



**Written Testimony of Mayor J. Richard Gray  
Senate Environment and Public Works Committee  
Subcommittee on Fisheries, Water, and Wildlife  
March 28, 2017**

**Introductions**

Good morning Chairman Boozman, Ranking Member Duckworth, and members of the Committee. I thank you for this invitation to give mine and the Conference of Mayors' perspective on water and wastewater issues in the United States.

My name is Rick Gray and I am the Mayor of Lancaster, Pennsylvania. I have spent the last several years in negotiations with the Commonwealth of Pennsylvania and USEPA over Long Term Control Plans to solve combined and sanitary sewer overflow problems in Lancaster.

Let me start by commending Senators Fischer, Cardin, Brown, and other co-sponsors for introducing the *Water Infrastructure Flexibility Act*. This bill is a positive step toward acknowledging that as a nation, we need to approach our water and wastewater infrastructure and compliance issues in a much more practical and sustainable manner. Our communities and more importantly, our citizens, do not have unlimited funds to implement every rule and regulation in a silo, without considering what benefits might result. As we are fond of saying at the Conference of Mayors, "If everything is a priority, then nothing is a priority."

This bill addresses many of the problems and solutions that are outlined in my testimony. It would also help reestablish the federal-state-city partnership where together we determine what investments need to be made first based on our environmental and public health priorities. Attached to my testimony is a letter signed by the Conference of Mayors, National League of Cities, and National Association of Counties that supports the bill and encourages all Senators to cosponsor this important piece of legislation.

## **BACKGROUND INFORMATION**

### **GREEN VERUS GRAY**

The City of Lancaster, incorporated in 1818, serves as the seat of Lancaster County. The City has a population of approximately 60,000 and encompasses a land area of 7.34 square miles, nearly 50% which is impervious. The City is part of the Lower Susquehanna River watershed, the largest tributary draining to the Chesapeake Bay. Lancaster is one of about 770 cities with a combined sewer system (CSS), which drains approximately 45% of the land area of the City. Most of the time, the City's Advanced Wastewater Treatment Facility (AWTF) is able to manage and fully treat the volume of water entering the CSS. However, intense rainstorms cause millions of gallons of untreated wastewater to overflow into the Conestoga River annually, much of which is runoff generated from impervious surfaces including buildings, streets, alleys, and parking lots.

The remaining areas of the City drain into a municipal separate storm sewer system (MS4), which must also meet water quality requirements as part of the Chesapeake Bay TMDL. The City has been proactively implementing a comprehensive stormwater program to improve water quality, meet regulatory requirements, and address local stormwater challenges using traditional "gray infrastructure", as well as green infrastructure or "GI."

Since 1999, Lancaster has been implementing a State-approved Long Term Control Plan (LTCP) and has invested \$80 million in traditional gray infrastructure improvements to maximize the capture and treatment of combined sewage including a biological nutrient reduction (BNR) project that made the City's AWTF the first system in the state to meet nutrient removal requirements. We are on the cusp of meeting the 85% capture goal set forth in that LTCP and CSO guidance documents from EPA. A list of these completed projects are presented in Exhibit 1 in Appendix 1.

Lancaster was at a proverbial fork in the road, knowing that the next logical iteration of gray technology projects was to invest up to \$300 million in storage for the remaining combined sewage overflow volume – approximately 15% that is not already captured and treated. After more than a year of evaluation and planning by national experts in green infrastructure and many public input sessions with our residents and businesses, Lancaster determined that the best course of action was to pursue a \$140 million investment in GI, together with other gray system improvements, such as selective sewer separation projects over the next 25 years.

So in 2011, Lancaster became the first Third Class City in Pennsylvania to adopt a Green Infrastructure (GI) Plan, establishing the framework for strategic and integrated stormwater management to reduce combined sewage overflows in a more cost effective and environmentally sustainable manner. GI reduces and treats stormwater at its source before it combines with raw sewage while delivering other environmental, social and economic benefits including protecting and improving water quality, providing natural stormwater management, and reducing energy use; neighborhood redevelopment, increasing recreational opportunities, and improving public health through cleaner air and water; and, reducing future capital and O&M costs that burden the rate payers from a totally gray infrastructure approach. Gray storage requires not only major capital investments to construct, it is an energy intensive solution requiring pumping stored

combined sewage, which is mostly comprised of stormwater, to a treatment facility for further treatment before pumping the discharge to local waterways. Furthermore, the O&M costs for gray storage over the design life of that facility is likely greater than GI technology.

Since 2011, through concerted and coordinated project planning Lancaster is demonstrating that a comprehensive, integrated approach to stormwater management using GI can help to achieve clean water goals, by cost-effectively integrating GI into planned capital improvement projects to reduce the adverse effects of stormwater runoff. Lancaster has completed 45 GI projects at a cost of over \$10 million that has captured 45 million gallons annually of stormwater. These projects are presented in Appendix 2. EPA Region 3 and EPA Headquarters have lauded our program and held up Lancaster as a model for other cities to replicate publicly since 2012. Yet the EPA/Department of Justice enforcement approach employs aggressive actions, rigid methods, and threats of large civil penalties to press cities like Lancaster to use costly technology rather than allowing time to implement a more sustainable (and affordable) integrated set of green and gray solutions.

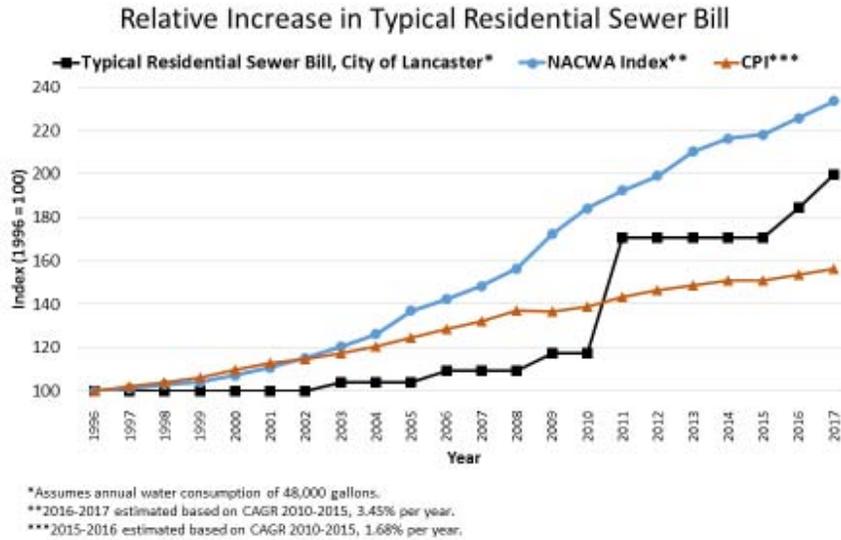
And the process is very onerous. Since 2008, we have made over 15 filings with EPA and the State, have received 5 responses or comments from the agencies, and have had 20 meetings/calls/tours.

Lancaster's story illustrates that a new direction for EPA is necessary: one that will allow cities like Lancaster the flexibility to opt for more sustainable and resilient GI technologies that will make their cities more livable and desirable for their residents and businesses. Lancaster's residents have fully embraced this technology and, in fact, are demanding GI projects be built in their neighborhoods.

### **AFFORDABILITY**

The median household income of Lancaster is significantly lower than most other cities in Pennsylvania, and it has significant poverty and disadvantaged populations compared to these other cities. 29% of Lancaster households have income less than \$20,000. Lancaster also has a higher percentage of rental properties than the state average. These rental properties often house the lowest income households in the City. Since the beginning of Lancaster's implementation of our long term control plan for our combined sewer system and replacements of our two water treatment plants with membrane filtration (due in large part over concern of the water quality entering the city from agricultural practices upstream of our plants), Lancaster has been forced to impose significant rate increases for water and sewer customers that disproportionately affect the disadvantaged populations in the City. See Exhibit 3. Future rate increases must reflect the reality of low income populations and their associated rate impacts. The conventional consent decree LTCP approach, requiring a minimum of 2% of MHI for rates, is not affordable for our urban centers that have the majority of the nation's disadvantaged populations as their residents.

### Exhibit 3



### The United States Conference of Mayors (USCM)

I have attended many conferences and meetings with the USCM and other professional water organizations and can say with confidence that while every city has a unique story to tell, they also share much in common regarding the high cost and impossibly short time schedules to comply with aggressive controls of combined and sanitary sewer overflows, as well as stormwater regulations. The USCM has provided a series of mayors over the last five years to Congressional Committees testifying on behalf of Integrated Planning and the need for EPA to promote flexibility when implementing the Clean Water Act.

The basic message to Congress from the Conference of Mayors is that renewing the public water infrastructure simultaneously with delivering uninterrupted services including safe and adequate water is becoming less affordable; and unfunded mandates related to sewer and stormwater are expensive and may not address the highest local environmental or public health concerns of a city. Mayor David Berger appeared before this Committee in 2016 and stated "...we are on a dangerously unsustainable path when it comes to providing water and wastewater services in an affordable manner." The situation has not changed appreciably for the better.

- Local governments are stuck on an unsustainable financial treadmill when it comes to providing water and wastewater services; decisions made by Congress and the Administration to eliminate or reduce financial assistance without reducing unwarranted and costly mandates has placed a severe financial burden on our nation's cities and our citizens.

- The net effect of mandates and infrastructure investment (both capital and operations) puts cities in increasingly higher long term debt with accompanying rate hikes that have the effect of raising basic service rates to levels that are unaffordable to a growing percentage of the 80% of Americans served by these systems.

## **Some Solutions**

### **Codify EPA’s Integrated Planning and Permitting Policy**

Integrated Planning is designed to allow cities to develop comprehensive plans for their water, sewer, and stormwater needs, and establish a plan of investment over time to reach these goals. Cities should be able to sequence investments based on local priorities and on those issues that local government has identified to be of environmental and/or public health significance. And, cities and state and federal agencies, should be acutely aware of the importance of affordability to Americans served by public sewer/wastewater systems.

- The Mayors 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.
- Investments that do not have commensurate public health, economic and environmental benefits do not belong on the priority list.
- Define Affordability and stop the use of Median Household Income (MHI) as the critical metric for determining investment level. It puts 50% of households on an unfair and burdensome financial impact.

### **State/EPA Enforcement to Achieve Long Term Control of Stormwater Through Permits**

Cities need substantially more time to reach these unprecedented levels of control. That is what the experience has been in the cities with consent decrees. Local elected leaders have a documented record of directing public investments to clean and protect our lakes and streams, but we can’t get there if that means bankrupting our most vulnerable citizens with plans that overemphasize energy intensive gray infrastructure and downgrade the contribution of Green Infrastructure. Cities and their Mayors urge Congress to create a path to reach long term goals through the existing permit process rather than by way of consent decrees. Longer permit terms with compliance schedules, coupled with regulatory oversight and a commitment by cities to reasonable progress, is preferable to the consent decree model.

### **Renew Congressional Support for Exercising Flexibility in Existing Clean Water Law**

The current Clean Water Act (CWA) allows EPA to use flexibility, some of which, it has neglected or refused to exercise. For example, the CWA allows EPA flexibility in water body attainment designations. EPA also can grant variances where compliance with requirements have overly-burdensome impacts on permittees.

A classic consent decree example is the Lima, OH case where there is a river that is designated as “fishable and swimmable”. The river in question dries up in the summertime and is only 4 inches in depth in the wintertime. No one will ever swim or fish there. Yet, the City is held to that standard of compliance and, as a result, a very costly fix.

The Conference of Mayors believes that EPA has a burden to prove that these types of designations are, in fact, achievable before requiring cities to spend to the level of economic hardship, even if that requires reevaluating use attainability or allowing variances until a goal can be reasonably reached.

### **Assessing City Fines in Consent Decrees**

Eliminate civil penalties for local governments who develop an integrated plan and put good faith efforts and reasonable further progress into improving their water. Cities are not private entities where penalties impact our profit margin - Civil penalties only hurt the citizens, the customers, of our communities. Eliminating civil penalties is a change to EPA culture where officials may measure success in the high dollar amount of civil penalties and the high cost of compliance. Eliminating civil penalties can help reduce costs for a substantial number of our low- income citizens who spend a significant portion of their income on water and wastewater bills.

A recent review by the USCM arrays the civil fines for 31 local sewer/wastewater utilities that have completed a consent decree with EPA. The fines range from minor (Troy, ID, \$14,500 2014); to severe (Delaware County, PA \$1,375,000, 2015), (see Appendix 3). City consent decrees can be accessed using the hyperlinks in Appendix 4. Because EPA uses Median Household Income (MHI) to set expected compliance costs, those costs, as well as the civil fines, result in regressive and disproportionate impacts on low income households, but also creeps up to the middle-class households.

The regressive financial impacts of fines and compliance costs are illustrated for Delaware County, PA, (see Appendix 5). Delaware County was assessed a \$1.375 million civil penalty in addition to the \$300 million in estimated cost to comply with the consent order. To illustrate the disproportionate impact on residents, the USCM made 2 assumptions: 1- rates for residential customers are uniform, therefore payment of the fine is spread uniformly over all income groups. The same uniform distribution of costs applies to paying over time for the long-term compliance plan. The financial impact table in Appendix 3 indicates that nearly 70% of the fine and the long-term plan compliance costs will be borne by households with under \$100,000/year; 57% of the fine and plan costs will be borne by households making under \$75,000 a year. The County MHI is \$64,174. Households with income of greater than \$100,000/year contribute only 30% of the costs. Merely saying that each household will only be responsible for \$6.72 in fine payment share ignores the fact that EPA is extracting \$1.375 million, mostly from low and middle class households, for no environmental benefit whatsoever. There is no accompanying EPA rationale for why these limited resources are best spent on fines and overly costly consent decrees.

For many years cities relied on technical support from state and federal regulators concerned about public health and safety. The prevailing wisdom, and hence the most common practices,

were to build infrastructure to move stormwater and sewage away from people and into treatment and discharge. Congress directed EPA to establish guidance on how cities should manage storm and sewer flows. The direction the EPA took was to aggressively enforce against cities to halt past practices in favor of control plans. The enforcement actions taken by EPA were based on use of their Congressional authority to fine cities. These fines are not the result of negligence or malfeasance on the part of cities.

Cities should be treated as the co-regulators they are—attempting to achieve the greatest environmental benefits they can with limited resources—rather than as criminals subject to costly enforcement actions that impose draconian fines and penalties. And finally, state and federal agencies should not substitute their necessarily limited economic and technical judgment for that of the communities who know their systems best.

## Appendix 1

### Exhibit 1 – List of Completed Gray Infrastructure Capital Projects and Current Capital Projects

City of Lancaster Wastewater Bureau  
Capital Projects 2000 to Current

Completed Capital Projects	Year Complete	Total Cost
North Pumping Station Grinder Installation	2000	\$300,000
Susquehanna Pumping Station Upgrade	2000	\$670,000
WWTP BNR Pilot Project	2001	\$230,000
Water Street Sewer and Engleside Sewer Culvert Rehabilitation	2002	\$730,000
WWTP BNR Project	2006	\$2,500,000
WWTP Act 537 Upgrade Project	2008	\$1,700,000
South Activated Sludge Tank Rehabilitation	2008	\$130,000
Lime Stabilization System	2008	\$6,940,000
WWTP Belt Filter Press Refurbishment	2008	\$695,000
Stevens Avenue Pumping Station Interim Valve and Comminutor	2008	\$152,000
City of Lancaster Sewer Replacements -2008	2009	\$1,100,000
Flow Monitoring Program	2009	\$450,000
WWTP Control Building HVAC	2009	\$655,000
WWTP South Train Flow Diversion	2009	\$540,000
WWTP Facilities Plan (Phase 1 of 3)	2010	\$110,000
WWTP Aerator Gear Box Repair	2010	\$160,000
Stevens Avenue Pumping Station Generator	2010	\$700,000
Conestoga Gardens Comminutor	2010	\$120,000
North and Stevens Avenue Force Main Condition Assessment (Phase 1)	2010	\$150,000
North and Stevens Avenue Force Main Condition Assessment (Phase 2)	2012	\$121,000
Engleside and Stevens Avenue Bar Screens	2012	\$1,017,000
Main Pumping Station Upgrade	2012	\$3,226,000
Stevens Avenue Pumping Station Expansion	2013	\$5,660,000
Conestoga Gardens Expansion	2013	\$3,240,000
WWTP Grit and Screenings Facilities	2013	\$8,570,000
<b>Total Completed Capital Projects</b>		<b>\$39,866,000</b>
Current Capital Projects	Construction to Start	Budgeted Total Cost
North Pumping Station Expansion and Surge Control System	2014	\$12,300,000
North CSO Diversion Chamber	2014	\$1,600,000
North Pumping Station Preliminary Treatment Building	2014	\$6,000,000
AWWTP Secondary Clarifier Upgrades	2016	\$5,100,000
2016 Collection System Improvements	2016	\$600,000
2016 Flow and Rainfall Monitoring	2016	\$300,000
AWWTP DO Control and BNR Improvements	2017	\$7,700,000
Maple Grove Pumping Station Expansion and Interceptor Upgrades	2017	\$6,300,000
<b>Total Current Capital Projects</b>		<b>\$39,900,000</b>

## **Appendix 2**

### **Exhibit 2 – List of Completed Green Infrastructure Projects**

Year	Project Name	Description	Cost
2011	6th Ward Park	GI Park	\$ 13,000
2011	Walnut & Plum Intersection/Lancaster Brewery Company	GI Street/Intersection Improvement	\$ 358,000
2012	East Fulton	GI Sreet	\$ 60,000
2012	East Grant	GI Sreet	\$ 36,000
2012	East Grant	GI Sreet	\$ 40,000
2012	City Hall Annex Expansion	GI Green Roof	\$ 70,000
2012	Fire Station #3- Green Roof	GI Green Roof	\$ 124,000
2012	Recycling Center	GI Bioretention	\$ 5,000
2012	Alley NE 10 - Spruce St.	GI Alley	\$ 21,000
2013	Brewery Alley- Alley 45	GI Alley	\$ 99,000
2013	Hand Ave	GI Alley	\$ 106,000
2013	Reynolds Ave	GI Alley	\$ 110,000
2013	Charlotte St. Curb Extension	GI Street	\$ 14,000
2013	Alley 117 (NW)	GI Alley	\$ 53,000
2013	Alley 42 (NW)	GI Alley	\$ 55,000
2013	317 N. Mulberry	GI Private/Porous Paving	\$ 75,000
2013	Steeple View Lofts	GI Private/Porous Paving	\$ 76,000
2013	Mulberry Studios	GI Private/Subsurface Infiltration Bed	\$ 61,000
2013	Mulberry Partners, LLC	GI Private/Porous Paving, Trees	\$ 117,000
2013	Green Alley- NW 114	GI Alley	\$ 69,000
2013	James Street Greening	GI Street	\$ 165,000
2013	W. Liberty restriping Project	GI Street	\$ 2,550,000
2013	Community Mennonite	GI Private/Porous Paving, Bioswales	\$ 148,000
2013	Streetscape, Phase III	GI Park	\$ 200,000
2013	Snavely & Dosch	GI Private/Bioretention	\$ 127,000
2013	Mulberry Street Two-Way Conversion	GI Street	\$ 2,000,000
2013	Public Parking Lot: South Plum Street	GI Parking Lot	\$ 213,000
2013	Public Parking Lot: Dauphin Street	GI Parking Lot	\$ 159,000
2014	Public Parking Lot: Penn Ave.	GI Parking Lot	\$ 147,000
2014	Public Parking Lot: East Mifflin Street	GI Parking Lot	\$ 134,000
2014	New Dauphin St and S. Broad St	GI Street/Intersection Improvement	\$ 80,000
2014	Tec Centro	GI Private/Porous Paving	\$ 5,300
2014	Green Alley- SW 148 Alley	GI Alley	\$ 130,000
2014	Brandon Park	GI Park	\$ 627,000
2014	Crystal Park	GI Park	\$ 476,000
2014	Rodney Park	GI Park	\$ 476,000
2015	Two Dudes Painting Company	GI Private/Porous Pave, Bioretention	\$ 93,000
2015	Ocean Avenue	GI Sreet	\$ 72,000

Exhibit 2 – List of Completed Green Infrastructure Projects – continued

2015	Dewatering Building	GI Green Roof	\$ 135,000
2016	Oxidation Building (Model Building #1 Repl.)	GI Green Roof	\$ 123,000
2016	Green Alley- SW 56	GI Alley	\$ 67,000
2016	Green Alley- SW 101	GI Alley	\$ 52,000
2016	Green Alley- SW 105	GI Alley	\$ 36,000
2016	Chlorination Building	GI Green Roof	\$ 123,000
2016	Alley 156 and 142 SW	GI Alley	\$ 163,000
		Completed GI Projects	\$ 10,063,300

### APPENDIX 3

<b>City</b>	<b>State</b>	<b>Civil Penalties</b>	<b>Year</b>
Atlanta	GA	\$700,000.00	1998
Troy	ID	\$14,500.00	2014
Chicago	IL	\$675,000.00	2014
Anderson	IN	\$250,000.00	2001
Elkhart	IN	\$87,000.00	2011
Evansville	IN	\$490,000.00	2011
Fort Wayne	IN	\$538,380.00	2007
Hammond	IN	\$225,000.00	1999
Mishawaka	IN	\$28,000.00	2014
South Bend	IN	\$88,200.00	2011
Indianapolis	IN	\$1,177,800.00	2006
Fitchburg	MA	\$141,000.00	2012
Chicopee	MA	\$115,000.00	2006
Lawrence	MA	\$254,000.00	2006
Kansas city	MO	\$600,000.00	2010
St Louis	MO	\$1,200,000.00	2013
Perth Amboy	NJ	\$17,000.00	2012
Jersey	NJ	\$375,000.00	2011
Oswego	NY	\$99,000.00	2010
Akron	OH	\$500,000.00	2009
Lima	OH	\$49,000.00	2014
NE Ohio	OH	\$1,200,000.00	2010
Toledo	OH	\$60,000.00	2002
Euclid	OH	\$150,000.00	2011

Delaware	PA	\$1,375,000.00	2015
Pittsburg (Allegheny)	PA	\$1,200,000.00	2008
Scranton	PA	\$340,000.00	2013
Williamsport	PA	\$320,000.00	2010
Chattanooga	TN	\$476,400.00	2013
Seattle	WA	\$350,000.00	2013
King County	WA	\$400,000.00	2013

## APPENDIX 4

### Water Penalties and Project Costs

Akron, 11/13/2009

Several projects, \$500,000 civil penalties in total

<https://www.epa.gov/sites/production/files/documents/cityofakron-cd.pdf>

Anderson 2001

\$250,000 civil penalties, stipulated penalties for non-compliance

<https://www.epa.gov/sites/production/files/2016-02/documents/anderson-cd.pdf>

Elkhart 09/06/2011

Projects before 2029, \$87,000 civil penalties in total

<https://www.epa.gov/sites/production/files/2016-02/documents/elkhart-cd.pdf>

Evansville

Project costs 500 million, \$490,000 penalties

<https://yosemite.epa.gov/opa/admpress.nsf/e51aa292bac25b0b85257359003d925f/b80b93f22d924e4d85257814006e453e!OpenDocument>

Fitchburg 10/02/2012

\$141,000 civil penalties in total

<https://www.epa.gov/sites/production/files/documents/cityoffitchburg-cd.pdf>

Ft. Wayne IN Superfund site

Hammond Sanitary District IN 1999

\$225,000 civil penalties in total, contribution of 2 million to a project, others

<https://www.epa.gov/sites/production/files/2016-02/documents/hsd-cd.pdf>

Lima OH 11/19/2014

\$49,000 plus interest civil penalties in total

<https://www.epa.gov/sites/production/files/2014-12/documents/cityoflima-cd.pdf>

Nashua NH 12/26/2005 – amendment in 2009

The project required in 2009 costs \$21 million

<https://www.epa.gov/enforcement/city-nashua-new-hampshire-combined-sewer-overflow-clean-water-act-settlement>

Omaha NE <sup>[[[</sup><sub>SEP]</sub>

\$1,116,000 Grant for sewer-2011

Mishawaka IN 2014

\$28,000 civil penalties in total

<https://www.epa.gov/sites/production/files/2014-05/documents/mishawaka-cd.pdf>

New Bedford MA superfund site for two companies

<https://www.epa.gov/enforcement/reference-news-release-avx-corp-pay-366-million-settlement>

Northeast Ohio regional sewer district 2010

\$1,200,000 civil penalties in total

total cost of implementing \$2,996,000,000, with additional cost \$2,251,000,000

<https://www.epa.gov/sites/production/files/2013-09/documents/neorsd-cd.pdf>

Philadelphia, PA 02/11/2015

82 million project, 5 years to complete.

<https://www.epa.gov/newsreleases/feds-state-settle-clean-water-violations-harrisburg-and-capital-region-water>

Delaware 08/17/2015

200 million project, 1.375 million penalties

<https://www.epa.gov/newsreleases/pennsylvania-water-utility-reduce-sewage-discharges-delaware-river-and-local-creeks>

City of Troy WWTP, March 2014

\$14,500 penalties,

<https://yosemite.epa.gov/opa/admpress.nsf/e51aa292bac25b0b85257359003d925f/6e011794111c318585257ced006d615c!OpenDocument>

Oswego 03/29/2010

\$99,000 civil penalties in total

<https://www.epa.gov/sites/production/files/documents/cityofoswego-cd.pdf>

Kansas city, MO 05/18/2010

\$600,000 penalties to the UST, Project costs \$2.5 billion over 25 years

<https://www.epa.gov/enforcement/kansas-city-missouri-clean-water-act-settlement#civil>

South Bend 12/29/2011

\$88,200 civil penalties in total, the project costs \$509.5 million

<https://www.epa.gov/sites/production/files/documents/cityofsouthbend-cd.pdf>

St Louis. MO. 07/05/2013

\$1,200,000 civil penalties

<https://www.epa.gov/sites/production/files/2013-09/documents/stlouis-cd.pdf>

Indianapolis 2006

\$1,177,800 civil penalties

Two amendment in 2009 and 2010 but nothing changed about the penalties

<https://www.epa.gov/sites/production/files/2013-09/documents/indy0610-cd.pdf>

Chicopee, MA 2006

\$115,000 fines

<https://yosemite.epa.gov/opa/admpress.nsf/b853d6fe004acebf852572a000656840/5e75a7374f01d9cd852571b90052f75d!OpenDocument>

Greater Lawrence sanitary district, MA 10/31/2006

\$254,000 Fine, \$18 million investment on projects

<https://yosemite.epa.gov/opa/admpress.nsf/dcee126c0635d65f852571fc006e9e20/3818d7489a41bba585257218006d3b08!OpenDocument>

Perth Amboy, NJ 09/28/2012

\$17,000 civil penalties

<https://www.epa.gov/enforcement/city-perth-amboy-settlement#penalty>

Jersey city, NJ, 09/29/2011

\$375,000 civil penalties,

<https://www.epa.gov/enforcement/jersey-city-municipal-utilities-authority-jcmua-settlement#penalty>

Allegheny County Sanitary Authority (ALCOSAN), Pittsburg, PA 01/24/2008

\$1.2 million penalties, 3 million project

<https://www.epa.gov/enforcement/allegheny-county-sanitary-authority-alcosan-settlement>

Scranton, PA 01/31/2013

\$340,000 civil penalties

<https://www.epa.gov/enforcement/scranton-sewer-authority-scranton-pennsylvania-settlement#penalty>

Williamsport, PA, 08/05/2010

\$320,000 penalties

<https://www.epa.gov/enforcement/williamsport-clean-water-act-settlement>

Atlanta, GA, 09/24/1998

\$700,000 penalties

<https://www.epa.gov/enforcement/city-atlanta-clean-water-act-settlement>

Louisville and Jefferson County Metropolitan 2005

\$500 million project

<https://www.epa.gov/enforcement/louisville-and-jefferson-county-metropolitan-sewer-district-settlement>

Metropolitan Government of Nashville and Davidson County (Metro)

\$700 million project

<https://www.epa.gov/enforcement/metropolitan-government-nashville-and-davidson-county-tenn-agree-extensive-sewer-system>

Chattanooga. TN, 04/24/2013

\$476,400 civil penalties

<https://www.epa.gov/enforcement/city-chattanooga-tennessee-settlement#civil>

Toledo, OH 12/16/2002

\$500,000 civil penalties,

<https://www.epa.gov/sites/production/files/2013-09/documents/toledo-cd.pdf>

Youngstown, OH, 05/09/2002

\$60,000 civil penalties

<https://www.epa.gov/sites/production/files/2013-09/documents/youngstown-cd.pdf>

Chicago, IL, 01/06/2014

\$675,000 civil penalties

<https://www.epa.gov/enforcement/metropolitan-water-reclamation-district-greater-chicago-settlement#civil>

Euclid, OH, 10/14/2011

\$150,000 civil penalties

<https://www.epa.gov/enforcement/city-euclid-ohio-combined-and-sanitary-sewer-overflow-clean-water-act-settlement>

Seattle/ King county, WA 07/03/2013

King county penalties \$400,000, Seattle penalties \$350,000.

<https://www.epa.gov/enforcement/seattle-washington-and-king-county-washington-settlement#penalties>

## Appendix 5

### Cost Distribution Estimates for Delaware County Consent Decree Civil Penalty and Long-Term Compliance Cost

Delaware County						Long-Term
PA						Control Plan
Fine						Estimated Cost
1,375,000.00	Number	Cost	Cumulative	Cumulative		\$300,000,000
MHI (dollars)	of	Per	Cost	Number	%	by 2023
64,174	Households	Household	by Income	of	of	by 2023
Total Households	204,571	\$6.72/HH	Group	Households	Households	\$1,466.48/HH
Less than \$10,000	11,191	75,203.52	75,203.52	11,191	5.47	16,411,377.68
\$10,000 to \$14,999	8,058	54,149.76	129,353.28	19,249	3.94	11,816,895.84
\$15,000 to \$24,999	17,880	120,153.60	249,506.88	37,129	8.74	26,220,662.40
\$25,000 to \$34,999	18,556	124,696.32	374,203.20	55,685	9.07	27,212,002.88
\$35,000 to \$49,999	26,009	174,780.48	548,983.68	81,694	12.71	38,141,678.32
\$50,000 to \$74,999	34,558	232,229.76	781,213.44	116,252	16.89	50,678,615.84
\$75,000 to \$99,999	25,884	173,940.48	955,153.92	142,136	12.65	37,958,368.32
\$100,000 to \$149,999	32,467	218,178.24	1,173,332.16	174,603	15.87	47,612,206.16
\$150,000 to \$199,999	14,555	97,809.60	1,271,141.76	189,158	7.11	21,344,616.40
\$200,000 or more	15,413	103,575.36	1,374,717.12	204,571	7.53	22,602,856.24

**Appendix 6**  
**Letter of Support**



March 21, 2017

The Honorable Deb Fischer  
United States Senate  
454 Russell Senate Office  
Washington, DC 20510

The Honorable Ben Cardin  
United States Senate  
509 Hart Senate Office  
Washington, DC 2051

The Honorable Sherrod Brown  
United States Senate  
713 Hart Senate Office  
Washington, DC 20510

Dear Senators Fischer, Cardin, and Brown:

On behalf of the nation's mayors, cities, and counties, we are writing to express our support for your bill the *Water Infrastructure Flexibility Act*, and we urge your colleagues to support it as well. The legislation would codify the U.S. Environmental Protection Agency's (EPA) Integrated Planning and Financial Capability policies as useful tools for local governments to comprehensively deal with wastewater and stormwater investments as well as unfunded mandates.

Local governments are at a crossroads. Cities and counties spend over \$115 billion per year to provide safe and reliable water and sewer services and maintain a vast physical infrastructure of pipes, pumps and plants. While we thank Congress for providing \$2 billion annually to the water and wastewater State Revolving Fund programs, these loans are not enough to cover the estimated costs to maintain and replace our aging infrastructure. Additionally, local governments, our residents, and businesses must spend additional resources to comply with numerous environment and non-environmental federal and state unfunded mandates, which further limits the money available for water infrastructure.

Furthermore, both the state and EPA's enforcement agencies increasingly regulate in a silo. While our cities and counties may be working to meet a multitude of standards in various water and wastewater requirements, the states and EPA often do not collaborate across the policy programs. This often create further, unnecessary unfunded mandates. However, the legislation would address many of these concerns by creating a policy shift that costs no federal money and creates some spending flexibility for our citizens.

Specifically, the bill would allow local governments to work with their state and EPA to prioritize investment in wet weather overflows and flooding collectively, rather than individually, by codifying various EPA memorandums on water tools and affordability. And the bill would allow consideration of other service costs including drinking water. Since our water and wastewater systems are paid for by the ratepayers, the bill will help reduce costs for a substantial number of our low-income citizens who spend a significant portion of their income on water and wastewater bills. The measure would also allow local governments who undertake integrated planning to incorporate green infrastructure

components into municipal stormwater, combined sewer overflow (CSO) and other water plans in a more cost effective way.

Thank you again for your leadership on this issue. On behalf of the nation's cities, counties and mayors, we thank you for your consideration of our request. If you have any questions, please contact us: Carolyn Berndt (NLC) at 202-626-3101 or [Berndt@nlc.org](mailto:Berndt@nlc.org); Julie Ufner (NACo) at 202-942-4269 or [jufner@naco.org](mailto:jufner@naco.org); or Judy Sheahan (USCM) at 202-861-6775 or [jsheahan@usmayors.org](mailto:jsheahan@usmayors.org).

Sincerely,



Tom Cochran  
CEO and Executive Director  
The U.S. Conference of Mayors



Matthew D. Chase  
Executive Director  
National Association of Counties



Clarence E. Anthony  
CEO and Executive Director  
National League of Cities

cc: Members of the Senate