



Testimony of
Dan Coughlin
Utility Manager, Sheridan Area Water Supply Joint Powers Board, Wyoming
On behalf of the
Wyoming Association of Rural Water Systems
And the
National Rural Water Association
Before the
Committee on Environment and Public Works
The United States Senate
Hearing on
America's Water Infrastructure Act of 2020
The Drinking Water Infrastructure Act of 2020
April 22, 2020

Thank you, Chairman Barrasso and Members of the Committee, for the opportunity to submit testimony on behalf of the nation's small and rural communities' drinking water and wastewater utilities.

Rural America is appreciative for the helpful and beneficial provisions in your water legislation, "American's Water Infrastructure Act of 2020" and "The Drinking Water Infrastructure Act of 2020," and we support passage and enactment of the legislation. The National Rural Water Association has over 31,000 community members. Our mission is to enhance drinking water and wastewater service, safety, compliance and quality in small and rural communities.

Our main message to the Committee today is that small and rural communities in all states support your water legislation. We appreciate the balanced approach you took in crafting the legislation that has allowed for the broad bipartisan and stakeholder support that is necessary for passage in Congress. We urge the committee and the Senate to pass it as soon as possible to help small communities with the operation of their drinking water and wastewater utilities and compliance with all the federal regulations under the Clean Water Act and Safe Drinking Water Act.

My name is Dan Coughlin from Sheridan County, Wyoming where I have been employed for the last 10 years by the county to manage our local drinking water supply utility – the Sheridan Area Water Supply Joint Powers Board (SAWSJPB). SAWSJPB and the City of Sheridan are political subdivisions of the state authorized to provide drinking water in a cooperative manner to approximately 9,000 connections (homes and businesses) in the City of Sheridan and surrounding areas within the county. We are governed by a board of directors composed of the Mayor of the City of Sheridan, two City Councilors and three County Commissioners. We receive raw water from three reservoirs in the Big Horn mountains, which we access at the mouth of the Big Goose Creek where we filter and disinfect a portion of the water for public consumption at our Big Goose Water Treatment Plant. The remaining water accessed from the creek is piped 12 miles to a second filtration plant – the Sheridan Water Treatment Plant. Water from the treatment plants commingles and passes through pipes common to both the city and SAWSJPB. Our water utility has placed a moratorium on any water disconnections for non-payment in response to the economic impact on our citizens from the coronavirus pandemic.

In the late 1980s, funding from U.S. Department of Agriculture, the state Permanent Mineral Trust Fund (severance taxes) and an optional Capital Facilities Sales Tax approved by the residents of Sheridan County allowed us to develop our water utility which provided safe-piped water to about 1,100 homes that had been relying on very poor quality (non potable) individual wells. Currently, we still have families who want to connect to the water supply and we continue to extend lines to new growth areas as development and density make the extensions economically feasible. Any new growth areas must pay for the extension and water service. The cost of the original project to establish SAWSJPB which included water plants, storage, transmission and distribution systems was \$30 million (in the late 1980s). Since building the original system, we have financed another \$27 million in improvements to meet regulations and needed upgrades.

In addition to my experience in Sheridan, I have a degree in Natural Resources (Forest Management) from the University of Michigan, about 40 years in small water and sewer system management, four years providing technical assistance to small communities with the Midwest Assistance Program, and one year as a Source Water Protection Technical Assistance Specialist with Wyoming Rural Water. I helped form the Natrona County Regional Sewer System and Regional Water Joint Powers Board and I am currently on the Board of Directors of Wyoming Rural Water.

We are fortunate to be experiencing economic growth in Sheridan. Many communities in Wyoming are not so fortunate, however, and are experiencing damaging economic decline due to the coal bust and other adverse economic factors. These communities will not be able to afford to operate and maintain their existing water infrastructure with fewer people and less money. This economic decline is compounded by the aging of the infrastructure and need to upgrade, let alone their ability to maintain operations. The basic problem is that there are fewer and fewer jobs in many parts of rural America. This leads to fewer residents with incomes other than social security. These folks can't move because they own their homes, can't sell them for what a replacement in a place with more services would cost. Progressively, these are the biggest part of the customer base. As the population drops, the pipes remain which must be kept full of water to maintain disinfection, but are not being flushed adequately by customer use. So utility staff must flush hydrants more often - you get the idea. As businesses, many small and rural communities are failing because the revenue base is declining and they can't move the system to where the customers are. Without outside help (government), these communities' problems get worse. There is inevitably a loss in water quality and maintenance of pipes as upgrade of infrastructure is "deferred."

While our current economic situation in Sheridan is optimistic, three years ago we were in need of financial assistance for our water supply. We are mandated to make significant modifications to our two filtration plants to comply with the Safe Drinking Water Act's requirement to protect against the waterborne pathogen *Cryptosporidium* in our finished water. We were grateful to secure approximately \$3,000,000 (75% grant) from Wyoming's State Revolving Fund (Wyoming Water Development Commission) to make the necessary upgrades to both filtration plants.

We are currently in need of approximately \$5,000,000 in funding to replace one of our main water transmission lines called the Airport Transmission Main which connects an existing water supply pipeline in the eastern end of the Big Goose Valley to major service areas at the airport, and then travels south to the State Girl's School, the entire Little Goose Valley, the Big Horn area, Sheridan College and Southeast Sheridan. It is a key transmission main for both the SAWSJPB and City of Sheridan. The existing line has failed multiple times in the past and is approaching the end of its life and is in need of replacement.

Our only source of water – the collection from the reservoirs in the Big Horn mountains, accessed in Big Goose Creek – is vulnerable to chemical and physical contamination from a possible wildfire in that area.

This could potentially contaminate our only source of water and be catastrophic to the community's public water service. We have a long-term plan to mitigate against the threat. I am studying the potential of interconnecting our joint water system with three of our neighboring communities (the Town of Ranchester, the Town of Dayton, and the City of Buffalo). Another plan, called the Lake DeSmet alternate water supply project, is estimated to cost about \$60 million. These communities have performed well over the years to step up to the challenges of meeting the potable water needs of their customers and be ahead of the curve in many cases. We are interested in interconnecting our three neighboring water utilities to provide a regional solution to any one of the communities whose source of water is compromised by a wildfire or other disaster. However, our communities are 10 to 40 miles apart and the economics of the regional plan make it currently cost prohibitive.

Many interests that do not represent small communities or their residents continually urge Congress to support new federal measures that usurp local governments' policies regarding consolidation of small water utilities. Please know that these solutions, as in our case, could result in the deleterious effect of drinking water service becoming unaffordable for the small and rural communities we are trying to assist.

The key ingredient in any successful consolidation is local support for the consolidation – and local control of when and how they choose consolidation. Rural Water has led or assisted in more communities consolidating their water supplies than any program, policy or organization. Again, when communities believe consolidation will benefit them, they eagerly agree with these partnerships. If communities are coerced into consolidation, however, one can almost guarantee future controversy. We urge you to allow local governments the authority to choose when to merge, consolidate or enter into a partnership. If a community is out of compliance with the Safe Drinking Water Act, civil enforcement can drive a community to a compliance solution. However, they should be able to choose their preferred compliance solution whether it be new treatment, regionalization, technical assistance, governmental changes, etc. We would be very concerned if the federal government expanded its regulatory reach into this traditionally local governmental authority.

When growth and increasing density make consolidation feasible, it becomes in local communities' self-interest to move forward with consolidation or regional intergovernmental systems. This is occurring all the time in the water community; the total number of U.S. community water systems (CWSs) has decreased by upwards of 10% (>54,000 CWSs to <50,000 CWSs) since this Committee passed the Safe Drinking Water Act Amendments of 1996. This estimate does not fully account for all the additional communities that have consolidated or contracted all their operations, maintenance, and finances to neighboring larger utilities or contract operators, but still appear as a regulated public water system in the federal database.

My first water job in Wyoming was with the Brooks Water and Sewer District in Natrona County in 1976. My mission was to work myself out of a job by managing and growing that utility until there was adequate population density in the area to allow for our neighboring and larger communities (the Town of Mills and the City of Casper) to each manage portions of the water utility in closest proximity to their communities. This successfully occurred in 1996 through local governmental responsibility and very intense engineering, local governmental foresight and planning.

Most of the country's drinking water and wastewater utilities are small. Approximately 80 percent of the country's approximately 17,000 wastewater utilities serve a population of fewer than 10,000 persons.¹ Over 90 percent of the country's approximately 50,000 community water systems (CWSs) serve a population of fewer than 10,000 persons.

¹ <http://ruralwater.org/docs/EPA%20POTWs%204-10-2020.pdf>

GPRA Inventory Summary Report

Population	<=500		501-3,300		3,301-10,000		10,001-100,000		>100,000		# Systems	Population
	# of Systems	Population	# of Systems	Population	# of Systems	Population	# of Systems	Population	# of Systems	Population		
PWS Type Code												
CWS	27,173	4,577,403	13,356	19,191,272	5,029	29,527,422	3,938	113,417,878	441	144,666,121	49,937	311,380,096
NTNCWS	15,213	2,109,455	2,490	2,662,200	161	875,321	38	801,416	1	203,375	17,903	6,651,767
TNCWS	77,386	7,174,480	2,992	2,819,760	79	419,683	13	261,116	1	2,000,000	80,471	12,675,039
Grand Total	119,772	13,861,338	18,838	24,673,232	5,269	30,822,426	3,989	114,480,410	443	146,869,496	148,311	330,706,902

SUBMISSIONYEARQUARTER is equal to 2020Q1

Small and rural communities have more difficulty affording public wastewater service due to lack of population density and lack of economies of scale. This challenge is compounded by the fact that rural communities have lower average median household incomes and often have higher rates of poverty. Likewise, we have a much more challenging time complying with our federal Clean Water Act permits and Safe Drinking Water Act regulations, and operating complex wastewater treatment systems due to the lack of technical resources in small communities. While we have fewer resources, we are regulated in the exact same manner as a large community - and often operating similarly complex treatment systems that are smaller in scale but no less sophisticated to operate and troubleshoot. Many small communities may only have one operator with multiple duties, not just wastewater treatment - while a large community may have a team of technical experts including engineers, chemists, and highly trained operators - all as part of their full-time staff.

We are very appreciative that your legislation includes numerous substantive and necessary drinking water and clean water provisions beyond the traditional Corps of Engineers provisions that make the “American’s Water Infrastructure Act of 2020” and “The Drinking Water Infrastructure Act of 2020” beneficial to small and rural communities.

I would like to focus my comments on the important and beneficial water provisions in the bills.

Title II—Clean Water, Section 2002. Increased funding for technical assistance.

This provision doubles the authorization for technical assistance for small and rural communities - authorizing \$50,000,000 annually. Small and rural communities have relied on local/on-site technical assistance and training for compliance with the myriad of federal EPA regulations, avoiding EPA fines, and operating drinking water and wastewater supplies. According to small and rural communities, EPA-funded local initiatives are the most effective environmental protection efforts for drinking water, wastewater, ground water, source water, and compliance. Small communities want to ensure quality water and stay in compliance—rural water provides them the shared technical resources to do it. Most small community non-compliance with the Safe Drinking Water Act and Clean Water Act can be quickly remedied by on-site technical assistance and education. It is important for EPA to recognize that small local water supplies are operated and governed by people whose families drink the water every day and people who are locally elected by their community. Some of the smallest communities rely on volunteers to operate their local drinking water supplies. Enhancing drinking water and wastewater quality in small communities is more of a resource than a regulatory problem.

Title II—Clean Water, Section 2003. Small and Medium Publicly Owned Treatment Works Circuit Rider Program.

This section creates a new Circuit Rider program to provide additional on-site technical assistance to small communities. The most successful approach for technical assistance is the “Circuit Rider” concept, created by Congress, which provides an expert with experience in water utility operations and compliance. This expert can travel directly to small and rural communities, as needed, to assist with rule compliance and generally eliminate the need for civil-enforcement. Additionally, it is essential that the

assistance provider only represents the community's interest in order to identify the most economical solution and provide the best advice for local decision-makers. What small and rural communities want and need is to know how to comply in a simple and affordable manner – and similarly, how to operate and maintain their water utilities. With additional resources, it would be very possible to provide such on-site assistance and assessment to every small community out of compliance with the Clean Water Act, correct the situation, or develop a workable plan to return to compliance in the near future. A Circuit Rider is a person with expertise in waste treatment operation, maintenance, governance and compliance who constantly travels the state to be available on-site to any community in need of assistance. For these Circuit Riders to be effective and helpful, they must be available to travel directly to any given community to work specifically with a community's unique treatment and personally educate that operator, mayor, or other local official on how to solve their particular problem. They have to be available when the community needs the help, which can be nights, winters, after natural disasters, weekends, etc. Also, they must be non-regulatory to gain the trust of the local communities. Every small community wants to provide quality wastewater to protect their citizens and the environment, but they need to know, often with hands-on demonstration, just how to operate their wastewater systems. Circuit Riders operate free of charge to small communities which often saves the community many thousands of dollars from having to hire consultants or open themselves to civil penalties under the Clean Water Act and Safe Drinking Water Act – they only work in the interest of the small community they are assisting.

We are very appreciative of the expanded technical assistance and believe that a portion of the Congressional funding provided to the EPA should be dedicated to “assist” communities with compliance in addition to regulation and enforcement. Unfortunately, EPA has a history of diverting Congressionally provided technical assistance for small communities from effectively assisting at the local level.

For example, in 2012, EPA was provided discretion over the allocation of annually appropriated Safe Drinking Water Act technical assistance funding. The Agency used that discretion to eliminate the two full-time Circuit Rider-type positions that were operating in every state. Instead of retaining the Circuit Rider-type assistance, the Agency redirected the funding to much less-effective assistance.

In 2015, in response to EPA actions, Congress passed and President Obama signed Senator Wicker's Grassroots Rural and Small Community Water Systems Assistance Act (PL 114-98) that requires EPA to provide the type of technical assistance that small communities find most beneficial and effective. EPA has repeatedly disregarded the statute and Congressional intent and used the funding for their own priorities. On July 23, 2018, the Committee Chairman and 38 Senators wrote EPA urging the Agency to follow the law in providing technical assistance.² EPA continues to use the Congressional funding in a manner not helpful to small and rural communities and antithetical to Congressional directives and laws.

We urge the Committee to correct this issue with EPA prior to the release of any new funding or policy related to technical assistance to ensure the Agency follows the statute and Congressional intent of the assistance provided and the communities served.

Title II–Clean Water, Section 2008. Water Infrastructure and Workforce Investment.

This provision doubles the authorization for water workforce investment - authorizing \$2,000,000 annually. We welcome this new federal attention and emphasized mission for water workforce development. It takes more than 380,000 highly skilled water and wastewater personnel to ensure the public supply of safe drinking water and to protect our lakes, streams and groundwater. Advancements in water treatment and supply technology have increased the skills and training required of this workforce. Water professionals are ultimately responsible for meeting stringent regulatory standards,

² <http://ruralwater.org/docs/07.23.2018%20Senate%20Letter%20to%20EPA.pdf>

replacing aging infrastructure, recruiting and training new operations specialists, and responding to and recovering from disasters.

In addition to increasing professional demands, utilities will soon be forced to replace many of their most experienced employees. Over the next decade, the water sector is expected to lose between 30 and 50 percent of the workforce to retirement. Many of these employees have worked at the same utility for the majority of their careers, and they will depart with decades of valuable institutional knowledge.

NRWA and state rural water associations currently provide training on operator certification, financial sustainability, environmental compliance, utility management and governance to 80,000 water professionals annually in all 50 states. In July 2017, NRWA announced the certification of our “National Guideline Standards of Apprenticeship” with the U.S. Department of Labor. This standard will ensure a well-trained and capable water sector workforce to meet the increasing demands of the water industry. Our apprenticeship program is tailored to Water System Operations Specialists and Wastewater System Operations Specialists. Additional apprenticeships programs are in the works for water utility system customer service personnel and Technical Assistance Specialists.

Title II–Clean Water, Section 2012. Use of Clean Water State Revolving Loan Funds (SRFs).

This section would authorize states administering Clean Water SRFs to use up to two percent of their state grant to fund technical assistance initiatives to small wastewater treatment works in their respective states. A similar program is currently authorized and operating within the states’ Safe Drinking Water SRF. Enactment of this provision has the potential to offer many more small and rural communities with on-site technical assistance to operate their wastewater utilities. This initiative will provide them the technical resources to ensure their wastewater is properly treated and in compliance while protecting their local environmental resources. This new EPA initiative could also expand the scope of currently available assistance to cover EPA stormwater rules, EPA TMDL rules, EPA nonpoint source pollution reduction program, and assistance with Clean Water SRF applications (currently most SRF funding is provided to large communities).

Title II–Clean Water, Section 2012. Use of Clean Water State Revolving Loan Funds.

This provision allows meeting a state’s “affordability criteria” for additional subsidies including forgiveness of principal of loans, negative interest loans, or grants. Most wastewater utilities are small and have more difficulty affording public water service due to a lack of population density and lack of economies of scale. While we have fewer resources, we are regulated in the exact same manner as a large community; we outnumber large communities by a magnitude of 5-fold, and federal compliance and water service is often at a much higher cost per household. In 2020, there are rural communities in the country that still do not have access to safe drinking water or wastewater service due to the lack of population density or lack of funding. This provision ensures the SRF will work for the most economically disadvantaged communities by allowing SRF with some ability to provide grants – not just loans. Commonly, low-income communities do not have the ability to pay back a loan, even with very low interest rates, and require some portion of grant or principal forgiveness funding to make a project affordable to the ratepayers.

The Drinking Water Infrastructure Act of 2020 - Section 4. Drinking Water Relief for Small, Rural and Disadvantaged Communities and Section 6. Assistance for Small and Disadvantaged Communities.

These sections codify appropriations directives to use an additional 20% of drinking water SRF for grants, negative interest loans, or to buy, refinance or purchase debt and provide additional assistance directly to small and disadvantaged communities. These provisions are very favorable for communities

most in need of funding and that have the most adverse local environmental or public health situations. Local communities have an obligation to pay for their water infrastructure and the federal government should only subsidize water infrastructure when the local community can't afford it and there is a compelling federal interest such as public health or compliance. To the maximum extent possible, the state revolving loans should prioritize funding to the communities most in need based on their economic challenges, combined with the public health necessity of the project. This evaluation should be made on a per capita basis or impact per citizens (ratepayer) analysis that is sensitive to local economic conditions (i.e. affordability analysis). If some portion of the SRF is not used to provide this type of financial grant, then the funding will bypass rural America and be absorbed by large metropolitan water developments with greater ability to finance loan only funding instruments. Similarly, if some portion of funding is not set aside for small and disadvantaged communities, the funding will typically be absorbed by larger communities with more technical and administrative resources to out-compete disadvantaged communities in the funding process. This bill ensures that the awarding of any grants with the SRF is based on merit by including targeting of grants to disadvantaged communities and small communities with minimum set asides, and prioritization of projects with the greatest environmental and economic need.

Thank you, Mr. Chairman and Members of the Committee for the honor of testifying for rural America and we are grateful that you have included a voice for rural America at this hearing. This committee is very important to rural and small town America. Every federal dollar that has been granted to the many thousands of small towns to build, expand, and maintain their drinking water and wastewater infrastructure through the State Revolving Funds was authorized by this committee. Also, every federal regulation under the Safe Drinking Water and the Clean Water Act was likewise authorized by this committee. We are grateful for the numerous opportunities this committee has provided rural America to be included in the crafting of federal water and environmental legislation and policy.