

Testimony of

**Christopher M. Westhoff
President**

National Association of Clean Water Agencies (NACWA)

**Assistant City Attorney
Public Works General Counsel
For the City of Los Angeles**

**On behalf of the
National Association of Clean Water Agencies
and the
Water Infrastructure Network (WIN)**

September 19, 2007

**Senate Committee on Environment and Public Works
Subcommittee on
Transportation Safety, Infrastructure Security,
And Water Quality**

Introduction

Good morning, Chairman Lautenberg and Members of the Subcommittee. My name is Christopher Westhoff and I am an Assistant City Attorney and public works general counsel for the City of Los Angeles. I am testifying today on behalf of and as the President of the National Association of Clean Water Agencies (NACWA) and as a member of the Water Infrastructure Network (WIN). NACWA is the only organization dedicated solely to the interests of the Nation's public wastewater treatment agencies. Our members are dedicated environmental stewards who work to carry out the goals of the Clean Water Act and to treat and reclaim more than 18 billion gallons of wastewater each day. WIN is a broad-based coalition of local elected officials, drinking water and wastewater service providers, state environmental and health administrators, engineers, environmentalists, and labor advocates dedicated to preserving and protecting the health, environmental and economic gains that America's drinking water and wastewater infrastructure provides.

I am pleased to be here and thank you for holding this important hearing examining the state of our nation's critical water infrastructure, which protects our vital water resources, improves public health, and provides recreational enjoyment for all Americans. With the 35th anniversary of the Clean Water Act just around the corner, this hearing and your record of leadership on environmental issues are both timely and fitting as we face some serious challenges moving into the 21st century. In order to meet these challenges and ensure continued water quality improvements, all levels of government – federal, state, and local – must develop a lasting partnership that recognizes the need for more investment in our nation's clean water infrastructure.

As Federal Funds Decline, the Local Cost of Clean Water Rises

While the Clean Water Act has been hugely successful in helping us meet our clean water objectives, we must not stop and pat ourselves on the back for a job well done. Unfortunately, the job is far from finished. There is no doubt about the record of environmental achievement in the 35 years since the Clean Water Act became law. In 1972, Lake Erie had been declared dead by *Time*

magazine, and the burning Cuyahoga River became the poster child for federal action — action in the form of a tough federal law and an unprecedented infusion of federal money which, together with state and local contributions, helped POTW's across America begin to meet the Nation's water quality challenges. Today our rivers, lakes, and estuaries are much cleaner as a result.

The federal government has invested more than \$72 billion since 1972 to help cities build publicly owned treatment works (POTWs). This investment in clean water has not come at the expense of economic growth. Quite the contrary. Economic growth has gone hand in hand and, indeed, has been enhanced by this investment. However, despite the huge sums spent to meet our clean water goals, our nation now faces serious long-term funding shortfalls to meet its vital water and wastewater infrastructure needs.

Federal assistance simply has not kept pace with needs, declining more than 70 percent since 1980. The nation now faces a funding gap of \$300 billion to \$500 billion over 20 years between current levels of spending for wastewater infrastructure and total funding needs, according to the U.S. Environmental Protection Agency (EPA),¹ the Congressional Budget Office,² and WIN³. Little has been done since these estimates were released, and the picture has not improved with the passage of time.

Local communities now pay more than 95 percent of the cost of meeting their Clean Water Act obligations, according to a recent report by the U.S. Conference of Mayors⁴. In effect, these communities are on their own to address the ever increasing challenges of aging infrastructure, a

¹ U.S. Environmental Protection Agency, *The Clean Water and Drinking Water Infrastructure Gap Analysis (2002)* <http://www.epa.gov/safewater/gapreport.pdf>.

² Congressional Budget Office, *Future Investment in Drinking Water and Wastewater Infrastructure (November 2002)*; <http://www.cbo.gov/ftpdoc.cfm?index=3983&type=0&sequence=0>

³ Water Infrastructure Network, *Clean and Safe Water for the 21st Century (2000)*; <http://www.win-water.org/reports/winreport2000.pdf>.

⁴ U.S. Conference of Mayors, *Who Pays for the Water Pipes, Pumps and Treatment Works? — Local Government Expenditures on Sewer and Water — 1991-2005* (<http://www.usmayors.org/urbanwater/07expenditures.pdf>)

growing population, expectations of higher quality service, and more expensive federal regulations to address wet weather, emerging contaminants, nutrient removal, total maximum daily loads (TMDLs), and other demands for limited resources. Clean water ranks second only to education in terms of how local governments are spending their money.

In the 1990's alone, Los Angeles spent over \$1.6 billion on the upgrade of the Hyperion Wastewater Treatment Plant to full secondary treatment. This was only ONE plant, and only a small portion of this expenditure was funded through the Federal Clean Water Grant Program. In this decade, Los Angeles will spend more than \$4 billion dollars to address the physical needs of its aging 6,500 mile long wastewater collection system and other wastewater infrastructure. To meet this aggressive expenditure program, rates have already been raised 7% per year for each of the past five years, and in 2008, our infrastructure team will ask our City Council for a nearly 9% rate increase for each of the succeeding five years.

This financial situation is untenable. With local governments shouldering so much of the financial burden and having limited options for further financing, we risk losing ground in the battle for clean water. In fact, EPA has stated that if the infrastructure funding gap is not addressed soon, the water quality gains we have seen over the past 35 years could be erased by 2016. Already, the physical condition of our treatment plants, equipment, and other capital improvements in many of the nation's 16,000 wastewater treatment systems has suffered because of the lack of resources to pay for upgrades and the replacement of pipes and treatment systems.

The EPA also reports that more than 40% of the Nation's assessed waters remain impaired, with the majority of this impairment caused by nonpoint sources of pollution. Furthermore, our growing population, which is expected to add another 100 million people over the next three decades, coupled with increasing industrial output further stresses our aging clean water infrastructure.

Funding the Clean Water Act

To address this funding crisis — and this is a crisis — NACWA and WIN believe the federal government should recommit itself to clean water and the ideals that led to the passage of the 1972 Clean Water Act. We believe such a recommitment should involve a viable long-term, dedicated source of revenue to bridge the clean water infrastructure funding gap. In short, we think the best way to accomplish this is through the establishment of a federal clean water infrastructure trust fund that would provide a reliable source of financial assistance for the construction and repair of water and wastewater infrastructure. Clean and safe water is no less a national priority than an adequate system of interstate highways and a safe and efficient aviation system. If these other highly important infrastructure programs enjoy sustainable, long-term sources of federal investment, water and wastewater infrastructure should as well.

As a first step toward a long-term funding solution, however, NACWA and WIN strongly recommend that the Senate introduce and pass legislation that mirrors the Water Quality Financing Act of 2007. This bill, which passed the House in an overwhelming 303-108 vote, would provide \$14 billion over 4 years for the Clean Water State Revolving Fund (CWSRF) and would require a GAO study of revenue sources for a clean water trust fund. We would hope Congress would pass such legislation by October 18 to commemorate the passage of the original Clean Water Act 35 years ago.

The need for additional, viable revenue streams is even more important when considered in the context of the Administration's approach for overcoming the funding gap. This approach, referred to as the "Four Pillars," includes better utility management, water conservation, full-cost pricing, and the reliance on watershed planning. While NACWA believes these practices are beneficial, they ultimately boil down to the federal government washing its hands of the matter and putting the burden entirely on the shoulders of local governments. In essence, the Administration's approach assumes the federal government has no role, and if local governments charge more and implement the other elements of the Four Pillars, the funding gap vanishes. This is simply not the case.

According to NACWA's annual Rate Index, municipalities have already been forced to raise the average residential user service charge at twice the rate of inflation for the past five years, and many utilities are raising their rates by double-digits. Mr. Chairman, if you ask some of our members, they will tell you that they are having to increase their rates by more than 15 percent per year to meet the growing demand.

NACWA, through its Clean Water Funding Task Force, has done extensive research regarding public perception on clean water funding and how best to overcome the gap. More than 91% of Americans, when made aware of this gap, overwhelmingly support *federal* legislative action to guarantee the water quality of the Nation's rivers, lakes, streams, and bays. Polling data also show that the vast majority of Americans would support a dedicated revenue source for clean water infrastructure structured similarly to those that exist for highways and airports and that Americans are willing to pay out of their own pockets to do so.

New Challenges in the 21st Century

The world around us has changed significantly since 1972, from swelling and shifting populations to the emergence of new pollutants that have the power to change the course of nature. NACWA and WIN encourage the Committee to seek innovative approaches, with appropriate funding, to achieving water quality goals in the face of these emerging challenges. The federal government currently supports technology research and development through EPA programs and Congressional appropriations to non-profit research foundations. Yet, none of these programs focuses specifically on infrastructure and non-traditional solutions. Innovative and alternative approaches are needed to reduce nutrient pollution, improve methods for conserving and reusing water, improve monitoring and data analysis, reduce nonpoint sources of water pollution, reduce municipal stormwater pollution, reduce sanitary sewer and combined sewer overflows, address new water resource management issues presented by climate change, and develop more effective methods for treating wastewater – including “green technology,” conservation easements, stream buffers and wetlands.

Integrated strategies to managing drinking water, wastewater and stormwater issues such as water reuse, water conservation, and energy efficiency through a meaningful watershed management approach are critical to achieving sustainability. Green technologies too are becoming increasingly accessible and commonplace. “Water is water” is what we hear from many of our stakeholders. The ramifications of such thinking are many and broad, signalling the need for a new approach to water quality that better equips us to deal with new, complicated, and expensive challenges.

Conclusion

During deliberations of the original Clean Water Act, Congress decided that water infrastructure was a national good that demanded federal investment. The American people agreed as more than 20 million participated in the original Earth Day activities in 1970. Although consensus still exists in the form of broad public support for federal action, the federal commitment to clean water investment continues to wane. This trend is inexplicable in light of the ever-increasing costs to comply with new federal requirements and enforcement actions. On top of it all, the escalating cost and unanticipated price increases for materials, experienced consultants, engineers, and utility staff are creating the “perfect storm” for wastewater utility managers at the local level. We must not allow this storm to push gains made in water quality back to pre-1970 levels.

The image of the Cuyahoga River on fire is forever seared in our collective memory. It helped illuminate the plight facing our precious waterways and inspired our nation to act and act decisively. We must not allow the nation’s great waterways to again become the poster-children for a Nation’s water quality in crisis. Whether it is the Potomac, the Chesapeake Bay, the Mississippi River, the Great Lakes or California’s coastal waters, the point is simple: the federal government’s failure to join states and municipalities as a full-fledged, long-term partner in funding the Nation’s clean water infrastructure will have unacceptable consequences. Your leadership, Mr. Chairman, and the foresight of this Committee’s members can make such a partnership a reality again. Thank you for your time and for allowing NACWA and WIN to share their views on clean water funding for the 21st century. I would be happy to answer any questions.