

**TESTIMONY OF
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**ON BEHALF OF THE
National Association of Clean Water Agencies (NACWA)**

**SUBMITTED TO THE U.S. SENATE COMMITTEE ON ENVIRONMENT AND
PUBLIC WORKS**

**HEARING ON
*“Oversight of the Clean Water State Revolving Loan Fund Formula”***

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Chairman Carper, Ranking Member Capito, and members of the Committee. I appreciate the opportunity to appear at today’s hearing.

My name is Tom Sigmund and I am the Executive Director at NEW Water, the brand of the Green Bay Metropolitan Sewerage District, in Green Bay, Wisconsin, where I have been since 2007. NEW Water is a regional clean water utility providing wholesale conveyance and treatment services to 238,000 people across 15 municipalities in Northeast Wisconsin. NEW Water has 101 employees and an annual budget of \$45 million. Our utility views the material sent to its facilities as a valuable resource to be recovered and reused and a commitment to continued improvement in the watershed.

I am also fortunate to serve as the Vice-President of the Board of Directors for the National Association of Clean Water Agencies (NACWA) – for whom I appear before you today.

For over 50 years, NACWA has represented public wastewater and stormwater agencies nationwide that are on the front lines of public health and environmental protection. Our unique and growing network of 330 public agency members works to ensure public utilities have the tools necessary to provide affordable and sustainable clean water services for all. As part of that mission, NACWA has long advocated for the federal government to recommit to a full and reliable partnership with local communities to invest in and build critical water infrastructure.

Background

The precursor to what would become the Clean Water State Revolving Fund (CWSRF) was established in the early 1970’s as a Construction Grants Program to help communities fund the capital investments necessary to comply with the Clean Water Act (CWA) that was passed in



1972. The goals of the CWA were simple--water should be clean enough for fishing, swimming and other recreational uses.

Through this program, Congress provided annual appropriations which were distributed among the states under an allocation formula determined by the CWA. The states then dispersed the funds to cities and local utilities. The Construction Grants Program provided communities with a 75 percent federal grant that was later reduced to a 55 percent grant. After considerable debate in the 1980's, Congress phased out this grant program and created the CWSRF in 1987 to provide low-cost financing for local water quality infrastructure projects. The CWSRF has since been the federal government's main program tool to support local communities in making billions of dollars in water infrastructure investment.

Through the CWSRF program, Congress provides annual appropriations to the U.S. Environmental Protection Agency (EPA) to capitalize revolving funds administered by the states. States are required to match federal capitalization grants by 20 percent and use these funds to issue loans to publicly owned treatment works (POTWs) for wastewater projects. Over time, as POTWs assume loans, build critical infrastructure, and repay the loans, the repayments reenter the fund and help the program grow and support other communities and additional projects.

Building on a total federal investment of \$48.1 billion to date, the state CWSRFs have financed a total of \$153 billion of investment in communities through 2021. States have provided over 44,500 low-interest loans to protect public health, improve valuable aquatic resources, and meet environmental standards benefiting hundreds of millions of people.

Each state is responsible for the operation of their CWSRF program. Under the CWSRF, states may provide various types of assistance, including loans, refinancing, purchasing, or guaranteeing local debt and purchasing bond insurance. States may also set specific loan terms, including interest rates from zero percent to market rate, and repayment periods of up to 30 years. States have the flexibility to target financial resources to their specific community tailored to its environmental needs. States may customize loan terms to meet the needs of small and disadvantaged communities, or to provide incentives for certain types of projects. Disadvantaged communities have benefited from the additional subsidization to help them afford needed capital improvement projects.

The program proved to be such a profound benefit to utilities and communities that in 1996, Congress created a parallel Drinking Water State Revolving Fund. It is a testament to the value the CWSRF brings to wastewater treatment that Congress saw fit to replicate the program for drinking water utilities.

Over the course of time, Congress has updated the way the CWSRF works – such as adding new priorities and granting flexibility to states to provide additional subsidization such as grants, principal forgiveness, and negative interest rate loans beginning in 2009.

Additional subsidization was enhanced in the recently enacted *Bipartisan Infrastructure Law*. This will help the CWSRFs reach communities that cannot support loan repayment, historically underserved communities, and those with environmental justice concerns that often include low-

income people and communities of color. Disadvantaged communities experience disproportionately high risk of exposure to air, land, and water pollution.

Wisconsin and the CWSRF

I cannot overstate how much of a lifeline the CWSRF has been, and still is, for clean water utilities across this country, and especially in Wisconsin. The CWSRF helps clean water utilities comply with federal and state water quality regulations and replace aging infrastructure. Simply stated, it helps us conduct our mission of protecting public health and the environment.

Through the State of Wisconsin's Clean Water Fund Program, clean water utilities have benefited from over \$5.3 billion worth of financial assistance since State Fiscal Year 1991¹. That assistance has funded 1,203 projects which received about \$5 billion in loans and over \$300 million in principal forgiveness. An additional \$100 million in principal forgiveness was provided to Wisconsin clean water utilities through the CWSRF via the 2009 *American Recovery and Reinvestment Act* (ARRA). The subsidies the CWSRF has provided to disadvantaged communities in Wisconsin in the form of principal forgiveness represent about seven percent of the total financial assistance provided to clean water utilities in Wisconsin.

Wisconsin clean water utilities were early implementers of the now 50-year-old CWA. Projects were implemented beginning in the 1970's through the Construction Grants Program and continued as the program transitioned to low-interest loans in the late 1980's. For many utilities in Wisconsin, the CWSRF is their only access to affordable financing to build and maintain the capital necessary to protect the public health of their communities. Wisconsin was the first state to meet fishable/swimmable goals established in the original CWA. Its Compliance Maintenance Program, that all utilities must participate in annually, has resulted in clean water utilities having very few discharge permit violations.

NEW Water has utilized these programs beginning with the construction of significant water reclamation facilities in the mid-1970's. Converted to 2021 dollars, NEW Water has invested about \$1.2 billion in capital facilities over the last 45 years, utilizing \$1 billion of loans and grants during that period. It plans to invest an additional \$310 – \$470 million into capital facilities over the next 20 years. Almost 50 percent of NEW Water's \$45 million 2022 annual budget is devoted to capital projects. This large percentage of its annual budget devoted to capital shows how capital-intensive protecting public health and the environment is for water sector utilities across the country.

Formula Allocations

The previous discussion helps underscore that the infusion of capitalization grants is critically important for the sustainability of the CWSRFs. As water quality challenges have increased and infrastructure naturally ages, capital investment needs have grown. With funding to each state dependent upon the federal CWSRF allotment formula, the formula warrants continued attention by Congress and EPA. Considerable attention has been paid to the allotment formula over the past 15 years, with only limited updates made.

¹ <https://dnr.wisconsin.gov/aid/documents/EIF/financialAssistanceSummary.html>

According to a review of the CWSRF undertaken by EPA in 2016, it is not known how the weighting and factors that were used to establish the original CWSRF formula for the allotment were selected. It is likely that the considerations were centered on the Census population, capital needs reported by the states in the Clean Water Needs Survey, a hold-harmless provision to limit the decrease in a state's allotment, and a minimum allotment. The formula has been adjusted in 2000 and 2010 by EPA, based upon a change in the eligibility of the Pacific Trust Territories to receive funding, and later to increase funding allotments to U.S. territories.

Over the decades, EPA and states have updated the Clean Water Needs Surveys several times – gathering new state data and adding in new costs, such as stormwater management, nonpoint source pollution controls, and construction of new decentralized wastewater treatment systems. The Surveys are important to begin to capture the range of capital investments utility leaders must consider and the scale of clean water investment costs. They do not directly account for situations on the ground that can impact investment needs, such as population flows or affordability.

Since the late 1980's, our nation's population has shifted and so have clean water infrastructure costs, assets, and investment needs. Some states have grown while others saw relative losses or stagnation. Population increases can lead to new investment needs – like more treatment capacity or more pipes – but population decreases do not necessarily lead to reduced infrastructure demands. In fact, areas with older infrastructure in harsh winter weather conditions – such as Wisconsin, the Midwest at large, and the Northeast – face great challenges in trying to tackle problems like maintaining aging infrastructure and addressing water quality that was designed for growing industrial cities or towns.

Even without the pressures of population growth, clean water utilities must add and maintain capital assets in order to respond to ever increasing state and federal regulatory requirements. Many of these regulatory mandates require construction of very expensive capital facilities.

Attempts to Reform the Allocation

Utility leaders and other interested stakeholders can likely all agree that the CWSRF allocation formula is out of date, and at minimum, warrants new consideration and clarity, especially at a time of increased federal investment in clean water.

Congress and EPA have recognized the need to review the allotment formula for well over a decade. Congress has directed EPA and the Government Accountability Office to perform audits of the formula and suggest policy options to update it.

Among the solutions proposed by all these entities, a few themes emerge. It is important to consider clean water needs, including reviewing what types of investments should be factored in and how they should be weighted. Population should likely play a role in determining the allocation a state receives, but it should not be the sole factor. And there is also concern to hold states harmless, meaning that no state would experience a reduction in overall SRF funding or face unpredictable shifts that could threaten the sustainability of the fund.

Some additional thoughts to consider in any revisions to the allocation are:

- The historic per capita investment that each state has made in funding wastewater projects and the timeline of these investments. These assets must eventually be replaced due to age and condition.
- The number of violations per capita or per discharge permit, with lower numbers positively impacting the allocation.
- The current dollar value of replacing existing assets that initially received either subsidies, grants, or CWSRF loans.

Recommendations

NACWA proposes first and foremost that no state see a reduction in funds it has received in recent fiscal years. The reality is that clean water investment demands remain high and new challenges continue to emerge. The federal CWA envisioned a strong federal-state partnership on clean water, and funding and financing tools are an important part.

Next, it is critical that EPA and the states undertake a comprehensive Clean Watershed Needs Survey – one that accounts for the scope of the need around the country and one that can have meaningful impact on policy and funding considerations. NACWA thanks this Congress for recognizing that an updated survey is needed by authorizing \$5 million for this purpose and directing EPA to undertake such an update in the *Bipartisan Infrastructure Law*.

We were relieved to see Congress direct EPA to spend \$1.5 million on the updated survey in the FY2022 Omnibus last week. An updated survey is a critical step to inform any formula update and we urge Congress to appropriate the full authorization to help EPA and provide resources to the states to encourage full participation.

Finally, we encourage Congress to provide direction to EPA to update the formula based on an updated Needs Survey, with an approach that can adapt more steadily to future changes. This will ensure that the allotment formula builds in factors that are at the core of the goals of the CWSRF – helping communities meet the challenges of protecting public health and the environment. These updates will take time, but a smooth, transparent and apolitical process is important to help ensure continued predictability and reliability in the CWSRF and build upon the transformative successes that this critical program has had over the years.

Conclusion

NACWA and I appreciate the opportunity to share our views on the funding allocation formula for the CWSRF and its impact on the nation's wastewater infrastructure.

I am proud of the work the wastewater sector has accomplished to date to provide safe, reliable clean water services to the communities we serve. Advances in municipal wastewater treatment have been an indisputable success of the CWA since 1972. Since then, our nation's understanding of the complexity of water quality challenges has grown and new issues have emerged. Ensuring the goals of the CWA is not as straightforward as we may have thought 50

years ago but, by working together, local utilities, states, and the federal government can and will make continued progress. Additional resources and assistance from the federal government are critical to ensure that the greatest number of water and wastewater utilities are prepared to meet the challenges of today and tomorrow – starting with the *Bipartisan Infrastructure Law*, which we stand ready to implement.

We appreciate the Committee’s focus on keeping this critical funding stream strong and the formula updated in a manner that meets present-day challenges. We appreciate the chance to help ensure that the funding provided through the SRFs is used optimally and according to the needs of our communities.

I am happy to answer any questions that you might have.