S. HRG. 115–12

LEGISLATIVE HEARING ON S. 518, A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT TO PROVIDE FOR TECHNICAL ASSISTANCE FOR SMALL TREATMENT WORKS, S. 692, THE "WATER INFRASTRUCTURE FLEXIBILITY ACT OF 2017" AND S. 675, THE "LONG ISLAND SOUND RESTORATION AND STEWARDSHIP ACT"

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES, WATER, AND WILDLIFE

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

MARCH 28, 2017

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ONE HUNDRED FIFTEENTH CONGRESS
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C O N T E N T S

LEGISLATIVE HEARING ON S. 518, A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT TO PROVIDE FOR TECHNICAL ASSISTANCE FOR SMALL TREATMENT WORKS, S. 692, THE "WATER INFRASTRUCTURE FLEXIBILITY ACT OF 2017" AND S. 675, THE "LONG ISLAND SOUND RESTORATION AND STEWARDSHIP ACT"

TUESDAY, MARCH 28, 2017

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON FISHERIES, WATER, AND WILDLIFE,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:15 p.m. in room 406, Dirksen Senate Building, Hon. John Boozman (Chairman of the Subcommittee) presiding.

Present: Senators Boozman, Wicker, Fischer, Duckworth, Cardin, and Gillibrand.

Senator BOOZMAN. The meeting will come to order.

I would like to welcome everyone to today's legislative hearing. We are reviewing three bills: S. 518, the Small and Rural Community Clean Water Technical Assistance Act, the Water Infrastructure Flexibility Act of 2017, and S. 675, the Long Island Sound Restoration and Stewardship Act.

The sponsors of these bills also sit on the Armed Services Committee which has a conflicting meeting in just a few minutes. What we would like to do is let them go first. I am going to recognize Senator Wicker, Senator Fischer, and Senator Gillibrand and let them make remarks about their legislation.

Then I will give my opening statement followed by Ranking Member Duckworth. We will then proceed to the testimony.

Would you like to start, Roger?

OPENING STATEMENT OF HON. ROGER WICKER, U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator WICKER. Thank you, Mr. Chairman, for accommodating our schedule this afternoon.

I am at this moment here to talk about S. 518, which deals with sewer systems that serve fewer than 10,000 people. Frankly, in the United States of America, some 80 percent of public sewer systems are in that category.

Many of these small communities often face significant challenges in complying with Federal rules, and it is also costly.

S. 518 provides some relief in the form of technical assistance and training to assist small communities in securing the necessary technical expertise to improve and protect their water resources.

Specifically, under my legislation the EPA Administrator would have authority to direct funding to non-profit organizations to provide onsite assistance, regional training, assistance with implementation of monitoring plans, rules, and regulations to ensure compliance with the Clean Water Act.

I might mention to my colleagues that a similar initiative has already been in effect with regard to effective implementation of the Safe Drinking Water Act. This would add the Clean Water Act to that. I believe this program would share the same success for rural community wastewater systems.

The bill would also one other thing. It would allow States to use up to 2 percent of their Clean Water State Revolving Loan Fund for technical assistance for these small systems.

My appreciation goes out to our colleague, Senator Heitkamp, for being the lead Democrat on this bill and to members of this Committee, Senators Barrasso, Boozman, and Capito, for also signing on as co-sponsors. There is a great need for this. I urge its adoption at the appropriate time.

I thank my colleagues for their attention.

Senator BOOZMAN. Thank you. We thank the Senator from Mississippi.

Now we will go to our Senator from Nebraska.

OPENING STATEMENT OF HON. DEB FISCHER, U.S. SENATOR FROM THE STATE OF NEBRASKA

Senator FISCHER. Thank you, Mr. Chairman and also the Ranking Member for holding this hearing today. I thank the Committee for coordinating the schedule with today's conflicting Armed Services Committee briefing.

I would also like to thank Mayor Gray for providing testimony today on behalf of the U.S. Conference of Mayors and the other witnesses for their willingness to share their time and experience with our Subcommittee.

Last week I introduced S. 692, the Water Infrastructure Flexibility Act, with Senators Brown, Cardin, Boozman, Portman, Blunt, and Booker. Our bipartisan legislation would provide local communities with increased flexibility when complying with Clean Water Act requirements for updates to water infrastructure projects.

The bill would also give communities more independence as they prioritize and plan for wastewater and stormwater investments. More than 700 local communities across the country face mandates from the EPA to comply with Clean Water Act requirements.

In my home State of Nebraska, the city of Omaha was hit with a $2 billion unfunded Federal mandate from the EPA. Specifically, Omaha was required to update its combined sewer overflow system.

We all want clean and safe drinking water but an expensive, one size fits all approach handed down from Washington does not work.

According to the U.S. Conference of Mayors, on average, municipalities spend between 6 to 7 cents of every tax dollar on water and sewer systems. This makes water infrastructure the third largest expense for cities after education and emergency personnel.

Local communities forced to comply with these costly mandates have no choice but to pass these costs on to families through higher utility bills. For example, in 2014 the city council in Omaha, Nebraska, approved a sewer rate increase of approximately 45 percent over several years. This hurts the most vulnerable in the community, our low and fixed income families.

The Water Infrastructure Flexibility Act would allow municipalities to prioritize investments in storm and waste water projects needed for CWA compliance. It would also establish an Office of Municipal Ombudsman at the EPA to assist cities in complying with Federal environmental laws.

Most importantly, our bill requires the EPA to revise this regulation to make it more affordable.

The U.S. Conference of Mayors, the National Association of Counties, the National League of Cities and the National Association of Clean Water Agencies have all endorsed this bill. I am grateful for their support. I would ask unanimous consent that their letters of support be included in the record.

Senator BOOZMAN. Without objection.

[The referenced information follows:]

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; Julie Ufner (NACo) at 202-942-4269 or jufner@naco.org; or Judy Sheahan (USCM) at 202-861-6775 or 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

NACWA
A Clean Commitment to America's Waters

March 28, 2017

The Honorable Deb Fischer
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

The Honorable Ben Cardin
U.S. Senate
Washington, D.C. 20510

Dear Senators Fischer, Brown, and Cardin:

On behalf of the clean water utility members of the National Association of Clean Water Agencies (NACWA), I am writing in support of S. 692, the *Water Infrastructure Flexibility Act* (WIFA), bipartisan legislation that establishes strong tools within the Clean Water Act (CWA) to help municipalities more affordably comply with the statute.

There is little doubt that our nation's water quality has significantly improved since enactment of the CWA in 1972, largely due to investments in wastewater and stormwater infrastructure made by Congress and America's ratepayers. In fact, since the law's enactment, the number of waterways deemed fishable and swimmable has increased nearly 50%. Yet improvements in water quality have become more difficult to achieve as sources of pollutants have grown more complex and the Nation's municipal clean water infrastructure has continued to age. At the same time, the current structure of the CWA, which hasn't been significantly reformed in over thirty years, has led to an accretion of costly regulations for local ratepayers – in many cases with diminishing environmental returns.

Paying for clean water services has primarily rested with ratepayers who have seen clean water bills increase nearly twice the rate of inflation each year for the past decade. Today, 40% of households across America are paying more out of their disposable incomes for wastewater and stormwater management than what EPA says is affordable.

S. 692 proposes common sense reforms to the CWA to address this affordability challenge. Specifically, the legislation codifies Integrated Planning which is an

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important new tool that the Environmental Protection Agency (EPA) launched several years ago. The initiative enables communities to meet their permit obligations under the CWA in a holistic, prioritized manner that accounts for ratepayer affordability concerns while ensuring progress toward water quality goals. By codifying Integrated Planning as a permanent compliance feature under the Act, communities can undertake long-term planning in reliance of it.

Equally as important, the legislation requires EPA to adopt new affordability guidelines that do not rely on a single economic indicator to determine whether a community of ratepayers can afford compliance obligations. The clean water community has urged EPA to adopt revised affordability standards for many years and we are pleased this legislation will finally accomplish this goal.

Further, the legislation would establish an office of Municipal Ombudsman at the EPA to provide municipalities with technical assistance to comply with the CWA and the Safe Drinking Water Act. Many communities, especially small, rural communities, often have insufficient technical capacity and expertise to manage the increasingly complex regulatory compliance obligations under these statutes. The Office of Municipal Ombudsman can ensure that these communities receive technical support they may need to navigate these statutory requirements and ensure compliance to avoid violations and/or federal enforcement actions.

Finally, the legislation includes provisions to ensure that the EPA integrates the use of green infrastructure throughout its CWA compliance programs. Green infrastructure uses natural landscape features such as vegetation, soils, and other elements to manage stormwater in a way that reduces pressure on aging underground infrastructure. Municipalities are increasingly installing green infrastructure throughout the urban environment as an alternative to grey infrastructure approaches in an effort to build more resilient water management systems, reduce costs and improve quality of life attributes in local neighborhoods.

NACWA appreciates your leadership on this important legislation and looks forward to working with you and your Senate colleagues to enact it.

Sincerely,

Adam Krantz

Adam Krantz
Chief Executive Officer

Senator FISCHER. Thank you, sir.

We all want clean water. Our bill helps us work toward that important goal without unnecessarily burdening families along the way.

I would like to thank my colleagues for joining me on this legislation, and I look forward to working with each of you as we move forward to address our Nation's infrastructure needs.

Thank you, Mr. Chairman.

Senator BOOZMAN. Thank you very much, Senator Fischer.

We are going to have our opening statements. I will speak first and then our Ranking Member. If Senator Gillibrand pops in we will pause because she also needs to be at Armed Services.

The reality now is we all have two or three things going on at the same time. There is a lot going on up here.

OPENING STATEMENT OF HON. JOHN BOOZMAN, U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator BOOZMAN. As a former member of the House Transportation and Infrastructure Committee and now part of the Senate Environment and Public Works Committee, I understand the importance of infrastructure investment.

During my time in Congress I have been a constant advocate for water resources development and infrastructure. In the 114th Congress the Senate EPW and full Congress demonstrated its commitment to infrastructure with the bipartisan—I emphasize bipartisan—passage of two bills, the Water Infrastructure Improvement for the Nation Act as well as the comprehensive highway bill, the Fixing America Surface Transportation Act. I was very pleased to support both.

Passing these pieces of legislation was a major step forward. However, there is still more to be done. I am looking forward to the opportunities we will have to make investments in the 115th Congress. I am really looking forward to working with Senator Duckworth in that capacity.

Like many Americans I am encouraged by the Trump administration's commitment to improving our Nation's crumbling infrastructure, following the example set by President Dwight Eisenhower in establishment of the interstate highway system.

It is clear that infrastructure investment boosts our economy, creates immediate jobs, and produces decades of economic opportunity.

Unfortunately, since the President signed the Federal Aid to Highway Act of 1956 we have relied on a fix as fail approach to our Nation's infrastructure. Not only is the fix as fail approach more expensive, increasingly causing delays to commerce, but it also poses a risk to public safety.

The United States faces a multi-hundred billion dollar shortfall for water infrastructure investments which includes drinking water, sewer, and water supply projects. This shortage is reflected in the American Society of Civil Engineers' overall grade for America's infrastructure as a D+.

America is now at a crossroads. We need to address our aging infrastructure, but it comes with a cost. We have options that can

help fund infrastructure projects so we can get shovels in the ground and projects underway.

The Federal Government has provided funding to establish revolving loan grant programs administered by the States as well as resources through the Water Infrastructure Finance Innovation Act.

This program leverages small investments to make sure that taxpayers get the most bang for the buck. However, solving America's infrastructure crisis is not just about funding. We also need to make investing in infrastructure more affordable.

Once investments have been made, smaller communities may need technical assistance with operation and maintenance. Of course planning is needed to help us make wise investments.

One example of Congress providing these tools is the Water Supply Cost Savings Act, which I co-sponsored and was included in another bill. This legislation provides a technical clearinghouse that encourages cost effective approaches to bring affordable, quality drinking water to rural America, which is so very important.

With this bill we help to ensure that rural States—such as Arkansas—are not overburdened by major new infrastructure investments. The three bills we are reviewing today provide further examples of how we can help communities meet the requirements of the Clean Water Act.

We all want clean water, but communities are being asked to do more and more. These requirements are all coming at once where there are mandates to update treatment plants, to address nutrients, mandates to control stormwater flows, or mandates to address combined or sanitary sewer overflows. There are lots of unfunded mandates.

The question is not whether communities are going to address these issues. However, we have to recognize there are limits to how fast a community can act, particularly when many clean water mandates can cost hundreds of millions and in some cases billions of dollars.

Senator Fischer's bill, the Water Infrastructure Flexibility Act of 2017, helps address this issue. This legislation, which I am also cosponsoring, allows communities to put all their Clean Water Act obligations into a single plan and then implement that plan over time, making the investments that provide the greatest environmental and economic benefits first instead of trying to do everything at once.

Another issue is whether a community has the technical capability to meet Clean Water Act mandates. Many wastewater treatment systems operated by small and rural communities have few staff and limited resources.

As a result, they may lack the expertise to maintain compliance with Clean Water Act requirements and may not be able to afford a full-time technical expert. On-site technical assistance and education offered by circuit riders provides a cost effective way to address this issue.

Senator Wicker's bill, the Small and Rural Community Clean Water Technical Assistance Act, addresses this issue by authorizing funding for rural water circuit riders.

Under this bill, of which I am also a co-sponsor, funding for this program can come directly from EPA. In addition the bill also allows States to set aside a part of their State Revolving Loan Fund's money for this purpose.

Finally, we want to know the wisest investments we can make to achieve clean water. Senator Gillibrand's bill, the Long Island Sound Restoration and Stewardship Act, addresses this issue for the waters of Long Island.

This bill reauthorizes two existing programs that helped New York and Connecticut develop, adapt, and implement the Long Island Sound Comprehensive Conservation and Management bill and helped restore the coastal habitat.

I look forward to hearing the views of our witnesses on these bills and how we can promote flexibility, technical assistance and good planning.

Senator BOOZMAN. I now recognize Senator Duckworth for an opening statement.

OPENING STATEMENT OF HON. TAMMY DUCKWORTH, U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator DUCKWORTH. Thank you, Mr. Chairman.

Good afternoon, everyone. Thank you to Chairman Boozman for convening this important conversation and to all of our witnesses for joining us today. Welcome to rainy DC where the cherry blossoms are not as in full bloom as we would like but still lovely nonetheless.

I believe that infrastructure issues broadly can be a bright spot of bipartisanship for this Subcommittee and our full Committee as well as Congress. Whether it is rural areas or urban areas, coastal or plains States, communities across this country are grappling with finding ways to provide infrastructure that is strong and safe.

Not only are there challenges all across this country, these challenges are often similar. They also have a pressing need to prioritize this issue now all across the Nation.

As we discuss three bills before us today, I would like to highlight that each bill in its own way addresses issues I hear so many communities in Illinois complaining about. They provide communities with the capacity they need to take care of themselves and their residents.

The Water Infrastructure Flexibility Act will supply local governments the technical capacity so that they may better comply with requirements under the Clean Water Act. The Small and Rural Community Clean Water Technical Assistance Act has a similar objective. In this bill we provide small communities the work force capacity they would not otherwise have access to.

Finally, everyone should support programs like the Long Island Sound Restoration and Stewardship Act which would give the region the capacity to coordinate restoration activities with other Federal activities.

Clearly, capacity can come in different shapes and sizes. However, regardless of the form, the returns are substantial and in some cases, critical.

I am excited to work with all of you and hope that our hearing today will be the first of many to come where we will come to-

gether, hear ideas, and consider solutions to these very urgent issues.

Thank you again, Mr. Chairman.

Senator BOOZMAN. Thank you.

Senator Gillibrand.

OPENING STATEMENT OF HON. KIRSTEN GILLIBRAND, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator GILLIBRAND. Thank you, Mr. Chairman and Madam Ranking Member.

I am very grateful for this subcommittee hearing today and for including my bill, the Long Island Sound Restoration and Stewardship Act, on the agenda today.

I would like to welcome my friend, Erin Crotty, and thank her for her testimony today. We went to high school together. Erin is the Executive Director of Audubon New York and a former commissioner of the New York State Department of Environmental Conservation.

Audubon New York has been an important partner in protecting the Long Island Sound. I am so pleased Erin could be here today to give the perspective of those who work on the ground every day and see the benefits of Federal investment in restoring the Sound.

Thank you, Erin, for being here and for traveling from New York.

Mr. Chairman, the legislation I re-introduced this Congress, along with Senators Blumenthal, Schumer, and Murphy is identical to the bills that have unanimously passed this Committee in previous Congresses.

It has strong bipartisan support from the New York and Connecticut delegations in the House, as well as from the local communities in the Long Island Sound Watershed.

Long Island Sound is an estuary of national significance that contributes up to $37 billion to the regional economy each year. To protect this resource, my legislation would reauthorize through fiscal year 2023 our Federal commitment to helping our communities in New York and Connecticut restore and maintain the health of Long Island Sound and its ecosystems.

For every $1 in Federal funds appropriated to the Long Island Sound program, $87 is leveraged from other sources. We have seen the results from our investment. Federal funding has already helped to significantly reduce by millions of pounds the amounts of nitrogen entering the Sound from sewage treatment plants.

We have protected thousands of acres of habitat land, but there is still work to be done to reduce pollution and protect vital ecosystems in and around the Sound for millions of my constituents who live and work near it and want to enjoy its natural resources for recreation.

I thank the Committee for once again considering this legislation. I hope we can move quickly through Congress so we can get it to the President's desk.

Thank you both.

Senator BOOZMAN. Thank you.

Let us now go to our witnesses.

Mr. Gray.

STATEMENT OF RICHARD GRAY, MAYOR,
CITY OF LANCASTER, PENNSYLVANIA

Mr. GRAY. Good afternoon, Mr. Chairman and members of the Committee.

My name is Rick Gray, and I am the Mayor of the city of Lancaster, Pennsylvania, a city of 60,000 people in 7 square miles.

The Water Infrastructure Flexibility Act is a positive step in acknowledging that we need to approach our water and wastewater issues in a more practical and cost effective manner.

Attached to my testimony is a letter signed by the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties that encourages all Senators to co-sponsor this legislation.

During intense rain storms, due to impervious services and our combined stormwater/wastewater system millions of gallons of untreated wastewater can be caused to overflow into our river.

The city has been proactively implementing a comprehensive stormwater program to improve water quality, meet regulatory compliance, and address stormwater challenges using gray as well as green infrastructure.

Since 1999 the city of Lancaster has been implementing a State-approved, long-term control plan investing $80 million in gray infrastructure improvements. We are close to meeting the 85 percent captured goal set forth by EPA.

If Lancaster used gray infrastructure, this remaining 15 percent would cost an estimated $300 million.

After more than a year of evaluation and many public input sessions, Lancaster determined that a $140 million investment in green infrastructure with other gray system improvements over the next 25 years could accomplish the remaining compliance for the system.

In 2011 Lancaster adopted a green infrastructure program establishing an integrated stormwater management to reduce combined sewage overflows in a more cost effective and environmentally sustainable manner.

Lancaster has completed 45 green infrastructure programs at a cost of over $10 million. This has resulted in the capture of 45 million gallons of stormwater annually. EPA Region 3 and EPA Headquarters have lauded our program and held Lancaster up as a model for other cities to replicate.

Yet EPA's Enforcement Division continues aggressive actions including threats of civil penalties in the seven figure range to press us to use costly gray technology rather than allowing Lancaster time to implement a more sustainable green solution.

Lancaster's story illustrates that a new direction for EPA is necessary, one that will allow cities the flexibility to opt for more sustainable and resilient green infrastructure technologies.

Since the beginning of Lancaster's implementation we have had significant rate increases. I believe they were 130 percent since 2003 plus a stormwater fee. Rate increases for our customers disproportionately affect the disadvantaged populations of our community.

This is a community in which 29 percent of our households have incomes of less than $20,000. These programs are shared by many cities.

The Mayors' message to Congress is that renewing public water infrastructure and delivering safe water is becoming less affordable. Sewer and stormwater mandates are expensive and may not address the highest local environmental or public health concerns of a city.

I would like to call your attention to four important points of the Nation's mayors. One, codify EPA's integrated planning and permitting policy. Integrating planning should be designed to allow cities to develop comprehensive plans and establish a plan of investment over time to reach these goals.

Two is achieving long-term control of stormwater through permits. We urge Congress to create a path of long-term goals that exist through the permitting process rather than by way of consent decrees.

Third is renewed congressional support for exercising flexibility in existing clean water law.

Fourth is eliminating civil fines in consent decrees for local governments that develop integrated plans and make reasonable progress in improving their waters.

I wish to thank the Committee for this opportunity to speak before you today.

Thank you.

[The prepared statement of Mr. Gray follows:]

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.

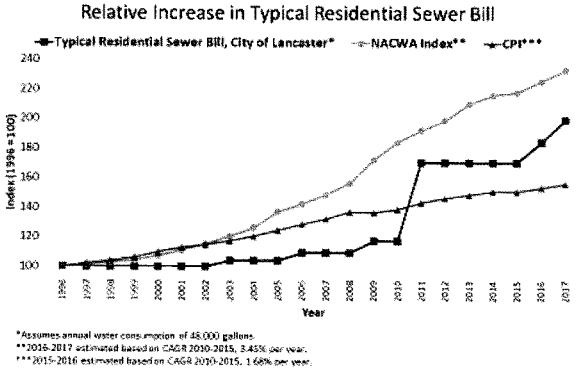
And the process is very onerous. Since 2008, we have made over 15 filings with EPA and the State, have received 5 responses or comments from the agencies, and have had 20 meetings/calls/tours.

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 disproportionally 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
Total Completed Capital Projects		***$39,866,000***

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
Total Current Capital Projects		***$39,900,000***

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

City	State	Civil Penalties	Year
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 SEP
$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 PA Fine						Long-Term Control Plan
1,375,000.00	Number	Cost	Cumulative	Cumulative		Estimated Cost
MHI (dollars)	of	Per	Cost	Number	%	$300,000,000
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; Julie Ufner (NACo) at 202-942-4269 or jufner@naco.org; or Judy Sheahan (USCM) at 202-861-6775 or 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

Senator BOOZMAN. Thank you very much for your testimony.

I did not go to school with him, but I do want to especially thank Dennis Sternberg for being here from Greenbrier, Arkansas. I have had the opportunity to work with him for the last several years. He does a tremendous job.

As of January 2017 Mr. Sternberg has spent 38 years in the water and wastewater industry in Arkansas with 29 of those years spent working in almost field positions as a field rep, EPA program manager, USDA circuit rider, and wastewater technician trainer.

He and his Rural Water Association staff are committed to the future of rural communities by assisting utilities throughout the State with their many challenges that rural, small utilities continue to face.

He holds the highest in water and wastewater licenses in Arkansas. In 2006 he received the Executive Director of the Year Award from the National Rural Association. In 2009 the U.S. Department of Agriculture and National Rural Water Association recognized Dennis for leadership in emergency response preparations.

Thank you for many, many years of service to the people of Arkansas. Now you can give your testimony.

STATEMENT OF DENNIS STERNBERG, EXECUTIVE DIRECTOR, ARKANSAS RURAL WATER ASSOCIATION

Mr. STERNBERG. Thank you, Senator.

Good afternoon, Chairman Boozman and members of the Committee. It is an honor to be here and we are grateful that you have included a voice for rural America at this hearing.

My name is Dennis Sternberg, and I am the Executive Director of the Arkansas Rural Water Association, a non-profit association of 563 small and rural community water utilities in Arkansas.

I am also a representative of the National Rural Water Association which has over 31,000 community members. Our mission is to enhance drinking water and wastewater service, safety, compliance, and quality in small and rural America.

My main message to the Committee today is that the small and rural communities in all States strongly support S. 518, the Small and Rural Community Clean Water Technical Assistance Act.

We urge the Committee and the Senate to pass it as soon as possible to help small communities with the operation of their wastewater utilities and compliance with all the Federal regulations under the Clean Water Act.

We are very appreciative of Senators Wicker and Heitkamp's sponsorship of the bill, and I will explain why the legislation is helpful and merits enactment.

Most all of our country's sewer systems or wastewater utilities are small. Approximately 80 percent of the country's approximately 16,000 wastewater utilities serve a population of fewer than 10,000 persons.

In Arkansas, for example, approximately 340 of the 370 community wastewater utilities serve small communities. In Illinois it is approximately 700 of 800; in Maryland, it is 130 of 170; and in Mississippi, it is approximately 270 of 300.

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 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.

S. 518 provides a solution to the lack of technical resources in small communities by providing technical experts—we call them circuit riders—in each State, to be shared by all small and rural communities who are in need of assistance.

A circuit rider is a person with expertise in wastewater treatment operation, maintenance, governance, and compliance who constantly travels the State to be available onsite 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 leaders with unique treatment and personally educate that operator, mayor, or other local officials on how to solve their problems.

They have to be available when the community needs the help which can be nights, winters, after natural disasters, and weekends. Also, they must be non-regulatory to gain the trust of the local communities.

The small town of Kensett, Arkansas, provides a good recent example of technical assistance. Last year the Kensett Waterworks called for help with their sewer systems concerning a problem with their activated sludge plant. The plant had suddenly become upset and out of compliance.

A rural water circuit rider was dispatched and traveled to the community, inspected the plant and their records and noticed a decline in the sample results over a 4-month period. The circuit rider disassembled the activated sludge return pump and line to clean them and found the cause of the problem. The line had been blocked by biological growth.

After clearing the lines and pumps, the circuit rider recommended they feed some artificial enzymes and food supplements to try to jump-start the recovery of the activated sludge plant.

In addition to providing the technical solution to their problem, this assistance saved the community approximately $1,000 per day in potential fines. If enacted and appropriated, S. 518 would allow for thousands in similar assistance events each year throughout the Nation.

Senator Wicker had a similar bill pass about a year ago to provide small communities with circuit rider assistance for the Safe Drinking Water Act and drinking water treatment utilities.

However, we have not been able to have that legislation, Public Law 114–98, specifically cited in the EPA appropriations bill which is preventing that technical assistance funding from reaching rural Arkansas, Mississippi, Illinois, Maryland, and other States.

Any assistance you can provide to correct these issues with the EPA Appropriations Subcommittee is greatly appreciated. This committee is very important to rural and small town America. We

are grateful for the opportunity to testify today and grateful for the numerous opportunities this committee has provided rural America to testify and to be included in crafting of the Federal water and environmental legislation.

Thank you.

[The prepared statement of Mr. Sternberg follows:]

TESTIMONY OF

DENNIS STERNBERG

EXECUTIVE DIRECTOR

OF THE

ARKANSAS RURAL WATER ASSOCIATION

ON BEHALF OF THE

NATIONAL RURAL WATER ASSOCIATION

BEFORE THE

UNITED STATES SENATE SUBCOMMITTEE ON FISHERIES, WATER, AND WILDLIFE

March 28, 2017

S. 518, The Small and Rural Community Clean Water Technical Assistance Act

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Good afternoon Chairman Boozman and Members of the Committee. It is an honor to be here and we are grateful that you have included a voice for rural American at this hearing.

My name is Dennis Sternberg, and I am the Executive Director of the Arkansas Rural Water Association – a non-profit association of 563 small and rural community water utilities in Arkansas. I am also a representative of the National Rural Water Association which 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.

My main message to the committee today is that the small and rural communities in all states strongly support S. 518, the Small and Rural Community Clean Water Technical Assistance Act and we urge the committee and the Senate to pass it as soon as possible to help small communities with the operation of their wastewater utilities and compliance with all the federal regulations under the Clean Water Act. We are very appreciative of Senator Wicker and Heitkamp's sponsorship of the bill and I will explain why the legislation is helpful and merits enactment.

Most all of our country's sewer systems or wastewater utilities are small. Approximately 80 percent of the county's approximately 16,000 wastewater utilities serve a population of fewer than 10,000 persons. In Arkansas, for example, approximately 340 of the 370 community wastewater utilities serve small communities (i.e. less than 3 million gallons per day of flow). In Illinois, it is approximately 700 of 800; in Maryland, it is 130 of 170; and in Mississippi, it is approximately 270 of 300. Environmental Protection Agency's (EPA) lists of "publicly-owned treatment works" in these states are available on the internet at www.ruralwater.org/docs/potws.

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 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 trouble-shoot. 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. S. 518 provides a solution to the lack of technical resources in small communities by providing technical experts, we call them Circuit Riders, in each state to be shared by all small and rural communities who are in need of assistance. A Circuit Rider is a person with expertise in wastewater 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 officials 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 – they only work in the interest of the small community they are assisting.

I started working for Arkansas Rural Water Association as a Circuit Rider. In this position, I traveled to every, *yes every*, small town with a sewer system to help them at some point. I often visited communities just to check in on them, develop a peer-to-peer relationship and keep educating them on how to best operate their utilities.

The small town of Kensett, Arkansas provides a good recent example of technical assistance. Last year, the Kensett Waterworks called for help with their sewer systems concerning a problem with their activated sludge plant. The plant had suddenly become upset, the clarifier was not settling and they were experiencing pass-through to the chlorine contact chamber resulting in cloudy, dirty looking effluent and noncompliance. A rural water Circuit Rider traveled to the community and inspected the plant and their records and noticed a decline in the sample results over a four month period. After discussing several ideas, it was found that the return sludge pump didn't appear to be working properly. This finding led Circuit Rider to disassemble the pump and line to clean them. At this point, they found the cause of the problem – the line had been blocked by biological growth. After clearing the lines and pumps, the Circuit Rider recommended they feed some artificial enzymes and food supplements to try to jump-start the recovery of the plant. A follow-up visit after four days found that conditions had greatly improved. In addition to providing the technical solution to their problem, this assistance saved the community approximately $1,000 per day in potential

fines. If enacted and appropriated, S. 518 would allow for thousands of similar assistance events each year, every Circuit Rider can visit over 20 communities in a month.

Senator Wicker had a similar bill pass about a year ago to provide small communities with Circuit Rider assistance for their drinking water treatment utilities. However, we have not been able to have that legislation, Public Law 114-98, specifically cited in the EPA appropriations bill which is preventing that technical assistance funding from reaching rural Arkansas, Mississippi, Illinois, Maryland and other states. Any assistance you can provide to correct this issue with EPA appropriations subcommittee is greatly appreciated. The reason why this authorization and the similar drinking water authorization need to be specifically cited in the appropriations bill is because they contain a critical mandate that the EPA must follow Congressional intent and give preference to the type of technical assistance that small communities find to be most beneficial. Again, we would be grateful for any help in getting this message to the EPA appropriations subcommittee.

The technical assistance provided in the example from Kensett, Arkansas, was funded by the Department of Agriculture. This technical assistance under the EPA would not be redundant with USDA assistance because there is currently a tremendous unmet need for assistance as a result of EPA's Clean Water Act regulations. In Arkansas, approximately one-third of our small wastewater utilities are having a very hard time modifying their treatment to comply with EPA's new standards for ammonia in their effluent. Any new EPA supported Circuit Riders would be focused on EPA rule compliance that is currently not being met and is not the focus of USDA funded technical assistance which is dedicated to furthering USDA's mission objectives.

The Small and Rural Community Clean Water Technical Assistance Act would authorize two new technical assistance provisions under CWA that are similar to provisions currently authorized under the Safe Drinking Water Act. First, S. 518 would establish a federal Clean Water Act (CWA) technical assistance program, administered by the EPA, to assist small public wastewater treatment systems (those serving not more than 10,000 people) in complying with CWA regulations. The bill would authorize $15 million a year over five years for technical assistance. Second, the bill 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 currently is authorized and operating within the states' Safe Drinking Water SRF.

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 or the Clean Water Act was likewise authorized by this committee. We are grateful for the opportunity to testify today and grateful for the numerous opportunities this committee has provided rural America to testify and be included in the crafting of federal water and environmental legislation and policy.

Senator BOOZMAN. Thank you very much.

Ms. Crotty, you are welcome to go now. I will give you some extra time if you would like to tell some stories about Senator Gillibrand.

STATEMENT OF ERIN M. CROTTY, EXECUTIVE DIRECTOR, AUDUBON NEW YORK

Ms. CROTTY. I think I will take a pass on that, Senator.

Good afternoon Chairman Boozman, Ranking Member Duckworth, and Senator Gillibrand. I really want to thank you for allowing me to testify on Senate Bill 675, the Long Island Sound Restoration and Stewardship Act.

I would especially like to thank Senator Gillibrand from my home State for being a champion for our shared environment and for sponsoring this critically important legislation.

My name is Erin Crotty. I am the Executive Director of Audubon New York and also Vice President of the National Audubon Society. Audubon's mission is to protect birds, their habitats, and the places they need to survive throughout their entire life cycle.

For decades Audubon's united network of members, volunteers, chapters, national, New York State, and Connecticut offices have worked hard to protect and restore Long Island Sound and its watershed. Here is why.

Long Island Sound is a globally significant ecosystem for birds, fish, and other wildlife. It is a 1,320-square-mile estuary of the Atlantic Ocean and borders 600 miles of New York and Connecticut.

The Sound supports 54 important bird areas which are the most important places for birds, 14 of which are globally important.

It is an estuary of national significance. The Sound is home to one of the most important tern nesting sites on earth, Great Gull Island, with approximately 10,000 pairs of common terns and more than 1,000 pairs of the federally endangered roseate tern.

The Sound supports over 1,200 species of invertebrates, 170 species of fish, and dozens of species of migratory birds, including the federally threatened piping plover and red knot. Twenty-three million people—7 percent of the total U.S. population—live within 50 miles of the Sound, and it is 5 miles from the heart of the country's most populated city, New York. The Sound generates an impressive $9.4 billion annually to the regional economy.

It is for these reasons that Audubon strongly supports the Long Island Sound Restoration and Stewardship Act. The Act authorizes the Long Island Sound program in the Environmental Protection Agency and the Long Island Stewardship Act through fiscal year 2023.

The Act authorizes up to $40 million annually for grants to support the Sound's Comprehensive Conservation Management Plan and up to $25 million annually to procure and enhance sites within the Sound's watershed and adds critical functions to the Long Island Sound Study Office including to study the environmental impacts on the Sound's source waters.

The Act is a common sense approach to modern estuary protection and helps meet the Federal Government's share of the funding needed. The Federal funding, which is often the driver for projects

moving forward, will be leveraged with other Federal, State, local, and private investment.

On average, the estuaries of the National Estuaries Program, of which the Long Island Sound Study is one, raises $18 for every $1 provided by the EPA. That is a significant and meaningful leverage ratio.

While the health of the Sound has improved, threats do continue. For nearly 30 years this comprehensive effort has resulted in measurable improvement to the Sound's health, and Audubon has been there every step of the way.

Water quality has improved, habitat has been restored, and open spaces protected, which has resulted in the Sound teaming with wildlife and people. Nitrogen is being reduced from wastewater treatment plants, habitat is being restored, millions of people are being engaged, and dead zones are shrinking. Bald eagles are nesting, and species are returning—like the humpback whales and bluefish, yet the health of the Sound is still threatened. Today's threats are more diffuse and challenging.

A changing climate, extreme weather events, acidification, nitrogen discharges from stormwater and septics, aging and broken infrastructure, brown tide, invasive species, development pressure, and rising sea levels are literally squeezing out the habitat for birds and other wildlife. These are the challenges facing the Sound today. The collaborative and integrated effort enabled by the Act is more important than ever.

The Sound's CCMP was updated in 2015, and the vision is one of clean water that is protected and nourished, abundant and diverse wildlife, flourishing commercial fisheries, accessible harbors, and a public that protects and sustains the ecosystem.

The Act helps us—governments at all levels—the private sector, non-governmental organizations, including Audubon, and the public reach that vision.

The Nation's National Estuaries Program faces an uncertain future. The Trump administration has reportedly proposed to eliminate funding for EPA's Categorical Grants which Audubon believes includes the 28 estuaries of the NEP, including the Sound.

The NEP is a cost effective, non-regulatory program that harnesses the power of on-the-ground stakeholders by providing them with a structure to collaborate, develop, and implement a long-term plan to guide their efforts.

Over one-half of our country's population lives within 100 miles of coasts, and more and more people are moving there. With a leverage ratio of 18 to 1 and $4.2 billion leveraged with an investment of $230 million in EPA grants, the NEP has proven to be a highly effective and efficient program.

Audubon strongly encourages Congress to resist this short sighted effort to cut the program.

Thank you very much for the opportunity to testify today. Help us make a difference for the birds, the wildlife and the people that rely on the Sound for survival and a high quality of life by taking action on Senate Bill 675, the Long Island Sound Restoration and Stewardship Act.

Thank you very much.

[The prepared statement of Ms. Crotty follows:]

WRITTEN TESTIMONY OF ERIN M. CROTTY
EXECUTIVE DIRECTOR, AUDUBON NEW YORK
VICE PRESIDENT, NATIONAL AUDUBON SOCIETY
FOR THE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE
SUBCOMMITTEE ON FISHERIES, WATER AND WILDLIFE
UNITES STATES SENATE
MARCH 28, 2017

Good afternoon Chairman Boozman, Ranking Member Duckworth, and Members of the Environment and Public Works Subcommittee on Fisheries, Water, and Wildlife. Thank you for allowing me to testify on Senate bill 675 the "Long Island Sound Restoration and Stewardship Act." I would like to especially thank Senator Gillibrand from my home state of New York for being a champion for our shared environment and for sponsoring this critically important legislation.

My name is Erin Crotty and I am the Executive Director of Audubon New York and Vice President of the National Audubon Society. Audubon's mission is to protect birds and the places they need to survive. Our growing wingspan of one million passionate and active members, a strong National Office, two statewide Audubon offices in New York and Connecticut with 18 sanctuaries and nature centers, thirty-three local Audubon Chapters, and thousands of annual visitors and volunteers have worked for decades to protect and restore Long Island Sound and its watershed ("the Sound"). Audubon connects our vast and powerful network along the migratory flyways of the Americas through science, advocacy, education and on-the-ground conservation programs. At its best, Audubon's network unites to tackle big challenges facing birds that cannot be solved by any single part of the network alone – like protecting the Sound for birds and people. We help people throughout our vast and beautiful country satisfy the universal need to make a difference. My testimony is on behalf of One Audubon and it is my sincere hope that my testimony today makes a difference.

America's coastal habitat is critically important to the survival of birds. Protecting and restoring coastal habitat is one of the five conservation strategies of Audubon's 2016-2020 Strategic Plan: Extending our Conservation Reach Together. We focus on the most threatened and iconic bird species that rely on coastal habitats—estuaries, islands, beaches, and the marine environment—throughout the hemisphere and work to strengthen their populations while preserving the places they need to survive throughout their lives. The work needed to accomplish this goal also protects coastal communities against the threat of sea-level rise due to a changing climate.

The Significance of the Sound to Birds, Other Wildlife & People
The Sound is a *globally significant* ecosystem for birds, fish and other wildlife. It is a 1,320 square mile estuary of the Atlantic Ocean and borders 600 miles of the New York and Connecticut coastline. The Sound supports 54 Important Bird Areas ("IBAs"). Identifying IBAs is a collaborative effort of 19 partners throughout the world to identify, monitor, and protect the most important places for birds. 14 of the Sound's IBAs are identified as global meaning they are places of critical conservation value at the international scale, supporting bird species of global conservation concern and/or significant numbers of birds. (Please see the map of the Sound's IBAs at the end of this testimony.)

The Sound is home to one of the most important tern nesting sites *on Earth*, Great Gull Island, with approximately 10,000 pairs of Common Terns and more than 1,000 pairs of the federally endangered

Roseate Tern. The Sound supports over 1,200 species of invertebrates, 170 species of fish, and dozens of species of migratory birds, including the Roseate Tern and federally threatened Piping Plover and Red Knot.

23 million people (7% of the total US population) live within 50 miles of the Sound and it is five miles from the heart of the country's most populated city – New York. The Sound generates an impressive $9.4 billion (2015) annually to the regional economy. The Sound is an estuary of national significance.

The Importance of the Long Island Sound Restoration and Stewardship Act

It is for these reasons that Audubon strongly supports the Long Island Sound Restoration and Stewardship Act ("the Act") and we are grateful to Senator Gillibrand for sponsoring this critical piece of legislation. The Act authorizes the Long Island Sound program in the Environmental Protection Agency ("EPA") and the Long Island Stewardship Act through fiscal year 2023. The Act authorizes funding for projects to restore and preserve the Sound and its ecosystems, including much needed funding for upgrades to wastewater treatment plants, wetlands protection and restoration, and non-point source control and abatement. The Act also adds to the Long Island Sound Study Office the responsibility to study environmental impacts, including the impacts of sea-level rise and the development and implementation of adaptation strategies, on the Sound watershed; conduct planning; develop and implement public education strategies; and conduct monitoring to ensure the projects and programs are working effectively. The Act requires a biennial report to Congress, an annual crosscutting budget, and critical federal agency coordination. Finally, the Act authorizes up to $40 million annually for grants to support the Sound's Comprehensive Conservation Management Plan (CCMP) and up to $25 million annually for grants to procure and enhance sites within the Sound's watershed.

The Act is a common sense approach to modern estuary protection and helps meet the federal government's share of the funding needed to further improve water quality, protect and improve habitat, educate and involve the public, and ensure sustainable and resilient communities based on sound science and inclusive management. The federal funding authorized under the Act will be leveraged with other federal, state, local, and private investment. On average, the estuaries of the National Estuaries Program, of which Long Island Sound Study is one, raises $18 for every $1 provided by the EPA. That is a significant and meaningful leverage ratio. Oftentimes, this federal funding is the driver for projects moving forward.

While the Health of the Sound Has Improved, Threats Continue

As stated above, the Act is linked to the Sound's CCMP. CCMPs are long-term plans that contain actions to address water quality and living resources challenges and priorities which are identified at the local level through stakeholder engagement. For nearly 30 years, this comprehensive effort has resulted in measurable improvement to the Sound's health and Audubon has been there every step of the way. Water quality has improved, habitat has been restored, and open spaces protected which has resulted in the Sound teaming with wildlife and people.

As of 2016, both Connecticut and New York have nearly attained the goal of reducing nitrogen by 58.5%. Over 1,750 acres of habitat in New York and Connecticut were restored from 1998 to 2015 – that equates to an area nearly the size of Delaware. 335 miles of migratory corridors in rivers for fish passage have been opened up. Millions of people have been engaged and educated about the

importance of the Sound to their quality of life. "Dead" zones – oxygen-depleted areas – are shrinking. Menhaden are returning. Humpback whales and dolphins have been seen in the Sound in recent years. Thousands of terns and Laughing Gulls gather in the Sound during fall migration to feast on baitfish. Vast schools of striped bass and bluefish, and even schools of tuna are being pursued by fishermen. Birds that were once rare on the Sound are becoming regular, including Parasitic Jaegers, Northern Gannets and Razorbills. Vast flocks of gulls and Brant, Greater Scaup and Long-tailed Ducks gather in the Sound at this time of year to take advantage of plankton blooms to fatten up for breeding season. Tens of thousands of Semipalmated Sandpipers and other migratory shorebirds gather on the Sound's shores. Osprey have recovered from the brink of extirpation to hundreds of pairs. Bald Eagles are nesting along the Sound.

Yet, the health of the Sound is still threatened. And, the threats today are more diffuse and challenging than they were 30 years ago. A changing climate, extreme weather events, acidification, nitrogen discharges from stormwater and septics, contaminants leaking from aging and broken infrastructure, harmful algal blooms, brown tide, user conflicts, invasive species, funding needs outpacing available funding, pressure from development as more people flock to our coastal communities, and rising sea levels are literally squeezing out the habitat for birds and other wildlife – these are the challenges facing the Sound today. The collaborative and integrated effort enabled by the Act is more important than ever.

The Sound's CCMP was updated in 2015 and the vision is one of clean water that is safe to swim in and charged with life; water protected and nourished by coastal wetlands, publicly accessible, litter-free beaches and preserves, and undeveloped islands; abundant and diverse wildlife; flourishing commercial fisheries; harbors accessible to the boating community; and a regional consciousness and a way of life that protects and sustains the ecosystem. This vision is linked to a plan of action (the CCMP) for clean waters and healthy watersheds, thriving habitats and abundant wildlife, sustainable and resilient communities, and sound science and inclusive management. The Act helps us – governments at all levels, the private sector, non-governmental organizations (including Audubon), and the public – reach that vision.

Examples of Audubon New York & Connecticut On-the-Ground in the Sound
Audubon New York is an active player in the protection of the Sound and our field efforts are focused on reducing threats to, and increasing populations of, priority bird species. Our experienced staff protect priority nesting birds by installing fencing around nesting areas, building nest exclosures to keep predators out, and monitoring sites for birds, threats, and nesting success. We help track progress toward meeting the recovery goals for federally listed endangered and threatened species under the Endangered Species Act.

Building from our stewardship efforts, we engage and educate the public through our Be a Good Egg campaign. Be a Good Egg integrates beach outreach, community education, and engagement in conservation activities to reduce threats to the Sound's coastal habitats. Be a Good Egg changes public perceptions and behaviors to reduce threats to nesting and resting shorebirds. We reach tens of thousands of people through our communication channels, including public and school programming. We secure thousands of pledges from people committing to share and respect the shore and engage volunteers to assist with stewardship activities and actions that directly benefit the Sound's birds and

the places they need to survive. Be a Good Egg connects beach users to nature and encourages them to be active players in the protection of the Sound.

Working with governmental and non-governmental partners, Audubon Connecticut has worked to permanently preserve more than 2,000 acres of critical coastal habitat since the turn of the 21st century. Key actions include protecting critical buffers and watershed protection habitats of global IBAs (East River Marsh in Guilford, Hammonasset Beach State Park in Madison, Menunketesuck Island and the Salt Meadow Unit of Stewart B. McKinney National Wildlife Refuge in Westbrook and Barn Island Wildlife Management Area in Stonington).

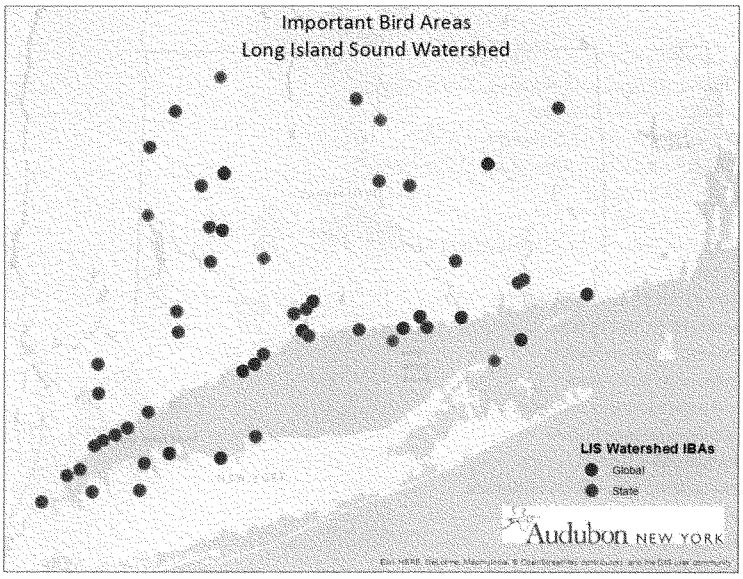
Our staff and more than 200 volunteers work with local, state and federal governments and private landowners at 31 coastal sites where Piping Plovers, American Oystercatchers, Least Terns and other coastal waterbirds nest or gather for migration to ensure nesting success while preserving public access. Audubon volunteers contributed more than 4,000 hours towards monitoring and stewarding of Piping Plovers and Least Terns along the coast of Connecticut in 2016 alone and contributed to record breaking breeding success for Piping Plovers and American Oystercatchers. In 2015, there were a record number of 62 pairs of Piping Plovers that produced an all-time high of 116 fledged chicks. In 2016, we had an all-time high count of nesting pairs of both oystercatchers and plovers -- 63 pairs each.

The National Estuaries Program Works – Defend its Funding

In closing, I would like to point out that the nation's National Estuaries Program (NEP) faces an uncertain future as the Trump Administration has reportedly proposed to eliminate funding for EPA's Categorical Grants. Audubon and many partners believe this includes the 28 estuaries of the NEP, including the Sound. The NEP works from the northwestern shores of Alaska and Oregon, down to the Gulf Coast with estuaries in Alabama and Mississippi and all along the eastern shores from Florida to Maine.

The NEP is a cost-effective, non-regulatory program established by Congress in 1987 that harnesses the power of on-the-ground stakeholders working hard to protect and restore estuaries by providing them a structure to collaborate and develop and implement a long-term plan to guide their efforts: the CCMP. Over one-half of our country's population lives within 100 miles of coasts and more and more people are moving there. With a leverage ratio of 18:1 and $4.2 billion leveraged with $230 million in EPA grants from 2003 to 2013, the NEP has proven to be highly efficient and effective. Audubon strongly encourages Congress 1to resist this short-sighted effort to cut funding.

Thank you for the opportunity to testify today. Help us make a difference for the birds, other wildlife, and people that rely on the Sound for survival and a high quality of life by taking action on S. 675 the "Long Island Sound Restoration and Stewardship Act." Thank you again for your consideration.



	Important Bird Areas in New York (north shore from east to west)	Status
1	Great Gull Island, Southold	Global
2	Orient Point to Plum Island, Southold	State
3	Crane Neck to Misery Point, Brookhaven	State
4	Nissequogue River Watershed/Smithtown Bay, Smithtown	Global
5	Huntington and Northport Bays, Huntington, Northport	Global
6	Oyster Bay Area, Oyster Bay	State
7	Muttontown Preserve, Hempstead	State
8	Little Neck Bay to Hempstead Harbor, North Hempstead	State
9	North Brother/South Brother Islands, New York City	State
10	Pelham Bay Park, New York City	State
11	Huckleberry Island, New York City	State
12	Marshlands Conservancy, Rye	State
13	Edith G. Read Wildlife Sanctuary, Rye	State
14	Butler Sanctuary, MT Kisco	State

Recognized Important Bird Areas in Connecticut

1	Aton Forest, Inc.	State
2	Audubon Center Bent of the River	State
3	Audubon Greenwich (including Quaker Ridge)	State
4	Bafflin Sanctuary Complex	State
5	Barn Island Wildlife Management Area	Global
6	Connecticut College Arboretum, Waterford	State
7	Couch Hill Preserve	State
8	Cove Island Park	State
9	District of Willimantic Chimney Swift Roosts	Global
10	East Rock Park	State
11	Falkner Island Unit of McKinney NWR	State
12	Good Hill Farm Preserve	State
13	Great Captain's Island	State
14	Greenwich Point Park	State
15	Hammonasset Beach State Park	Global
16	Lighthouse Point Park	State
17	Mamacoke Island	State
18	Menunketesuck and Duck Islands	State
19	Milford Point/Wheeler Marsh	Global
20	Naugatuck State Forest	State
21	Northwest Park	State
22	Quinnipiac River Tidal Marsh	Global
23	Salt Meadow Unit of McKinney NWR	Global
24	Sandy Point	Global
25	Silver Sands State Park and Charles Island	State
26	Station 43	State
27	Stratford Great Meadows Area	Global
28	TNC's Devil's Den, Weston	State
29	Topsmead State Forest	State
30	West River Memorial & Edgewood Park	State
31	White Memorial Foundation	Global
32	Wimisink Preserve,	State
33	Woodbury Chimney Swift Roost	Global
34	Great Meadows	State
35	Lyme Forest Block	State
36	Macedonia Forest Block	State
37	Meshomasic Forest Block	State
38	Miles Wildlife Sanctuary and Housatonic State Forest Block	State
39	Mouth of the Connecticut River	Global
40	Shepaug Forest Block	State

Senator BOOZMAN. Thank you, Ms. Crotty.

Senator Gillibrand.

Senator GILLIBRAND. Thank you so much, Ms. Crotty, for your testimony. I have two basic questions.

Can you tell the Committee, for the record, what would be the environmental and economic impact if Congress no longer funded the Long Island Sound Program? Can you more fully describe the level of coordination between the Federal Government, State, local, and NGO stakeholders to carry out projects to restore and protect the Sound?

I ask this because that leverage is really significant. I think it is important for the Federal Government to know it is not just Federal dollars at stake here. It is a lot of other dollars that come because of Federal leadership.

Ms. CROTTY. Thank you, Senator.

The Long Island Sound Study Program of EPA really is the lynchpin or the catalyst, if you will, of pulling all of the parties working on restoring Long Island Sound which is a bi-State effort and involves all of the levels of government and certainly not-for-profit organizations and municipalities.

It really is that glue that holds us together and working toward a common vision in the CCMPs in order to protect and restore this estuary of national significance. The money we find from the Long Island Sound Program is often the catalyst for a project to move forward.

All of these programs are co-funded. It is very rare when you have a wastewater treatment plant upgrade, a habitat restoration project, or an open space project that is not leveraged with private and public dollars.

It would be extremely detrimental to the progress we have made and certainly all of the challenges that we have left if the reauthorization did not happen.

Senator GILLIBRAND. Thank you, Mr. Chairman.

Thank you so much.

Ms. CROTTY. Thank you.

Senator BOOZMAN. Thank you.

I am going to ask Mr. Gray a question. I would like you to respond also, Ms. Crotty. It is going to be about green.

Mayor Gray, according to your testimony it costs the city of Lancaster $80 million to capture 85 percent of flows from your combined sewers. I assume capturing the remaining 15 percent is difficult because the technology gets difficult to do that.

In many cases in Arkansas, we have situations where that happens, but there is really no measurable difference as far as the streams and things like that. That little extra is costing you so much, $300 million.

To me it is a classic example of the diminishing returns that you get at some point. I do not really know where that is, but at some point you get really diminishing returns.

It also points out the need to try new approaches, which you are doing. You have gotten a lot of credit for it, and yet you really do not get credit for it as far as enforcement. Tell me about the barriers you faced to using the green infrastructure approach.

Ms. Crotty, again, the potential of having a portion of $300 million in green is a lot of green, and if that would or would not be beneficial, trying to figure out the commonsense approach with these things.

Yes, sir.

Mr. GRAY. Senator, all politics are local. In Lancaster we have combined green infrastructure with park improvement, intersection improvement, and private alley improvement. We funded through the State Revolving Fund loan, we got many demonstration projects on the local level.

In doing that, when we do a park, for example, and put in green infrastructure, we have one park with six basketball courts, all with drain fields underneath them, all of which are impervious.

When we do those types of projects, the people of Lancaster know the neighborhood, know the improvements that have been done in their neighborhood. It becomes a cost effective problem at a certain point. How are we going to pay for this?

After 3 or 4 years of doing improvements, green infrastructure improvements with visible side benefits, the public was ready, and we imposed a stormwater fee. You would think the people would be up in arms with a stormwater fee, but people related to it as visible improvements in their neighborhoods, their parks, their streets, their intersections, and the rain gardens we have put all over the city.

They have seen visible improvements which with infrastructure very often you cannot see what is being done. When it came time to impose a stormwater fee to pay for a lot of this, two people showed up at the city council to oppose it, lawyers for the two biggest parking lots in the city. The residents were ready to say, we are willing to do our part.

Through a little creative politics over a 3- or 4-year period, the people in the community actually bought into it and were actually agreeable to doing it.

The problem with the gray infrastructure, the cost of the gray infrastructure, is they want it done now. It must be done immediately. You have to put in a holding tank or put in two holding tanks at $300 million.

As compared to green infrastructure which takes time to put in and time for its benefits to be realized, a sense of urgency I think is one of the biggest problem, the sense of urgency imposed upon us.

Senator BOOZMAN. Ms. Crotty.

Ms. CROTTY. Thank you, Senator.

I think that example is quite fascinating. I think what we have found all across New York State, particularly on Long Island, is when you have the ability to be flexible and devise local smart solutions from the start, that is sort of the best outcome, being able to integrate green infrastructure, resiliency, design into clean water infrastructure projects funded by multiple parties including State and Federal Government.

That is the best solution, making sure the various regulatory statutes build into regulations the kind of flexibility that localities need in order to comply.

You just described a real quality of life issue. The green infrastructure and resiliency components built into some of these local projects become a real important part of the quality of life for their community.

It makes it nicer, more accessible, and also improves the environment. You definitely have had two big wins there in terms of your public policy priorities.

Senator BOOZMAN. Senator Duckworth.

Senator DUCKWORTH. Thank you, Mr. Chairman.

Mr. Sternberg, I understand the Trump administration has promised eliminating a key program for rural communities, the USDA's Water and Waste Disposal Loan and Grant Program.

I have 776 small and rural communities throughout my State that serve 1.4 million customers. I am hearing from them that without this program, their ability to guarantee public sewer and wastewater systems would be impaired.

Can you share with me how important a program like the Water and Waste Disposal Loan and Grant Program is to small and rural communities?

Mr. STERNBERG. Thank you, Senator. That is a very good question.

It is the same thing in Arkansas. We have 700 community water systems and 370 wastewater systems. The majority of the systems in Arkansas and in most States are those 31,000 community water systems that represent national rural water across the Nation.

Small, rural communities go the USDA Loan Grant Program for their improvements or upgrades. It has happened for over 70 years. That is the best program out there. It does not cost the Federal Government anything because they pay it back. They have less than one-half percent delinquency rate.

That type of program we need. That is infrastructure that we are going to continually need. For that system to go out on the private market is not going to be the same cost back to the ratepayers. It will be exorbitant.

There is only so much money in the State Revolving Loan Fund. In Arkansas the majority of the larger systems are accessing that, so the competition is going to be greater.

Senator DUCKWORTH. Am I correct in saying the bills we are discussing today might be supplemental but certainly cannot take over the function of this program?

Mr. STERNBERG. Exactly. No.

Senator DUCKWORTH. Thank you.

Can you share with me why technical assistance is also very important to rural communities and how technical assistance authorized in the Wicker bill would work in partnership with other programs?

Mr. STERNBERG. The technical assistance for the small and rural communities with populations of 10,000 and under are the ones that do not have the expertise like Little Rock or Jonesboro where they have engineers, chemists, and different ones available and the licensed operator at the highest level to troubleshoot those types of things.

They rely on Rural Water. Rural Water has technicians out there right now through USDA. We have some contracts through EPA

and some through our State SRF on the drinking water side, but they are designated to certain systems.

There will be no duplication, and it is needed, drastically needed. We train more water and wastewater operators in the State of Arkansas than any other agency, including the primacy agency.

Senator DUCKWORTH. I tried getting bifocals, and it looked like this table under me was curved, and they made me dizzy, so excuse me while I do this.

Senator BOOZMAN. I am an optometrist, so I will give you some help.

Senator DUCKWORTH. Would you, please, because I got my first pair, and they just drive me crazy.

Mr. Chairman, I would like to ask unanimous consent to enter into the record three letters in support of the USDA Water and Waste Disposal Loan and Grant Program as well as the Water Infrastructure Flexibility Act.

Senator BOOZMAN. Without objection.

[The referenced letters follow:]

March 28, 2017

The Honorable Tammy Duckworth
Committee on Environment and Public Works
Subcommittee on Fisheries, Water, and Wildlife
U.S. Senate
524 Hart Senate Office Building
Washington, DC 20510

RE: The Senate Committee on Environment and Public Works Subcommittee on Fisheries, Water, and Wildlife hearing, Legislative Hearing on *S. 518, a bill to amend the Federal Water Pollution Control Act to provide for technical assistance for small treatment works, S.692, the Water Infrastructure Flexibility Act of 2017, and S.675 the Long Island Sound Restoration and Stewardship Act*

Dear Senator Duckworth:

American Rivers protects wild rivers, restores damaged rivers, and conserves clean water for people and nature. Since 1973, American Rivers has protected and restored more than 150,000 miles of rivers through advocacy efforts, on-the-ground projects, and an annual America's Most Endangered Rivers ® Campaign. Headquartered in Washington, DC, American Rivers has offices across the country and more than 250,000 members, supporters, and volunteers. As the nation's leading river advocate, American Rivers seeks to ensure the quality and quantity of our nation's rivers and floodplains are protected as we rehabilitate our nation's water infrastructure and protect our iconic waters.

S. 518, a bill to amend the Federal Water Pollution Control Act to provide for technical assistance for small treatment works, S.692, the Water Infrastructure Flexibility Act of 2017, and S.675 the Long Island Sound Restoration and Stewardship Act are all geared towards protecting clean water. S.518 and S.692 provide funding and flexibility for public treatment facilities to better comply with the Clean Water Act. S.675 provides funding to protect one of American's iconic waters, Long Island Sound. American Rivers would like to thank Senator Duckworth and the Subcommittee on Fisheries, Water, and Wildlife for holding a hearing on these important bills.

S. 518, a bill to amend the Federal Water Pollution Control Act to provide for technical assistance for small treatment works

The EPA recognized in their 2012 Clean Water Needs Survey that small communities need $7.7 billion for Secondary Treatment work, $6.1 billion for Advanced Treatment, and $0.9 billion for CSO correction, $6.6 billion for conveyance system repair, and $11.3 billion for new conveyance

systems.[1] When putting the cost of work needed for treatment facilities compared to amount of people served, the cost per capita is significant and small communities need help.

American Rivers believes that S.518 will be a valuable asset to small community treatment works. The legislation will authorize $15 million a year for five years, totaling $75 million, for a new grant program for much needed technical assist for small treatment works. It will also authorize states to use up to two percent of a capitalization grant for the Clean Water state Revolving Loan fund for technical assistance for small treatment systems. This technical assistance will allow small treatment works to become aware of new approaches and technologies that can help them better serve their customers as well as meet their Clean Water Act obligations.

S.692, the Water Infrastructure Flexibility Act of 2017

The Environmental Protection Agency calculates that our wastewater infrastructure needs $271 billion in investments.[2] Water utilities across the country are oftentimes inadequately sized, rely on out of date technologies, or have been impacted by decades of deferred maintenance. Fiscal pressures on municipalities are great and funding is limited. Some municipalities are growing and stormwater and wastewater water management systems cannot keep up with the demand. Other municipalities are not as populated as they once were which means fewer ratepayers. In addition to population shift municipalities have to deal with climate change impacts in whether patterns. Some communities are experiencing drought and others are experiencing increased flooding and storm surges. This exacerbates the problems that they are already experiencing from outdated infrastructure. It is vital for our communities to develop sustainable strategies that maximize benefits per dollar investment. Our municipal governments and wastewater agencies need real help in updating pollution control plants.

In 2012 the Environmental Protection Agency (EPA) released the *Integrated Municipal Stormwater and Wastewater Planning Approach Framework* (Framework). The Framework outlines principles for allowing communities to structure plans for addressing multiple Clean Water Act obligations so as to sequence costs which would help make compliance more affordable overall. The Framework explicitly disallows for the delay in permits and enforcement actions based on the new integrated plan. We support parties coming together to discuss changes to compliance schedules however we want to ensure that these agreements do not preclude the enforcement agencies from modifying and enforcing permit terms as necessary. Clean Water Act protections for public health and the environment must be preserved and followed in an integrated approach. This ensures wastewater and stormwater water services benefit the ratepayer, taxpayer, communities, and the environment.

Integrated planning and permitting offers a more holistic approach to the management and planning of a community's water services. This allows municipalities and water utilities to better be able to use smarter and more sustainable approaches to protect clean water while still delivering reliable services. Natural and nature-based solutions such as green stormwater

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[1] *Id.*

[2] U.S. Environmental Protection Agency, Clean Watersheds Needs Survey 2012 Report to Congress, (2016) *available at* https://www.epa.gov/sites/production/files/2015-12/documents/cwns_2012_report_to_congress-508-opt.pdf.

infrastructure are able to reduce polluted runoff, recharge drinking water supplies, and increase community green space.

Green infrastructure is an approach to water management that protects, restores, or mimics the natural water cycle. Green infrastructure is effective, economical, and enhances community safety and quality of life. It means planting trees and restoring wetlands, rather than building a costly new water treatment plant. Green infrastructure incorporates both the natural environment and engineered systems to store water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife.

American Rivers believes that S. 692 will promote the use of integrated planning and permitting while still requiring compliance with the Clean Water Act. While the EPA's Framework was introduced in 2012, few communities have taken advantage of the flexibility it outlines. We hope that this promotion of integrated planning and permitting will spur more communities to use this approach to meet their Clean Water Act obligations.

The Act also promotes the use of green infrastructure which is a way for communities to reduce the flow of stormwater into their sewage treatment facility thereby lessoning the load of water that the treatment facility has to treat. The Act's promotion of green infrastructure as a viable stormwater solution will help more communities implement this multi beneficial compliance mechanism.

American Rivers appreciates that the Act works to better define the term "affordability." While we recognize that "public health and, environmental benefits associated with improved water quality" are listed in as a consideration we believe that there should be a greater emphasis on them. Discussions of affordability are critical but they should not be used as an excuse to defer real progress in meeting Clean Water Act standards that protect public health and the environment.

S.675 the Long Island Sound Restoration and Stewardship Act

We would also like to extend our support for S. 675, the Long Island Sound Restoration and Stewardship Act. Generations of Americans have lived on and made a living off of the Sound, the penultimate destination for much of New England's freshwater. The health of the Sound is extremely important for the coastal communities of New York and Connecticut. By providing upgrades to wastewater facilities, wetland protection and restoration, and addressing long-standing pollution issues, S. 675 will further the improvements that have been made in repairing the Sound.

American Rivers has been pleased to work with partners to restore the rivers that feed the Sound and provide such an important role in the fisheries, water quality, and recreational opportunities in the Sound. American Rivers is committed to working in the Connecticut River Watershed, which provides 70% of the fresh water input to Long Island Sound. Over the past two decades we have worked with partners to remove outdated dams on coastal Connecticut rivers and in the Connecticut River Watershed. Recent dam removals on the Eight Mile River have improved water quality, created more flood resilient communities, as well as improved habitat for recreational and commercial fisheries that depend on connected rivers.

Much of the vitality of the Sound's communities relies on tourism and healthy fisheries. S. 675 will promote fishery recovery and habitat restoration by increasing the federal share of grants and requiring federal agencies to coordinate efforts in the Sound. This legislation buttresses watershed-wide coordination. No river, wetland, or estuary exists in isolation; restoration work must take place on a broad, collaborative basis. Once enacted, this bill will ensure that federal land management agencies work together to restore this incredible resource while extending the authorization for necessary grants under the Clean Water Act.

If any questions arise please email or call Meghan Boian: mboian@americanrivers.org or 202-243-7037.

Sincerely,

Meghan M. Boian
Associate Director for Policy & Government Relations

NACWA
A Clean Commitment to America's Waters

March 28, 2017

The Honorable Deb Fischer
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

The Honorable Ben Cardin
U.S. Senate
Washington, D.C. 20510

Dear Senators Fischer, Brown, and Cardin:

On behalf of the clean water utility members of the National Association of Clean Water Agencies (NACWA), I am writing in support of S. 692, the ***Water Infrastructure Flexibility Act*** (WIFA), bipartisan legislation that establishes strong tools within the Clean Water Act (CWA) to help municipalities more affordably comply with the statute.

There is little doubt that our nation's water quality has significantly improved since enactment of the CWA in 1972, largely due to investments in wastewater and stormwater infrastructure made by Congress and America's ratepayers. In fact, since the law's enactment, the number of waterways deemed fishable and swimmable has increased nearly 50%. Yet improvements in water quality have become more difficult to achieve as sources of pollutants have grown more complex and the Nation's municipal clean water infrastructure has continued to age. At the same time, the current structure of the CWA, which hasn't been significantly reformed in over thirty years, has led to an accretion of costly regulations for local ratepayers – in many cases with diminishing environmental returns.

Paying for clean water services has primarily rested with ratepayers who have seen clean water bills increase nearly twice the rate of inflation each year for the past decade. Today, 40% of households across America are paying more out of their disposable incomes for wastewater and stormwater management than what EPA says is affordable.

S. 692 proposes common sense reforms to the CWA to address this affordability challenge. Specifically, the legislation codifies Integrated Planning which is an

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important new tool that the Environmental Protection Agency (EPA) launched several years ago. The initiative enables communities to meet their permit obligations under the CWA in a holistic, prioritized manner that accounts for ratepayer affordability concerns while ensuring progress toward water quality goals. By codifying Integrated Planning as a permanent compliance feature under the Act, communities can undertake long-term planning in reliance of it.

Equally as important, the legislation requires EPA to adopt new affordability guidelines that do not rely on a single economic indicator to determine whether a community of ratepayers can afford compliance obligations. The clean water community has urged EPA to adopt revised affordability standards for many years and we are pleased this legislation will finally accomplish this goal.

Further, the legislation would establish an office of Municipal Ombudsman at the EPA to provide municipalities with technical assistance to comply with the CWA and the Safe Drinking Water Act. Many communities, especially small, rural communities, often have insufficient technical capacity and expertise to manage the increasingly complex regulatory compliance obligations under these statutes. The Office of Municipal Ombudsman can ensure that these communities receive technical support they may need to navigate these statutory requirements and ensure compliance to avoid violations and/or federal enforcement actions.

Finally, the legislation includes provisions to ensure that the EPA integrates the use of green infrastructure throughout its CWA compliance programs. Green infrastructure uses natural landscape features such as vegetation, soils, and other elements to manage stormwater in a way that reduces pressure on aging underground infrastructure. Municipalities are increasingly installing green infrastructure throughout the urban environment as an alternative to grey infrastructure approaches in an effort to build more resilient water management systems, reduce costs and improve quality of life attributes in local neighborhoods.

NACWA appreciates your leadership on this important legislation and looks forward to working with you and your Senate colleagues to enact it.

Sincerely,

Adam Krantz

Adam Krantz
Chief Executive Officer

March 23, 2017

The Honorable Tammy Duckworth
524 Hart Senate Office Building
Washington DC 20510

Dear Senator Duckworth:

The Illinois Rural Water Association represents 776 small and rural communities throughout our state (membership attached) that serve over 1.4 million rural customers. We are writing to urge you to include $600 million for the U.S. Department of Agriculture (USDA) Water & Waste Disposal Loan & Grant Program in the Agriculture Appropriations Subcommittee's fiscal year 2018 appropriations bill. As you are aware, the President's "America First" FY 2018 Budget proposes to eliminate these programs.

For 70 years, USDA's Water & Waste Disposal Loan & Grant Program has been the solution for Illinois' small and rural water infrastructure needs and is largely responsible for the success of delivering water and sanitation to almost every corner of rural America.

Small and rural communities have more difficulty affording public water service and compliance with the federal Safe Drinking Water Act and Clean Water Act due to a lack of population density, lack of economies of scale and lack of technical expertise. Water service is often a much higher cost per household in rural America.

Through Congressional authorizations and appropriations, USDA has been able to expand water service to thousands of small communities and rural areas – often for the first time. The delivery of drinking water and sanitation to rural America has been one of the great economic and public health accomplishments of the second half of the twenty-first century. 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 USDA was provided by Congress. Millions of rural Americans now have access to safe public or "piped" drinking water that their parents did not have. Thousands of rural communities now have public sewer or wastewater systems that have allowed for the elimination of millions of questionable septic tanks, cesspools, straight pipes, or worse. This rural water infrastructure development has been the engine of economic development and agricultural advancement in rural communities.

The President's budget asserts that the USDA rural water programs are *"duplicative"* and that *"rural communities can be served by private sector financing or other Federal investments in rural water infrastructure, such as the Environmental Protection Agency's State Revolving Funds."*

Small and rural communities respectfully disagree with these assertions and urge Congress to continue funding for the USDA rural water initiatives. If Congress does not

retain USDA water infrastructure funding in the fiscal year 2018 appropriations process, federal water funding will by-pass rural America and be absorbed by large metropolitan water projects.

While we strongly support robust funding for the Environmental Protection Agency's (EPA) State Revolving Funds (SRFs), we believe they ***can't replace*** the USDA water infrastructure initiative.

- Over 91% of the country's 50,366 community drinking water systems serve less than 10,000 persons. Most of the SRF funding is awarded to larger communities that have more administrative expertise to complete the necessary application process. In 2016, 72% of EPA's Drinking Water SRF funding was awarded to larger communities. In 2015 (the most recent reporting period), 77% of EPA's Clean Water SRF was awarded to larger communities.

- USDA prioritizes funding to rural and small communities with populations of 10,000 or less that meet strict needs based criteria (high cost per household and local economic conditions). Rural Development is unique that all their customers are rural. In FY 2016, 85% of the projects served populations of 5,000 or less and 70% of all projects served populations of 2,500 or less.

- Most projects currently funded under the SRFs would not able to meet USDA limitations on ability to afford water infrastructure, meaning USDA would determine these communities could afford the project without federal subsidies. Current USDA projects would not receive the same prioritization under the SRF awarding criteria. Elimination of the USDA rural water program will disproportionately impact the most economically disadvantaged communities in the country.

- Small community water projects can be more challenging for funding agencies to fund because they are smaller in scale – meaning numerous, very complicated applications must be completed and approved compared to one large project. Moreover, due to lack of economies of scale and lower median household incomes in rural America, water infrastructure is often less affordable (i.e. a much greater cost per household). This means that a rural water infrastructure project may pose a greater financial risk compared to the metropolitan project and, very importantly, requires some portion of a grant, not just a loan, to make the project feasible.

- USDA has a mission emphasis on rural economic development which is not a consideration under the SRFs.

- USDA currently has a nationwide backlog of 955 small and rural community applications totaling $2,545,600,208. Elimination of USDA rural water infrastructure funding would end the possibility of funding for these communities – and many more that have not completed the USDA application process.

The backlog truly represents rural and small community water infrastructure projects that can't access alternative sources of funding. By definition, they can't access private funding sources because USDA *requires* applicants to show they can't obtain commercial funding, the so-called "credit elsewhere" criterion.

USDA-supported water infrastructure projects would become unaffordable if they were to rely solely on commercial or private financing. The ratepayers would not be able to afford their water bills if the total cost of the project were financed by the ratepayers. This dynamic is especially acute in low-income communities with expensive water utility infrastructure needs. Congress has determined that there is a federal interest in subsidizing some of these water infrastructure projects based on need – the community's lack of ability to afford the project combined with the public health or environmental urgency of the project. Under the USDA water infrastructure funding program, communities are only subsidized by the amount necessary to make the project affordable to that specific community, based on a ratio of water rates and local median household income.

It is also important to note that the last assessment conducted by the Office of Management and Budget to determine program effectiveness of federal programs found the USDA water program was awarded the highest rating possible. The review was designed to measure how effectively your tax dollars are being spent and included program purpose and design, strategic planning, program management and program results and accountability.

Thank you for your continued commitment and assistance to rural America. Small and rural communities urge you to continue to make USDA's rural water initiatives a priority in this year's appropriations bills.

Sincerely,

Frank R. Dunmire

Frank R. Dunmire,
Executive Director

Senator DUCKWORTH. Thank you so much.

As I mentioned in my opening remarks, while I support all these bills I think there is always room for improvement. For example, I would like to work with all of you in making sure many of the medium-sized communities in my State are not left out.

Mayor Gray, as you discussed, the city of Lancaster has long been working on a green infrastructure plan since 2011. Can you share some of the primary and secondary benefits of using green infrastructure to address stormwater and wastewater projects?

Mr. GRAY. Certainly, Senator.

There have been three categories of improvements which we have seen. Environmental benefits include recharging groundwater, protecting and improving water quality, providing natural stormwater management, mitigating the heat island effect, and reducing energy use. All come from our green infrastructure programs.

Social benefits include increasing recreational opportunities, improving health through cleaner air and water, and improved psychological well being. Plus, it makes the city more attractive to the kind of people you want in the city, the millennials.

A week does not go by that I am not stopped by some younger person who tells me they like that the city prides itself on being a green city. They like it, they want to move there, they want to be a part of it.

Finally, economic benefits include the future cost of stormwater management as well as increasing property values. I will give you an example. We have a lot of private alleys in Lancaster which are just what they sound like, alleys owned by the property owners on both sides.

We put green alley in one of these private alleys. Within a week, the price of a house for sale on the green alley had gone up $2,500. There was a small notation in the newspaper advertising it as being on "the green alley." They are all over the city now.

We find people who are willing to part with their own money, $500 a property owner to put in these types of things. There are so many benefits that come from it that are past stormwater benefits. Again, environmental, social, and economic benefits all come from green infrastructure.

Senator DUCKWORTH. Thank you. I always find my mayors to be the most practical problem solvers. I think you just demonstrated that in your answer.

Mr. GRAY. We have to be, Senator.

Senator DUCKWORTH. You do.

Thank you, Mr. Chairman.

Senator BOOZMAN. Thank you.

The Senator from Nebraska.

Senator FISCHER. Thank you, Mr. Chairman.

Mayor Gray, since you just received that great compliment from the Ranking Member, I have a question for you.

In your written testimony, you mentioned that the current EPA enforcement approach employs aggressive actions, rigid methods, and threats of large civil penalties. What are the consequences for such an approach for small cities like Lancaster?

Mr. GRAY. We have one consent decree we operate under already from the American with Disabilities Act. My predecessor was sued and rightfully so, and they entered a consent decree.

Now, for everything we do with our sidewalks and streets, we have to go to Philadelphia and get approval from a Federal judge who is very nice and sympathetic, but it has taken it out of our hands. The practical things have been taken out of our hands.

We met with the EPA, and the EPA region was very supportive of our green infrastructure program. Politically, I sold it to people that we have to get ahead of the EPA. We want to do this before they make us do things. We want to be positive about it. We want to be friends with the EPA. We want them to be our friends.

They supported us for years. If you went to a Chesapeake Bay meeting and they were having a slide show, there would always be a couple of slides the EPA would put up about Lancaster. This is what we want, this is what we want you to do.

A few years ago enforcement got involved. I am not sure the region and the enforcement division talk to each other because it was a totally different attitude. It was you have to do this, it must be done now.

Negotiations have proceeded which are quite costly to the city, between experts and lawyers and whatnot. We spent a lot of money at this point talking with the EPA. We are trying to work out something with them.

For example, to impose a civil penalty, I am not going to pay it. I was in private practice. I represented clients who had civil penalties that came off their bottom line. Where does the civil penalty of the city of Lancaster come from but out of the taxpayers' pocket?

We are negotiating with them right now. It sort of shocked us when they came with that kind of attitude because we thought we had a different relationship with them.

Senator FISCHER. My apologies; I gave your city the Nebraska pronunciation of Lancaster instead of Lancaster.

Mr. GRAY. You are forgiven, Senator.

Senator FISCHER. How would provisions within the Water Infrastructure Flexibility Act help to give cities and counties a stronger seat at the table in addressing really the long-term strategic water infrastructure needs that you have?

You said you are working with the EPA and redevelop a good working relationship. Do you think my bill would help with that?

Mr. GRAY. Absolutely. We think we do have a good working relationship with one part of the EPA. We support their goals, and we support their efforts.

The bill has a couple of things in it that would really be different and change the culture. The permitting, to have permitting and including this all in permitting rather than doing it through a consent decree, there is a 20-year decree, do it for 5 years. Look at it, work together on it, and see what your abilities are.

There are provisions in there for affordability. Again, the city of Lancaster has 29 percent of its families that have $20,000 or less income. Affordability is an important issue to us. We want to do it, we want to do it right. How much can we afford for it?

Finally, the provision that you take out the civil penalties is another approach. Why not use that money to implement green infra-

structure or gray infrastructure? Why penalize us for what has happened in the past?

Senator FISCHER. You mentioned how under the current structure, cities are faced with the need to increase rates on the families with a regressive impact on those most in need or on a fixed income. I am concerned about that as well. A 2 percent increase on utility rates means a great deal for working families.

Can you explain why the median household income benchmark is harmful to low and fixed income families?

Mr. GRAY. Not really.

Senator FISCHER. Do any other panel members wish to address that?

Mr. Sternberg.

Mr. STERNBERG. The median household income for that city or area, you still have the lower income people who will be affected through it all. There are similar situations in Arkansas. We have that same problem.

You set it at the median household income so the lower income people are still getting hit harder because of their poverty or whatever the case might be. It is something that really needs a hard look.

Mr. GRAY. Again, 29 percent of our population makes less than $20,000 per year. We estimated that if you did that it would be around $700 a year for water. Right now in the city of Lancaster, you might pay $200 a year. It would impact the low and moderate income people. That would be a substantial increase.

Senator FISCHER. That is what we are trying to address in the bill to make sure those people who have low or fixed incomes are not hurt disproportionately by the legislation we are putting forward and that we are still able to make sure that those water infrastructure projects are going to get done.

Thank you very much.

Mr. GRAY. Thank you, Senator.

Senator FISCHER. Thank you, Mr. Chairman.

Senator BOOZMAN. Senator Cardin.

Senator CARDIN. Thank you, Mr. Chairman.

I want to thank the witnesses for being here and share a story.

I was helping a local councilman from Baltimore City during the elections this year, so I did something that Senators do not normally do, I was actually knocking door to door for this candidate. I was not on the ballot in Baltimore City.

There was a theme from every person who answered the door. That was the water bills in Baltimore and the affordability to the ratepayers.

I recognized that we have a real problem. That is you have an aging water system that needs desperate repair that costs a lot of money that has yet to be fully implemented. Certainly in Baltimore City it has not been fully implemented. Then you have the pressure on the ratepayers that is beyond their affordability.

We have to figure out a way to deal with this real problem in our community. I thank the Chairman for his leadership on this issue. The two of us have joined together on several initiatives to try to deal with water issues.

I am working now with Senators Fischer and Brown on a bill that we think would make the water more affordable by an integrated planning process. We require a lot of different plans. If we integrated together we can save considerable resources for local governments, and by the way, take a more holistic approach rather than taking a look at the specific program.

We are hoping that will help deal with some of the affordability issues. We are also looking at the median income standard for Federal assistance. It is interesting, Mr. Chairman, and I want to share this with you.

I got the numbers for Baltimore City because I found they were kind of shocking. Baltimore City shows a relatively high median income but when you take a look at the poverty levels in Baltimore City, we have a large number of people, the majority of people fall under the poverty level. The median income as the sole indicator for eligibility we think is just the wrong approach.

We are offering those suggestions in an effort to try to make the Federal partnership more available, particularly to those jurisdictions that are really being stressed on their ratepayers.

I wanted to make those comments. Thank you for the hearing. I would be happy to hear from any of our witnesses who would like to respond as to other ways we can provide relief to the ratepayers and still get the type of modernization of our water infrastructure that is desperately needed, particularly in our older communities.

Mr. STERNBERG. I would just say, Senator, as far as rural and small communities, that is why what Senator Duckworth brought up about the USDA Loan and Grant Program is so important.

If it goes away, water rates will go up in rural and small America. There is no way around it. You hit on the larger systems having the same issue. I think Congress is doing starting something with WIFIA program, funding some of that for the larger utilities. I think that is great.

You are right. You have to be more inventive in how we go about doing things like that, but the USDA Loan and Grant Program for infrastructure is vital. It has to be put back in place.

Senator CARDIN. I strongly support the initiative that came out of this Committee. It does not take away, though, the need for us to have the basic partnership programs that help in regard to water infrastructure.

Ms. CROTTY. Thank you, Senator.

I was going to mention that under the Clean Water State Revolving Fund Model, having the ability to give hardship grants and grants to municipalities can be very critical at times.

The other thing I was going to mention was Senator Boozman raised the prospect of having a large infrastructure investment coming out of Congress potentially this year. Having clean water as part of that larger bill I think would be a tremendous investment in not only jobs and our economy but also a benefit to our environment and our high quality of life.

We do find in New York State sometimes the grant money that does not have to be paid back, it is not the low interest, long-term loan but actual grants, having the flexibility to be able to give out the grant money becomes a real critical point for some of the projects in rural parts of the State and less affluent areas.

Senator CARDIN. I would point out that you are correct. There is strong interest in an infrastructure bill. It is going to be more difficult to deliver than just interest because we have to come together.

What we urge you all to do—and you will have our support—is whatever infrastructure bill comes out, make sure water is included in it. That is not a foregone conclusion because the interest on things you see more visibly like roads and bridges usually gets more attention than things that are underground that people do not see and recognize the desperate need.

Mr. Chairman, I have a letter from Baltimore City. I would ask it be made a part of our record.

Senator BOOZMAN. Without objection.

[The referenced letter follows:]

CITY OF BALTIMORE
CATHERINE E. PUGH, Mayor

DEPARTMENT OF PUBLIC WORKS
Rudolph S. Chow, P.E., Director
Abel Wolman Municipal Building, 6th Floor
200 N. Holliday Street
Baltimore, Maryland 21202

March 28, 2017

The Honorable Deb Fischer
U.S. Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
U.S. Senate
Washington, D.C. 20510

The Honorable Ben Cardin
U.S. Senate
Washington, D.C. 20510

Dear Senators Fischer, Brown and Cardin:

On behalf of the ratepayers of the City of Baltimore, I am writing in strong support of the *Water Infrastructure Flexibility Act (WIFA)*, bi-partisan legislation that establishes strong tools within the Clean Water Act (CWA) to help municipalities more affordably comply with the statute.

The State of Maryland faces over a $9 billion investment challenge in clean water infrastructure needs over the next twenty years and nearly a $9 billion in drinking water infrastructure needs. As we face this investment challenge, we are increasingly under pressure to provide clean and safe water services at an affordable cost to our ratepayers. According to a 2013 national survey of wastewater treatment operators, clean water rates are expected to increase at double the rate of inflation, or more, over the next decade, with sewer rates in many urban areas at two to three times the national average - and these rates do not reflect charges for drinking water services. Baltimore has had to increase its rates every year since 2000, with several of those years requiring double-digit increases. We just increased our rates for water by 9.9 percent and for wastewater by 9 percent this fiscal year and will do so again for the next two years. Much of the pressure on rates is being driven by a variety of factors including repairing and replacing old pipes and treatment systems, meeting more stringent federal standards, and managing wet weather-related challenges in the face of changing precipitation patterns.

The WIFA proposal codifies Integrated Planning, an initiative launched by the Environmental Protection Agency (EPA) as an alternative compliance approach to address municipal wastewater and stormwater management needs under the CWA. Integrated Planning (IP) has proven an effective tool enabling municipalities to prioritize CWA compliance obligations without sacrificing overall water quality and enabling them to more affordably finance required investments. Baltimore was one of the first cities to draft an Integrated Plan that holistically evaluated and ranked the scheduling not only our wastewater and stormwater projects, but drinking water projects as well. The evaluated projects included both mandated and aging infrastructure-driven improvements. This process provides a framework for prioritizing and investing in capital projects that will produce the most environmentally and financially sound results, paired with real community benefits.

The legislation also provides municipalities flexibility to consider alternative compliance approaches, such as green infrastructure, to meet water quality standards. In Baltimore, investing in green infrastructure will not only help with our stormwater challenges, but will also provide our communities with tangible and visible connections to environmental solutions they help pay, something that most underground or facility improvement projects cannot provide. Finally, the legislation requires EPA to update its Financial Capability Assessment Guidance so that the agency moves away from a one-size-fits-all national affordability standard to one tailored for individual community needs. Affordability is very important to Baltimore as 26 percent of our population lives at or below the federal poverty line.

The WIFA provides important relief for Maryland communities, we appreciate your leadership in shepherding this legislation, and urge Congress to enact it as quickly as possible.

Sincerely,

Rudolph S. Chow, P.E.
Director

Senator BOOZMAN. Let me ask Mr. Sternberg a couple quick questions. Can you explain to the committee why circuit riders that actually come to your community are more effective in providing technical assistance than other approaches like Webinars?

Has EPA shifted support for rural technical assistance away from the circuit riders in your experience?

Mr. STERNBERG. The first part of it is the reason for the circuit riders and the need to go to the local communities versus the Webinars, you are one on one with that operator, that mayor, and that council. You can show them their actual problem with their system.

In a classroom or a Webinar, you are just seeing different portions and functions at treatment plants. There is no trust there. You are just reading something or hearing something. When you are with those circuit riders, or those circuit riders are there, you build that bond and trust.

The next issue that comes up with that utility, they will call them and call them quickly. That is the reason for the circuit riders. You share that cost across all the small and rural communities. It is not just one engineer coming out there that costs that system to come up with a solution to it. That is where the circuit riders are so vital to this project.

As far as the EPA, we have lost funding through EPA on water technicians. Back in 2009 we had a groundwater technician fully funded. That runs about $110,000 a year, I think it was. Our trainer that was fully funded back then. We are subsidizing that by about 45 percent.

We do not get the money because they spread out the cost to the Webinars and different things like that. There is nobody going on site like the circuit riders. That is where it happens. The rubber meets the road. That is where it is at.

Senator BOOZMAN. In your testimony, you mentioned the circuit riders providing emergency response. Can you give some examples of that? Is anyone else out there providing that type of assistance?

Mr. STERNBERG. In Arkansas we are very proud of what we do in Arkansas Rural Water. We actually have seven big mobile generators we can deploy. An example would be February 27, 2014, my birthday, the tornadoes came through and hit Mayflower, Arkansas, and hit Vilonia, Arkansas. It was an F–4. It demolished the towns in both communities.

I was not actually in the State at the time. My staff called me, and I said deploy whatever assistance they need. Find out and identify the need. Within 24 hours, we had every water system, the water and wastewater system in Mayflower, the water and wastewater system in Vilonia, up and running. We had no SOS or SSOs, sanitary sewer overflows on the sewer system.

We have four small mobile generators that we use VFDs for that we can actually run three-phase motors so we use them on the sewer lift stations. We had them on pickup trucks moving around station to station. Hardwired them, pumped all the sewer down so we never had overflows. We continually had them making the rounds.

The emergency response is very beneficial to the utilities. We are the first call. They do not call ADEM, they do not call the health

department, they do not call ADEQ. They call Arkansas Rural Water, and it works.

Senator BOOZMAN. Mayor Gray, just from years of hearing testimony always being on water, I can sympathize with the situation you are in as far as your community. I do not know if you are a Republican, a Democrat, or whatever; I could care less.

Mr. GRAY. It does not matter at the local level. It really does not.

Senator BOOZMAN. Exactly. I am thinking of a community in Arkansas with a good friend running the community and working very, very hard, really doing much the same things you have done and is kind of the poster child for getting on the stick. He happens to be a liberal Democrat, so there is no rhyme or reason to this thing. It is just communities in general.

There is a finite amount of money, and we do have to be wise and use some common sense as to the final part that you are lacking that cost $300 million. We have had testimony from the person that runs the unit in Decatur, Washington. They have spent, I think, $1 billion, and do not hold me exactly responsible.

They have done a great job. The taxpayer rates have gone up dramatically. They are wanting, I think, another $1 billion to ratchet down small amount which everyone agrees would not make any difference in the quality of the river.

If you spend a lot of money, relatively speaking, you would not need to spend $1 billion, but just think what you could do with some of the greenery that you are doing not only to help the wildlife but also the quality of life in our communities and the adjacent things.

Again, we appreciate your story.

We will go now to Senator Duckworth.

Senator DUCKWORTH. Thank you, Mr. Chairman. I have one final question.

I wanted to ask Mr. Sternberg to elaborate a little bit on how the circuit riders perform in emergency situations, kind of elaborate on what we talked about just now but in terms of do they or do they not help in coordinating with local agencies and other Federal agencies in the event of an emergency?

How is that integrated, and how do you see that happening on the ground when there is an emergency and you have to respond and have all different levels of government, vertical and horizontal?

Mr. STERNBERG. I can give you an example in Mayflower and Vilonia. We are recognized as one of the emergency responders. We work with ADEM, we work with the Arkansas Department of Health on all public water systems.

The first call we have, if we get a call from a water system with an emergency, we contact the health department and make sure they are aware of it. They ask us to provide reports back to them of our findings. They know we are going to be deployed.

My field staff is in the field anyway and live all across the State. Normally I have someone who can get there within an hour and a half just because of where my staff lives.

We work with all the local agencies. When we came to the city of Mayflower, we checked in with the city of Mayflower. They were the ones who requested us. When they request us we come with all our equipment and our manpower.

We have the county, the Office of Emergency Services officer there. They contact and stay in communication with ADEM at the State office. We stay in communication with the health department.

If they get any request through ADEM, it goes to the health department and comes to Rural Water. We are part of the Arkansas Water Agency Response Network. We work very closely with them, and there is no duplication of what we are doing. It works very well.

Senator DUCKWORTH. They are part of your team. You talked about how it is so important to have a person that is there on the ground that you know and trust. Do you do emergency training programs when it comes to water emergency response and that sort of thing? Is that something on an annual basis with all the different agencies along with the circuit riders? Is that being done?

Mr. STERNBERG. Actually, I am on the national level.

Senator DUCKWORTH. You are a busy man.

Mr. STERNBERG. I know. I have too many titles. I am the Chairman of the National Rural Water Association Emergency Response Committee. We meet at least twice a year. We do a 1-week training located somewhere throughout the Nation. This year we are going to Florida. Last year, we were in Louisiana, and 3 years prior to that we did it in Lonoke, Arkansas. We have moved around to different places.

We have invited other State circuit riders to come in to be trained and continually update them on new things out there. It is continuation of that work.

In-State, my staff is all trained. Every month they come in, they are assigned different duties, to check out the generators, make sure they are maintained, making sure the load bank has been done on them. We actually load bank those generators so we know even if the motor is running on that generator that does not mean that generator is putting out power.

All our generators have multi-voltage electric switches on them. When we pull up on site, it does not matter what voltage that system has. We can set it and forget it and go with it. We did it for a reason that way.

Senator DUCKWORTH. Wonderful. Thank you so much.

Mr. STERNBERG. Thank you.

Senator DUCKWORTH. I yield back, Mr. Chairman.

Senator BOOZMAN. Thank all of you for being here.

Any follow up questions will be submitted to the witnesses for response. This record will be open for 2 weeks for additional submissions.

Thank you all for sharing our stories and commenting on the legislation before us. I think today we have demonstrated that this is an issue where there really is a lot of common ground. We are going to be working very, very hard.

Senator Duckworth and I had a great meeting yesterday talking about areas we are going to be working hard to get some things done.

With that, the meeting is adjourned. Thank you again very much.

[Whereupon, at 3:25 p.m., the Subcommittee was adjourned.]

[The referenced legislation follows:]

II

115TH CONGRESS
1ST SESSION

S. 518

To amend the Federal Water Pollution Control Act to provide for technical assistance for small treatment works.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2017

Mr. WICKER (for himself, Ms. HEITKAMP, Mr. BOOZMAN, Mr. BARRASSO, Mr. CRAPO, Mr. FRANKEN, Ms. HIRONO, Ms. KLOBUCHAR, Mr. MANCHIN, Mr. RISCH, Mr. SCHATZ, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

A BILL

To amend the Federal Water Pollution Control Act to provide for technical assistance for small treatment works.

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 "Small and Rural Community Clean Water Technical Assistance Act".

SEC. 2. TECHNICAL ASSISTANCE FOR SMALL TREATMENT WORKS.

(a) IN GENERAL.—Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end the following:

"SEC. 222. TECHNICAL ASSISTANCE FOR SMALL TREATMENT WORKS.

"(a) DEFINITIONS.—In this section:

"(1) QUALIFIED NONPROFIT SMALL TREATMENT WORKS TECHNICAL ASSISTANCE PROVIDER.—The term 'qualified nonprofit small treatment works technical assistance provider' means a nonprofit organization that, as determined by the Administrator—

"(A) is qualified and experienced in providing training and technical assistance to small treatment works; and

"(B) the small treatment works in the State finds to be the most beneficial and effective.

"(2) SMALL TREATMENT WORKS.—The term 'small treatment works' means a publicly owned treatment works serving not more than 10,000 individuals.

"(b) TECHNICAL ASSISTANCE.—The Administrator may use amounts made available to carry out this section

to provide grants or cooperative agreements to qualified nonprofit small treatment works technical assistance providers to provide to owners and operators of small treatment works onsite technical assistance, circuit rider technical assistance programs, multi-State, regional technical assistance programs, and onsite and regional training, to assist the small treatment works in achieving compliance with this Act or obtaining financing under this Act for eligible projects.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section for grants for small treatment works technical assistance, $15,000,000 for each of fiscal years 2018 through 2022.".

(b) WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.—

(1) IN GENERAL.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended—

(A) in subsection (d)—

(i) in the matter preceding paragraph (1), by inserting "and as provided in subsection (e)" after "State law";

(ii) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(iii) by inserting after subsection (d) the following:

"(e) ADDITIONAL USE OF FUNDS.—A State may use an additional 2 percent of the funds annually allotted to the State under this section for qualified nonprofit small treatment works technical assistance providers (as the term is defined in section 222) to provide technical assistance to small treatment works (as the term is defined in section 222) in the State.".

(2) CONFORMING AMENDMENT.—Section 221(d) of the Federal Water Pollution Control Act (33 U.S.C. 1301(d)) is amended by striking "section 603(h)" and inserting "section 603(i)".

○

MCC17144 S.L.C.

S.692

115TH CONGRESS
1ST SESSION

S. _____

To provide for integrated plan permits, to establish an Office of the Municipal Ombudsman, to promote green infrastructure, and to require the revision of financial capability guidance.

IN THE SENATE OF THE UNITED STATES

Mrs. FISCHER introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide for integrated plan permits, to establish an Office of the Municipal Ombudsman, to promote green infrastructure, and to require the revision of financial capability guidance.

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 [“_____ Act of 2017”].

SEC. 2. DEFINITION OF ADMINISTRATOR.

In this Act, the term “Administrator” means the Administrator of the Environmental Protection Agency.

SEC. 3. INTEGRATED PLANS.

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

"(s) INTEGRATED PLAN PERMITS.—

"(1) DEFINITIONS.—In this subsection:

"(A) GREEN INFRASTRUCTURE.—The term 'green infrastructure' means the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspirate stormwater and reduce flows to sewer systems or to surface waters.

"(B) INTEGRATED PLAN.—The term 'integrated plan' has the meaning given in Part III of the Integrated Municipal Stormwater and Wastewater Planning Approach Framework, issued by the Environmental Protection Agency and dated June 5, 2012.

"(C) MUNICIPAL DISCHARGE.—

"(i) IN GENERAL.—The term 'municipal discharge' means a discharge from a treatment works (as defined in section 212) or a discharge from a municipal storm sewer under subsection (p).

"(ii) INCLUSION.—The term 'municipal discharge' includes a discharge of wastewater or storm water collected from multiple municipalities if the discharge is covered by the same permit issued under this section.

"(2) INTEGRATED PLAN.—

"(A) IN GENERAL.—The Administrator (or a State, in the case of a permit program approved under subsection (b)) shall inform a municipal permittee or multiple municipal permittees of the opportunity to develop an integrated plan.

"(B) SCOPE OF PERMIT INCORPORATING INTEGRATED PLAN.—A permit issued under this subsection that incorporates an integrated plan may integrate all requirements under this Act addressed in the integrated plan, including requirements relating to—

"(i) a combined sewer overflow;

"(ii) a capacity, management, operation, and maintenance program for sanitary sewer collection systems;

"(iii) a municipal stormwater discharge;

"(iv) a municipal wastewater discharge; and

"(v) a water quality-based effluent limitation to implement an applicable wasteload allocation in a total maximum daily load.

"(3) COMPLIANCE SCHEDULES.—

"(A) IN GENERAL.—A permit for a municipal discharge by a municipality that incorporates an integrated plan may include a schedule of compliance, under which actions taken to meet any applicable water quality-based effluent limitation may be implemented over more than 1 permit term if the compliance schedules are authorized by State water quality standards.

"(B) INCLUSION.—Actions subject to a compliance schedule under subparagraph (A) may include green infrastructure if implemented as part of a water quality-based effluent limitation.

"(C) REVIEW.—A schedule of compliance may be reviewed each time the permit is renewed.

"(4) EXISTING AUTHORITIES RETAINED.—

"(A) APPLICABLE STANDARDS.—Nothing in this subsection modifies any obligation to comply with applicable technology and water quality-based effluent limitations under this Act.

"(B) FLEXIBILITY.—Nothing in this subsection reduces or eliminates any flexibility available under this Act, including the authority of—

"(i) a State to revise a water quality standard after a use attainability analysis under section 131.10(g) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection), subject to the approval of the Administrator under section 303(c); and

"(ii) the Administrator or a State to authorize a schedule of compliance that extends beyond the date of expiration of a permit term if the schedule of compliance meets the requirements of section 122.47 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

"(5) CLARIFICATION OF STATE AUTHORITY.—

"(A) IN GENERAL.—Nothing in section 301(b)(1)(C) precludes a State from authorizing in the water quality standards of the State the issuance of a schedule of compliance to meet water quality-based effluent limitations in permits that incorporate provisions of an integrated plan.

"(B) TRANSITION RULE.—In any case in which a discharge is subject to a judicial order or consent decree as of the date of enactment of the [_____ Act of 2017] resolving an enforcement action under this Act, any schedule of compliance issued pursuant to an authorization in a State water quality standard shall not revise or otherwise affect a schedule of compliance in that order or decree unless the order or decree is modified by agreement of the parties and the court.".

(b) MUNICIPAL OMBUDSMAN.—

(1) ESTABLISHMENT.—There is established within the Office of the Administrator an Office of the Municipal Ombudsman.

(2) GENERAL DUTIES.—The duties of the municipal ombudsman shall include the provision of—

(A) technical assistance to municipalities seeking to comply with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(B) information to the Administrator to help the Administrator ensure that agency policies are implemented by all offices of the Environmental Protection Agency, including regional offices.

(3) ACTIONS REQUIRED.—The municipal ombudsman shall work with appropriate offices at the headquarters and regional offices of the Environmental Protection Agency to ensure that the municipality seeking assistance is provided information—

(A) about available Federal financial assistance for which the municipality is eligible;

(B) about flexibility available under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and, if applicable, the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(C) regarding the opportunity to develop an integrated plan, as defined in section 402(s)(1)(B) of the Federal Water Pollution Control Act (as added by subsection (a)).

(4) PRIORITY.—In carrying out paragraph (3), the municipal ombudsman shall give priority to any municipality that demonstrates affordability concerns relating to compliance with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(5) INFORMATION SHARING.—The municipal ombudsman shall publish on the website of the Environmental Protection Agency—

(A) general information relating to—

(i) the technical assistance referred to in paragraph (2)(A);

(ii) the financial assistance referred to in paragraph (3)(A);

(iii) the flexibility referred to in paragraph 3(B); and

(iv) any resources related to integrated plans developed by the Administrator; and

(B) a copy of each permit, order, or judicial consent decree that implements or incorporates an integrated plan.

(c) MUNICIPAL ENFORCEMENT.—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 THROUGH ENFORCEMENT TOOLS.—

"(1) IN GENERAL.—In conjunction with an enforcement action under subsection (a) or (b) relating to municipal discharges, the Administrator shall inform a municipality of the opportunity to develop an integrated plan, as defined in section 402(s).

"(2) MODIFICATION.—Any municipality under an administrative order under subsection (a) or settlement agreement (including a judicial consent decree) under subsection (b) that has developed an integrated plan consistent with section 402(s) may request a modification of the administrative order or settlement agreement based on that integrated plan.".

(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on each integrated plan developed and implemented through a permit, order,

or judicial consent decree since the date of publication of the "Integrated Municipal Stormwater and Wastewater Planning Approach Framework" issued by the Environmental Protection Agency and dated June 5, 2012, including a description of the control measures, levels of control, estimated costs, and compliance schedules for the requirements implemented through an integrated plan.

SEC. 4. GREEN INFRASTRUCTURE PROMOTION.

Title V of the Federal Water Pollution Control Act (33 U.S.C. 1361 et seq.) is amended—

(1) by redesignating section 519 (33 U.S.C. 1251 note) as section 520; and

(2) by inserting after section 518 (33 U.S.C. 1377) the following:

"SEC. 519. ENVIRONMENTAL PROTECTION AGENCY GREEN INFRASTRUCTURE PROMOTION.

"(a) IN GENERAL.—The Administrator shall ensure that the Office of Water, the Office of Enforcement and Compliance Assurance, the Office of Research and Development, and the Office of Policy of the Environmental Protection Agency promote the use of green infrastructure in and coordinate the integration of green infrastructure into, permitting programs, planning efforts, research, technical assistance, and funding guidance.

"(b) DUTIES.—The Administrator shall ensure that the Office of Water—

"(1) promotes the use of green infrastructure in the programs of the Environmental Protection Agency; and

"(2) coordinates efforts to increase the use of green infrastructure with—

"(A) other Federal departments and agencies;

"(B) State, tribal, and local governments; and

"(C) the private sector.

"(c) REGIONAL GREEN INFRASTRUCTURE PROMOTION.—The Administrator shall direct each regional office of the Environmental Protection Agency, as appropriate based on local factors, and consistent with the requirements of this Act, to promote and integrate the use of green infrastructure within the region that includes—

"(1) outreach and training regarding green infrastructure implementation for State, tribal, and local governments, tribal communities, and the private sector; and

"(2) the incorporation of green infrastructure into permitting and other regulatory programs, codes, and ordinance development, including the re-

quirements under consent decrees and settlement agreements in enforcement actions.

"(d) GREEN INFRASTRUCTURE INFORMATION-SHARING.—The Administrator shall promote green infrastructure information-sharing, including through an Internet website, to share information with, and provide technical assistance to, State, tribal, and local governments, tribal communities, the private sector, and the public regarding green infrastructure approaches for—

"(1) reducing water pollution;

"(2) protecting water resources;

"(3) complying with regulatory requirements; and

"(4) achieving other environmental, public health, and community goals.".

SEC. 5. FINANCIAL CAPABILITY GUIDANCE.

(a) DEFINITIONS.—In this section:

(1) 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.

(2) FINANCIAL CAPABILITY.—The term "financial capability" means the financial capability of a community to make investments necessary to make water quality or drinking water improvements.

(3) 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 the combined sewer overflows and sanitary sewer overflows guidance published by the Administrator entitled "Financial Capability Assessment Framework" and dated November 24, 2014.

(b) USE OF MEDIAN HOUSEHOLD INCOME.—The Administrator shall not use median household income as the sole indicator of affordability for a residential household.

(c) REVISED GUIDANCE.—

(1) IN GENERAL.—Not later than 1 year after the date of completion of the National Academy of Public Administration study to establish a definition and framework for community affordability required by Senate Report 114–70, accompanying S. 1645 (114th Congress), the Administrator shall revise the guidance described in subsection (a)(3).

(2) USE OF GUIDANCE.—Beginning on the date on which the revised guidance referred to in paragraph (1) is finalized, the Administrator shall use the revised guidance in lieu of the guidance described in subsection (a)(3).

(d) CONSIDERATION AND CONSULTATION.—

(1) CONSIDERATION.—In revising the guidance, the Administrator shall consider—

(A) the recommendations of the study referred to in subsection (c) and any other relevant study, as determined by the Administrator;

(B) local economic conditions, including site-specific local conditions that should be taken into consideration in analyzing financial capability;

(C) other essential community investments;

(D) potential adverse impacts on distressed populations, including the percentage of low-income ratepayers within the service area of a utility and impacts in communities with disparate economic conditions throughout the entire service area of a utility;

(E) the degree to which rates of low-income consumers would be affected by water in-

frastructure investments and the use of rate structures to address the rates of low-income consumers;

(F) an evaluation of an array of factors, the relative importance of which may vary across regions and localities; and

(G) the appropriate weight for economic, public health, and environmental benefits associated with improved water quality.

(2) CONSULTATION.—Any revised guidance issued to replace the guidance shall be developed in consultation with stakeholders.

(e) PUBLICATION AND SUBMISSION.—

(1) IN GENERAL.—On completion of the revision of the guidance, 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 revised guidance.

(2) EXPLANATION.—If the Administrator makes a determination not to follow 1 or more recommendations of the study referred to in subsection (c)(1), the Administrator shall include in the publi-

cation and submission under paragraph (1) an explanation of that decision.

(f) EFFECT.—Nothing in this section preempts or interferes with any obligation to comply with any Federal law, including the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

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S.675 S.L.C.

115TH CONGRESS
1ST SESSION

S. _____

To amend and reauthorize certain provisions relating to Long Island Sound restoration and stewardship.

IN THE SENATE OF THE UNITED STATES

Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. BLUMENTHAL, and Mr. MURPHY) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend and reauthorize certain provisions relating to Long Island Sound restoration and stewardship.

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 "Long Island Sound Restoration and Stewardship Act".

SEC. 2. AMENDMENTS.

(a) LONG ISLAND SOUND RESTORATION PROGRAM.—Section 119 of the Federal Water Pollution Control Act (33 U.S.C. 1269) is amended—

(1) in subsection (b), by striking the subsection designation and heading and all that follows through "The Office shall" and inserting the following:

"(b) OFFICE.—

"(1) ESTABLISHMENT.—The Administrator shall—

"(A) continue to carry out the conference study; and

"(B) establish an office, to be located on or near Long Island Sound.

"(2) ADMINISTRATION AND STAFFING.—The Office shall";

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "Management Conference of the Long Island Sound Study" and inserting "conference study";

(B) in paragraph (2)—

(i) in each of subparagraphs (A) through (G), by striking the commas at the end of the subparagraphs and inserting semicolons;

(ii) in subparagraph (H), by striking ", and" and inserting a semicolon;

(iii) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(J) environmental impacts on the Long Island Sound watershed, including—

"(i) the identification and assessment of vulnerabilities in the watershed;

"(ii) the development and implementation of adaptation strategies to reduce those vulnerabilities; and

"(iii) the identification and assessment of the impacts of sea level rise on water quality, habitat, and infrastructure; and

"(K) planning initiatives for Long Island Sound that identify the areas that are most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce adverse environmental impacts, facilitate compatible uses, or preserve critical ecosystem services to meet economic, environmental, security, or social objectives;";

(C) by striking paragraph (4) and inserting the following:

"(4) develop and implement strategies to increase public education and awareness with respect to the ecological health and water quality conditions of Long Island Sound;";

(D) in paragraph (5), by inserting "study" after "conference";

(E) in paragraph (6)—

(i) by inserting "(including on the Internet)" after "the public"; and

(ii) by inserting "study" after "conference"; and

(F) by striking paragraph (7) and inserting the following:

"(7) monitor the progress made toward meeting the identified goals, actions, and schedules of the Comprehensive Conservation and Management Plan, including through the implementation and support of a monitoring system for the ecological health and water quality conditions of Long Island Sound; and";

(3) in subsection (d)(3), in the second sentence, by striking "50 per centum" and inserting "60 percent";

(4) by redesignating subsection (f) as subsection (i); and

(5) by inserting after subsection (e) the following:

"(f) REPORT.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, and biennially thereafter, the Director of the Office, in consultation with the Governor of each Long Island Sound State, shall submit to Congress a report that—

"(A) summarizes and assesses the progress made by the Office and the Long Island Sound States in implementing the Long Island Sound Comprehensive Conservation and Management Plan, including an assessment of the progress made toward meeting the performance goals and milestones contained in the Plan;

"(B) assesses the key ecological attributes that reflect the health of the ecosystem of the Long Island Sound watershed;

"(C) describes any substantive modifications to the Long Island Sound Comprehensive Conservation and Management Plan made dur-

ing the 2-year period preceding the date of submission of the report;

"(D) provides specific recommendations to improve progress in restoring and protecting the Long Island Sound watershed, including, as appropriate, proposed modifications to the Long Island Sound Comprehensive Conservation and Management Plan;

"(E) identifies priority actions for implementation of the Long Island Sound Comprehensive Conservation and Management Plan for the 2-year period following the date of submission of the report; and

"(F) describes the means by which Federal funding and actions will be coordinated with the actions of the Long Island Sound States and other entities.

"(2) PUBLIC AVAILABILITY.—The Administrator shall make the report described in paragraph (1) available to the public, including on the Internet.

"(g) ANNUAL BUDGET PLAN.—The President shall submit, together with the annual budget of the United States Government submitted under section 1105(a) of title 31, United States Code, information regarding each Federal department and agency involved in the protection

and restoration of the Long Island Sound watershed, including—

"(1) an interagency crosscut budget that displays for each department and agency—

"(A) the amount obligated during the preceding fiscal year for protection and restoration projects and studies relating to the watershed;

"(B) the estimated budget for the current fiscal year for protection and restoration projects and studies relating to the watershed; and

"(C) the proposed budget for succeeding fiscal years for protection and restoration projects and studies relating to the watershed; and

"(2) a summary of any proposed modifications to the Long Island Sound Comprehensive Conservation and Management Plan for the following fiscal year.

"(h) FEDERAL ENTITIES.—

"(1) COORDINATION.—The Administrator shall coordinate the actions of all Federal departments and agencies that impact water quality in the Long Island Sound watershed in order to improve the water quality and living resources of the watershed.

"(2) METHODS.—In carrying out this section, the Administrator, acting through the Director of the Office, may—

"(A) enter into interagency agreements; and

"(B) make intergovernmental personnel appointments.

"(3) FEDERAL PARTICIPATION IN WATERSHED PLANNING.—A Federal department or agency that owns or occupies real property, or carries out activities, within the Long Island Sound watershed shall participate in regional and subwatershed planning, protection, and restoration activities with respect to the watershed.

"(4) CONSISTENCY WITH COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN.—To the maximum extent practicable, the head of each Federal department and agency that owns or occupies real property, or carries out activities, within the Long Island Sound watershed shall ensure that the property and all activities carried out by the department or agency are consistent with the Long Island Sound Comprehensive Conservation and Management Plan (including any related subsequent agreements and plans).".

(b) LONG ISLAND SOUND STEWARDSHIP PROGRAM.—

(1) LONG ISLAND SOUND STEWARDSHIP ADVISORY COMMITTEE.—Section 8 of the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109–359) is amended—

(A) in subsection (g), by striking "2011" and inserting "2023"; and

(B) by adding at the end the following:

"(h) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—

"(1) the Advisory Committee; or

"(2) any board, committee, or other group established under this Act.".

(2) REPORTS.—Section 9(b)(1) of the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109–359) is amended in the matter preceding subparagraph (A) by striking "2011" and inserting "2023".

(3) AUTHORIZATION.—Section 11 of the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109–359) is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively; and

(C) in subsection (a) (as so redesignated), by striking "under this section each" and inserting "to carry out this Act for a".

(4) EFFECTIVE DATE.—The amendments made by this subsection take effect on October 1, 2011.

SEC. 3. REAUTHORIZATION.

(a) IN GENERAL.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency such sums as are necessary for each of fiscal years 2018 through 2023 for the implementation of—

(1) section 119 of the Federal Water Pollution Control Act (33 U.S.C. 1269), other than subsection (d) of that section; and

(2) the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109–359).

(b) LONG ISLAND SOUND GRANTS.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out section 119(d) of the Federal Water Pollution Control Act (33 U.S.C. 1269(d)) $40,000,000 for each of fiscal years 2018 through 2023.

(c) LONG ISLAND SOUND STEWARDSHIP GRANTS.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109–359) $25,000,000 for each of fiscal years 2018 through 2023.

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