affordable and a robust water quality analysis of Pigeon Creek and the Ohio River has shown that the waterways are significantly impaired when they reach the City and reducing the City's CSO activations to less than 12 in a typical year result in *no additional days of water quality compliance.*

To achieve these reductions, Evansville prioritizes a green infrastructure project to capture and treat all of the discharge from its largest CSO outfall in a typical year and will use additional green infrastructure projects to reduce flows elsewhere in the city.

Evansville's plan also will address SSOs by using an adaptive management approach to SSO control that focuses on continuous improvement and effective asset management.

Thus, Evansville's plan used EPA's Integrated Planning Framework to employ prioritization, green infrastructure and adaptive management to achieve environmental benefits in a manner that is the least unaffordable for the City.

The plan put forward by the City will result in an investment of $540 million (2013 dollars) in clean water infrastructure over 28 years, the largest investment in the City's history. Evansville plans to impose its rate increases to provide the funding when it is needed. However, the rate increases are front loaded and from 2014 to 2019, the annual sewer bills will double, which places a rapid and heavy burden on low income households.

As demonstrated in Table 1, below, even under the plan proposed by Evansville, by 2019 48.6% of households will be paying over 2% of their household income on sewer bills, 34% will be paying over 3.5% of their income, and over 11% will be paying 7% of their household income on their sewer bills as a result of the plan that the City has put forward. Thus, additional financial burden is not tenable.

Table 1: Residential Water and Sewer Financial Impacts of Evansville, Indiana

MHI Level	Assumed Household Income	Cumulative Distribution of MHI Level	Cumulative Distribution of In-City Customers	*% of Evansville Households in Category*	*Suggested CPH as a % of MHI (in 2019)**
Less than $10,000	$ 10,000	11.2%	5,678	11.2%	7.0%
$10,000 to $14,999	$ 12,500	20.0%	10,158	8.8%	5.6%
$15,000 to $24,999	$ 20,000	34.0%	17,286	14.0%	3.5%
$25,000 to $34,999	$ 30,000	48.6%	24,719	14.6%	2.3%
$35,000 to $49,999	$ 42,500	65.5%	33,323	16.9%	1.6%
$50,000 to $74,999	$ 62,500	83.0%	42,202	17.5%	1.1%
$75,000 >	$ 75,000	100.0%	50,864	17.0%	0.9%

* To support its plan, Evansville must double its rates by 2019; cost per household (CHP) and median household income (MHI) includes growth in both rates and MHI by that year.

In September 2013, EPA told Evansville that it thought the City could afford to spend more money addressing CSOs and SSOs but offered no details and did not respond directly to the City's financial analysis. In June 2014, EPA disapproved Evansville's $540 plan and suggested, again without providing details, that Evansville could afford a plan that would result in zero overflows.

It appears that EPA has rejected both Evansville's plan to use green infrastructure – a treatment wetlands -- and the City's affordability analysis. In fact, EPA appears to be suggesting that the City should add a grey technology treatment system to the wetland treatment system, notwithstanding the fact that the City's $540 million plan is already beyond the limit of affordability for most of its ratepayers and the wetland treatment system will meet the requirements of the Clean Water Act.

This disapproval is very disappointing in light of EPA's October 2013 Green Infrastructure Strategic Agenda. EPA Headquarters recognizes that: "Lacking familiarity with the technology, its performance, and associated performance measures, state and local permitting and enforcement professionals may be reluctant to include green infrastructure in wet weather permits and control plans." To overcome that reluctance, the Green Infrastructure Strategic Agenda directs EPA enforcement personnel to "ensure all water enforcement actions consider the use of green infrastructure" and to "consider green infrastructure approaches in the development of orders and settlements related to SSOs, CSOs and MS4s and incorporate green infrastructure as part of injunctive relief where appropriate."

This disapproval also is very disappointing in light of EPA's January 2013 memorandum on "Assessing Financial Capability for Municipal Clean Water Act Requirements." In that memorandum, EPA stated that when evaluating affordability it will look beyond the simplistic

metric of "median household income" set forth in its 1997 Guidance for Financial Capability Assessment, and consider impacts on low income households.

EPA is asking for zero overflows even though Evansville has demonstrated to EPA that any further reduction in the number of overflows *will not increase the number of days that water quality standards will be met.*

Evansville is continuing to work with EPA and remains hopeful that EPA will not seek to impose additional burdens on Evansville families, particularly when Evansville has demonstrated that increasing controls and spending more money will not lead to increased improvement in water quality.

Akron, Ohio

Despite not having an agreed Long Term Control Plan (LTCP) or consent decree, the City of Akron continued to invest in projects to address sewer overflows and spent over $300 million through 2013. To address the remaining sewer overflow issues, Akron is currently implementing a LTCP that was developed pursuant to a consent decree with EPA and the State of Ohio. This year alone the City expects to commit an additional $84 million on CSO construction projects. At the same time, the City will continue to invest in the development and design of numerous additional projects. However, Akron's plan was developed in 2011, before EPA issued its new policies on Integrated Planning and affordability. In 2012, Akron's plan was estimated to cost $865 million. To fund future projects, the City recently passed a 78% rate increase that will be implemented over a two-year period. This increase was in addition to the 74% increase which was passed in 2009. However, even with these rate increases, the City is unable to fund its plan in the future.

Late last year, the City advised EPA about the escalating cost to implement its plan. Specifically, the cost of Akron's sewer overflow control program has risen from $865 million to an estimated cost of $1.4 billion (adjusted for inflation based on the date the money is spent; $1.14 billion in 2014 dollars). Adding to this problem is the City's declining population, which has dropped from a high of 300,000 to under 200,000 residents.

To address this issue, Akron is currently working with EPA on an Integrated Plan and is using EPA's Integrated Planning Framework to identify ways to modify its plan to provide greater environmental benefits at an earlier date with lower costs. Akron is relying on EPA's commitment that it will allow cities to reopen consent decrees to employ integrated planning. Based on the increased costs of Akron's plan, it is absolutely critical that Akron be afforded the opportunity to use this tool.

The importance of integrated planning to Akron is demonstrated in Table 2, below. Table 2 shows the impact of Akron's current sewer overflow control plan on Akron citizens. Analyzing those costs by income distribution reveals that nearly 68 percent of the households within Akron would pay more than 2 percent of their income, nearly 53 percent of households would pay more than 3 percent, and nearly 15 percent of households would pay over 10 percent.

Table 2: Residential Indicator by Income Distribution of Akron

Income Distribution	Households	% of Total Households	Midpoint of Income Dist	CPI Adj	Adj Midpoint of Income Dist	Cost per Household	RI by Income Dist
Less than $10,000	12,293	14.9%	$10,000	1.00	$10,000	$1,060	10.60%
$10,000 to $14,999	7,187	8.7%	$12,500	1.04	$12,999	$1,060	8.15%
$15,000 to $24,999	12,674	15.4%	$20,000	1.04	$20,799	$1,060	5.10%
$25,000 to $34,999	11,298	13.7%	$30,000	1.04	$31,199	$1,060	3.40%
$35,000 to $49,999	12,228	14.9%	$42,500	1.04	$44,199	$1,060	2.40%
$50,000 to $74,999	13,262	16.1%	$62,500	1.04	$64,999	$1,060	1.63%
$75,000 to $99,999	6,533	7.9%	$87,500	1.04	$90,999	$1,060	1.16%
$100,000 to $149,999	4,761	5.8%	$125,000	1.04	$129,999	$1,060	0.82%
$150,000 to $199,999	1,024	1.2%	$175,000	1.04	$181,999	$1,060	0.58%
$200,000 or more	1,016	1.2%	$200,000	1.00	$200,000	$1,060	0.53%

Using EPA's Integrated Planning Framework, Akron has already identified ways to modify its plan to provide greater environmental benefits at an earlier date with lower costs and expects to complete its Integrated Plan in a few months. The City's ability to use this tool is critical to its lower income citizens.

Lima, Ohio

Lima, Ohio is a proud community of modest financial means. We have shrunk from roughly 52,000 to 38,000, as more affluent households have moved to the suburbs.

Our annual household median income is $26,943. Nearly one-third of Lima citizens live under the poverty threshold. Additionally, our demographic profile includes aging baby-boomers that comprise a substantial and growing class of fixed income seniors. Our low, moderate and fixed income households are particularly vulnerable to increasing costs of basic services.

Implementation of the proposed CSO/SSO Long-Term Control Plan will raise the average annual sewer bill in Lima to $871.62. While this increase may have little impact on our high income households, its impact on our poor households would be enormous. Our estimates of the impact of rate increases necessary to meet the proposed Plan include:

- Some 47% of households would experience rate increases above 4% of household income.
- Almost 26% of households would experience rate increases to their annual sewer bills between 2% and 3% of household income.

As shown in the table, below, if you add water and sewer costs together, the lowest income household category would be required to spend over 8.7% of their household income for water

and sewer services. Indeed, 71% of households in Lima would be paying over 2% of their income for water and sewer.

Table 3: Residential Customer Current and Projected Sewer Costs as a Percent of Actual Income of Lima, Ohio

Household Income Distribution	Household Income	Households 14,537	% of Total Households	2% MHI $572.82 As Percent of Actual Income	Annual Avg $585.24 As Percent of Actual Income	Projected $871.62 As Percent of Actual Income
Less than $10,000	10,000	2,459	16.90%	5.73	5.85	8.72
$10,000 to $14,999	12,500	1,398	9.60%	4.58	4.68	6.97
$15,000 to $24,999	20,000	2,682	18.40%	2.86	2.93	4.36
$25,000 to $34,999	30,000	1,953	13.40%	1.91	1.95	2.91
$35,000 to $49,999	42,500	1,915	13.20%	1.35	1.38	2.05
$50,000 to $74,999	62,500	2,363	16.30%	0.92	0.94	1.39
$75,000 to $99,999	87,500	937	6.40%	0.65	0.67	1.00
$100,000 to $149,999	125,000	686	4.70%	0.46	0.47	0.70
$150,000 to $199,999	175,000	123	0.80%	0.33	0.33	0.50
$200,000 or more	200,000	21	0.10%	0.29	0.29	0.44

Lima is dedicated to protecting the health and safety of its citizens, and to protecting the water quality of the Ottawa River that runs though our city. But we have to do that in a way that does not damage the city's financial standing, does not keep us from providing other essential services to our residents, and does not impose unaffordable economic burdens on the citizens and businesses who pay sewer rates. We believe that can be done, and we have seen EPA's Integrated Planning Framework as a very promising initiative that would allow us to protect the environment in an affordable, economically sensible way. Lima has been very involved in the integrated planning process since it began, both through our involvement in the U.S. Conference of Mayors and its dialogue with EPA, and through development of Lima's own Integrated Plan. We started working on that plan even before the EPA process was finalized, and we have actively engaged with EPA for more than two years on the specifics of that plan. We believe that the Lima plan does exactly what the EPA Integrated Planning Framework calls for: it addresses each of the city's major compliance obligations, setting up a long-term schedule for implementing new controls that takes into account the city's financial resources and prioritizes the controls based on environmental risks and impacts. This is the kind of plan that EPA should be promoting to other communities as a model to be followed. Yet, more than two years after the Integrated Planning Framework was issued, we are still waiting for EPA to say "yes" to Lima's integrated plan, so we can move ahead to implement that plan.

In this context, Lima is frustrated, not only with the amount of time and expense dedicated to this process, but also with the nature and persistence of the hurdles yet being encountered. In this regard, we have talked with other communities about their experiences, and we have found that they are dealing with similar challenges. EPA staff stipulates deadlines to turn around

information and then does not respond in similar timely ways. While headquarters prioritizes Integrated Planning, the Regional Offices actively resist proposals that require flexibility, longer timetables, and priority setting, and focus instead on high cost approaches, fixed deadlines, and penalties. While headquarters acknowledges that cities and their citizens have financial constraints, the Regional Offices minimize the arguments about burdensome costs and unrealistic time tables. While headquarters embraces the idea that cities have shared stewardship roles for improving the environment, the regional offices of both EPA and DOJ sometimes use bullying tactics and threats of near term federal court actions. And while headquarters has been helpful in trying to move the process forward for Lima, we still do not have approval on our Integrated Plan.

The Lima experience is not unique. Cities around the nation are finding that little or no change has occurred in the regional offices in dealing with the challenges of the Clean Water Act. While we applaud the continuing engagement and good faith efforts of EPA headquarters, we must report that the message is not getting through to the regional offices.

IV. The Water Quality Improvement Act

While we have had a good dialogue with EPA on Integrated Planning and Affordability in D.C, unfortunately, we have not seen as much progress on the ground, in individual communities. To fill the gap between EPA assurances and EPA action, the Mayors Water Council developed the Water Quality Improvement Act (attached) which we are seeking Congressional support and sponsors.

This draft legislation builds on and reflects experience with EPA's Integrated Planning Framework and addresses the need for a federal-local government partnership to address affordability and flexibility. The principles embodied in the legislation were endorsed by the U.S. Conference of Mayors and adopted at the 81st Annual Meeting in June 2013 (attached).

Restoring Federal-Local Government Partnership

In the past, the federal government funded about 75% of the infrastructure that brought most cities into compliance with secondary treatment standards. This federal cost share made the federal government a partner in upgrading treatment plants and improving water quality. And, because the federal government was spending its own money as well as city money, the federal government paid close attention to ensuring that improvements were cost effective.

Currently, the federal government provides about $2.35 billion a year in capitalization grants for both the drinking water state funds and the wastewater state funds. These funds give loans to cities which are paid back by the revenue raised from ratepayers and thus add to the costs borne by the ratepayers. This funding is a very small fraction of the over $115 billion that cities spend each year on water and wastewater.

Our draft legislation would begin to address this issue by authorizing $3 billion in grants a year for 5 years for sewer over flow control grants, treatment plant upgrades, stormwater controls, and to retire related debt and thus provide real relief to local communities and families.

Currently EPA seeks penalties from cities even when they step up and agree to invest hundreds of millions in environmental protection. Cities are treated like criminals instead of partners. The draft legislation would bar EPA from extracting monetary penalties from cities for past violations if they agree to take action to address CWA mandates. This is a problem that is caused by a policy, not the law. If EPA changes its policy, then we can drop this provision from the draft legislation.

Ensuring Affordability

We greatly appreciate the efforts of this Subcommittee to improve the State Revolving Loan Fund (SRF) program to help make Clean Water Act mandates somewhat more affordable. In particular, we appreciate your recognition that expanding loan terms to 30 years will help cities keep annual costs lower. We can now take that provision out of our draft legislation.

We also appreciate the authorization of grants to municipalities that would experience a significant hardship raising the revenue to pay the debt service on loans uses to finance projects. Finally, we want to thank you for recognizing that significant hardship can be identified based on a wide variety of data, including income and unemployment data, and population trends. We particularly appreciate your recognition that a community faces significant hardship when part of the community is faced with an undue financial burden. As described below, the draft legislation takes a similar approach.

Like the authorization of grants within the SRF program, we suggest a federal cost-share. However, we cannot assume that there will be appropriations to support a federal cost share that would make sewer and stormwater projects more affordable. If funding is not provided, our legislation sets up a framework to ensure that these projects are affordable.

To make sure that projects are affordable, the legislation requires EPA to determine that water quality standards are attainable and that control measures are economically achievable and sustainable. To achieve these objectives, EPA can provide local governments with more time to implement projects. If that is not sufficient, EPA can work with states to change water quality standards so that meeting those standards will not impose a "substantial and widespread economic and social impact" on communities.

"Substantial and widespread economic and social impact" is the current standard in EPA's regulations for a "use attainability analysis" that justifies a change in water quality standards. So, this is a tool that is available under current law to help make wastewater infrastructure improvements more affordable for communities. However, EPA does little to support those analyses and, in fact, discourages Sates from using this tool. In addition, EPA regulations do not define what is considered "substantial" or "widespread."

Under the draft legislation, water quality standards or wastewater control measures are unaffordable if meeting them and other mandates would impose costs of more than 2% of actual household income on more than 20% of the households in the service area. Thus, "substantial" is defined as 2% of household income, and "widespread" is defined as 20% of the community.

This is similar to the approach that Congress adopted with your recent changes to title VI of the Clean Water Act, adopted as title V of WRRDA. These changes include language that identifies which communities would face a significant hardship meeting Clean Water Act mandates and therefore are eligible for grant assistance. This language endorses the use of the definition of "economically distressed" under the Public Works and Economic Development Act. Under that Act, a community is economically distressed when the community *or an area within a larger political boundary* has per capita income at 80% or less than national average, or unemployment 1% or more greater than national average, or actual or threatened severe unemployment or economic adjustment. The draft legislation similarly evaluates affordability based on differential impacts on low income households within a larger political boundary.

In addition, under the Public Works and Economic Development Act, the information on affordability that is provided by the community must be accepted by the Agency unless the Secretary determines it is inaccurate. The draft legislation does not include such a provision, but it would be welcome. Too often, EPA redoes a city's financial analysis using assumptions intended to make it look as if a city can spend more than is truly affordable.

Ensuring Flexibility

The draft legislation also includes additional areas of flexibility. For example, it would allow cities to meet water quality standards over time (longer than a permit term), using adaptive management approaches, if a city is meeting multiple mandates with an integrated plan. This provision allows cities to implement sewer control measure under their permits, rather than a consent decree or administrative order.

The legislation also would allow 10 year permits. It would allow EPA or a state to issue a permit for unavoidable sanitary sewer overflows. Finally, it would allow blending and peak flow treatment facilities as long as water quality standards are met. This last provision codifies a recent 8th Circuit opinion that EPA is refusing to apply nationwide.

Comparison to other legislation

We greatly appreciate the interest shown by members of Congress in the challenges facing local governments caused by the sewer systems that were designed early in the last century, and the impacts on the families that have to pay for improvements to those sewer systems. Accordingly, we are very happy to see that several pieces of legislation have been developed to address these issues. However, we are concerned that some of the other bills will not solve the problems identified by the Mayors Water Council.

A comparison of the Water Quality Improvement Act, the Clean Water Affordability Act (H.R. 3862) and the Clean Water Compliance and Ratepayer Affordability Act (H.R. 2707) is attached to this testimony.

In summary, we are looking for legislation that can benefit all cities and that does not leave relief for local governments subject to the discretion of the EPA. EPA discretion is what we have right now – and we are not seeing EPA use its discretion in ways that recognize that environmental improvements must be affordable.

V. Conclusion

As I stated when I appeared here two years ago, cities are stewards of the public trust, a responsibility that we share with the state and federal governments and should be accorded the respect of a shared stewardship of our environment.

We need Congress to provide relief. We need Congress to provide oversight and to remember that EPA has its authority because of the way the Clean Water Act was written and enacted by the Congress. We need Congress to act.

Thank you again for this opportunity to address you.

DISCUSSION DRAFT
August 2013

A Bill

To authorize approaches to and assistance for improving water quality.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short title.

This Act may be cited as the Water Quality Improvement Act of 2013.

SEC. 2 FINDINGS.

Congress finds the following:

(1) The capital costs that cities bear to address combined sewer overflows (CSOs), sanitary sewer overflows (SSOs), treatment plant upgrades, and stormwater controls are unfunded federal mandates and are among the most costly burdens faced by local governments.

(2) Upon the passage of the 1972 Federal Water Pollution Control Act (Clean Water Act), Congress authorized and funded over $60 billion in grants that created partnerships between municipalities, states and the federal government to share the costs of upgrading publicly owned treatment works around the country to meet the Clean Water Act mandates relating to secondary treatment.

(3) In 1987, Congress determined that large capital grants for municipal wastewater treatment were no longer necessary, and phased out grants to local governments in lieu of a loan program to be managed by the states.

(4) Since 1987 many unanticipated and extremely costly new Clean Water Act and Safe Drinking Water Act mandates have been imposed on local governments and more are to be imposed on local governments in coming months and years, but federal grant money is no longer provided to help meet these mandates.

(5) Today municipalities expend over $111 billion every year to provide essential water services for the protection of public health and to clean the environment and meet state and federal water and wastewater mandates, an annual amount that is nearly double the total of all the grants that the federal government provided over nearly 20 years.

(6) The many mandates imposed by the Clean Water Act and the Safe Drinking Water Act have created cumulative financial burdens that cannot be borne by municipalities, their low and moderate income families, and their business enterprises, forcing municipalities to forego investment in competing municipal priorities.

(7) In explicit recognition of the burden of these costs the United States Environmental Protection Agency (U.S. EPA) has recently developed a policy allowing local governments to create Integrated Plans through which a local government can coordinate competing and sometimes conflicting actions, prioritize actions that will provide the greatest environmental and public health benefits for the funds expended, and evaluate progress and the need for further actions to meet water quality standards through adaptive management processes.

(8) Because U.S. EPA currently interprets the Clean Water Act to require immediate compliance with any pre-1977 water quality standards, it relies on aggressive enforcement tools such as consent decrees and orders as its principal method of interacting with municipalities, resulting in overly costly and overly prescriptive mandates that often yield negligible public benefits, and precluding opportunities for flexibility by preempting the use of permits and adaptive management processes to comply with Clean Water Act obligations.

(9) In tandem with these decrees and orders, U.S. EPA and the Department of Justice have adopted policies on penalties and fines that treat local governments as polluters, rather than as partners and stewards in improving our environment.

(10) Local governments that agree to implement plans to address water quality should not be subject to penalties or citizen suits under the Clean Water Act.

(11) Plans implemented by local governments to address water quality should be based on economically achievable and sustainable control

measures to meet attainable water quality standards.

SEC. 3. WATER POLLUTION CONTROL GRANTS.

Section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) is amended—

(1) by striking subsections (a) through (g) and inserting the following:

"(a) Grants.—The Administrator may—

"(1) make grants to States for the purpose of providing grants to local or regional authorities or a municipality or municipal entity

(A) for use in planning, designing, and constructing treatment works

(I) to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows, or

(II) to meet with effluent limitations in a permit issued under section 402 of this Act that are not already being met by the treatment works on the date of enactment of this Act; or

(B) to reduce the discharge of pollutants from a municipal storm sewer;

(C) to retire debt incurred for the purposes identified in subparagraph (A) and (B) in any case in which that debt is imposing significant and widespread social and economic impacts on ratepayers, as determined under the criteria in section 402(r)(3)(B); and

"(2) make a grant directly to a local or regional authority or municipality or municipal entity for the purposes described in paragraph (1).

"(b) Prioritization.—In selecting from among municipalities applying for grants under this section, a State or the Administrator shall give priority to an applicant that is a financially distressed community, as determined by the applicable State under subsection (c).

"(c) Determination.—In determining whether a community is a distressed community for the purposes of subsection (b), a State shall consider, among other factors, the criteria described in section 8(b)(2)(A) of the Water Quality Improvement Act of 2013.

"(d) Cost-Sharing.—

"(1) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds from a grant made under subsection (a) shall be not less than 75 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project or activity carried out using funds from a grant made under subsection (a) may include—

"(A) in any amount, public and private funds and in-kind services; and

"(B) notwithstanding section 603, financial assistance, including loans, from a State water pollution control revolving fund.

"(e) Administrative Requirements.—

"(1) IN GENERAL.—Subject to paragraph (2), a project that receives grant assistance under subsection (a) shall be carried out subject to the same requirements as a project that receives assistance from a State water pollution control revolving fund established pursuant to title VI.

"(2) DETERMINATION OF GOVERNOR.—The requirement described in paragraph (1) shall not apply to a project that receives grant assistance under subsection (a) to the extent that the Governor of the State in which the project is located determines that a requirement described in title VI is inconsistent with the purposes of this section.

"(f) Allocation of Funds.—

"(1) FISCAL YEAR 2014.—For fiscal year 2014, subject to subsection (g), the Administrator shall use the amounts made available to carry out this section under subsection (i)(1) to provide grants to municipalities and municipal entities under subsection (a)(2) in accordance with the priority criteria described in subsection (b).

"(2) FISCAL YEAR 2015 AND THEREAFTER.—For fiscal year 2014 and each fiscal year thereafter, subject to subsection (g), the Administrator shall use the amounts appropriated to carry out this section under subsection (i)(1) to provide grants to States under subsection (a)(1) in accordance with a formula that—

"(A) shall be established by the Administrator, after providing notice and an opportunity for public comment; and

"(B) allocates to each State a proportional share of the amounts based on the total needs of the State as identified in the most recent survey—

"(i) conducted under section 210; and

"(ii) included in a report required under section 516(a).";

(2) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively;

(3) in the first sentence of subsection (h) (as redesignated by paragraph (2)), by striking "2003" and inserting "2014"; and

(4) by adding at the end the following:

"(i) Funding.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(A) $3,000,000,000 for fiscal year 2014;

"(B) $3,000,000,000 for fiscal year 2015;

"(C) $3,000,000,000 for fiscal year 2016;

"(D) $3,000,000,000 for fiscal year 2017; and

"(E) $3,000,000,000 for fiscal year 2018.

"(2) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under paragraph (1) shall remain available until expended.".

SEC. 4. INTEGRATED PLANNING PROCESS.

1. Integrated Planning Permits.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

"(r) Implementing Integrated Plans Through Permits.--

(1) Permit flexibility.—Upon the request of the permittee, the Administrator or Director shall issue a permit for municipal discharges[1] that integrates multiple effluent standards and limitations under this Act. In such a permit-

[1] Add definition of "municipal discharges" as follows: "Municipal discharges means discharges from a treatment works as defined in section 212(2) and discharges from a municipal storm sewer under section 402(p). This term includes discharges of wastewater or storm water collected from multiple municipalities

(A) the water quality based effluent limitations shall be based on attainable water quality standards;

(B) the control measures shall be economically achievable and sustainable; and

(C) the authorized discharges need not immediately meet water quality based effluent limitations as long as the discharger continues to make reasonable progress towards meeting such limitations.

(2) Permit compliance.-- A discharge that is in compliance with a permit under this subsection are deemed to be in compliance with effluent standards and limitations under this Act.

(3) Attainable Water Quality Standards. – Attainable water quality standards under paragraph (1) are standards that the Administrator or Director has reviewed and found to be technically achievable and economically affordable.

(A) A determination of technical achievability shall consider[2]

(i) Naturally occurring pollutant concentrations;

(ii) Natural, ephemeral, intermittent or low flow conditions or water levels;

(iii) Human caused conditions or sources of pollution that cannot be remedied or would cause more environmental damage to correct than to leave in place;

(iv) Dams, diversions or other types of hydrologic modifications where it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment water quality standards; or

(v) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, that may preclude attainment of water quality standards.

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if such discharges are covered by the same permit issued under section 402 to the person operating the treatment works or municipal storm sewer."

[2] These are criteria for changing water quality standards under 40 C.F.R. 131.10(g).

(B) A determination of economic affordability shall consider whether meeting water quality standards would result in substantial and widespread social and economic impact.[3]

(i) the economic and social impact on a person in the service area of the permittee is substantial if the costs paid by such person to any entity for all federally mandated infrastructure improvements, operation and maintenance, and compliance measures, including costs incurred as a result of this Act, the Safe Drinking Water Act, the Solid Waste Disposal Act, and the National Flood Insurance Act, and similar mandates under state law, and the cost of servicing any debt incurred or to be incurred to finance such costs exceeds 2 percent of the person's household income.

(ii) an economic and social impact is widespread if twenty percent or more of persons in the service area of the permittee face the substantial impact described in clause (i).[4]

(C) In determining whether the economic and social impacts of existing and potential additional costs, including debt service, on persons living within the service area of the permittee are substantial and widespread, the Administrator also shall consider:

(i) impacts on low income households and the ability of such households to pay basic shelter costs;

(ii) whether or not there is a failing local industry or if a local industry might fail if higher taxes or fees are imposed on it;

(iii) the population trends in the service area of the permittee;

(iv) a municipality's capital improvement plan and whether a municipality would have to forgo projects in its plan in order to finance improvements to comply with existing water quality standards;

(v) the ability of a municipality to incur more debt, including its ability to issue and find a market for additional municipal bonds;

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[3] This is a criterion for changing water quality standards under 40 CFR 131.10(g).

[4] EPA can use income data by Census block to make this determination.

(vi) whether the debt incurred to implement controls has or will result in a lowering of the municipality's bond rating;

(vii) whether the municipality has limited legal authority to pass increased costs through to ratepayers and increased for costs of water quality programs must be paid from their general fund; and

(vii) any other financial factor brought to the Administrator's attention by a municipality.

(D) A determination of economic affordability shall not be based on median household income and shall not establish a minimum level of expenditure by a municipality.

(E) A determination of economic affordability shall be based on the legally adopted rates in effect at the time that the determination is made.

(4) Economically achievable controls. -- Economically achievable controls under paragraph (1) means

(A) controls that will not result in substantial and widespread social and economic impacts as determined in accordance with paragraph (3)(B) or

(B) in any case in which a discharger is a municipality or other subdivision of a state organized for the purpose of providing services to the public, the annual cost to implement such controls, including debt service on bonds issued to fund such implementation, will not exceed fifty percent of the annual operating budget of the operating utility, unless

(i) the Administrator provides the discharger with a grant covering at least 75 percent of the total capital cost of the control measures, or

(ii) the permit allows at least 40 years for the implementation of controls, and, if requested by the discharger, the permit relies on green infrastructure.

(5) Sustainable controls.—The Administrator, or in the case of an authorized state program, the Director, shall determine whether control measures are sustainable under paragraph (1) by evaluating relevant environmental impacts associated with implementation of the controls over the life of such controls.

(6) Reasonable progress.—The Administrator, or in the case of an authorized state program, the Director, shall determine whether a discharger is making reasonable progress towards meeting attainable water quality standards by implementing economically affordable and sustainable control measures under paragraph (1) based on

(A) the availability and effectiveness of controls,

(B) the cost of controls and the impact of such costs on ratepayers, and

(C) all environmental impacts of the control measures.

(7) Permit Term – At the discretion of the Administrator, or in the case of an authorized state, the Director, a permit described in paragraph (1) may be issued for a term of greater than five years, but not more than ten years.

(8) Adaptive management for the attainment of water quality standards.—

At the time of renewal of a permit described in paragraph (1), the Administrator, or in the case of an authorized state, the Director, shall evaluate the effectiveness of the controls identified in the permit, including whether attainable water quality standards are being met or are expected to be met through the controls implemented during the permit term and shall evaluate whether the controls continue to be affordable and sustainable.

(A) If attainable water quality standards are not being met, the permit may

(i) be renewed to continue implementation of affordable and sustainable controls identified in the permit that are expected to result in the attainment of water quality standards in the future,

(ii) be renewed to replace the controls identified in the permit with alternative affordable and sustainable controls designed to meet attainable water quality standards based on information developed by the discharger, or,

(iii) if controls identified in the permit are fully implemented but water quality standards are not yet met, require the implementation of additional affordable and sustainable controls.

(B) If attainable water quality standards are being met, no additional controls on the discharge shall be required under this section.

(C) If the controls identified in the permit are no longer affordable and sustainable, the permit may be modified to replace the controls identified in the permit with alternative affordable and sustainable controls.

(s) Unavoidable Discharges.—

(1) Permits.- A permit under this section may authorize an unavoidable discharge from a sanitary sewer.

(2) Unavoidable discharges.—A discharge from a sanitary sewer overflow is unavoidable if it is --

(A) a discharge that is necessary to prevent loss of life, personal injury, or severe property damage; or

(B) a discharge that is a temporary, exceptional incident that could not be prevented by proper operation and maintenance of the system, such as exceptional acts of nature, wet weather conditions beyond the capacity of the system, and unforeseen sudden structural, mechanical, or electrical failure that is beyond the control of the operator.

(3) Controls on unavoidable discharges to protect water quality.-- A permit may require controls to prevent the violation of water quality standards from unavoidable discharges from sanitary sewers."

SEC. 5. MUNICIPAL STORMWATER CONTROLS.

Section 402(p)(3)(B)(iii) of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended to read as follows:

(iii) shall require achievable and affordable controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices; control techniques; system, design and engineering methods; and other achievable and affordable controls on such discharges.

SEC. 6. INTEGRATED PERMIT PILOT PROJECTS

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

"Sec. 124. Integrated Permit Pilot Projects.

"(a) In General.-- Within 365 days of the date of enactment of this Act, each Regional Administrator shall issue, or shall work with authorized states to issue, at least one permit that addresses multiple regulatory requirements, as described in section 402(r).

(b) Permit elements.—A permit described in subsection (a) shall integrate at least two, or at the discretion of the permittee, or more, regulatory requirements, such as

(1) controls on combined sewer overflows,
(2) controls on sanitary sewer overflows,
(3) controls on municipal stormwater discharges,
(4) wastewater treatment,
(5) controls to meet allocations in a total maximum daily load.

(c) Prioritization and sequencing of controls.—

(1) Prioritization.-- A permit described in section 402(r) shall allow the permittee to identify priority controls that will achieve cost-effective water quality benefits and to implement and assess the effectiveness of such controls before requiring implementation of other regulatory controls.

(2) Controls identified in the permit.- If the permit provides for prioritization and sequencing of controls, any regulatory obligations that are planned to be addressed after the term of the permit shall be indentified generally in the permit fact sheet but shall not be mandatory elements of the permit.

(d) Report to Congress – Within two years from the date of enactment of this section, the Administrator shall submit a report to Congress regarding the implementation of integrated permits under section 402(r).

SEC 7. ENFORCEMENT.

1. Inapplicability of Administrative and Civil Penalties.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319 is amended—

(A) In subsection (d) --

(a) by striking "Any person" and inserting "(1) In General – Any person"; and

(b) by inserting at the end the following:

"(2) Compliance Plans.—Notwithstanding paragraph (1), no municipality shall be subject to a civil penalty for past violations of the sections of the Act referred to in paragraph (1) in any case in which the municipality adopts and is implementing a plan to come into compliance with such sections, pursuant to a permit under section 402, an administrative order under section subsection (a), or a civil action under subsection (b)."

(B) In subsection (g) by adding at the end the following –

"(12) Compliance Plans.-- Notwithstanding paragraph (1), no municipality shall be subject to an administrative penalty for past violations of the sections of the Act referred to in paragraph (1) in any case in which the municipality adopts and is implementing a plan to come into compliance with such sections, pursuant to a permit under section 402, an administrative order under section subsection (a), or a civil action under subsection (b)."

2. Implementation of Integrated Plans through Administrative Orders or Consent Decrees.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319 is amended by adding at the end the following:

"(h) Implementation of Integrated Plans. –

(1) The Administrator shall have no authority to issue an order under subsection (a) or to commence a civil action under subsection (b) against a permittee for municipal discharges unless the Administrator has provided the permittee with the opportunity to come into compliance with this Act through an integrated plan that meets the requirements of a permit issued

under subsection (r) of section 402.

(2) At the request of any permittee for municipal discharges that is implementing one or more requirements of this Act under an administrative order or settlement agreement, the Administrator shall modify such administrative order or shall seek the leave of a court with continuing jurisdiction to modify such settlement agreement to allow the permittee to come into compliance with this Act through an integrated plan that meets the requirements of a permit issued under subsection (r) of section 402.

(3) At the request of any permittee for municipal discharges that is implementing an administrative order or settlement agreement that met the requirements of a permit issued under subsection (r) of section 402 when issued, but no longer meets such requirements, the Administrator shall modify such administrative order or shall seek the leave of a court with continuing jurisdiction to modify such settlement agreement to bring the agreement or order back into compliance with the such requirements.

SEC 8. DEFINITIONS

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362 is amended by adding at the end the following—

"(25) BYPASS.—The term "bypass" means an intentional diversion of a waste stream from any portion of a treatment system. Treatment of a waste stream in accordance with the design of the treatment system shall not constitute a "bypass" if the treatment system was approved or permitted by the Administrator, or in the case of an authorized state program, the Director, or if the discharge achieves technology and water quality based effluent limitations at the point of discharge.[5]

(26) MUNICIPAL DISCHARGES.—The term "municipal discharges means discharges from a treatment works as defined in section 212(2) or discharges from a municipal storm sewer under section 402(p). This term includes discharges of wastewater or storm water collected from multiple municipalities if such discharges are covered by the same permit issued under section 402."

[5] *See Iowa League of Cities v. EPA*, Case No. 11-3412 (8th Cir. Mar. 25, 2013), *pet. For rehearing en banc denied* July 10, 2013.

SEC. 9. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) Extended Repayment Period.—Section 603(d)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A), by striking "20 years" and inserting "the lesser of 30 years or the design life of the project to be financed with the proceeds of the loan"; and

(2) in subparagraph (B), by striking "not later than 20 years after project completion" and inserting "upon the expiration of the term of the loan".

(b) Authorization of Appropriations.

Section 607 of the Federal Water Quality Control Act (33 U.S.C. 1387) is amended to read as follows:

Sec. 607. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the purposes of this title the following sums:

$2,000,000,000 per fiscal year for each of fiscal year 2014, 2015, 2016, 2017, and 2018.

SEC. 10. UPDATING OF GUIDANCE.

(a) Definitions.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AFFORDABILITY.—The term "affordability" means, with respect to payment of a utility bill, a measure of whether an individual customer or household can pay the bill without undue hardship or unreasonable sacrifice in the essential lifestyle or spending patterns of the individual

or household, as determined by the Administrator.

(3) FINANCIAL CAPABILITY.—The term "financial capability" means the financial capability of a community to make investments necessary to make water quality-related improvements, taking into consideration the criteria described in subsection (b)(2)(A).

(4) GUIDANCE.—The term "guidance" means the guidance published by the Administrator entitled "Combined Sewer Overflows—Guidance for Financial Capability Assessment and Schedule Development" and dated February 1997, as applicable to combined sewer overflows and sanitary sewer overflows.

(b) Updating.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall update the guidance to ensure that the evaluations by the Administrator of financial capability assessment and schedule development meet the criteria described in paragraph (2).

(2) CRITERIA.—The criteria described in this paragraph are that, under the updated guidance—

(A) in assessing financial capability of a community—

(i) greater emphasis should be placed on local economic conditions;

(ii) for regional systems, consideration should be given to the economic conditions of political jurisdictions and significant demographic groups within each region;

(iii) prescriptive formulas for use in calculating financial capability and thresholds for expenditure should not be considered to be the only indicator of the financial capability of a community;

(iv) site-specific local conditions should be taken into consideration in analyzing financial capability;

(v) a single measure of financial capability or affordability (such as median household income) should be viewed in the context of other economic measures, rather than as a threshold to be achieved; and

(vi)(I) consideration should be given to the economic outlook of a community, including the potential impact of program

requirements over time, in the development of implementation schedules; and

(II) the assessment should take into consideration other essential community investments relating to water quality improvements;

(B) with respect to the timing of implementation of water quality-related improvements—

(i) environmental improvement implementation schedules should be structured to mitigate the potential adverse impact on distressed populations resulting from the costs of the improvements; and

(ii) implementation schedules should reflect local community financial conditions and economic impacts;

(C) with respect to implementation of methodologies—

(i) a determination of local financial capability may be achieved through an evaluation of an array of factors the relative importance of which may vary across regions and localities; and

(ii) an appropriate methodology shall consider various factors as are appropriate to recognize the prevailing and projected economic concerns in a community; and

(D) the residential indicator should be revised to include—

(i) a consideration of costs imposed upon ratepayers for essential utilities;

(ii) increased consideration and quantification of local community-imposed costs in regional systems;

(iii) a mechanism to assess impacts on communities with disparate economic conditions throughout the entire service area of a utility;

(iv) a consideration of the industrial and population trends of a community;

(v) recognition that—

(I) the median household income of a service area reflects a numerical median rather than the distribution of incomes within the service area; and

(II) more representative methods of determining affordability, such as shelter costs, essential utility payments, and State and local tax efforts, should be considered;

(vi) a consideration of low-income ratepayer percentages; and

(vii) impacts relating to program delivery, such as water quality infrastructure market saturation and program management.

(3) IMPLEMENTATION.—The updated guidance should indicate that, in a case in which a previously approved long-term control plan or associated enforceable agreement allows for modification of the plan or terms of the agreement (including financial capability considerations), and all parties are in agreement that a change is needed or that the plan or agreement contains a reopener provision to address changes in the economic or financial status of the community since the effective date of the plan or agreement, reconsideration and modification of financial capability determinations and implementation schedules based on the criteria described in paragraph (2) are appropriate.

(c) Publication and Submission.—Upon completion of the updating of guidance under subsection (b), the Administrator shall publish in the Federal Register and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the updated guidance.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

RESOLUTION TO REINSTATE A FEDERAL, STATE AND LOCAL GOVERNMENT PARTNERSHIP FOR ACHIEVABLE AND AFFORDABLE WATER QUALITY IMPROVEMENTS

WHEREAS, the capital costs that cities bear to address combined sewer overflows (CSOs), sanitary sewer overflows (SSOs), treatment plant upgrades, and stormwater controls are unfunded federal mandates and are among the most costly burdens faced by local governments; and

WHEREAS, upon the passage of the Clean Water Act, Congress authorized and funded over $60 billion in grants that created partnerships between municipalities, states and the federal government to share the costs of upgrading publicly owned treatment works around the country to meet the Clean Water Act mandates relating to secondary treatment; and

WHEREAS, in 1987, Congress determined that large capital grants for municipal wastewater treatment were no longer necessary, and phased out grants to local governments in lieu of a loan program to be managed by the states; and

WHEREAS, since then many unanticipated and extremely costly new Clean Water Act and Safe Drinking Water Act mandates have been imposed on local governments and indeed more are to be imposed on local governments in coming months and years, but federal grant money is no longer provided to help meet these mandates; and

WHEREAS, today municipalities expend billions of dollars every year ($111.4 billion in 2010) to provide essential water services and meet state and federal water and wastewater mandates, an annual amount that is nearly double the total of all the grants that the federal government provided over nearly 20 years; and

WHEREAS, the many mandates imposed by the Clean Water Act and the Safe Drinking Water Act have created cumulative financial burdens that cannot be borne by municipalities, their low and moderate income families, and their business enterprises, forcing municipalities to forego investment in competing municipal priorities; and

WHEREAS, in explicit recognition of the burden of these costs USEPA has recently developed a policy allowing local governments to create Integrated Plans through which a local government can coordinate competing and sometimes conflicting actions, prioritize actions that will provide the greatest environmental benefits for the funds expended, and evaluate progress and the need for further actions to meet water quality standards through adaptive management processes; and

WHEREAS, because USEPA currently interprets the Clean Water Act to require immediate compliance with any pre-1977 water quality standards, it relies on aggressive enforcement tools such as consent decrees and orders as its principal method of interacting with municipalities, resulting in overly costly and overly prescriptive mandates that often yield negligible public benefits, and precluding opportunities for flexibility by preempting the use of permits and adaptive management processes to comply with Clean Water Act obligations, and

WHEREAS, in tandem with these decrees and orders, USEPA and DOJ have adopted policies on penalties and fines that treat local governments as polluters, rather than as partners and stewards in improving our environment,

NOW THEREFORE, BE IT RESOLVED, that The U.S. Conference of Mayors urges the United States Congress to determine that large capital grants to cities are necessary to meet mandates imposed under the Clean Water Act; to re-establish a joint environmental stewardship with cities; and, to assure that the costs of sustaining the infrastructure and operations of water and wastewater systems of cities do not unjustly burden low and moderate income households nor create burdensome costs for business enterprises; and

BE IT FURTHER RESOLVED, that The U.S. Conference of Mayors urges the United States Congress to authorize and appropriate sufficient funding for capital grants to cities facing mandates levied by the Clean Water Act, that these grants be prioritized for financially distressed cities and be for no less than 75 per cent of the costs of projects to be undertaken by cities, and that these grants may be used to retire debt to which cities have obligated themselves to comply with Clean Water Act, if those debts have imposed costs on customers that are beyond the affordability limits discussed below; and

BE IT FURTHER RESOLVED that The U.S. Conference of Mayors urges the United States Congress to enact amendments to the Clean Water Act to address concerns related to unfunded federal mandates, such as the following:

a) Without regard to the actual availability of federal grants or loans for addressing Clean Water Act and Safe Drinking Water Act mandates, increased flexibility must be allowed to municipalities seeking to comply with the mandates and that this be achieved through permits based upon integrated plans developed by municipalities to prioritize actions providing the greatest environmental benefits for the funds expended, and to allow municipalities to evaluate their progress and any need for further actions to meet water quality standards through adaptive management processes; and

b) Remove regulatory barriers to the use of adaptive management and permits to implement integrated plans by specifically determining that a municipality implementing an integrated plan will be in compliance with its permit as long as it is making reasonable progress towards achieving Clean Water Act goals; and

c) Authorize USEPA discretion to determine what constitutes "reasonable progress", but do so within certain limits. Specifically, Congress should direct that a municipality will not be out of compliance with its permit for failing to make reasonable progress if:

* the applicable water quality standard is not achievable based on a use attainability analysis in accordance with current EPA regulations (where substantial impact is defined as 2% of a household income and a widespread impact is defined at 20% of the service area); and

* the control measures are not economically affordable because they would result in rates that exceed 2% of the household income of at least 20% of the families in a service area; and

* or the control measures are not economically affordable because the annual implementation costs, including debt service, will exceed half the annual operating budget of the municipal utility and the municipality does not receive a grant covering at least 75% of the costs or the permit does not allow at least 40 years for implementation of controls.

d) Provide the same flexibility for integrated plans implemented through consent decrees or administrative orders.

e) Authorize permits for unavoidable sanitary sewer discharges so that controls on such discharges may be included in an integrated permit (rather than a consent decree).

f) Allow regulators to issue permits with 10-year terms.

g) Require USEPA to issue or work with States and their Regions to issue at least one integrated permit in each of the 10 EPA Regions within one year and to report to Congress on the implementation of integrated permits within two years.

h) Prohibit USEPA from imposing civil or administrative penalties on a municipality for past violations if the municipality agrees to implement a plan to come into compliance with Clean Water Act obligations.

i) Define the term "by-pass" to clarify that a system that is designed and permitted to treat excess flows in peak flow treatment systems is not considered a by-pass to address the concern that some EPA regions are now claiming that permitted peak flow treatment systems are somehow an illegal by-pass of a treatment system.

j) Amend title 6 of the Clean Water Act to authorize repayment of SRF loans over 30 years instead of 20 years to make the annual costs of financing those loans more affordable for municipalities.

k) Require USEPA to update its affordability guidance to provide a more realistic and complete review of the all the financial burdens on municipalities and their ratepayers, including burden imposed by other federal laws and to justify flexible approaches to meeting all federal and state water-related mandates.

RESOLUTION ADOPTED JUNE 2013

Side by Side Comparisons of Clean Water Act Affordability Legislation

Issues Addressed:	Water Quality Improvement Act:	Clean Water Affordability Act (H.R. 3862):	Clean Water Compliance and Ratepayer Affordability Act (H.R. 2707):
Affordability of CWA Mandates In General	Addresses through changes to the Act to require EPA to take affordability into account with respect to both schedule and level of control when cities are implementing integrated plans. All cities can benefit.	Addresses by requiring EPA to develop an integrating planning process that EPA may use (but is not required to use) and if used in conjunction with an updated affordability guidance, may (but is not required to) be used to extend compliance schedules. Relief remains at EPA's discretion.	References EPA's May 2012 Integrated Municipal Stormwater and Wastewater Framework and establishes an integrated plan pilot program to implement that framework. Pilot program applies to only 15 cities.
Consideration of cost and environmental benefits.	EPA must adjust both the schedule and the mandate if the cumulative impact of meeting multiple mandates would cause significant and widespread social and economic impacts.	EPA can continue to require cities to implement controls that are not cost effective and have little environmental benefit, but can allow implementation over 30 years to reduce cost impact.	In the context of an integrated plan pilot project, directs EPA to account for financial capability of the municipality, including operation and maintenance costs and other regulatory costs. Requires prioritization of obligations based on cost-effectiveness and environmental benefits. However, like H.R. 3862, obligations that are not cost effective and have little

			environmental impact are merely delayed. EPA must allow a city to "innovative and flexible approaches" to meet CWA obligations.
Restoring Federal-Local Partnership through funding	Authorizes $3 billion in grants in grants a year for 5 years to municipal entities for sewer over flow control grants, treatment plant upgrades, stormwater controls, and to retire related debt. Reauthorizes the Clean Water state revolving loan fund at $2 billion a year. Allows loan repayment over 30 years.	Sets aside 15% of state revolving loan funding for communities under 10,000 that are considered hardship communities. Sets aside between 20% and 30% of state revolving loan capitalization grant for additional subsidies (grants, loan forgiveness) for hardship communities. Allows loan repayment over 30 years.	Not addressed.
Restoring Federal-Local Partnership by changing the enforcement mentality	Bars EPA from extracting monetary penalties from cities for past violations if they agree to take action to address CWA mandates.	Not addressed.	Not addressed.
Ensuring Affordability-Through Integrated Planning	EPA must make integrated planning available to all cities that wish to use this tool.	EPA retains the discretion to allow or not allow the use of integrated planning.	Integrated planning is made available for only 15 communities.

	Substantive relief provided through statutory changes that limit EPA's ability to impose unaffordable mandates on cities: **For municipal discharges addressed through integrated plans whether under a section 402 permit or order or decree, EPA <u>must</u> ensure that water quality standards are technically achievable and economically affordable and controls are economically achievable and sustainable.** **Defines in the statute what is achievable and affordable.** **– A water quality standard or a control plan is not affordable if it would impose costs of more than 2% of the household income of 20% or more of the service area.** **– EPA can make control plans affordable by providing funding or allowing more time for implementation.**	**Potential scheduling relief implemented through discretionary EPA program:** **EPA is directed to establish an integrated planning approach under which permit obligations <u>may</u> be implemented.** **For publicly owned treatment works and MS4s carrying out integrated plans, EPA <u>may</u> allow implementation in a section 402 permit under a schedule where most cost-effective and environmentally beneficial actions are completed first and least cost-effective and environmentally beneficial actions are completed later.** **The integrated permitting approach also must include mechanisms for changed circumstances (still only addresses schedule).**	**Directs EPA to select 15 municipalities to participate in an integrated planning pilot program, with priority given to municipality that is seeking to include adaptive management approaches.** **For municipalities in the pilot program, requires prioritization of obligations based on cost-effectiveness and environmental benefits.** **References adaptive management.** **Allows permit term of up to 25 years and corresponding changes to any implementation schedule. This should overturn EPA's position on availability of compliance schedules to pre-1977 standards for the pilot communities.**

	Permit term may be up to 10 years, but the bill allows cities to meet water quality standards over time (not immediately even if a pre-1977 standard), using adaptive management approaches, under an integrated plan. Thus, control measures can be carried out over multiple permit terms even if the permit includes pre-1977 standards. **EPA <u>must</u> give each community the opportunity to use integrated planning, including changing existing decrees or orders.** **Within one year, each EPA region <u>must</u> agree to at least one permit that, at the discretion of the permittee, integrates one or more, regulatory requirements, such as:** **(1) controls on combined sewer overflows,** **(2) controls on sanitary sewer**	**Permit term may be up to 25 years, but bill does not address the fact that pre-1977 water quality standards must be met immediately no matter how long the permit term is. Scheduling relief from pre-1977 standards can only be achieved through enforcement orders or decrees.**	

	overflows, (3) controls on municipal stormwater discharges, (4) wastewater treatment, (5) controls to meet allocations in a total maximum daily load.		
Updates to EPA's Affordability Guidance	Essentially the same as H.R. 3862, except that in addition to the guidance, as noted above, substantive definitions of affordability are in the statute and are not left to EPA discretion. Requires modification of orders and decrees at the request of the municipality in the statute, not just in guidance.	Directs EPA to update its affordability guidance within one year. Update must include greater emphasis on local economic conditions, avoid prescriptive formulas or a single measure of affordability, look at affordability over time, allow schedules to be structured to mitigate adverse impact on distressed populations, allow implementation schedules up to 30 years, allow modification of existing schedules, must look at costs to ratepayers of all essential utilities, must consider more representative measures than median household income, must indicate that reconsideration and modification of schedules is appropriate based on	Guidance update is not addressed. Grants authority to modify consent decrees for the pilot communities. (EPA already has this authority.)

		changed circumstances.	
Other Relief	Allows permits to be issued to control unavoidable sanitary sewer overflows. Defines "by-pass" to allow blending and peak flow treatment facilities that meet secondary treatment and water quality standards, codifying an 8th Circuit opinion. Defines stormwater controls that control to the "maximum extent practicable" to include management practices; control techniques; system, design and engineering methods; and other achievable and affordable controls on such discharges.	Not addressed (so SSOs can only be addressed in enforcement orders or decrees) Not addressed (even though EPA has said it intends to follow the 8th Circuit case only in that circuit). Not addressed (even though an EPA draft guidance indicates EPA plans to require stormwater to meet numeric limits).	Same as H.R. 3862

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

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

H.R. 2707 – *"The Clean Water Compliance and Ratepayer Affordability Act"*

July 24, 2014

Good morning, 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 (County) Board of Commissioners. I am here today testifying on behalf of the County and the "Perfect Storm" Communities Coalition (Coalition). The Coalition is made up of communities dealing with a "perfect storm": combinations of high unemployment, high home foreclosure rates, stagnant economic growth, and an exodus of business and industry, while being mandated to meet expensive CSO/SSO wet weather consent decrees and stormwater regulations.

Hamilton County and the Coalition wholeheartedly support the swift enactment of H.R. 2707, the "Clean Water Compliance and Ratepayer Affordability Act". We very much appreciate the Subcommittee holding this hearing and want to thank Representative Steve Chabot, whose congressional district includes portions of Hamilton County, and fellow Ohioan, Representative Marcia Fudge for their leadership in introducing the bill. We also would like to thank the bill's 13 other bipartisan cosponsors for supporting this legislation.

H.R. 2707 requires the Administrator of the Environmental Protection Agency (EPA) to carry out a program to work cooperatively with, and facilitate the efforts of, specifically identified pilot showcase communities to develop and implement integrated plans to meet their wastewater and stormwater obligations under the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA). These pilot programs are to be focus on cost-effective and flexible compliance methods consistent with the EPA's Integrated Municipal Stormwater and Wastewater Approach Framework issued by the Agency in May 2012.

The bill directs the EPA Administrator, in consultation with state regulators, to select at least 15 pilot showcase communities to participate in the program each year for five years. It sets forth selection factors, including prioritizing those communities with a history of knowledgeable, detailed, and comprehensive efforts to develop integrated and adaptive clean water management practices. It is important to highlight, that communities who wish to revise their existing Long Term Control Plan to include a more cost effective and innovative approach to compliance would be eligible for relief under this pilot program.

H.R. 2707 would provide standards for approval of a municipality's integrated plan under the pilot program. This would provide community planners basic transparency regarding EPA's expectations and alleviate mounting frustration in what many local leaders characterize as a guessing game of regulatory expectations. The existing uncertainty of EPA's approval criteria forces communities such as Hamilton County to incur unnecessary and redundant expenditures to develop both a preferred long term plan and a costly contingency plan as a precautionary measure. Instead of finding EPA as a fully engaged partner, too often communities incur unnecessary planning expenditures because EPA does not clearly tell them what they expect in these adaptive plans, and default to non-adaptive approaches of big cement pipes buried deep underground. By instructing EPA to be an active partner with pilot showcase communities, HR 2707 will immediately reduce overall project costs by eliminating the uncertainty that produces costly contingency planning.

In addition, H.R. 2707 includes financial capability criteria, prioritization of obligations under the CWA, and the use of innovative and flexible approaches to meet obligations. The bill also allows priority to be given to municipalities seeking to develop and implement approaches that adapt to changed or uncertain future circumstances.

Finally, the bill would provide additional authorities regarding selected municipalities concerning extending the allowable National Point Source Discharge Elimination System (NPDES) permit term from five years to up to 25 years, modifying the implementation terms of a consent decree, and providing additional regulatory flexibility in approving and implementing an integrated plan that includes adaptive approaches.

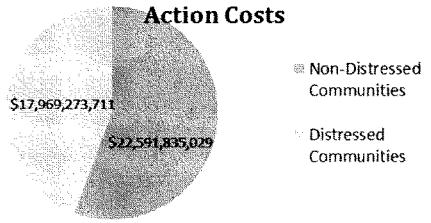
Enacting H.R. 2707 would allow the EPA to provide communities like mine and those of the Coalition with the flexibility to meet these huge regulatory challenges in a more affordable and cost-effective manner, but still consistent with achieving the environmental requirements of the CWA and existing regulations. This bill does not "gut" the CWA or limit EPA's authorities – quite the contrary. H.R. 2707 provides congressional authorization, direction, and guidance in implementing the Agency's own Integrated Planning and Permitting Framework crafted over the last several years, which the EPA, unfortunately, has heretofore failed to fully implement.

An important component of this Framework will enable communities to more readily apply green infrastructure technology to storm water management. Unlike traditional gray build projects which are removed from the public eye and serve a limited function, green infrastructure projects provide the public additional social, economic, and environmental benefits as a return on their investment. Not only does this technology offer a far more cost effective investment, but also offers communities continued savings in reducing the overall amount of water that enters the system and that must be processed. The proposed showcase communities would offer a promising opportunity to generate large quantities of meaningful data on green infrastructure and how it is best optimized.

The stakes are huge for the hundreds of communities beset with the massive costs of complying with EPA mandates for CWA compliance, from court-driven consent decrees, administrative orders, and permit compliance mandates. Over the last ten years alone, over $40 billion in mandated wastewater and stormwater upgrades have been mandated on communities large and

small across the nation, with many of these communities located in regions experiencing some of the worst economic conditions in decades. The costs of using traditional methods to meet federal CWA wet weather mandates are enormous, with some costing billions of dollars per community and leading to massive rate increases for local ratepayers. Under normal economic conditions, these mandates are often not affordable; but in the current economy, incurring these costs will have long-term negative impacts. In fact, almost $18 billion, or 44% of the total compliance action costs (Figure 1), fell on these distressed communities. [1]

Figure 1: Distribution of Compliance Action Costs



In Hamilton County, for instance, our poverty rate for individuals living in the County escalated from 2000 to 2012 by over 66%, translating into 40% of County households (in 2012) bringing in less than $35,000 in total household income per year.[2] And, one in ten of households in the County made less than $10,000 annually in 2012.[3] These are the families that will be hardest hit by the astronomical sewer rate increases set for the future in my County. These are the families who will pay 350% more (gray-build) for sewer in the next 30 years. And, these are the families who will benefit most from any savings to be derived from the more flexible, adaptive approach that H.R. 2707 allows.

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[1] The analysis considers the costs to distressed communities, using the following Economic Development Agency (EDA) economic distress criteria:.

- Unemployment rate: A region that has an unemployment rate that is, for the most recent 24-month period for which data are available, at least one percentage point above the national unemployment rate.
- Per capita income: A region that has a per capita income that is, for the most recent period for which data are available, 80 percent or less of the national average per capita income.

Source: Case Data from the Integrated Compliance Information System (ICIS) Federal Enforcement and Compliance (FE&C) Dataset. Unemployment data are from the April 2014 Current Population Survey. Income data from the Bureau of Economic Analysis and are for 2012.

[2] Source: Census Bureau, American Community Survey 1-Year Estimates, 2012
Income figures are in 2012 inflation adjusted dollars

[3] Ibid.

Communities, like mine, that have been dealing with the impacts of a combination of high unemployment, housing foreclosures, declining water and sewer use, and economic challenges now must also face the enormous burden of complying with these mandated sewer upgrades. While the federal government provided hefty grants for prior CWA mandates in the past, no such grant programs exist for these new mandates. In fact, my County alone must spend over $500 million more with a gray-build solution than with an adaptive green infrastructure approach over the next several decades. And these cost savings have been estimated before the enactment of H.R. 2707, which we believe could provide additional savings in the form of adaptive, flexible approaches to water quality improvements in our County over the long-term.

Using innovative approaches to correct combined sewer overflows (CSOs), sanitary sewer overflows (SSOs), and stormwater impacts during wet weather events can save ratepayers significantly over the long-term. Communities must be able to develop alternative wet weather management approaches to lessen the financial impact, 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, gray infrastructure, and other innovative techniques to reduce wet weather impacts.

In my County, we have proposed a watershed-based approach to dealing with our CSO issues, which could result in 22% lower water and sewer rates for ratepayers over the more traditional "gray" approach (Figure 2), using investments that can also provide other community benefits, such as added green-space, day-lighted streams and wetlands, and other "green" infrastructure that will add value and quality of life attributes to rejuvenate some of our communities while cleaning up our environment. Again, these are pre-H.R. 2707 estimates that could benefit from the enactment of the legislation.

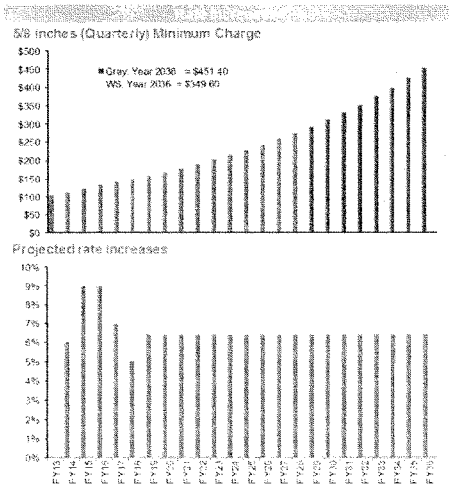

Figure 2

We must be allowed the flexibility to try new, innovative approaches in meeting the objectives of the CWA in a way that can both ensure these investments are made intelligently and to minimize the impact on our already stressed ratepayers. While we believe the EPA Framework could prove to be a solid approach towards providing more flexibility under the CWA, we question EPA's willingness to apply their Framework consistently, through changing leadership inevitable over time, in a long-term, broad, transparent, programmatic, fair and balanced manner, absent specific legislative direction.

We believe enactment of H.R. 2707 is absolutely necessary in order to properly implement the EPA Framework. As of today, we are not convinced that EPA is meaningfully committed to the Framework, or to using pilot showcase demonstration communities in implementing their Framework on a programmatic basis. On May 9 of this year, the EPA announced the availability of a small amount of assistance for communities seeking technical support to develop and implement an integrated planning approach to meeting CWA requirements for municipal wastewater and stormwater management. In response, EPA received letters from a diverse group of over 25 communities located in all but one of the 10 EPA Regions across the U.S. expressing interest in participating in and developing integrated plans.

While the interest in integrated planning under the EPA Framework appears to be great, the small amount of resources the EPA has made available for this technical assistance would only help a handful of these communities and does not appear to the Coalition to be a true and full commitment to the programmatic pilot showcase community approach that H.R. 2707 would require. For example, it does not commit EPA to stand by the selected technological choices and not require communities to pay for a second, replacement technology if the first one is not fully successful. While the technical assistance program provides the EPA with the ability to say that something is being done on this issue, we do not believe this small effort will create significant opportunities for flexibility and innovation under the CWA, nor does it provide the Coalition with comfort as to the Agency's programmatic commitment to implementing the Framework.

In the past, the Coalition has repeatedly requested that the EPA establish demonstration partnerships in showcase communities across the nation currently facing expensive mandated wet weather improvements. We wanted to see these partnerships transparently highlighted to show the Congress and other like communities how the EPA and local partners can work together, under the law, to implement flexible, practical, affordable wet weather solutions. By working with pilot showcase communities, EPA could demonstrate how the use of new, innovative approaches can result in the same or better water quality results for a smaller and smarter investment of local taxpayer dollars.

H.R. 2707 would encourage the EPA to commit to a broader, more programmatic approach for using the Framework process. By directing the EPA to annually name at least 15 specific communities as pilot showcase communities over the next five years, Congress would ensure this commitment through the open and transparent demonstration of the Framework's newly authorized flexibility. In our opinion, H.R. 2707 will provide the legislative foundation for EPA to provide additional flexibility that equates to more affordable, common sense approaches to

meeting CWA wet weather requirements by promoting innovation and adaptability, and not simply mandating the most expensive up-front solutions available.

In the Coalition's view, CWA tools like integrated planning, ongoing adaptive management approaches, and innovative watershed-based permits and pollution controls (such as pollutant trading), all mentioned in the Framework, will not be successfully implemented unless EPA is committed (financially, legally, and technically), from EPA headquarters out to the Regions, to make them work. Through the enactment of H.R. 2707, we believe that the naming of pilot showcase demonstration communities, Congress would ensure swift and thorough implementation of the Framework and ensure measurable long-term successes for these more flexible and affordable approaches.

Additionally, communities that invest their scarce resources in developing integrated plans under the Framework must have a long-term commitment from EPA in order to ensure the regulatory certainty is in place to make these innovations work under the CWA. H.R. 2707 encourages investments in innovative approaches under the Framework, activities that can only be successful if given enough time to work. H.R. 2707 ensures that pilot showcase demonstration communities are identified and that EPA is on record as approving such integrated plans, along with the related CWA permits or consent decrees necessary over the long-term.

If HR 2707 was enacted next week, it would start having an impact next week. The shared sense of urgency among Coalition members was in many ways a catalyst for HR 2707. This legislation was purposefully crafted with a limited scope and avoidance of contentious issues or spending provisions. It is not the intention of the bill to provide a comprehensive solution to all issues of sewer affordability. There is no doubt that a long term solution to affordability will certainly require a far more expansive bill. Even so we are confident that HR 2707 offers Congress the most promising vehicle to address CSO/SSO affordability in the remaining session of the 113th Congress. By enacting H.R. 2707, Congress would provide the leadership, legal authority, and direction to the EPA in promoting cost effective, innovative and affordable wet weather solutions. We believe by allowing communities to prioritize these alternative solutions through the effective implementation of EPA's Framework, we will ensure that practical, accountable, and affordable remedies are approved and used to reduce and eliminate CSO violations.

The current proscriptive, inflexible 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. Innovative methods are implemented "at the risk of the community". Further, the current paradigm holds communities accountable for implementing programs and projects, many of which could have been negotiated years if not decades ago, without requiring that EPA consider community requests for flexibility based upon evolving technology and best practices.

Across the nation, affected communities recognize the need to effectively manage their stormwater and desire to improve their own, local water quality, particularly at a cost affordable to local residents. 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 unnecessary costs associated

with traditional "gray" 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. We believe H.R. 2707, if enacted, will help to further the use of these innovative, cost-effective approaches in complying with the CWA.

Hamilton County, Ohio and the "Perfect Storm" Communities Coalition looks forward to continuing to work with you, Chairman Gibbs, Ranking Member Bishop, and the Subcommittee, as well as with the EPA, in enacting and implementing H.R. 2707. We look forward to the implementation of the EPA Framework in developing flexible, innovative approaches in meeting wet weather challenges, including the creation of pilot showcase communities. And, through a programmatic commitment to the Framework, EPA can assist communities like mine and those of our Coalition in complying with the CWA using cost effective alternative approaches to better address expensive wet weather water quality challenges.

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.

NACWA
A Clear Commitment to America's Waters

Testimony of:

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Association of Missouri Cleanwater Agencies

House Transportation and Infrastructure Committee
Subcommittee on Water Resources and Environment
U.S. House of Representatives
July 24, 2014

Introduction

Chairman Gibbs, Ranking Member Bishop, and members of the Subcommittee, thank you for the opportunity to appear before you today. My name is Stephen Meyer and I am the Director of Environmental Services for the City of Springfield, Missouri. I also serve on the Board of Directors for the National Association of Clean Water Agencies' (NACWA) and I am President of the Association of Missouri Cleanwater Agencies (AMCA). It is my pleasure to be testifying on NACWA's behalf today.

NACWA's primary mission is to advocate on behalf of the nation's public clean water agencies and the communities and ratepayers they serve. NACWA has nearly 300 public agency members who 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, safe, and meet the strict requirements of the Clean Water Act (CWA).

AMCA's primary mission is to allow the major cities in Missouri to meet quarterly, with conference calls in between quarterly meetings, and to share successes and concerns in complying with the requirements of the CWA. AMCA represents 15 of Missouri's largest cities that collectively provide wastewater services to 48% of Missouri residents.

We applaud the Subcommittee for holding this important hearing on the issue of clean water affordability and the U.S. Environmental Protection Agency's (EPA) integrated planning framework for municipal wastewater and stormwater requirements. NACWA is pleased to testify in support of H.R. 3862, *The Clean Water Affordability Act of 2014*, and has played a leading role in urging communities to take advantage of EPA's integrated planning initiative. Integrated planning not only promises to provide significant and much-needed flexibility for many communities facing significant water quality challenges, it symbolizes the recognition that it is time to do things differently under the Clean Water Act. Simply put, integrated planning allows a community to prioritize its obligations under the CWA so communities can spend their limited resources on the most pressing water quality challenges.

Affordability Concerns and the Clean Water Act

There is little doubt that the nation's water quality has improved as a result of the CWA, yet the command-and-control nature of the statute has led to a buildup of costly regulations on the nation's communities and ratepayers. The list of costly CWA requirements is well-known – from wet weather-based requirements dealing with combined and separate sanitary sewer system overflows and non-point source pollutants in stormwater run-off – to specific pollutant-based requirements, such as nutrient, ammonia limits and numerous other pollutants that result in expensive total maximum daily loads (TMDLs). While regulations continue to get more and more stringent, communities across the country have signed off on sewer overflow consent decrees, with some costing individual communities billions of dollars – often to meet a single CWA requirement.

Separate and apart from regulatory requirements, municipal 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 to repair and upgrade. This investment gap coupled with the decline in federal funding has

shifted the financial burden to local ratepayers who are seeing their rates rise nationally at double the rate of inflation. Today, 40% of households across America are paying more out of their disposable incomes for wastewater management than what EPA says is affordable. These challenges are especially acute for smaller communities that do not have the ratepayer base to support large investments in their water and wastewater infrastructure.

It is clear that the current prescription of rate increases and expanding municipal debt loads are not sustainable. Simply stated, absent a new approach to regulatory compliance, the future of maintaining – let alone adding to – the record of water quality gains is at risk.

H.R. 3862, *The Clean Water Affordability Act*

NACWA believes that Congress has an important role in ensuring that integrated planning is more than just a symbolic acknowledgment of the need for a new approach but that it help communities take advantage of it by encouraging broad implementation.

NACWA applauds Representatives Bob Latta (R-OH) and Tim Walz (D-MN) for leading the effort in the House to raise awareness of these affordability concerns and help craft practical solutions to address them. *The Clean Water Affordability Act of 2014* does three critical things: 1) codify EPA's integrated planning framework and incentivize its adoption by extending NPDES permit terms for communities with an approved integrated plan; 2) help small rural communities more affordably finance their clean water obligations by ensuring at least 15% of all State Revolving Fund monies are set-aside for them; and, 3) require EPA to revise and broaden its guidance for determining a community's financial capability to more accurately reflect a community's financial challenges. Currently, EPA uses Median Household Income (MHI) as the predominant indicator of community financial health. NACWA believes that relying on a narrow matrix and a single MHI indicator does not account for the significant and diverse fiscal constraints brought on by unique demographic challenges such as age of population, unemployment rate, and poverty faced by communities and their ratepayers.

H.R. 3862 would provide responsible relief to clean water agencies facing unprecedented financial challenges and NACWA thanks Representatives Latta and Walz for their leadership on this issue. I urge every member of this Subcommittee to cosponsor this important legislation.

EPA's Integrated Planning Framework

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 a holistic watershed approach. We have also been a leading voice urging EPA to develop a more flexible and realistic approach to community affordability and financial capability determinations under the CWA. NACWA launched its *Money Matters... Smarter Investment to Advance Clean Water*™ campaign four years ago to shed light on the growing financial and compliance challenges posed by CWA regulations and called for an integrated approach based on prioritizing these competing requirements to achieve maximum water quality benefit.

In June 2012, NACWA and AMCA were pleased to see EPA release its *Integrated Municipal Stormwater and Wastewater Planning Approach Framework* and initiate an effort to help local communities develop more affordable compliance programs under the CWA.

EPA's integrated planning framework offers a pragmatic yet effective path for communities to more affordably improve local water quality and enhance community livability. NACWA has played a leading role in helping get the word out about this opportunity by hosting a series of informational workshops along with EPA's Office of Water and Office of Enforcement and Compliance Assurance, the Association of Clean Water Administrators, and the Water Environment Federation. We have held workshops in seven of EPA's ten regions and are planning a second workshop in Region two for New Jersey's utilities. The workshops provide a forum for municipal utilities, state regulators, and EPA headquarters and regional staff to have open discussions on how to best craft and implement integrated plans. To date, over 400 attendees have participated, signifying widespread interest in integrated planning.

NACWA has also been extremely active at the federal level, urging both Congress and EPA to provide additional support for communities who want to pursue an integrated planning approach to manage their CWA requirements. We thank you, Chairman Gibbs and Representative Bishop for being part of a bipartisan group of members in the House and Senate who have requested $5 million for this upcoming fiscal year to support an integrated planning pilot program at EPA. We are pleased that the House FY 2015 spending package contains an appropriation in support of this request. The pilot program would provide small grants to up to five communities in each EPA region to develop integrated plans in line with EPA's integrated planning framework.

As a result of NACWA's efforts and backed by broad Congressional support, on May 9, 2014, EPA announced the availability of $335,000 in technical assistance for up to five communities seeking technical support to develop and implement integrated plans. EPA identified extra money in its FY14 budget for this effort and NACWA applauds them for doing so. Thus far, over 28 communities of varying sizes in nine EPA regions have submitted letters of interest for help under this offer – clearly the appetite for this program is high.

Integrated Planning and Springfield, Missouri – A Collaborative Initiative Between the City of Springfield Missouri, Greene County Missouri and City Utilities of Springfield Missouri

The citizens and leadership of the Springfield-Greene County region understand the importance of environmental stewardship and are widely recognized as a model community in this regard. Quality environmental resources are especially important to the Ozarks since much of our economic development, tourism, and overall quality of life is directly tied into the quality of our water.

The Director of the Missouri Department of Natural Resources, Sara Parker Pauley and the Administrator for EPA Region 7, Dr. Karl Brooks, visited Springfield in 2012 for the dedication of the City's Environmental Resource Center and during that visit, the City introduced our Integrated Plan to Director Pauley and Administrator Brooks. After the meetings both Officials made statements to the local press:

- Director Pauley said, "We talked a little bit earlier just about how it seems that sometimes our conservation on environmental protection is siloed. We are talking air protection, water protection, solid waste issues separately, but the conservation needs to be much more integrated. We need to be talking together about the best way to use our financial resources in order to protect our natural resources.

- Dr. Brooks said, "Springfield has set the mark for communities in the Heartland. You are pointing the way forward to think holistically about all our resources: people, water, land, air and soil."

Like many others across the nation, our community is addressing the challenge of increasingly stringent environmental regulations from every front. From stormwater and wastewater to air quality and drinking water, as regulations continue to evolve, our community is required to devote more money and resources to comply. This is a huge issue for communities who are struggling to meet these regulations with limited resources. The EPA has realized this and the release of EPA's Framework emphasized a commitment to work with states and communities to implement an integrated planning approach to address environmental objectives.

Currently, the City of Springfield is operating under a seven-year, $50 million consent decree to correct sanitary sewer overflows through investments in inflow and infiltration reduction in our collection systems but once the seven-year period concludes, we anticipate having to make more investments at the treatment plant to completely eliminate overflows which will cost hundreds of millions of dollars. We also have stormwater-related TMDLs developed for several of our river segments impaired for bacteria and other pollutants that need to be addressed. While the City of Springfield is currently in attainment under the Clean Air Act, forthcoming Clean Air Act-related regulations will likely cause us to go out of attainment quickly. And finally, we have two closed landfills listed as Superfund sites requiring remediation under CERCLA, the Comprehensive Environmental Response, Compensation and Liability Act. Because our challenges involved multiple federal statutes, we believe an Integrated Planning approach is really the only practical way forward to ensure optimization of taxpayer resources.

The leaders from the City of Springfield, Greene County and City Utilities of Springfield developed a local approach to integrated planning titled "A Citizen Focused Approach." This holistic approach proposes to use local knowledge to examine our environmental resources related to wastewater and stormwater as well as solid waste, drinking water, and air quality.

The regulatory activities of the last four decades have produced some enormous improvements in our environmental resources, but the path we've taken has resulted in a siloed approach within the regulatory agencies as well as the individual communities. We know that many of our wastewater, stormwater, solid waste, and air quality issues are interrelated, but they are often addressed through different regulatory departments and under different pieces of legislation. On the other hand, the money and resources needed to fund each of these regulatory initiatives comes from the same source. Whether in the form of utility bills, taxes, or fees; it is the citizens of our community that pay the cost of compliance. We shouldn't fund environmental regulations on a "first come-first served" basis. Our Integrated Plan will take a holistic look at

each of our environmental needs and prioritize our investments based on ***the most effective solutions...to address the most pressing problems...that matter most to our community***. By looking at the big picture of environmental compliance, we can provide the greatest environmental benefit in a manner that is affordable to our citizens.

"An integrated planning process has the potential to identify a prioritized critical path to achieving the water quality objectives of the CWA by identifying efficiencies in implementing competing requirements that arise from separate wastewater and stormwater projects, including capital investments and operation/maintenance requirements. This approach can also lead to more sustainable and comprehensive solutions, such as green infrastructure, that improves water quality as well as supports other quality of life attributes that enhance the vitality of communities. The Median Household Income (MHI) in Springfield is $42,000;

- 25% of our citizen's household income is $20,000 per year or less
- 10% of our citizens household income is $10,000 per year or less
- 19% of our citizens are below the poverty rate
- 14% of our citizens receive food stamps
- 25% of our citizens spend 30% or more of their income on housing

At the heart of Springfield's Integrated Plan are six guiding principles: 1) Affordability, to ensure that the plan is affordable, 2) Effectiveness, to ensure that the plan address environmental issues in a manner whereby citizen's receive the "biggest bang for their buck", 3) Fairness, to ensure that all citizens are being treated fairly and equally, 4) Attainability, to ensure that the plan outlines actions that can reasonably be accomplished within the "community affordability" limit, 5) Measurability, to ensure that the plan includes performance measures that track progress over time, and 6) Adaptability, learning must be a part of the process moving forward. For a plan to be effective, we must be able to adapt and improve our plan based on our experiences and results.

Springfield is Developing a Four Phase Plan

Phase I – the Assessment Phase – this answers the question "Where are we now?" During this phase, local stakeholder groups have been gathering data to assess the current status of our environmental resources. We realize that we cannot measure success without first establishing a baseline from which to measure. One component of this phase involves creating a large, comprehensive GIS database that includes everything from stream sampling data and wastewater infrastructure to land use and geology. By using a common platform to share information, our stakeholder groups can better see how environmental issues relate to one another

- Consolidate and compile information from every known source into a format where it can be viewed and analyzed collectively; use this information to create a list of opportunities where we can implement solutions that address specific problems.
- Document and create a comprehensive summary of what steps have already been taken to improve environmental quality in the Springfield/Greene County area, while addressing how each action impacts our guiding principles.
- Establish a baseline from which to measure environmental quality.

Phase II – the Vision Phase – this answers the question "Where do we want to be?" As a community, we will have achieved success when:

- Community resources are directed towards managing environmental issues using the most effective solutions to address the most significant problems in a way that is affordable to our citizens.
- We are in **compliance** with Federal and State regulations while addressing the specific needs of our community.
- We have the ability to address water, air, and solid waste issues holistically allowing both our community and the regulators to operate more efficiently.
- We have a community culture that understands and supports the goal of high-quality environmental resources and supports these efforts through stakeholder involvement. Our community has a high level of trust that resources are being used to address environmental issues efficiently and effectively.
- Our community has a clear understanding of how funding and other resources will be used to improve environmental quality.
- Our community realizes a competitive advantage toward growth and economic development and an increase in quality of life as a consequence of this plan.
- We have identified specific goals relevant to each environmental resource (for example: we will address water quality at a watershed level).

Phase III – Tactical Phase – this answers the questions "Where do we want to be?" During this phase, technical committees and stakeholder groups will prioritize our community's environmental needs based on four key elements:

1) Identify and prioritize the most significant **Sources of Pollution**: Using a Multiple-Criteria Decision Analysis (MCDA) toolset developed specifically for the Integrated Plan, we are able to take a structured look at how different pollutants impact the natural environment and the relative significance of each source.

2) Identify and prioritize the most **Effective Solutions:** Using the Sustainable Return on Investment (SROI) approach our planning team is able to evaluate the environmental, economic, and social costs and benefits for many of the solutions considered by our community. By finding the "triple bottom line", we can ensure that the most effective solutions are being targeted toward the most serious problems.

3) Capture our **Community's Priorities**: Here in the Ozarks, our quality of life and economic development are tied directly with the quality of our natural resources. We realize the importance of protecting these resources and the ways in which our community is unique. A citizen-based Environmental Priorities Task Force has been assembled and with input from this group, our Integrated Plan will work to define the issues that our community is focused on. By proactively addressing the issues that our citizens find important, rather than simply reacting to the latest regulation, we will build trust and support for our programs.

4) Assess our community's **Financial Capability**: Our community applauds the efforts that EPA has made in working with NACWA, the US Conference of Mayors, American Water Works Association, Water Environment Federation, and others in finding new ways to assess community affordability. Our community will work together to evaluate financial capability and take a candid look at how community resources should be allocated toward environmental stewardship.

Phase IV – Adaptive Management Phase – this answers the question "What does Success look like". The fourth phase of our approach will be iterative and will only be complete when all requirements of the Clean Water Act, the Clean Air Act and the Solid Waste Disposal Act.

The essence of our Integrated Plan lies at the nexus of: 1) Community Priorities, 2) Prioritized Solutions, 3) Prioritized Pollution Sources and 4) Financial Capability. It's here that we ask the question: "If we only had one dollar to spend, what is the most effective solution we could implement....to address the most pressing problem....that matters most to our community....and would be affordable to our citizens?"

Once we have completed Phases I through III, we will understand our communities priorities, what specific pollutant is of concern to our community, what the source of that pollutant is and then we have the task of remediating that pollutant so that it no longer enters the environment. Once this has been achieved, we will address the next prioritized specific pollutant, find the source and remediate that pollutant. This process will be continued until we have meet our definition of Success as defined above.

The Road Ahead

While the value of our Integrated Plan is apparent, how it will interact with the regulations is still unknown. However, it appears there are several flexibilities within the existing regulatory framework that may provide opportunities for collaboration:

Compliance Schedules

Integrated Planning doesn't eliminate the obligation to comply with regulations. We still have to meet permit requirements for such things as wastewater treatment plant discharges, air emission standards, and stormwater design requirements. However, Integrated Planning should provide us with the flexibility to address new and existing regulations in the appropriate sequence so that we can provide the largest overall benefit to the environment without overburdening our citizens with cost or leaving the best solutions unfunded. One such opportunity for flexibility within the regulatory framework can be found in compliance schedules, or the timeframe granted by regulation to comply with the requirements of a specific permit or regulation. By adjusting compliance schedules to address the most important things first and the least important things last, the community can spread the cost of compliance over a longer period of time for certain investments, making the overall investment in the environment more affordable. Integrated Planning will allow us to target where we want to focus our environmental investments and has the potential to change the way we address pollution and protect our environmental resources. Integrated Planning also allows us to focus on issues that are the highest priority for our community rather than on areas where regulatory enforcement is most likely or where funding is readily available.

- **Multi-Benefit Solutions**

Finding solutions that address multiple environmental issues will allow our citizens to address several regulatory objectives at a reduced cost. For example: Green infrastructure techniques can address stormwater permit requirements while providing aesthetic and air quality benefits for the community. Our Integrated Plan will investigate these multi-benefit solutions so that our citizens can get the "biggest bang for their buck" while meeting regulatory requirements.

- **Creating Efficiencies**

All of our environmental resources are intricately connected. What is in the air and on the land ends up in our streams, lakes, and groundwater. Although these resources are regulated under different laws, their protection often goes hand in hand. The goal of integrated planning is to address the protection of these resources together, building efficiency in the process. This may require coordination between different permits as well as multiple regulatory bodies at the national, state and local levels to ensure that redundant and unnecessary requirements are eliminated and efficiencies are recognized.

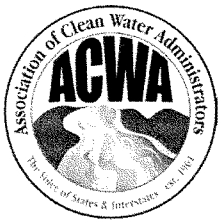
The Missouri Department of Natural Resources (MDNR) has worked closely with Springfield to help develop and implement our Integrated Planning process. MDNR staff has been intimately involved with focus groups and the Environmental Priorities Task Force from the beginning. The City of Springfield believes the partnership we have developed with MDNR will be instrumental in making this a successful process for meeting environmental regulations while still being affordable for our citizens.

Conclusion

EPA's integrated planning framework offers a unique opportunity to put the federal, state, and local partnership back on track to help meet our communities' and the Nation's water quality needs while addressing real affordability concerns.

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 with help from Congress, EPA can advance its framework to address our mutual concerns. We look forward to continuing to work with you 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.



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July 24, 2014

Testimony of Ron Poltak
Executive Director

New England Interstate Water Pollution Control Commission
on behalf of
The Association of Clean Water Administrators

U.S. House of Representatives
Committee on Transportation & Infrastructure
Subcommittee on Water Resources & the Environment

Regarding

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

My name is Ron Poltak and it is my pleasure to appear before you today to provide the Association of Clean Water Administrators' (ACWA) perspective on the US Environmental Protection Agency's (EPA) *Integrated Municipal Stormwater and Wastewater Planning Approach* (Integrated Planning Framework) to manage Clean Water Act (CWA) obligations. I currently serve as the Executive Director of the New England Interstate Water Pollution Control Commission (NEIWPCC) and am a long-standing member of ACWA. ACWA members have continuously called for prioritization of CWA requirements and, therefore, are supportive of integrated planning. However, as my testimony will demonstrate, the states are still concerned with the lack of detail regarding our roles and responsibilities, the state potential burden associated with reviewing plans, and the lack of real-world, practical examples using the Integrated Planning Framework, especially on the permitting side of the equation.

ACWA is the national, non-partisan professional organization representing the State, Interstate and Territorial water quality control officials responsible for the implementation of surface water protection programs throughout the nation. ACWA's members are on the front lines of Clean Water Act (CWA) monitoring, permitting, inspection, compliance and enforcement across the country and ACWA's members are dedicated to Congress' goal of restoring and maintaining the chemical, biological and physical integrity of our nation's waters.

The New England Interstate Water Pollution Control Commission (NEIWPCC) was established by Congress in 1947. NEIWPCC is a not-for-profit interstate agency that utilizes a variety of strategies to meet the water-related needs of our member states—Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. We have been actively engaged with our member states in understanding and applying the new Integrated Planning Framework.

ACWA has previously appeared before this Committee expressing our support for EPA and the Integrated Planning Framework. Our previous testimony also identified several underlying concerns with the Framework. ACWA members have been calling for prioritization of CWA requirements for some time. In these times of limited budgets and staff resources, it is especially important to allow municipalities to promote water quality problems in an effort to maximize the effectiveness of

limited infrastructure dollars. States face the same economic and resource challenges so we fully understand the importance of prioritizing and maximizing the effectiveness of scarce resources. States look for the same opportunities to leverage and extend funds when they look to use their limited Clean Water State Revolving Fund dollars.

ACWA members agree that when an integrated plan is designed and implemented properly, it will likely promote innovative solutions that deliver results. The Integrated Planning Framework mirrors many of the efforts that states are already undertaking to synchronize permits on a watershed basis and to consider affordability when developing compliance schedules. An integrated planning approach enables permittees to craft more effective and efficient solutions to achieve CWA compliance and offers the promise of balancing point source and non-point source water quality measures. Finally, an integrated planning approach provides communities with greater control over the pace and sequencing of water quality improvements, promotes innovative solutions such as green infrastructure, and maximizes limited resources. As important as these factors are, we cannot allow water quality to suffer in the quest for more efficient and streamlined applications.

Since EPA released the Integrated Planning Framework memo, ACWA has worked closely with its federal and municipal partners on understanding the Framework. We thank the agency for collaboratively holding a series of workshops with us and our municipal partners on the Framework and for being receptive to the state concerns and questions. The workshops were valuable opportunities for EPA to present the Framework's elements to stakeholders, answer questions, and solicit input on the planning, approval and implementation processes.

A range of implementation challenges were identified during these workshops, including the potential increased burden on state resources, consistency in interpretation and application between EPA Regional Offices and EPA Headquarters, the level of detail necessary for plan approval, and how best to handle financial capability issues. The workshops also exposed several statutory and regulatory challenges to implementation that must be overcome for this effort to move forward. Progress has been made as a result of these discussions but a great deal of uncertainty still remains.

This uncertainty is keeping many interested states and municipalities on the sidelines while they wait for someone else to go first.

It is clear that the Integrated Planning Framework anticipates a prominent role for state permitting authorities and we appreciate the agency's recognition of our role as co-regulators responsible for ensuring that the goals of the CWA are met; yet the details of this role are still not clear. The Framework makes clear that state permitting authorities will need to approve the integrated plans developed by municipalities, but it does not provide details on how exactly states should perform this role. EPA has repeatedly stated that it intends to provide practical examples and guidance as it works through the first integrated planning efforts but ACWA members are still waiting for these details to be fleshed out. This Committee can assist the states by encouraging EPA to more quickly develop case studies and practical examples of how the integrated planning approach works and by sustaining adequate federal funding to support State programs.

In addition to the lack of clarity with regard to the responsibilities of state permitting authorities, ACWA members are concerned that while EPA anticipates states taking the primary role in reviewing and approving the integrated plans, EPA's authority will linger over the process until the agency makes clear that it will support state decisions. State time and resources are at a premium and states are concerned that they will invest time and resources into plan review and approval, only to have EPA question that decision in the end. States are also concerned that EPA will object to a permit based on an integrated plan that was approved by a state. Finally the states are concerned that after a plan is developed and implementation is underway, that EPA could come in and order more stringent or different controls or approaches to managing pollution. Certainly this type of action by the agency would undermine the economic savings envisioned by integrated planning. The role of the states and EPA needs to be clearly defined so that the integrated approach agreed upon by states and municipalities can be relied on by all stakeholders.

ACWA members would also like to see EPA provide guidance or a case study that demonstrates how an integrated plan can be incorporated into a permit. Integrated planning through the enforcement and compliance context is one thing but implementation of an integrated plan into the

CWA's rigorous permitting process is quite another. Enforcement actions offer a level of flexibility for sequencing that permits on their face do not. Enforcement and compliance actions can lead to improvements in water quality but this approach often fails to consider all of a community's CWA obligation holistically, and often can result in overly expensive and/or highly engineered solutions. Moreover, the CWA permitting process is the fundamental tool for regulating discharges and improving the quality of the nation's waters and the agency must find a workable way to incorporate these plans into water quality permits instead of relying on enforcement and compliance activities.

The permitting process provides permittees with certainty and the time to adequately plan, and increases transparency and communication among other stakeholders groups. The statutory and regulatory requirements of the CWA pose a challenge that states and EPA must overcome. The five year permit term limit makes it a challenge to integrate multi-year obligations into enforceable permits that ensure compliance with water quality standards. Many of the activities and projects likely to be included in any integrated plan will take more much than five years to implement. EPA must work with its state partners to identify guidelines for states to follow to accomplish integration of the plan into CWA permits and identify a workable approach to incorporating integrated plan elements into an enforceable and effective permit.

ACWA encourages EPA to begin exploring the ways that permits can legally and effectively incorporate integrated plan elements into a permit. The agency could begin developing a set of guidelines or a model permit where the agency is the CWA permitting authority. The process of developing a model permit would help identify any barriers to implementation and enable the agency and regulated entities to test out solutions to overcoming these challenges. A model permit or case study completed in a state where EPA is the permitting authority may help to encourage more states and municipalities to begin the integrated planning process.

ACWA members were encouraged by the agency's May 2014 announcement of the availability of $335,000 in technical assistance for up to five communities to develop and implement an integrated plan. This small amount of money will help to begin the process of further refining the details of

integrated planning. As we continue to move forward with advancing integrated planning, it is important to cull guidance from experience to ensure the process more forward efficiently and is effective.

To conclude, I want emphasize that ACWA's members are supportive of the Integrated Planning Framework and we appreciate EPA's efforts and receptivity to our comments and concerns. However, many of the concerns I have outlined here today will not be put to rest until there are more real-world case studies and guidance for states to follow. We encourage EPA to quicken the pace of identifying and conducting case studies to test and evaluate the best way to move forward with developing and implanting integrated plans.

The members of this Committee can help the states and EPA in this effort be encouraging the agency to swiftly develop additional case studies, model permits and guidelines for states and municipalities to use when developing an integrated plan. In addition, you can encourage your colleagues to provide additional funding to EPA to expand the technical assistance program so that more practical examples of how to implement the different steps in developing an integrated plan are developed.

Mr. Chairman, Members of the Subcommittee, I thank you for this opportunity to share ACWA's perspectives on the implementation of the Integrated Planning Framework. We remain committed to the Integrated Planning Framework and look forward to working with our partners at EPA to promote reasonable, invocative and cost-effective solutions that result in the greatest water quality benefits. I am happy to answer any questions that you may have.

City of Akron, Ohio

DONALD L. PLUSQUELLIC, MAYOR

July 23, 2014

The Honorable Bob Gibbs
Chairman
Water Resources and Environment Subcommittee
Committee on Transportation and Infrastructure
2165 Rayburn House Office building
Washington, DC 20515

The Honorable Timothy Bishop
Ranking Member
Water Resources and Environment Subcommittee
Committee on Transportation and Infrastructure
2163 Rayburn House Office building
Washington, DC 20515

Re: Hearing on EPA's Integrated Planning, Green Infrastructure, and Affordability Initiatives

Dear Chairman Gibbs and Ranking Member Bishop,

Thank you for holding a hearing on EPA's efforts to make wastewater infrastructure improvements more affordable for local governments through integrated planning, the use of green infrastructure, and more realistic evaluations of affordability.

I have served as mayor of Akron, Ohio for 27 years. For decades I have been trying to address Akron's combined sewer overflow problems by working with Ohio EPA and then, when they became involved, with U.S. EPA. Despite not having an agreed Long Term Control Plan (LTCP) or consent decree, Akron continued to invest in projects to address sewer overflows and spent over $300 million through 2013. To address the remaining sewer overflow issues, Akron is currently implementing a LTCP that was developed pursuant to a consent decree with EPA and the State of Ohio. This year alone the City expects to commit an additional $84 million on CSO construction projects. At the same time, the City will continue to invest in the development and design of numerous additional projects.

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I previously served as President of the U.S. Conference of Mayors and I am an active member of the Mayors Water Council. As such, I have participated in the discussions with EPA regarding Integrated Planning and affordability.

Akron's LTCP was developed in 2011, before EPA issued its new policies on Integrated Planning and affordability. In 2012, Akron's plan was estimated to cost $865 million. To fund future projects, the City recently passed a 78% rate increase that will be implemented over a two-year period. This increase was in addition to the 74% increase which was passed in 2009. However, even with these rate increases, the City is unable to fund its plan in the future.

Late last year, the City advised EPA about the escalating cost to implement its plan. Specifically, the cost of Akron's sewer overflow control program has risen from $865 millionto an estimated cost of $1.4 billion (adjusted for inflation based on the date the money is spent; $1.14 billion in 2014 dollars). Adding to this problem is the City's declining population, which has dropped from a high of 300,000 to under 200,000 residents.

EPA has stated that integrated planning is available to any city, even those that already have a consent decree. In fact, citing Indianapolis as an example, EPA has said that it is willing to reopen consent decrees to help cities lower their costs. Based on the increased costs of Akron's plan, it is absolutely critical that Akron be afforded the same opportunity.

The importance of this tool to Akron is demonstrated in Table 1, below. Table 1 shows the impact of Akron's current sewer overflow control plan on Akron citizens. Analyzing those costs by income distributionreveals that nearly 68 percent of the households within Akron would pay more than 2 percent of theirincome, nearly 53 percent of households would pay more than 3 percent, and nearly 15 percentof households would pay over 10 percent.

Table 1: Residential Indicator by Income Distribution

Income Distribution	Households	% of Total Households	Midpoint of Income Dist	CPI Adj	Adj Midpoint of Income Dist	Cost per Household	RI by Income Dist
Less than $10,000	12,293	14.9%	$10,000	1.00	$10,000	$1,060	10.60%
$10,000 to $14,999	7,187	8.7%	$12,500	1.04	$12,999	$1,060	8.15%
$15,000 to $24,999	12,674	15.4%	$20,000	1.04	$20,799	$1,060	5.10%
$25,000 to $34,999	11,298	13.7%	$30,000	1.04	$31,199	$1,060	3.40%
$35,000 to $49,999	12,228	14.9%	$42,500	1.04	$44,199	$1,060	2.40%
$50,000 to $74,999	13,262	16.1%	$62,500	1.04	$64,999	$1,060	1.63%
$75,000 to $99,999	6,533	7.9%	$87,500	1.04	$90,999	$1,060	1.16%
$100,000 to $149,999	4,761	5.8%	$125,000	1.04	$129,999	$1,060	0.82%
$150,000 to $199,999	1,024	1.2%	$175,000	1.04	$181,999	$1,060	0.58%
$200,000 or more	1,016	1.2%	$200,000	1.00	$200,000	$1,060	0.53%

Using EPA's Integrated Planning Framework, Akron has already identified ways to modify and improve its plan to provide greater environmental benefits at an earlier date with lower costs and has presented that information to EPA. In about 10 weeks, we expect to have finished an initial

integrated plan. We hope EPA will carry through on the promises made by EPA Headquarters officials to the U.S. Conference of Mayors. If they do not, then the lower and middle income citizens of Akron will suffer the devastating impact shown in the above table.

Thank you again for your continued oversight of EPA and these initiatives. If they are used by the EPA Regions and applied in a reasonable way, then they can be used to achieve protection of human health and the environment at an affordable cost. However, if EPA does not follow through with its commitments then it may be time for Congress to act.

We will keep you informed of our progress on our Integrated Plan and how it is received by EPA.

Sincerely,

DONALD L. PLUSQUELLIC
Mayor

cc: Cynthia Giles
Mark Pollins
Tinka Hyde
John Moore
Cheri Cunningham

American Rivers • Clean Water Action • Natural Resources Defense Council • Southern Environmental Law Center

The Honorable Bob Gibbs
Chairman, Water Resources and Environment Subcommittee
Transportation and Infrastructure Committee
329 Cannon House Office Building
Washington, DC 20515

The Honorable Timothy Bishop
Ranking Member, Water Resources and Environment Subcommittee
Transportation and Infrastructure Committee
306 Cannon House Office Building
Washington, DC 20515

July 23, 2014

RE: Water Resources and Environment Subcommittee Hearing entitled "Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality"

Dear Chairman Gibbs and Ranking Member Bishop:

On behalf of our members and supporters, we thank you for holding this hearing entitled "Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality" and for the opportunity to comment on this important issue and we ask that this letter be included in the record for the hearing. The broad topic of this hearing – how to address outdated and failing water infrastructure and the future of infrastructure investments to protect clean water and public health – is of critical importance to our nation. The Environmental Protection Agency (EPA), in its 2008 Clean Watersheds Needs Survey, reported that the combined wastewater and stormwater management needs total $298.1 billion for communities across the country. An updated report, due to be delivered to Congress this coming December, will surely demonstrate a continuing gap between needs and allocated resources. At the same time, fiscal pressures on municipalities and declining levels of funding for the Clean Water and Drinking Water State Revolving Funds (SRFs) further demonstrate the critical need for communities to develop sustainable strategies that maximize the benefits per dollar invested.

Integrated planning and permitting offers an opportunity to more holistically approach the management and planning of stormwater, wastewater, and drinking water infrastructure systems. In doing so, municipalities and water utilities may be better able to use smarter and more sustainable approaches to protect clean water while delivering sustainable water services. Healthy floodplains, small streams, wetlands, and stream-side buffer zones are key elements of our water infrastructure and should be considered a first line of defense against pollution, floods, and drought. Innovative water infrastructure practices such as water efficiency and green infrastructure have far-reaching benefits, reducing polluted runoff, increasing recharge of drinking water supplies, and increasing valuable green space. These approaches provide multiple

benefits for every dollar invested and should drive any approach to integrated planning and permitting. 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.

Under current law, EPA has ample legal authority to successfully achieve the goals of the *Framework*, which we believe are broadly shared by our organizations and the regulated community. Therefore, while Congressional oversight is essential, we do not believe that there is a need for legislation to effectuate or improve upon the *Framework* at this time.

EPA's *Integrated Planning Approach Framework*, released in 2012, is just that – a "framework," rather than a set of prescriptions, for planning and decision-making by utilities, regulatory agencies, and affected members of the public. As such, we expect that its implementation will play out differently in different communities while at the same time maintaining compliance with existing Clean Water Act requirements. Before it can be considered a success or failure, we need opportunities to gain experience with how early-adopter cities and states, as well as EPA, apply the *Framework*'s principles to particular cases. This laboratory for experimentation will provide lessons to guide further refinement, as necessary.

EPA's Integrated Planning and Permitting Initiative

The Subcommittee plans to address the EPA's framework for integrated planning and permitting, entitled *Integrated Planning Approach Framework*, which was released in 2012. The integrated approach as envisioned in this framework could allow municipalities and utilities to maximize every dollar invested on pollution control measures that achieve water quality and community sustainability goals. Our organizations strongly support EPA's position that the integrated plans under the *Framework* must assure compliance with Clean Water Act requirements pursuant to existing regulations. We oppose any weakening of Clean Water Act requirements or exceptions from timely compliance with these requirements. Protecting our communities and clean water while at the same time funding efficient water services are both compelling and achievable potential benefits of the integrated permitting approach.

We have highlighted to EPA certain issues that deserve special attention in the implementation of the *Framework*, which we summarize below for the Committee.

> *Provide additional guidance on criteria and methodologies for evaluating alternatives and prioritizing implementation efforts.*
>
> The Framework would be strengthened if the EPA provides further guidance on criteria and methodologies for evaluating and prioritizing alternatives. The EPA should more fully detail current flexibilities under existing legal authorities and should provide more guidance regarding how state and federal enforcement agencies evaluate an integrated plan. The EPA should provide greater clarity to guide the process and reduce uncertainty in the development of an integrated plan. The Agency should incorporate expectations and examples consistent with EPA policy to strengthen and clarify the integrated

planning process. The EPA and states must require that integrated plans consider green infrastructure and innovative practices equally with more traditional alternatives and that best practices with no capital costs to the municipality, such as stormwater retention standards for new development and redevelopment, must be included in the integrated plan.

Provide additional guidance on measuring and determining affordability and financial capability.

As discussed previously, there is a significant need to invest in repairs or upgrades to outdated and failing water infrastructure. With declining funding under the Clean Water and Drinking Water State Revolving Funds and increasing fiscal pressures on municipalities, integrated planning can build on existing flexibilities. Any alternatives analysis under the *Framework* must provide a robust assessment of both benefits and costs of increased local investments in water infrastructure. Such an analysis would be valid only to the extent that it considers not just impacts to ratepayers of making infrastructure investments, but also the economic and other impacts of not making those investments. The EPA should clarify that the failure of a utility or community to raise water service rates as part of a sound asset management plan is not an excuse for prolonged implementation of upgrades under an integrated framework. Integrated plans must utilize all opportunities to supplement public funding with private investment and demand-side management, including water conservation programs, stormwater utility fee structures, and stormwater management regulations that drive the use of green infrastructure on private property to reduce burdens on public sewer systems. Regarding adequate and achievable rate increases, municipalities and utilities developing integrated plans to address wet weather water pollution should be required to consider parcel-based billing to more equitably distribute the burdens to ratepayers with the largest impervious surfaces and therefore the greatest contributions to stormwater pollution. Finally, once green infrastructure, water efficiency, and other innovative approaches are evaluated, alternative scenarios should be re-evaluated with respect to costs, benefits, and affordability. These strategies may provide opportunities to leverage investment or serve multiple functions.

Ensure robust public participation in decision making, including through the use of permits as an implementation mechanism wherever possible.

Our organizations favor utilizing the National Pollutant Discharge and Elimination System (NPDES) permit process to govern integrated planning wherever possible, rather than relying primarily on enforcement orders and decrees, while at the same time recognizing legal and practical concerns. The NPDES process ensures public participation and, with the five-year permit term, the flexibility to adaptively manage the integrated planning process. Additionally, NPDES permits are enforceable by other organizations, agencies, and entities that may be outside of a consent decree process. The permit process ensures notice, comment, and an opportunity for a formal administrative hearing where citizens can voice concerns. The EPA should use the *Framework* to further promote public participation by providing additional guidelines and assurances for robust

public participation in the integrated planning process. The EPA should also clarify that it is the responsibility of the municipality or the utility to demonstrate how it has comprehensively solicited, considered, and addressed public comments throughout the integrated planning process.

Provide additional guidance on monitoring and compliance assurance.

The ultimate goal of a NPDES permit is to ensure a discharger's compliance with applicable technology-based or water-quality based standards, to protect our ability to swim, fish, and drink from our nation's waters. It's critical that integrated plans include monitoring provisions that allow local governments to track the effectiveness of control measures and enable adaptive management. EPA should provide more robust guidance for an adequate monitoring and compliance evaluation program under an integrated plan. A compliance assurance program based on adaptive management must include performance targets, an adaptive management decision making process, a monitoring program, and a maintenance program.

In summary, our organizations believe that integrated planning and permitting can offer an important tool to municipalities and utilities to build upon existing flexibilities, maximizing every dollar invested on pollution control measures that achieve water quality and community sustainability goals. For more detailed comments, please refer to the attached document submitted to the EPA on February 29, 2012 on the Agency's draft version of the *Framework*.

Relevant Legislative Proposals

Our organizations thank the Subcommittee for the opportunity to discuss several legislative proposals that have been put forward to address integrated planning and permitting. We support integrated permitting efforts, but we believe strongly that flexibility should not come at the expense of clean water or community health. Although we are supportive of the intent to address implementation of integrated permitting and planning, we have serious concerns about the legislative proposals before the Subcommittee. Many of the provisions in these bills would weaken Clean Water Act protections and undermine successful efforts to protect public health in communities across the country. While we oppose all of these bills in their current form, we are especially alarmed by the draft Water Quality Improvement Act of 2013, which represents a blatant assault on the fundamental protections of the Clean Water Act.

H.R. 3862, the Clean Water Affordability Act of 2014

The Clean Water Affordability Act of 2014 (H.R. 3862) introduced by Representative Latta (R-OH) would amend the Clean Water Act to include language that establishes a process for integrated permits under Section 402. Importantly, the bill would effectively change the term limits of NPDES permits from no more than five years to allow for permit limits of up to 25 years if the permittee has an approved integrated plan. The current five year limit on permit terms has been a core element of the NPDES program since the inception of the Clean Water Act, which allows for adaptive management to

ensure that water quality goals are met. Extending permit terms to 25 years – essentially a generation – will result in a lack of accountability for meeting Clean Water Act goals and prevent water agencies from responding to evolutions in effective and affordable pollution control technologies. While discussions about affordability are critical, it should not be used as an excuse for deferring real progress for decades. Additionally, our organizations find that the bill's proposed changes to affordability guidance focus exclusively on compliance costs, ignoring the broader benefits of clean water to local and regional economies. The bill also fails to assess whether utilities have developed an optimal financial strategy (*e.g.*, improvements to rate structure and bonding authority, equitable distribution of costs among categories of ratepayers, etc.) that ensures capital programs are sufficiently funded, operated, maintained and replaced over time.

H.R. 2707, the Clean Water Compliance and Ratepayer Affordability Act

The Clean Water Compliance and Ratepayer Affordability Act (H.R. 2707) introduced by Representative Chabot (R-OH) would establish a pilot program for integrated plans to meet stormwater and wastewater obligations. While we are generally supportive of efforts to establish a pilot program to begin to implement integrated processes, EPA can do this under the existing *Framework* without more prescriptive legislative mandates. Moreover, as with H.R. 3862, we strongly object to the bill's authorization to extend NPDES permit terms to a maximum of 25 years. The Clean Water Act was written to eliminate pollution into our waters by 1985 using increasingly prescriptive permits updated every five years that take advantage of best practices and innovative technologies. As we indicated above, extending permit limits locks in place technologies and controls that may be outdated and even more expensive over the course of 25 years. Extending permit limits is not an effective way to protect clean water and meet the goals of the Clean Water Act to ensure the health and safety of our communities. Additionally, the bill's language that allows the EPA Administrator to "provide additional regulatory flexibility under the Federal Water Pollution Control Act in approving and implanting an integrated plan" is potentially unlimited in its scope and, therefore, would undermine accountability for meeting bedrock Clean Water Act requirements. Finally, our organizations believe that smarter infrastructure approaches, such as green infrastructure and water efficiency, should drive integrated water management and should be better prioritized in an integrated permitting and planning pilot program.

The Water Quality Improvement Act of 2013

The Water Quality Improvement Act of 2013 discussion draft prioritizes reducing costs at the expense of clean water and public health, in addition to creating additional pollution impacts which impose real costs on the public. Our organizations strongly oppose this legislation that would substantively weaken Clean Water Act protections, putting our waters and the communities that rely upon them at risk.

Section 3 of this draft legislation fundamentally and negatively alters the pollution prevention framework of the Clean Water Act that has successfully reined in the human and environmental impacts of water pollution for over 40 years. Under this provision, if

a municipality isn't meeting its water quality based pollution control requirements but has an integrated plan, it would be excused from its obligation to comply with the Act as long as it continues "to make reasonable progress towards meeting such limitations." Although the EPA Administrator would retain discretion to determine what constitutes "reasonable progress," a municipality would not be considered to be out of compliance with its permit if the applicable water quality standard is not "achievable" under EPA regulations or if the control measures are deemed to be not "affordable." This notion flips on its head the long-standing requirement that pollution dischargers adopt the "best" technology to reduce their impacts and must meet all applicable water quality standards, and prioritizes the financial status water agencies over the economic costs of pollution and public health threats borne by the public at large. Additionally, this bill would create a mechanism for establishing new water quality based effluent limitations based on "attainable water quality standards." These "attainable standards" include no criteria relating to public health impacts and very little relating to water quality itself. If these "technically achievable and economically affordable" water quality standards are met, no additional controls on the discharge are required.

This language is not only antithetical to the goals Congress set forth in the Clean Water Act, it is unnecessary. The Act already includes provisions for *temporary* relief from water quality standards based limitations, or to alter water quality standards that may not be realistically achievable. Where a designated use is not attainable, EPA, states, or tribes may refine or remove the use, or allow a time-limited (*e.g.*, 3 or 5 year) variance, provided that specific circumstances are met and the appropriate analysis is conducted. This "Use Attainability Analysis," and related EPA guidance, allows relaxation of (or temporary variance from) a water quality standard following a "structured scientific assessment of the factors affecting the attainment of the use, which may include the physical, chemical, biological, and economic factors as described in 40 CFR 131.10(g)." The draft legislation ignores this important safeguard in the current Act and regulations, which renders the bill unnecessary.

Additionally, Section 3 would authorize "unavoidable discharge from a sanitary sewer," placing these discharges, which include discharges of raw sewage known as sanitary sewer overflows (SSOs) under an integrated permit rather than a consent decree. This would weaken the provisions in EPA's "bypass" regulation that define the conditions under which a discharge that does not receive full secondary treatment (which removes solids, oxygen-demanding organics, and pathogens) is acceptable. According to the 2004 "Report to Congress on Impacts and Control of Combined Sewer Overflows and Sanitary Sewer Overflows," the EPA estimates that between 23,000 and 75,000 SSOs occur every year which send up to 10 billion gallons of raw sewage into our waterways annually.[1] Pathogens and pollutants present in SSOs pose a public health risk, such as contaminated drinking water supplies, as well as an economic impact, such as beach closures. While most of the illnesses caused by waterborne pathogens in the U.S. are not fatal, they can be life threatening to infants, the frail elderly, and those with weakened immune systems.

[1] Report to Congress on Impacts and Control of Combined Sewer Overflows and Sanitary Sewer Overflows, U.S. Environmental Protection Agency, 2004, Available online < http://water.epa.gov/polwaste/npdes/cso/2004-Report-to-Congress.cfm >.

Section 4 of the draft legislation would amend the Clean Water Act by changing control requirements for permits by adding the phrase "achievable and affordable" to limit the pollution controls that must be in permits for municipal separate storm sewer systems (MS4s). This could make it easier for dischargers to argue for the use of less stringent controls to protect water quality. Under current law, MS4 permits must require, at a minimum, pollution control measures that reduce stormwater pollution "to the maximum extent practicable." While this existing law, and other complementary provisions of the Act, provides ample authority to EPA and the states to address our nation's stormwater pollution problems, implementation of the existing standard over the past two decades has proven insufficient to protect our waters, as demonstrated by a landmark National Research Council study in 2009. Accordingly, Congress absolutely should not *weaken* the existing standard. Rather, EPA must *strengthen* enforcement and implementation of the existing Clean Water Act standard, such as through a rulemaking to set minimum national performance standards, and through stronger provisions in individual MS4 permits.

Under Section 6, the draft legislation would prohibit the EPA from imposing civil or administrative penalties for past Clean Water Act violations for municipalities that have implemented a plan to comply with their Clean Water Act obligations. This would effectively give dischargers a free pass for previous violations with no requirements that a municipality has to have fully implemented the compliance plan.

Section 7 of the draft legislation provides a new definition for a "bypass" at wastewater treatment plants. Under the draft legislation, a "bypass" is defined as an "intentional diversion of a waste stream from any portion of a treatment system. Treatment of a waste stream in accordance with the design of the treatment system shall not constitute a 'bypass' if the treatment system was approved or permitted by the Administrator, or in the case of an authorized state program, the Director, or if the discharge achieves technology and water quality based effluent limitations at the point of discharge." Existing bypass regulations adequately provide the opportunity to bypass secondary treatment when there is no "feasible alternative" while at the same time protecting public health and the environment under typical conditions. The new definition in the draft bill not only undermine current EPA regulations restricting the use of bypasses (40 C.F.R. 122.41(m)), but also directly contradicts Section 402(q) of the Clean Water Act, which codifies EPA's CSO Control Policy. The CSO Control Policy, which applies to treatment facilities receiving flow from combined sewage and stormwater sewers, expressly states that "the intentional diversion of waste streams for any portion of a treatment facility, including secondary treatment, is a bypass," subject to the restrictions in EPA's bypass regulation.[2] The EPA has prohibited sewage treatment bypasses except under specific, limited circumstances in order to avoid the problems caused when secondary treatment is omitted. Secondary treatment is critical to protect public health. A risk model where primary and secondary treatment wastewater is blended showed that more than 99% of the loading of pathogenic viruses and parasites come from the

[2] 59 Fed. Reg. 18688, 18693-94.

untreated portion of the flow, and the risks of swimming in waters receiving blended effluent are "100 times greater than if the wastewater had been completely treated."[3]

Our organizations strongly oppose the Water Quality Improvement Act of 2013 and have significant concerns about many of the provisions contained in the legislative proposals before the Subcommittee.

In summary, we support a holistic approach to achieving clean and reliable water for our communities by using cost-effective and innovative investments in water infrastructure. Fundamentally, however, this approach must maintain protections for clean water and public health. We agree that there is a benefit to moving towards more integrated infrastructure through better planning, evaluation, and sequencing of investments, but especially if smarter infrastructure is driving this process. Specifically, green infrastructure, water efficiency and other innovative solution should be a key part of integrated water management. We have significant concerns about the above legislative proposals and urge Congress not to move forward with any of the bills on the Subcommittee's agenda for this hearing.

Thank you for the opportunity to provide comment on this important issue and we look forward to working together on integrated permitting and planning in the future.

Sincerely,

Stacey Detwiler
Associate Director
Clean Water Supple and Government Relations
American Rivers

Jennifer Peters
National Water Campaigns Coordinator
Clean Water Action

Larry Levine
Senior Attorney
Natural Resources Defense Council

Navis Bermudez
Deputy Legislative Director
Southern Environmental Law Center

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[3] R. Katonak & J.B. Rose, *Public Health Risks Associated with Wastewater Blending*, Department of Fisheries and Wildlife, Michigan State University at 18 (Nov. 17, 2003) ("Adenoviruses, Calciviruses, Piconaviruses, and Rotaviruses cause 100,000's of cases per year.")

Statement for the Record

Submitted to:

House of Representatives Subcommittee on Water Resources and Environment July 23, 2014 Hearing on:

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

Chairman Gibbs, Ranking Member Bishop, and members of the Committee:

We appreciate the opportunity to submit this statement for the record to express our support for H.R. 2707, the Clean Water Compliance and Ratepayer Affordability Act. This bill provides the necessary flexibility to address our nation's wastewater and stormwater challenges, and we urge the Subcommittee to give the legislation its full consideration.

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. The cost to maintain this infrastructure and comply with Clean Water Act mandates is enormous and ever increasing. Communities across the country are facing billions of dollars in compliance costs, and that leads to substantial rate increases for local ratepayers. For instance, the City of Cincinnati recently increased its water rates by 4% as part of its efforts to fix the city's aging sewer infrastructure.

Unfortunately, at the same time they are dealing with costly mandates from the EPA, municipalities across the country are strapped for cash. In Cuyahoga and Hamilton Counties, for example, the costs associated with EPA-mandated water infrastructure improvements top $3 billion in each county. Such exorbitant costs are making it next to impossible for communities to adequately fund local priorities like police, fire and road repair, which amplifies the need to find more efficient and affordable methods to bring their wastewater infrastructure into compliance.

We believe the best way to address this growing problem is to give local communities the flexibility to come up with innovative, less expensive solutions to their wastewater and stormwater challenges. That is why, last summer, we introduced bipartisan legislation, the Clean Water Compliance and Ratepayer Affordability Act, to allow local communities to work with the EPA to find the approach that works best in their respective communities.

As the Subcommittee hears testimony from state and local government representatives about the final framework for EPA's Integrated Planning Approach, we urge you to take action to provide ratepayers and municipalities the relief they desperately need.

We believe that H.R. 2707 strikes an appropriate balance, maintaining clean water while giving communities the flexibility they need to address expensive wastewater and stormwater obligations, and we again respectfully request its prompt consideration by the Subcommittee.

Sincerely,

Marcia L. Fudge
Member of Congress

Steve Chabot
Member of Congress

Congress of the United States
Washington, DC 20515

Congressman Robert E. Latta (OH-5) and Congressman Timothy Walz (MN-1)

Statement for the Record - House Transportation & Infrastructure Committee, Subcommittee on Water Resources & Environment
"Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality"
July 24, 2014

Today, the House Subcommittee on Water Resources and Environment will hold an important hearing to look at the state of clean water affordability in this country and the U.S. Environmental Protection Agency's (EPA) new integrated planning approach for municipal wastewater and stormwater requirements. Communities nationwide are struggling to maintain their systems and meet their wastewater mandates without placing further hardship on their already strapped ratepayers. Absent a new approach to regulatory compliance, the future of maintaining the water quality our constituents have come to depend on is at risk.

Since passage of the Clean Water Act (CWA) in 1971, this country's water quality has indisputably improved. However, the command-and-control nature of the CWA has also led to a buildup of costly regulations on the nation's communities and their rate-paying residents who foot the bill. These mandates, on top of the estimated $300-500 billion needed in wastewater infrastructure improvements over the next 20 years, has shifted the financing burden to local ratepayers who are seeing their rates rise nationally at double the rate of inflation. Today, 40% of households across America are paying more out of their disposable incomes for wastewater management than what EPA says is affordable.

In our home states of Ohio and Minnesota we are seeing firsthand the financial struggle communities are under to meet their CWA requirements. For example, in Ohio, the City of Defiance is under a 20-year consent decree to separate their combined sewer system. Only five years into the project, the City and has already spent $30 million and has plans to spend tens of millions more. This has caused water and sewer rates to skyrocket for Defiance's 17,000 residents, who pay ten times more per month than residents outside the city. In Minnesota, new nutrient regulations are expected to cost the City of Rochester, a city of just over 100,000 people, $100 million in new wastewater costs with additional stormwater cost ramifications as well. Prior to these regulations, the City was only anticipating costs of $5 million in 2014 to meet its wastewater and stormwater permits.

In June 2011, EPA released its *Integrated Municipal Stormwater and Wastewater Planning Approach Framework* to help communities meet their regulatory obligations under the Clean Water Act in a more sustainable manner. Under the integrated planning approach, communities can create a schedule of priority projects for wastewater and stormwater permit obligations to ensure available funds go to those projects yielding the greatest water quality benefit first.

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Building on this Framework, we have introduced H.R. 3862, *The Clean Water Affordability Act,* to ensure that clean water agencies that are facing unprecedented financial challenges have the flexibility they need to undertake clean water projects in a more affordable manner. Specifically, our legislation would do four critical things: 1) Codify EPA's integrated planning framework to ensure it is available to all communities; 2) Assure communities their clean water investments will be secure for longer than five years by extending EPA permit terms to up to 25 years for communities with an approved integrated plan; 3) Revise Clean Water State Revolving Fund capitalization grant agreements to require states to set aside 15 percent for assistance to municipalities of fewer than 10,000 individuals; and 4) Require EPA to revise and broaden guidance for determining a community's financial capability to more accurately reflect a community's financial challenges. Currently, Median Household Income (MHI) is used as the predominant indicator of financial capability for a community. Relying on a narrower matrix and the MHI indicator does not allow for determinations to take into full account the significant and diverse fiscal constraints like age of population, unemployment rate, and poverty rate faced by communities and their ratepayers.

H.R. 3862 would provide responsible relief to the clean water agencies around the country that are facing unprecedented financial challenges. We thank the Subcommittee for holding today's hearing and we encourage all members of the Subcommittee to support this legislation.

TESTIMONY FOR THE RECORD
U.S. ENVIRONMENTAL PROTECTION AGENCY
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES

JULY 24, 2014

Chairman Gibbs, Ranking Member Bishop, and members of the Subcommittee, thank you for the opportunity to provide testimony for today's hearing record regarding the U.S. Environmental Protection Agency's efforts to achieve better water quality improvements through integrated municipal stormwater and wastewater planning (Integrated Planning) and other innovative approaches for meeting our infrastructure challenges. The EPA is grateful for the continued interest of the Subcommittee and of communities across the country in our efforts to promote Integrated Planning for meeting Clean Water Act obligations.

The nation has come a long way in improving water quality, public health and the environment since Congress enacted the Clean Water Act over 40 years ago. We have improved water quality and increased public health protection in streams, lakes, bays, and other waters nationwide. However, significant water pollution challenges remain. We still face difficult and expensive challenges in providing advanced treatment for nutrients and controlling combined sewer overflows, sanitary sewer overflows, and stormwater pollution.

Increases in impervious surfaces, aging infrastructure, climate change, and the current economic challenges are stressing existing infrastructure and programs needed to fully attain Clean Water Act goals. Many of our state and local government partners find themselves facing difficult financial conditions. We recognize the challenging financial conditions that many municipalities are facing, and the EPA continues to work with states and local governments to develop and implement new approaches

that will achieve water quality and human health goals more cost effectively and sustain our nation's essential water infrastructure to create jobs and strengthen the economy.

As you know, the EPA, states, and municipalities have often focused on each Clean Water Act requirement individually, without full consideration of all Clean Water Act requirements or how various water quality investments can be coordinated and managed as a consolidated effort. This uncoordinated approach may have had the unintended consequence of constraining a municipality from addressing its most serious water quality issues first. Integrated Planning offers municipalities an opportunity to meet Clean Water Act requirements in a way that allows the highest priority wastewater and stormwater projects to come first, and the EPA encourages incorporating sustainable solutions, such as green infrastructure, into these efforts. The EPA's October 2011 memorandum, "Achieving Water Quality Through Integrated Municipal Stormwater and Wastewater Plans," further explains the EPA's Integrated Planning framework and the EPA's goals in working with communities toward these ends.[1]

Over the past several years, the EPA has embraced the Integrated Planning approaches described in the 2011 memorandum. The agency's active pursuit of Integrated Planning has been most visible in the enforcement realm where numerous settlements have either specifically included language incorporating Integrated Planning, or otherwise incorporating the concepts in a consent decree. For example, in settlements with King County and Seattle, Washington, where the EPA and the communities are working to resolve wastewater issues, our agreements included specific provisions for developing an integrated plan that would also include stormwater considerations. In other cases, such as recent amendments to a consent decree with the Sewerage and Water Board of New Orleans, Louisiana, Integrated Planning is not called out by name, but adjustments to the decree were made to account for

[1] A copy of the EPA's October 2011 memorandum is available at http://water.epa.gov/infrastructure/greeninfrastructure/upload/memointegratedmunicipalplans.pdf.

the multiple activities that needed to be prioritized in concert with the ongoing recovery from Hurricane Katrina. Integrated Planning elements are now part of at least 10 consent decrees in settled cases.

A number of cities across the country have approached the agency about pursuing Integrated Planning in the enforcement context to address their wastewater obligations. These cities are enthusiastic about the opportunities to take a more holistic approach.

The Integrated Planning approach can also serve as a catalyst for an evolving National Pollutant Discharge Elimination System permit program. While the Integrated Planning approach is voluntary, a number of municipalities have developed or are developing integrated plans that will ultimately support the development of conditions and requirements in their NPDES permits. NPDES permits can have an important role in Integrated Planning by setting implementation schedules that are consistent with the permittee's financial capability, allowing for adaptive management, encouraging the use of sustainable green infrastructure, and assisting in implementing trading programs. These approaches could support more sustainable solutions that provide environmental improvement more quickly. In addition, the Integrated Planning approach can involve a transparent public input effort that can support adaptive management and lead to buy in and support from ratepayers, elected officials, and environmental groups.

The EPA is encouraged that a number of communities have expressed interest in developing an integrated plan that can assist the NPDES permitting authority in reissuing their permits. Four of these communities have already submitted an integrated plan to their NPDES permitting authority, and we welcome the efforts of additional communities to pursue such an approach.

The EPA recently solicited requests for Technical Assistance that would provide contractor support to communities working towards including Integrated Planning elements into their permits. The technical assistance will help the EPA develop practical examples of how to develop the various components of an integrated plan and will provide useful information to communities across the nation that are interested in Integrated Planning. We are presently reviewing the pool of applicants with the aim of awarding assistance to five communities this fall.

Building on the success of the Integrated Planning Framework, the EPA has been in discussions with stakeholder groups such as the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the Water Environment Federation, and the National Association of Clean Water Agencies concerning the financial challenges that communities face as they pursue the goals of the Clean Water Act. These financial challenges are a constant concern for both the EPA and the regulated community, and turning attention to these issues has been a natural outgrowth of our work on Integrated Planning. With the feedback of these groups; from the Environmental Financial Advisory Board, an independent EPA Federal Advisory Committee; and from other stakeholders, the EPA is moving towards issuing a Financial Capability Assessment Framework as a companion document to the Integrated Planning Framework. The FCA framework will clarify the EPA guidance – and the flexibilities therein – for developing compliance schedules that will ensure that the financial burdens on a utility and its customers are fully and consistently considered.

It is also important to emphasize the contributions that the 51 Clean Water State Revolving Fund programs can and do make to financing infrastructure planning at the local and regional levels. Integrated planning activities are typically eligible under the CWSRF. The recent enactment of the Water Resources Reform and Development Act amended the CWSRF program in ways that will clarify

additional avenues for communities when they make wastewater and stormwater investments – which will assist them in implementing integrated plans. For example, these amendments specifically authorize the CWSRF to finance measures to manage, reduce, and treat stormwater. Further, CWSRFs can now provide additional subsidies to encourage sustainable planning, design and construction of wastewater infrastructure.

The EPA, states and municipalities are using the flexibility in the Clean Water Act and existing regulations to apply the Integrated Planning approach to find efficient pathways to successfully improve water quality. The EPA believes that the Clean Water Act currently provides an appropriate framework for implementing integrated approaches, and that amendments to the Act addressing Integrated Planning are not necessary. As we move forward with the Integrated Planning approach, we look forward to working with this Subcommittee, our state colleagues, municipalities, and the many other partners, stakeholders, and citizens to implement it. We are committed to improvements in wastewater and stormwater management and moving toward full attainment of water quality and human health goals.

City of MONROVIA 1887

All-America City

Office of the Mayor and the City Council

July 23, 2014

The Honorable Bob Gibbs
Chairman, House Subcommittee on Water Resources and Environment
Transportation and Infrastructure Committee
United States House of Representatives
Washington, DC 20515

The Honorable Timothy Bishop
Ranking Member, House Subcommittee on Water Resources and Environment
Transportation and Infrastructure Committee
United States House of Representatives
Washington, DC 20515

Dear Chairman Gibbs and Ranking Member Bishop:

I wish to thank you for holding the July 24th hearing on Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality. Focusing attention on this important issue is critically important to not only my community but to nation as a whole.

As the Mayor of Monrovia and past chair and former member of the Water Quality Authority Board for the Los Angeles Region, it has become readily apparent that the cost for water and wastewater mandates has grown to an alarming rate and it is disproportionately impacting our poorest and most vulnerable citizens. The problem is one that EPA created by setting affordability keyed to more affluent income households (using Median Household Income as their base) and ignoring the reality that half of the households in America do not come close to that kind of income, and are penalized for it with rates that represent a regressive poverty penalty.

I have been working with the Conference of Mayors' Water Council and a number of communities in the San Gabriel and Los Angeles County region to gather information regarding the cost impacts of these unfunded mandates on our citizens. Please find attached an interim report entitled, *The Financial Impact Of Public Water And Federal Mandate Costs On Economically Vulnerable Populations In San Gabriel Valley/Los Angeles County Communities* that I would like to officially submit into the record. As you can see by the charts, people who

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are on the lowest spectrum of the income scale are paying a disproportionate amount of their income to pay for their water and wastewater. And with the new regulations being implemented regarding Total Maximum Daily Loads (TMDLs), I'm afraid that the situation will be getting far worse and more critical.

It is vitally important that we reexamine the way we approach water and wastewater infrastructure as well as unfunded mandates. As a Mayor, I believe it is imperative that we first protect public health and the environment but we must do so in a way that is economically sustainable to the community and to our citizens. We must maintain our existing infrastructure that protects the health of our citizens and not have our resources diverted away from that core mission.

If you have any questions on this report or would like to talk to me further about this issue, please contact me at your convenience. Thank you for your consideration.

Sincerely,

Mary Ann Lutz
Mayor
City of Monrovia, CA

cc: Representative Grace Napolitano

THE FINANCIAL IMPACT OF PUBLIC WATER AND FEDERAL MANDATE COSTS ON ECONOMICALLY VULNERABLE POPULATIONS IN SAN GABRIEL VALLEY/LOS ANGELES COUNTY COMMUNITIES - An Interim Report

The United States Conference of Mayor Mayors Water Council

July 22, 2014

Introduction and Statement of Purpose

The United States Conference of Mayors (USCM) and its Mayors Water Council (MWC) has coordinated research with the San Gabriel Valley/Los Angeles County communities to investigate the potential financial impacts of public water, wastewater and flood control costs on city households. The USCM has been engaged with its member cities for several years in a dialogue with EPA concerning the affordability of public water, wastewater and flood control costs and the pending expenditure responsibilities of households associated with stormwater and other federal/state mandates.

The purpose of this report is to document the current costs that households in each community are paying for public water (drinking water, wastewater and flood control) costs. The report also estimates the disproportionate financial impact on the below median income households. These households are comprised of poverty level, low and moderate income and fixed income households below the median income level. This information is intended to inform mayors and local elected officials about the current cumulative costs for public water services and federal/state water related mandates, but does not reflect additional future compliance based costs such as the TMDL requirements now being planned in these communities.

Background

Investment to meet federal water and wastewater requirements can impose significant financial hardships on households, businesses, and the broader communities within which they are located. When communities face large – and sometimes multiple – federal water mandates the combined impact of the required expenditures can be extremely expensive for everyone in that community who pays a water bill. The cumulative suite of required investments that city utilities are responsible for not only strains fiscal capacity but may also displace other investments, including critical but non-mandatory capital improvement and infrastructure renewal projects. Recent enforcement actions taken by the U.S. Environmental Protection Agency (EPA) have resulted in enormous investments that communities are required to make to control stormwater and wet weather overflows. These large mandatory investments squeeze out other important priorities, such as social safety net programs and economic development efforts. The capital and operating expenses associated with federal mandates are imposed on residents and local businesses in their water and wastewater bills, and they have been growing faster than household incomes and the general rate of inflation. Very significant affordability challenges are created, particularly for lower-income households. The information contained in this report quantifies the financial impacts as a percent of actual income, and in estimated dollar amounts.

EPA has developed "affordability" criteria to indicate when such mandates would cause substantial and widespread economic distress in the community. In those cases the Agency might be willing to exercise some flexibility in the mandate, such as allowing a longer

timeframe to achieve compliance with wastewater and stormwater requirements. The affordability of drinking water requirements is handled in a different way and can – at least in theory and case-by-case – affect the kind of technology that must be deployed in some small communities.

If EPA affordability criteria functioned properly, the economic hardship imposed on lower-income households might be alleviated in many communities if compliance requirements were more flexible or stretched-out over a longer time frame. Unfortunately, there are several critical limitations to how EPA defines affordability and applies its assessment criteria. This is due in part to EPA's reliance on metrics such as median household income (MHI), which is highly misleading as an indicator of a community's ability to pay. As a result, regulatory relief is not provided in many communities where substantial and widespread economic hardships currently exist, or are being created by the federal/state mandates.

EPA's Assessment of Affordability for Drinking Water Regulations

Whereas EPA's consideration of affordability for wastewater and CSO compliance is aimed at assessing an individual community's ability to comply with regulatory mandates and schedules, EPA's consideration of affordability in the context of potable water supply is limited to assessing the *national-level affordability of regulatory options for small communities*. EPA does *not* consider the affordability of drinking water requirements in any manner that pertains to individual utilities (even small ones), or to the category of medium and large utilities.

EPA has stated that it would consider a National Primary Drinking Water Regulation to be unaffordable to small communities (those with populations under 10,000) if the standard would result in a household drinking water bill in excess of 2.5% of the national average MHI in such communities. To date, EPA has never made this finding. If EPA were to make such a finding, it would be required to identify technologies for small systems that might not result in meeting a particular drinking water standard but which are found to protect public health. Then, on a case-by-case basis, states may approve the use of such affordable small system technologies (called a variance) or approve an extended deadline for compliance (called an exemption). States cannot approve both a variance and an exemption for the same standard in the same community. Variances are subject to review and approval by EPA. States consider variances and exemptions to be difficult and expensive to issue, and have issued very few.

Because EPA has stated that it considers potable water affordable if it costs less than 2.5% of small community MHI, this benchmark influences the perceived affordability of combined water and wastewater bills. Specifically, it has been inferred that EPA would consider a combined annual water and wastewater bill of less than 4.5% of MHI to be affordable (2.5% for water, plus 2% for wastewater services and CSO controls).

Remarks

EPA is to be commended for addressing affordability concerns. However, the continued application of EPA's current approach is inadequate. With respect to considering the impact of rising water bills on households, a basic problem is over-reliance on median household income (MHI). Rather than focusing on MHI alone, EPA should focus on households at the lower end of the income spectrum. This examination could include households with incomes below a certain threshold; households with the lowest income levels (such as the lowest quintile or decile); households with housing costs above a certain threshold (such as 35% of income); or households experiencing other types of financial distress (such as households living in areas of high poverty or unemployment). Moreover, the trend in changing household incomes, water and wastewater consumption, employment and demographics (such as population changes) should be taken into account in evaluating how household economic burdens are likely to change over time.

Definitions Used in the Report

MHI – median household income as reported by the US census

Water - public drinking water

Sewer – wastewater treatment plants, or Publicly Owned Treatment Works (POTWs)

Flood Control – charges or fees for stormwater or flood controls

Income Categories – 10 household income categories as reported by the US Census, (i.e., $10,000 or less; 10,001 to 14,999; 15,000 to 24,999; 25,000 to 34,999; 35,000 to 49,999; 50,000 to 74,999; 75,000 to 99,999; 100,000 to 149,999; 150,000 to 199,999; and, 200,000 plus).

Poverty Penalty – the disproportionate cost for public water services and federal/state mandates that are borne by lower median income households, (e.g., poverty, low, moderate and fixed income populations). In the case of the tables included in this report the Poverty Penalty quantifies the difference between EPA's expectation that 4.5% of Median Household Income is affordable versus 4.5% of actual income.

Interim Results

San Gabriel Valley communities sponsored, with the USCM-MWC, a survey of cities that asked participating communities to provide basic information on public water costs. The information appearing in this interim report uses the survey data in combination with readily available information from the US Census to generate current (or cumulative) costs. A key to interpret the information for each city is found at the end of the report in Table B.

Table A: Summary of Public Water Cost Financial Impact

City	Water, Sewer and Flood Control Current Cost Per Household ($)	2% of MHI ($)	Poverty Rate (%)	Poverty Penalty * (%)	Annual Poverty Penalty ($)	10-Year Poverty Penalty ($)
Alhambra	Inc					
Azusa	Inc					
Bell Gardens	878.63	765.44	26.9	14.49 ($0 to $14,999)	526,932	5,269,320
Duarte	Inc					
Inglewood	1,008.00	891.16	20.1	27.0 ($0 to $24,999)	3,026,250	30,262,500
La Mirada	1,213.64	1,440.78	6.2	14.0 ($0 to $24,999)	931,501	9,315,010
La Verne	1,936.08	1,530.38	7.3	35.3 ($0 to $49,999)	2,561,711	25,617,110
Monrovia	502.00	1,388.98	9.6	4.42 ($0 to $10,000)	31,044	310,440
Redondo Beach	1,474.21	1,976.32	5.9	17.59 ($0 to $34,999)	2,986,301	29,863,010
San Gabriel	679.00	1,125.20	12.4	8.0 ($0 to $14,999)	168,255	1,682,550
Signal Hill	796.69	1,314.82	14.0	11.64 ($0 to $14,999)	131,574	1,315,740
Total					10,363,568	103,635,680

* The disproportionate cost for public water services and federal/state mandates that are borne by lower median income households, (e.g., poverty, low, moderate and fixed income households.
Based on the difference between 4.5% of MHI versus 4.5% of actual household income

Inc - Incomplete

City of Bell Gardens, CA MHI $38,272	2%MHI $765.44	Poverty Rate 26.9%	Population 2012 42,757	Wastewater Bill 2014 Current Annual	Water Bill 2014 Current Annual	Flood Control Bill 2014 Current Annual	Combined Wastewater Water and Flood Control Bill
Bell Gardens, CA Household Income Distribution	Household Income	Percent of Households	2% MHI $765.44 as Percent of Actual Income	Wastewater Bill 150.00 as Percent of Actual Income	Water Bill 627.28 as Percent of Actual Income	Flood Control Bill 101.35 as Percent of Actual Income	878.63 as Percent of Actual Income
Less than $10,000	10,000	6.48	7.65	1.50	6.27	1.01	8.79
$10,000 to $14,999	12,500	8.01	6.12	1.20	5.02	0.81	7.03
$15,000 to $24,999	20,000	15.49	3.83	0.75	3.14	0.51	4.39
$25,000 to $34,999	30,000	16.23	2.55	0.50	2.09	0.34	2.93
$35,000 to $49,999	42,500	17.54	1.80	0.35	1.48	0.24	2.07
$50,000 to $74,999	62,500	19.36	1.22	0.24	1.00	0.16	1.41
$75,000 to $99,999	87,500	10.56	0.87	0.17	0.72	0.12	1.00
$100,000 to $149,999	125,000	4.60	0.61	0.12	0.50	0.08	0.70
$150,000 to $199,999	175,000	1.36	0.44	0.09	0.36	0.06	0.50
$200,000 or more	200,000	0.38	0.38	0.08	0.31	0.05	0.44

Bell Gardens Household Income Distribution	Household Income	Number of Households 9,928	2014 Combined Wastewater Water and Flood Control Bill 878.63 as Percent of Actual Income	4.50% of Actual Income $	Single Household Current Avg Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	Household Income Category Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	10-Year Impact Actual Dollars
Less than $10,000	10,000	643	8.79	450	428.63	275,609	2,756,091
$10,000 to $14,999	12,500	795	7.03	563	316.13	251,323	2,513,234
$15,000 to $24,999	20,000	1,538	4.39	900	-21.37	-32,867	-328,671
$25,000 to $34,999	30,000	1,611	2.93	1,350	-471.37	-759,377	-7,593,771
$35,000 to $49,999	42,500	1,741	2.07	1,913	-1,033.87	-1,799,968	-17,999,677
$50,000 to $74,999	62,500	1,922	1.41	2,813	-1,933.87	-3,716,898	-37,168,981
$75,000 to $99,999	87,500	1,048	1.00	3,938	-3,058.87	-3,205,696	-32,056,958
$100,000 to $149,999	125,000	457	0.70	5,625	-4,746.37	-2,169,091	-21,690,911
$150,000 to $199,999	175,000	135	0.50	7,875	-6,996.37	-944,510	-9,445,100
$200,000 or more	200,000	38	0.44	9,000	-8,121.37	-308,612	-3,086,121

City of Inglewood CA MHI $44,558	2%MHI $891.16	Poverty Rate 20.1%	Population 2012 111,542	Age 65+ 9.5%	Sewer Bill 2014 Current Annual	Water Bill 2014 Current Annual	Flood Control Bill 2014 Current Annual	Sewer and Water Bill 2014 Combined Sewer and
Inglewood CA Household Income Distribution	Household Income	Number of Households 36,681	Percent of Households	2% MHI $891.16 Percent of Actual Income	Sewer Bill 90.00 Percent of Actual Income	Water Bill 860.00 Percent of Actual Income	Flood Control Bill 58.00 Percent of Actual Income	Water Bill 1,008.00 Percent of Actual Income
Less than $10,000	10,000	2,393	6.5%	8.91	0.900	8.60	0.5800	10.08
$10,000 to $14,999	12,500	2,600	7.1%	7.13	0.720	6.88	0.4640	8.06
$15,000 to $24,999	20,000	4,932	13.4%	4.46	0.450	4.30	0.2900	5.04
$25,000 to $34,999	30,000	5,012	13.7%	2.97	0.300	2.87	0.1933	3.36
$35,000 to $49,999	42,500	5,138	14.0%	2.10	0.212	2.02	0.1365	2.37
$50,000 to $74,999	62,500	6,908	18.8%	1.43	0.144	1.38	0.0928	1.61
$75,000 to $99,999	87,500	4,363	11.9%	1.02	0.103	0.98	0.0663	1.15
$100,000 to $149,999	125,000	3,680	10.0%	0.71	0.072	0.69	0.0464	0.81
$150,000 to $199,999	175,000	986	2.7%	0.51	0.051	0.49	0.0331	0.58
$200,000 or more	200,000	669	1.8%	0.45	0.045	0.43	0.0290	0.50

Inglewood CA Household Income Distribution	Household Income	Number of Households 36,681	2014 Combined Wastewater Water and Flood Control Bill 1,008.00 as Percent of Actual Income	4.50% Affordability Threshold 4.50% of Actual Income $	Single Household Current Avg Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	Household Income Category Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	10-Year Impact Actual Dollars
Less than $10,000	10,000	2,393	10.08	450.00	558.00	1,335,294	13,352,940
$10,000 to $14,999	12,500	2,600	8.06	562.50	445.50	1,158,300	11,583,000
$15,000 to $24,999	20,000	4,932	5.04	900.00	108.00	532,656	5,326,560
$25,000 to $34,999	30,000	5,012	3.36	1,350.00	-342.00	-1,714,104	-17,141,040
$35,000 to $49,999	42,500	5,138	2.37	1,912.50	-904.50	-4,647,321	-46,473,210
$50,000 to $74,999	62,500	6,908	1.61	2,812.50	-1,804.50	-12,465,486	-124,654,860
$75,000 to $99,999	87,500	4,363	1.15	3,937.50	-2,929.50	-12,781,409	-127,814,085
$100,000 to $149,999	125,000	3,680	0.81	5,625.00	-4,617.00	-16,990,560	-169,905,600
$150,000 to $199,999	175,000	986	0.58	7,875.00	-6,867.00	-6,770,862	-67,708,620
$200,000 or more	200,000	669	0.50	9,000.00	-7,992.00	-5,346,648	-53,466,480

City of La Mirada, CA MHI MHI = $72,039	2%MHI $1,440.78	Poverty Rate 6.2%	Population 2012 48,761	Wastewater Bill 2014 Current Annual	Water Bill 2014 Current Annual	Flood Control Bill 2014 Current Annual	2014 Combined Wastewater Water and Flood Control Bill
City of La Mirada Household Income Distribution	Household Income	Percent of Households	2% MHI $1,440.78 Percent of Actual Income	Wastewater Bill 189.5 Percent of Actual Income	Water Bill 995.75 Percent of Actual Income	Flood Control Bill 28.39 Percent of Actual Income	1,213.64 Percent of Actual Income
Less than $10,000	10,000	2.60%	14.41	1.90	9.96	0.28	12.14
$10,000 to $14,999	12,500	3.00%	11.53	1.52	7.97	0.23	9.71
$15,000 to $24,999	20,000	8.40%	7.20	0.95	4.98	0.14	6.07
$25,000 to $34,999	30,000	7.90%	4.80	0.63	3.32	0.09	4.05
$35,000 to $49,999	42,500	9.70%	3.39	0.45	2.34	0.07	2.86
$50,000 to $74,999	62,500	14.50%	2.31	0.30	1.59	0.05	1.94
$75,000 to $99,999	87,500	15.10%	1.65	0.22	1.14	0.03	1.39
$100,000 to $149,999	125,000	23.20%	1.15	0.15	0.80	0.02	0.97
$150,000 to $199,999	175,000	10.20%	0.82	0.11	0.57	0.02	0.69
$200,000 or more	200,000	5.30%	0.72	0.09	0.50	0.01	0.61

La Mirada Household Income Distribution	Household Income	Number of Households 14,152	2014 Combined Wastewater Water and Flood Control Bill 1,213.64 as Percent of Actual Income	4.50% of Actual Income $	Single Household Current Avg Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	Household Income Category Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	10-Year Impact Actual Dollars
Less than $10,000	10,000	373	12.14	450	763.64	284,838	2,848,377
$10,000 to $14,999	12,500	418	9.71	563	651.14	272,177	2,721,765
$15,000 to $24,999	20,000	1,194	6.07	900	313.64	374,486	3,744,862
$25,000 to $34,999	30,000	1,120	4.05	1,350	-136.36	-152,723	-1,527,232
$35,000 to $49,999	42,500	1,378	2.86	1,913	-698.86	-963,029	-9,630,291
$50,000 to $74,999	62,500	2,047	1.94	2,813	-1,598.86	-3,272,866	-32,728,664
$75,000 to $99,999	87,500	2,142	1.39	3,938	-2,723.86	-5,834,508	-58,345,081
$100,000 to $149,999	125,000	3,286	0.97	5,625	-4,411.36	-14,495,729	-144,957,290
$150,000 to $199,999	175,000	1,445	0.69	7,875	-6,661.36	-9,625,665	-96,256,652
$200,000 or more	200,000	749	0.61	9,000	-7,786.36	-5,831,984	-58,319,836

City of La Verne, CA MHI $76,519	2%MHI $1,530.38	Poverty Rate 7.3%	Population 2012 31,348	Sewer Bill 2014 Current Annual	Water Bill 2014 Current Annual	Flood Control Bill 2014 Current Annual	Sewer and Water Bill 2014 Combined Sewer and Water Bill
La Verne, CA Household Income Distribution	Household Income	Percent of Households	2% MHI 1,530.38 Percent of Actual Income	Sewer Bill 245.00 Percent of Actual Income	Water Bill 1,661.12 Percent of Actual Income	Flood Control Bill 29.96 Percent of Actual Income	Water Bill 1,936.08 Percent of Actual Income
Less than $10,000	10,000	3.6%	15.3	2.45	16.61	0.300	19.36
$10,000 to $14,999	12,500	4.0%	12.2	1.96	13.29	0.240	15.49
$15,000 to $24,999	20,000	8.6%	7.7	1.23	8.31	0.150	9.68
$25,000 to $34,999	30,000	6.1%	5.1	0.82	5.54	0.100	6.45
$35,000 to $49,999	42,500	13.0%	3.6	0.58	3.91	0.070	4.56
$50,000 to $74,999	62,500	14.3%	2.4	0.39	2.66	0.048	3.10
$75,000 to $99,999	87,500	13.7%	1.7	0.28	1.90	0.034	2.21
$100,000 to $149,999	125,000	18.9%	1.2	0.20	1.33	0.024	1.55
$150,000 to $199,999	175,000	10.4%	0.9	0.14	0.95	0.017	1.11
$200,000 or more	200,000	7.4%	0.8	0.12	0.83	0.015	0.97

La Verne, CA Household Income Distribution	Household Income	Number of Households 10,854	2014 Combined Wastewater Water and Flood Control Bill 1,936.08 as Percent of Actual Income	4.50% of Actual Income $	Single Household Current Avg Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	Household Income Category Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	10-Year Impact Actual Dollars
Less than $10,000	10,000	390	19.36	450.00	1,486.08	579,571	5,795,712
$10,000 to $14,999	12,500	431	15.49	562.50	1,373.58	592,013	5,920,130
$15,000 to $24,999	20,000	934	9.68	900.00	1,036.08	967,699	9,676,987
$25,000 to $34,999	30,000	664	6.45	1,350.00	586.08	389,157	3,891,571
$35,000 to $49,999	42,500	1,411	4.56	1,912.50	23.58	33,271	332,714
$50,000 to $74,999	62,500	1,549	3.10	2,812.50	-876.42	-1,357,575	
$75,000 to $99,999	87,500	1,489	2.21	3,937.50	-2,001.42	-2,980,114	
$100,000 to $149,999	125,000	2,053	1.55	5,625.00	-3,688.92	-7,573,353	
$150,000 to $199,999	175,000	1,127	1.11	7,875.00	-5,938.92	-6,693,163	
$200,000 or more	200,000	806	0.97	9,000.00	-7,063.92	-5,693,520	

City of Monrovia, CA MHI 69,449	2%MHI 1,388.98	Poverty Rate 9.60%	Population 2012 36,590	Wastewater Bill 2014 Current Annual	Water Bill 2014 Current Annual	Flood Control Bill 2014 Current Annual	2014 Combined Wastewater Water and Flood Control Bill
City of Monrovia Household Income Distribution	Household Income	Percent of Households	2% MHI 1,388.98 Percent of Actual Income	Wastewater Bill 60.00 Percent of Actual Income	Water Bill 400.00 Percent of Actual Income	Flood Control Bill 42.00 Percent of Actual Income	502.00 Percent of Actual Income
Less than $10,000	10,000	4.42	13.89	0.600	4.00	0.4200	5.02
$10,000 to $14,999	12,500	4.23	11.11	0.480	3.20	0.3360	4.02
$15,000 to $24,999	20,000	9.79	6.94	0.300	2.00	0.2100	2.51
$25,000 to $34,999	30,000	6.14	4.63	0.200	1.33	0.1400	1.67
$35,000 to $49,999	42,500	10.74	3.27	0.141	0.94	0.0988	1.18
$50,000 to $74,999	62,500	20.04	2.22	0.096	0.64	0.0672	0.80
$75,000 to $99,999	87,500	11.90	1.59	0.069	0.46	0.0480	0.57
$100,000 to $149,999	125,000	19.50	1.11	0.048	0.32	0.0336	0.40
$150,000 to $199,999	175,000	7.31	0.79	0.034	0.23	0.0240	0.29
$200,000 or more	200,000	5.91	0.69	0.030	0.20	0.0210	0.25

City of Monrovia Household Income Distribution	Household Income	Number of Households 13,497	2014 Combined Wastewater Water and Flood Control Bill $502.00 Percent of Actual Income	4.50% of Actual Income	Single Household Current Avg Water/Sewer Bill $434.28 Compared to 4.50% Affordability Threshold for Actual Income	Household Income Category Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income	10-Year Impact Actual Dollars
Less than $10,000	10,000	597	5.02	450.00	52.00	31,044	310,440
$10,000 to $14,999	12,500	571	4.02	562.50	-60.50	-34,546	-345,455
$15,000 to $24,999	20,000	1,322	2.51	900.00	-398.00	-526,156	-5,261,560
$25,000 to $34,999	30,000	829	1.67	1,350.00	-848.00	-702,992	-7,029,920
$35,000 to $49,999	42,500	1,450	1.18	1,912.50	-1,410.50	-2,045,225	-20,452,250
$50,000 to $74,999	62,500	2,705	0.80	2,812.50	-2,310.50	-6,249,903	-62,499,025
$75,000 to $99,999	87,500	1,606	0.57	3,937.50	-3,435.50	-5,517,413	-55,174,130
$100,000 to $149,999	125,000	2,632	0.40	5,625.00	-5,123.00	-13,483,736	-134,837,360
$150,000 to $199,999	175,000	987	0.29	7,875.00	-7,373.00	-7,277,151	-72,771,510
$200,000 or more	200,000	798	0.25	9,000.00	-8,498.00	-6,781,404	-67,814,040

City of Redondo Beach, CA MHI $98,816	2%MHI $1,976.32	Poverty Rate 5.9%	Population 2012 67,815	Sewer Bill 2014	Water Bill 2014	Flood Control Bill 2014	Sewer and Water Bill 2014
				Current Annual	Current Annual	Current Annual	Combined Sewer and
Redondo Beach, CA			2% MHI $1,976.32	Sewer Bill 331.00	Water Bill 1,110.66	Flood Control Bill 32.55	Water Bill 1,474.21
Household Income Distribution	Household Income	Percent of Households	Percent of Actual Income	Percent of Actual Income	Percent of Actual Income	Percent of Actual Income	Percent of Actual Income
Less than $10,000	10,000	3.04%	19.8	3.31	11.11	0.326	14.74
$10,000 to $14,999	12,500	3.09%	15.8	2.65	8.89	0.260	11.79
$15,000 to $24,999	20,000	6.72%	9.9	1.66	5.55	0.163	7.37
$25,000 to $34,999	30,000	4.74%	6.6	1.10	3.70	0.109	4.91
$35,000 to $49,999	42,500	8.03%	4.7	0.78	2.61	0.077	3.47
$50,000 to $74,999	62,500	13.74%	3.2	0.53	1.78	0.052	2.36
$75,000 to $99,999	87,500	11.01%	2.3	0.38	1.27	0.037	1.68
$100,000 to $149,999	125,000	19.85%	1.6	0.26	0.89	0.026	1.18
$150,000 to $199,999	175,000	13.63%	1.1	0.19	0.63	0.019	0.84
$200,000 or more	200,000	16.15%	1.0	0.17	0.56	0.016	0.74

Redondo Beach, CA Household Income Distribution	Household Income	Number of Households 28,769	2014 Combined Wastewater Water and Flood Control Bill 1,474.21 as Percent of Actual Income	4.50% of Actual Income $	Single Household Current Avg Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	Household Income Category Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	10-Year Impact Actual Dollars
Less than $10,000	10,000	876	14.74	450	1,024.21	897,208	8,972,080
$10,000 to $14,999	12,500	888	11.79	563	911.71	809,598	8,095,985
$15,000 to $24,999	20,000	1,933	7.37	900	574.21	1,109,948	11,099,479
$25,000 to $34,999	30,000	1,365	4.91	1,350	124.21	169,547	1,695,467
$35,000 to $49,999	42,500	2,311	3.47	1,913	-438.29	-1,012,888	-10,128,882
$50,000 to $74,999	62,500	3,952	2.36	2,813	-1,338.29	-5,288,922	-52,889,221
$75,000 to $99,999	87,500	3,167	1.68	3,938	-2,463.29	-7,801,239	-78,012,394
$100,000 to $149,999	125,000	5,712	1.18	5,625	-4,150.79	-23,709,312	-237,093,125
$150,000 to $199,999	175,000	3,920	0.84	7,875	-6,400.79	-25,091,097	-250,910,968
$200,000 or more	200,000	4,645	0.74	9,000	-7,525.79	-34,957,295	-349,572,946

City of San Gabriel, CA MHI $56,260	2%MHI $1,125.20	Poverty Rate 12.4%	Population 2012 40,275	Sewer Bill 2014 Current	Water Bill 2014 Current	Sewer and Water Bill 2014 Combined
San Gabriel, CA Household Income Distribution	Household Income	Percent of Households	2% MHI $1,125.20 Percent of Actual Income	Annual Sewer Bill 267.00 Percent of Actual Income	Annual Water Bill 412.00 Percent of Actual Income	Sewer and Water Bill 679.00 Percent of Actual Income
Less than $10,000	10,000	4.0%	11.3	2.67	4.12	6.79
$10,000 to $14,999	12,500	4.0%	9.0	2.14	3.30	5.43
$15,000 to $24,999	20,000	12.5%	5.6	1.34	2.06	3.40
$25,000 to $34,999	30,000	9.6%	3.8	0.89	1.37	2.26
$35,000 to $49,999	42,500	15.4%	2.6	0.63	0.97	1.60
$50,000 to $74,999	62,500	17.1%	1.8	0.43	0.66	1.09
$75,000 to $99,999	87,500	11.5%	1.3	0.31	0.47	0.78
$100,000 to $149,999	125,000	14.9%	0.9	0.21	0.33	0.54
$150,000 to $199,999	175,000	6.1%	0.6	0.15	0.24	0.39
$200,000 or more	200,000	4.8%	0.6	0.13	0.21	0.34

City of San Gabriel, CA MHI $56,260	2%MHI $1,125.20	Poverty Rate 12.4%	Population 2012 40,275				
City of Household Income Distribution	Household Income	Number of Households 12,276	2% MHI $1,125.20 as Percent of Actual Income	4.50% of Actual Income $	Single Household Current Avg Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	Household Income $ Category Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	10-Year Impact Actual Dollars
Less than $10,000	10,000	488	11.3	450	229.00	111,752	1,117,520
$10,000 to $14,999	12,500	485	9.0	563	116.50	56,503	565,025
$15,000 to $24,999	20,000	1,532	5.6	900	-221.00	-338,572	-3,385,720
$25,000 to $34,999	30,000	1,182	3.8	1,350	-671.00	-793,122	-7,931,220
$35,000 to $49,999	42,500	1,895	2.6	1,913	-1,233.50	-2,337,483	-23,374,825
$50,000 to $74,999	62,500	2,105	1.8	2,813	-2,133.50	-4,491,018	-44,910,175
$75,000 to $99,999	87,500	1,417	1.3	3,938	-3,258.50	-4,617,295	-46,172,945
$100,000 to $149,999	125,000	1,826	0.9	5,625	-4,946.00	-9,031,396	-90,313,960
$150,000 to $199,999	175,000	754	0.6	7,875	-7,196.00	-5,425,784	-54,257,840
$200,000 or more	200,000	592	0.6	9,000	-8,321.00	-4,926,032	-49,260,320

City of Signal Hill, CA MHI 65,741	2%MHI $1,314.82	Poverty Rate 14.0%	Population 2012 11,185	Wastewater Bill 2014 Current Annual	Water Bill 2014 Current Annual	Flood Control Bill 2014 Current Annual	2014 Combined Wastewater Water and Flood Control Bill
City of Signal Hill Household Income Distribution	Household Income	Percent of Households	2% MHI $1,314.82 Percent of Actual Income	Wastewater Bill 407.7 Percent of Actual Income	Water Bill 331.50 Percent of Actual Income	Flood Control Bill 57.49 Percent of Actual Income	796.69 Percent of Actual Income
Less than $10,000	10,000	7.95	13.15	4.08	3.32	0.57	7.97
$10,000 to $14,999	12,500	3.69	10.52	3.26	2.65	0.46	6.37
$15,000 to $24,999	20,000	8.47	6.57	2.04	1.66	0.29	3.98
$25,000 to $34,999	30,000	11.91	4.38	1.36	1.11	0.19	2.66
$35,000 to $49,999	42,500	19.06	3.09	0.96	0.78	0.14	1.87
$50,000 to $74,999	62,500	23.38	2.10	0.65	0.53	0.09	1.27
$75,000 to $99,999	87,500	11.97	1.50	0.47	0.38	0.07	0.91
$100,000 to $149,999	125,000	8.89	1.05	0.33	0.27	0.05	0.64
$150,000 to $199,999	175,000	2.50	0.75	0.23	0.19	0.03	0.46
$200,000 or more	200,000	2.17	0.66	0.20	0.17	0.03	0.40

City of Signal Hill Household Income Distribution	Household Income	Number of Households 3,635	2014 Combined Wastewater Water and Flood Control Bill 796.69 Percent of Actual Income	4.50% of Actual Income $	Single Household Current Avg Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income $	Household Income Category Water/Sewer Bill Compared to 4.50% Affordability Threshold for Actual Income	10-Year Impact Actual Dollars
Less than $10,000	10,000	289	7.97	450	346.69	100,193	1,001,934
$10,000 to $14,999	12,500	134	6.37	563	234.19	31,381	313,815
$15,000 to $24,999	20,000	308	3.98	900	-103.31	-31,819	-318,195
$25,000 to $34,999	30,000	433	2.66	1,350	-553.31	-239,583	-2,395,832
$35,000 to $49,999	42,500	693	1.87	1,913	-1,115.81	-773,256	-7,732,563
$50,000 to $74,999	62,500	850	1.27	2,813	-2,015.81	-1,713,439	-17,134,385
$75,000 to $99,999	87,500	435	0.91	3,938	-3,140.81	-1,366,252	-13,662,524
$100,000 to $149,999	125,000	323	0.64	5,625	-4,828.31	-1,559,544	-15,595,441
$150,000 to $199,999	175,000	91	0.46	7,875	-7,078.31	-644,126	-6,441,262
$200,000 or more	200,000	79	0.40	9,000	-8,203.31	-648,061	-6,480,615

CALCULATING COMPLIANCE BASED RATE INCREMENTS

This key is set to the Bell Gardens, CA Fiscal Impact Table. It explains where the data come from (the Census and the City) and how it is analyzed to determine fiscal impact across household income distributions. Each column is described below. Note: Columns A through E, rows 1 through 4 represent some summary metrics reported by census.gov.

Financial Impact as a Percent of Actual Household Income

Column

1. Data are provided in 10 categories of income brackets by the Census in Census.gov and the dropdown box in Quick Facts (and the selection of place), (rows 5 through 23).

2. The income brackets in column 1 are modified in column 2 to represent the mid-point of income for that bracket, with the exception of the lowest and highest income categories. The $10,000 income category is represented as $10,000 for all households, but we recognize that not all households will achieve that level of income. The highest income category is represented by the threshold figure of $200,000, even though some households may have much higher income. The effect of the lowest and highest income figure used is conservative in the sense that it probably under-predicts fiscal burden by a slight amount. The number of households is reported in this column, and are taken from census.gov Quick Facts.

3. The percent of households in each income category, derived from dividing the number of households in column 3 by 9,928 (total number of households).

4. Census.gov reports that Median Household Income (MHI) in Bell Gardens for the most recent time period available is $38,272. Thus, $38,272 * 0.02 = $765.44, and this dollar amount represents how much 2% of MHI is for actual incomes by household category.
   EXAMPLE: column 4, row 15 is 6.12% of annual (actual) income. Calculated as follows: $765.44 / $12,500 = 6.12%. For comparison, 2% of actual income for households making $10,000.00 per year is $200.00.

5. Annual wastewater average costs are reported by Bell Gardens to be $150 per year. This cost is used to calculate the percent of household income it commands. Example: column 5, row 16 is 0.75% of annual (actual) income. Calculated as follows: $150.00 / $20,000.00 = 0.75%.

6. Annual average water bills for households reported by Bell Gardens, for this time period, are $627.28. Like column 5, column 6 calculates the percent of household

income this cost item commands. Example: $627.28 / $10,000.00 = 6.27% (column 6, row 14).

7. Annual flood control costs per household are reported by Bell Gardens to be $101.35. Thus, $101.35 / $10,000.00 = 1.01%, (column 7, row 14).

8. In column 8 we sum the component costs of wastewater ($150.00), water supply ($627.28), and flood control ($101.35) to derive average household total water–related costs = $878.63. This figure was divided by household income by category to determine what percent of actual household income it is. Example: $878.63 / $12,500.00 = 7.03%.

   Interpretation – 8% of Bell Gardens households spend, on average, 7.03% of their income for water/wastewater/flood control each year.

   Cumulatively, about 64% of Bell Gardens households are already spending 2.07% or more of their actual income for current water-related costs. (Add column 4 rows 14 through 18 = 63.47%, and compare to any given affordability threshold).

   To calculate the dollar amount of spending, choose an income category:
   Example: Households with annual income of $10,000.00 are, on average, spending $878.63 a year for water/wastewater/flood control. Two percent of actual income for this household income category is $200. Thus, if you compare spending actual to MHI income, these households are paying $678.63 over their actual 2% of income. There are 643 households in this category, so, 643 * $678.63 = $436,359.00, and this amount demonstrates how much current charges and fees are derived from households in any income category. These figures can be compared to any affordability threshold to gauge financial burden on the residential rate payers.

Financial Impact in Dollars for Households and Income Categories

Column

1. Data are provided in 10 categories of income brackets by the Census in Census.gov and the dropdown box in Quick Facts (and the selection of place), (rows 5 through 23).

2. The income brackets in column 1 are modified in column 2 to represent the mid-point of income for that bracket, with the exception of the lowest and highest income categories. The $10,000 income category is represented as $10,000 for all households, but we recognize that not all households will achieve that level of income. The highest income category is represented by the threshold figure of $200,000, even though some households may have much higher income. The effect

of the lowest and highest income figure used is conservative in the sense that it probably under-predicts fiscal burden by a slight amount.

3. The number of households is reported in column 3, and is taken from census.gov Quick Facts.

4. In column 4 we sum the component costs of wastewater ($150.00), water supply ($627.28), and flood control ($101.35) to derive average household total water–related costs = $878.63. This figure was divided by household income by category to determine what percent of actual household income it is. Example: $878.63 / $12,500.00 = 7.03%.

5. Column 5 introduces the EPA affordability threshold of 4.5% of MHI, but calculates 4.5% of actual income instead. This is calculated to represent what EPA considers affordable for residential users.

6. Column 6 calculates the difference between 4.5% of actual income and how much households are currently spending on public water. Thus, the lowest income group in Bell Gardens has annual actual income up to $10,000, and 4.5% of that income is estimated to be $450. The current all-in public water costs are $878.63, so by subtraction we estimate that holding those households to a 4.5% of MHI results in that household spending $428.63 more per year than if it was based on actual versus median income.

7. Column 7 exhibits the amount of money spent by all of the households within an income category in excess of 4.5% of actual income. Example: $428.63 excess per household * 643 households in this income category in Bell Gardens = $275,609 per year.

8. Column 8 exhibits the household income categories and how much they spend in excess of 4.5% of actual income over a 10 year period.

THE FINANCIAL IMPACT OF PUBLIC WATER AND FEDERAL MANDATE COSTS ON ECONOMICALLY VULNERABLE POPULATIONS IN SAN GABRIEL VALLEY/LOS ANGELES COUNTY COMMUNITIES –
An Interim Report

The United States Conference of Mayor
Mayors Water Council

July 22, 2014

SUMMARY POINTS
(Keyed to Table A)

- **Preliminary data indicate that all-in public water costs (i.e., drinking water, wastewater, flood control) range from $502 to $1,936 per year for 8 communities who have completed the survey.**
- **All-in public water costs exceed 2% of actual household income in: Bell Gardens; Inglewood; and, La Verne. [2% of Median Household Income (MHI) is an affordability threshold that EPA looks at to determine if regulations are affordable for sewer overflow and stormwater controls]**
    - **Bell Gardens has a reported poverty rate of 26.9%**
    - **Inglewood has a reported poverty rate of 20.1%**
- **A Poverty Penalty was calculated – it is the difference between 4.5% of actual household income and the current annual cost per household for public water:**

[4.5% of Median Household Income (MHI) is an affordability threshold that EPA looks at to determine if regulations are affordable for water and certain wastewater regulations]

- **Information from all cities with completed surveys indicates:**
  - **Every city experiences the greatest Poverty Penalty among the lower median income household groups**
  - **Some cities experience this in the lower 2 income categories ($10,000 to $15,000)**
  - **Households in other cities, like La Verne, and even wealthy Redondo Beach, experience the Poverty Penalty reaching up to $50,000 income in La Verne, and $35,000 in Redondo Beach.**

- **The amount of money that the lower median income households pay in excess of 4.5% of actual income ranges from a low of $31,044 per year for Monrovia; to a high of $3 million for Inglewood.**
- **The poorest households in several of these cities are spending a significant amount of their actual income over a 10 year period on public water services and their compliance with federal/state regulations:**
  - **Inglewood $30,262,500**
  - **La Verne $25,617,110**
  - **Redondo Beach $29,863,010**
  - **La Mirada $9,315,010**

- **Based on this information we make some preliminary conclusions:**
  - **EPA created an economic environmental injustice when it established an affordability expectation that is pegged to the more affluent households of our society.**
  - **The poorer half of American households, and now this is creeping up into the middle class income groups, bears a disproportional financial burden paying for public water services heavily weighted down with current**

compliance requirements, and there is no end in sight to additional federal/state water mandates and their additional costs

- While originally intended to review the financial impacts on low income households from the EPA's combined and sanitary sewer overflow enforcement program, we have, instead, learned that the cumulative costs of providing public water services (a local responsibility) has become substantially unaffordable for a growing percent of American households.

Table A: Summary of Public Water Cost Financial Impact

City	Water, Sewer and Flood Control Current Cost Per Household ($)	2% of MHI ($)	Poverty Rate (%)	Poverty Penalty * (%)	Annual Poverty Penalty ($)	10-Year Poverty Penalty ($)
Alhambra	Inc					
Azusa	Inc					
Bell Gardens	878.63	765.44	26.9	14.49 ($0 to $14,999)	526,932	5,269,320
Duarte	Inc					
Inglewood	1,008.00	891.16	20.1	27.0 ($0 to $24,999)	3,026,250	30,262,500
La Mirada	1,213.64	1,440.78	6.2	14.0 ($0 to $24,999)	931,501	9,315,010
La Verne	1,936.08	1,530.38	7.3	35.3 ($0 to $49,999)	2,561,711	25,617,110
Monrovia	502.00	1,388.98	9.6	4.42 ($0 to $10,000)	31,044	310,440
Redondo Beach	1,474.21	1,976.32	5.9	17.59 ($0 to $34,999)	2,986,301	29,863,010
San Gabriel	679.00	1,125.20	12.4	8.0 ($0 to $14,999)	168,255	1,682,550

Signal Hill	796.69	1,314.82	14.0	11.64 ($0 to $14,999)	131,574	1,315,740
Total					10,363,568	103,635,680

* The disproportionate cost for public water services and federal/state mandates that are borne by lower median income households, (e.g., poverty, low, moderate and fixed income households).
Based on the difference between 4.5% of MHI versus 4.5% of actual household income.

Inc - Incomplete

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 18 2014

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Timothy Bishop
Ranking Member
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
House of Representatives
Washington, DC 20515

Dear Congressman Bishop:

Thank you for your July 28, 2014, letter requesting responses to questions for the record following the July 24, 2014, hearing before the Subcommittee titled "Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality."

The responses to your questions are provided in the enclosures. Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at spraul.greg@epa.gov or 202-564-0255.

Sincerely,

Laura Vaught
Associate Administrator

Enclosures

Enclosure A

U.S. Environmental Protection Agency
Responses to Questions from Congresswoman Napolitano
Subcommittee on Water Resources and Environment
July 24, 2014 hearing titled "Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality"

Question 1. In your statement you mention that the EPA is, "encouraged that a number of communities have expressed interest in developing an integrated plan". Can you please provide a list of communities who have stated their intention to submit an Integrated Planning Framework and the status of each of these submissions?

Response: Enclosure B provides a list of communities that have expressed interest in developing an integrated plan that would have elements incorporated into a permit. This includes all of the communities that applied for technical assistance that the EPA will be awarding to five communities this fall to foster inclusion of Integrated Planning elements into permits, as well as other communities that we are aware of who are looking to pursue this path.

In addition, there are also two entered consent decrees that specifically provide for the development of an Integrated Plan, Seattle and King County, WA. Both of these decrees have provisions that allow the permittee to develop an Integrated Plan within five years, recognizing that it can be a time consuming effort. Should the Integrated Plan suggest changes to the consent decree, they may then request modifications to accommodate a more integrated approach. What has been more common, is that the EPA and a permittee will negotiate consent decree or administrative order requirements in such a way as to embody an integrated planning approach without the formal inclusion of a separate Integrated Plan. Enclosure C includes a list of communities with consent decrees where the EPA believes that Integrated Planning approaches have been embodied in our agreements, typically without a separate Integrated Plan document being attached.

Question 2. There seems to be a disconnect between EPA Headquarters and the Regions on Implementing Integrated Planning and Green Infrastructure. Do you believe the Regions are resisting implementing the policy and what is needed to encourage it?

Response: The EPA is committed to the Integrated Planning approach. The agency's Integrated Municipal Stormwater and Wastewater Planning Approach Framework guides the regions and headquarters, and regions have been directed to work with our state partners to facilitate the Integrated Planning approach. The EPA does not believe that a disconnect on implementation of Integrated Planning exists between headquarters and the regional offices, as illustrated by the regions' continued involvement and support of the development and implementation of Integrated Planning and green infrastructure efforts noted in Enclosures B and C. In addition, headquarters staff continue to be heavily involved in negotiating municipal consent decrees, particularly where a municipality has asked to incorporate Integrated Planning and/or green infrastructure elements.

Enclosure B

U.S. Environmental Protection Agency
Responses to Questions from Congresswoman Napolitano
Subcommittee on Water Resources and Environment
July 24, 2014 hearing titled "Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality"

1. Municipalities that submitted a letter of interest seeking technical support to develop and implement an integrated planning approach under the Clean Water Act (The EPA intends to provide assistance to five communities):

    - City of Chicopee, MA
    - City of Worcester, MA / Blackstone Water Pollution Abatement District
    - Town of Durham, NH / University of New Hampshire
    - City of Portland, ME
    - City of Burlington, VT
    - City of Newark, NJ
    - Onondaga County, NY
    - City of Pittsburgh, PA
    - City of Frankfort, KY
    - Treasure Coast Regional Planning Council, FL
    - City of North Miami, FL
    - City of Rockford, IL
    - City of Akron, OH
    - City of Lansing, MI
    - City of Springfield, MO / Greene County, MO
    - City of Peculiar, MO
    - Fairfield, IA
    - Payson City Corporation, UT
    - Magna Water District / Salt Lake County, UT
    - Chippewa Cree Tribe, MT
    - City of Apache Junction, AZ
    - Commonwealth of the Northern Mariana Islands
    - City of Santa Maria, CA
    - City of Los Angeles, CA
    - Victor Valley Wastewater Reclamation Authority, CA
    - City of Oxnard, CA
    - City of San Diego, CA
    - Clean Water Services, OR

2. Municipalities that have shown an interest in having the Integrated Planning approach be used to support Clean Water Act permit development (***in addition to*** municipalities listed above that submitted a letter of interest seeking technical support):

- Springfield, MA
- Gloucester, MA
- WISE (Water Integration for the Squamscott-Exeter) includes the towns of Exeter, Stratham and Newfield, all in NH.
- Richmond, VA
- Cherokee, OK
- Lawrence, KS
- Boonville, MO
- Park City, UT
- Spokane, WA

Enclosure C

U.S. Environmental Protection Agency
Responses to Questions from Congresswoman Napolitano
Subcommittee on Water Resources and Environment
July 24, 2014 hearing titled "Integrated Planning and Permitting Framework: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality"

Municipal settlements that incorporated Integrated Planning elements:

- Boston Water & Sewer Commission, MA (2012)
- Fitchburg, MA (entered FY2013)
- Philadelphia, PA (2012 Administrative Order for Compliance)
- Hampton Roads Sanitation District, VA (amended existing Consent Decree FY13)
- Atlanta, GA (Consent Decree amendment, entered 2012)
- Chattanooga, TN (entered FY13)
- MWRD (Chicago), IL (entered FY14)
- New Orleans, LA (existing Consent Decree – amendment lodged FY14)
- Kansas City, KS (entered FY13)
- Seattle, WA (lodged FY13)
- King County, WA (lodged FY13)

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