CLEAN WATER INFRASTRUCTURE FINANCING: STATE AND LOCAL PERSPECTIVES AND RECENT DEVELOPMENTS

(118–30)

HEARING

BEFORE THE

SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

SEPTEMBER 28, 2023

Printed for the use of the
Committee on Transportation and Infrastructure

Available online at: https://www.govinfo.gov/committee/house-transportation?path=/browsecommittee/chamber/house/committee/transportation

U.S. GOVERNMENT PUBLISHING OFFICE

54–211 PDF WASHINGTON : 2023

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Committee on Transportation and Infrastructure
U.S. House of Representatives
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SEPTEMBER 22, 2023

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Water Resources and Environment
FROM: Staff, Subcommittee on Water Resources and Environment
RE: Subcommittee Hearing on "*Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments*"

I. PURPOSE

The Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure will meet on Thursday, September 28, 2023, at 10:00 a.m. ET in 2167 of the Rayburn House Office Building to hold a hearing entitled, "*Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments*." This hearing will provide Members the opportunity to hear local and National perspectives on the current state of clean water infrastructure financing, including the Clean Water State Revolving Funds, and analyze recent changes and current issues in clean water infrastructure financing, including changes and additional funding provided under the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117–58).[1]

At the hearing, Members will receive testimony from witnesses representing the Council of Infrastructure Financing Authorities (CIFA), National Association of Clean Water Agencies (NACWA), United States Chamber of Commerce, and the Natural Resources Defense Council.

II. BACKGROUND

CLEAN WATER INFRASTRUCTURE

Clean Water infrastructure construction and maintenance is integral for local communities nationwide. Industries, municipalities, households, and other entities all depend on wastewater infrastructure, including sewer pipe networks, for collection and transportation and onsite or centralized treatment facilities, to reduce pollution before being discharged into nearby waterbodies or reused for water, energy, or nutrient purposes.[2]

There are more than 16,000 private and public wastewater treatment systems nationwide, and approximately 80 percent of these serve communities with populations

[1] IIJA, Pub. L. No. 117–58, 135 Stat. 429.

[2] *See e.g.*, AM. SOC. OF CIVIL ENGINEERS, 2021 REPORT CARD FOR AMERICA'S INFRASTRUCTURE, WASTEWATER INFRASTRUCTURE, (2021), *available at* https://infrastructurereportcard.org/wp-content/uploads/2020/12/Wastewater-2021.pdf [hereinafter WASTEWATER INFRASTRUCTURE REPORT CARD].

of 10,000 or fewer.[3] As of 2021, per day, 62.5 billion gallons of wastewater are treated by centralized wastewater treatment plants, a number that is increasing due to population trend shifts towards urban communities.[4] In addition, there is estimated over 800,000 miles of public sewers and 500,000 of private lateral sewers that connect to public sewer lines nationwide.[5] Many of the Nation's wastewater treatment plants were designed with a 40 to 50 year lifespan, and constructed in the 1970s; while wastewater pipes, which have a typical lifespan of 50 to 100 years, are 45 years old on average.[6]

Pursuant to the Clean Water Act (CWA), the United States Environmental Protection Agency (EPA) periodically reports on the capital cost of wastewater infrastructure needs.[7] The most recent EPA report on wastewater estimates was published in 2016 and estimates that wastewater treatment facilities would need $271 billion over the next twenty years to continue to meet Federal standards for water quality.[8]

CLEAN WATER ACT BACKGROUND

The CWA is the principal law governing water quality of the Nation's surface waters and provides a major Federal-state partnership to do so.[9] Commonly referred to as the CWA, Congress enacted the 1972 amendments to the Federal Water Pollution Control Act with the objective to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."[10] In doing so, the CWA sets out the regulatory requirements with which wastewater utilities must comply.

In addition to wastewater regulatory requirements, Title II of the CWA included a grant program that provided funding for wastewater treatment facilities construction and related objectives.[11] This grant program was funded through annual appropriations and utilized a state-by-state formula included in the CWA to allocate funds.[12] States then use the funding to make direct grants to cities for eligible projects, typically covering 55 to 75 percent of the total costs.[13]

Prior to the enactment of the CWA in 1972, however, the Federal Government administered a comparatively small aid program for municipal wastewater infrastructure, whereby the Federal Government allocated funding to the states based on population.[14] A statutory formula for allocation did not exist.[15]

In contrast, under the CWA Title II program, Congress appropriated nearly $52 billion between Fiscal Year (FY) 1973 and FY 1990, the largest nonmilitary public works appropriations since the Interstate Highway System.[16]

III. CLEAN WATER STATE REVOLVING FUNDS (CWSRF)

Throughout the following discussion, it is important to highlight that the CWSRF program is not to be confused with the Drinking Water State Revolving Fund (DWSRF) program, which is part of the Safe Drinking Water Act, and was authorized as part of the Safe Drinking Water Act Amendments of 1996.[17] The Committee on Transportation and Infrastructure holds jurisdiction over the CWSRF, while the Committee on Energy and Commerce holds jurisdiction over the DWSRF.

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[3] *See id.*; *see also* ELENA H. HUMPHREYS, CONG. RSCH. SERV. (R47633), THE ROLE OF EARMARKS IN CWSRF AND DWSRF APPROPRIATIONS IN THE 117TH CONGRESS, (July 25, 2023), *available at* https://www.crs.gov/Reports/R47633 [hereinafter CRS REPORT R47633).

[4] WASTEWATER INFRASTRUCTURE REPORT CARD, *supra* note 2, at 153.

[5] *Id.*

[6] *Id.*

[7] CWA, Pub. L. No. 92–500, 86 Stat. 816 [hereinafter CWA].

[8] EPA, CLEAN WATERSHEDS NEEDS SURVEY (CWNS) REPORT TO CONGRESS—2012, (Jan. 2016), *available at* https://www.epa.gov/sites/default/files/2015-12/documents/cwns__2012__report__to__congress-508-opt.pdf [hereinafter CWNS 2016].

[9] CWA, *supra* note 7.

[10] *Id.*

[11] ELENA H. HUMPHREYS & JONATHAN L. RAMSEUR, CONG. RSCH. SERV. (R46892), INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA): DRINKING WATER AND WASTEWATER INFRASTRUCTURE, (updated Jan. 4, 2022), *available at* https://www.crs.gov/Reports/R46892 [hereinafter CRS REPORT R46892].

[12] *Id.*

[13] *Id.*

[14] JONATHAN L. RAMSEUR, CONG. RSCH. SERV. (R47474), CLEAN WATER STATE REVOLVING FUND ALLOTMENT FORMULA: BACKGROUND AND OPTIONS, (Mar. 15, 2023), *available at* https://www.crs.gov/Reports/R47474 [hereinafter CRS REPORT R47474].

[15] *Id.*

[16] CRS REPORT R46892, *supra* note 11.

[17] *See Safe Drinking Water Act Amendments of 1996*, Pub. L. No. 104–182, 110 Stat. 1666.

Noting the amount of investment that had gone into wastewater infrastructure, Congress amended the CWA through the Water Quality Act of 1987.[18] These amendments to the CWA established the Clean Water State Revolving Fund (CWSRF) program, which today serves as the primary Federal program for wastewater infrastructure funding.[19] The Water Quality Act of 1987 authorized the CWSRF program and appropriations to capitalize state revolving loan funds as Title VI of the CWA, in the process phasing out the Title II grant program after FY 1990.[20]

Through the CWSRF program, each state and Puerto Rico maintain revolving loan funds to provide low-cost financing for approved water quality infrastructure projects.[21] State revolving funds (SRFs) are available to make low-interest loans, buy or refinance local debt, subsidize or insure local bonds, make loan guarantees, act as security or guarantee of state debt, earn interest, and pay administrative expenses.[22] SRF monies may also be used to implement other water pollution control programs such as nonpoint source pollution management and the National Estuary Program.[23]

Funds to establish or capitalize the CWSRF programs are provided through Federal capitalization grants and state matching funds (generally equal to 20 percent of Federal grants).[24] States primarily use their funds to provide loans to cities and other eligible recipients. As a loan program, the CWSRFs are intended to be supported through the repayment of loans to states over time, creating a continuing source of assistance for other communities, in contrast to straight appropriations.[25] Loans are made at or below current market interest rates, including zero interest loans, and vary by state, applicant, and circumstance.[26]

Although the CWSRF generally involves loans from the state to local wastewater actors, states are also authorized to provide "additional subsidization" to projects and their sponsors.[27] Additionally, states may also use CWSRF grants to provide additional subsidization for projects falling under specific categories of infrastructure projects, such as for reasons of water or energy efficiency.[28] In practice, this "additional subsidization" has taken the form of principal forgiveness and/or loans with negative interest.[29]

Since FY 1989, Congress has provided more than $56 billion in Federal capitalization assistance to the states.[30] In turn, this infusion of Federal capital to SRFs has leveraged over $153.6 billion in direct assistance to communities through 44,555 agreements.[31] According to EPA's latest data, in 2021 alone, states funded over 1,700 new wastewater infrastructure projects totaling more than $8.2 billion through the CWSRF in 2021.[32]

IV. RECENT DEVELOPMENTS

In the past two decades, Congress has enacted several amendments to the CWA to promote the implementation and construction of wastewater infrastructure. Most recently, the Infrastructure Investment and Jobs Act (IIJA) reauthorized appropriations, provided supplemental funding, and amended the CWSRF program.[33] However, there are still other current issues that Congress and stakeholders are interested in.

In 2009, Congress enacted the American Recovery and Reinvestment Act (ARRA) to stimulate the United States economy and address a range of other policy objec-

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[18] Water Quality Act of 1987, Pub. L. No. 100–4, 33 U.S.C. §§ 1381–1387.
[19] *Id.*; *see also* CRS REPORT 47474, *supra* note 14.
[20] CRS REPORT R47633, *supra* note 3; *see also* EPA, *About the Clean Water State Revolving Fund (CWSRF), available at* https://www.epa.gov/cwsrf/about-clean-water-state-revolving-fund-cwsrf [hereinafter *About the CWSRF*].
[21] JONATHAN L. RAMSEUR, CONG. RSCH. SERV. (R46471), FEDERALLY SUPPORTED PROJECTS FOR WASTEWATER, DRINKING WATER, AND WATER SUPPLY INFRASTRUCTURE, (updated Aug. 2, 2022), *available at* https://www.crs.gov/Reports/R46471 [hereinafter CRS REPORT R46471].
[22] *Id.*; *see generally About the CWSRF, supra* note 20.
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] 33 U.S.C. §1383(i); *see also* CRS REPORT R46892, *supra* note 11.
[28] *See* CRS REPORT R46892, *supra* note 11.
[29] *Id.*
[30] *See* CRS REPORT R47474, *supra* note 14.
[31] EPA, CWSRF 2021 ANNUAL REPORT, (Dec. 2022), *available at* https://www.epa.gov/system/files/documents/2022-12/2021-CWSRF-Annual-Report.pdf [hereinafter CWSRF ANNUAL REPORT].
[32] *Id.*
[33] Infrastructure Investment and Jobs Act, Pub. L. No. 117–58, 135 Stat 429 [hereinafter IIJA].

tives.[34] The ARRA provided $4 billion in supplemental funding for the CWSRF for wastewater infrastructure projects, required states to use at least 50 percent of ARRA funds for additional subsidization, and authorized the "green reserve,"[35] which required states to use at least 50 percent of ARRA grants "for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities."[36]

In the Water Resources Reform and Development of 2014 (WRRDA), Congress amended the CWA to authorize CWSRF-eligible projects to include measures to manage, reduce, treat, or recapture stormwater; replacement of decentralized treatment systems such as septic tanks; energy-efficiency improvement at treatment works; reusing and recycling of wastewater and/or stormwater; and security improvements at treatment works.[37] WRRDA also allowed states under certain conditions to provide additional subsidization up to 30 percent of the state's allotment.[38]

America's Water Infrastructure Act of 2018 (AWIA) amended the list of activities eligible under the CWSRF program to allow nonprofits to aid certain individuals for projects on existing decentralized wastewater systems or to connect an individual household to a centralized wastewater system.[39]

Additionally, in recent years, the annual appropriations bill for the EPA has included additional requirements for states to use a portion of CWSRF funds for additional subsidies and for the green reserve.[40]

INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA)

IIJA made several changes to the CWSRF program. For the first time since Congressional authorization for the program expired in 1994, section 50210(b) of IIJA reauthorized a total of $14.65 billion in Federal appropriations for the CWSRF program between FYs 2022–2026.[41]

Division J, Title IV of IIJA provided $11.7 billion in supplemental appropriations from FYs 2022–2026 for the CWSRF program, separate from the authorized level for annual appropriations.[42] Additionally, IIJA provided $1 billion in supplemental appropriations set aside specifically to address emerging contaminants.[43]

IIJA also included other requirements for how CWSRF funds are to be spent. Section 50210(a) explicitly reserved a portion of CWSRF funds to be distributed as grants or grant substitutes to economically disadvantaged communities and for the implementation of energy-efficient or water-efficient technologies.[44] States are required for their supplemental IIJA appropriations to use 49 percent of their SRF capitalization grant amount as 100 percent principal forgiveness and grants.[45] For the supplemental appropriations to address emerging contaminant projects, states are required to use 100 percent of their capitalization amount as principal forgiveness or grants.[46]

OTHER CURRENT ISSUES

During the 117th Congress, providing funds directly to communities for wastewater infrastructure projects through community project funding resumed.[47] Some stakeholders are concerned about the way these funds have been targeted, as the annual appropriations bills for FYs 2022 and 2023 dedicated part of the CWSRF

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[34] American Recovery and Reinvestment Act, Pub. L. No. 111–5, 123 Stat 115.

[35] *See e.g.*, *Green Project Reserve Guidance for the Clean Water State Revolving Fund (CWSRF)* (last updated May 19, 2023), *available at* https://www.epa.gov/cwsrf/green-project-reserve-guidance-clean-water-state-revolving-fund-cwsrf.

[36] *Id.*; *see also* CRS REPORT R47474, *supra* note 14.

[37] Water Resources Reform and Development Act, Pub. L. No. 113–121, 128 Stat. 1322 [hereinafter WRRDA]; CWA §§ 601(b)(13), 603(d)(1)(E), 603(i)(1)(B), 122, 603(c); *see also* CRS REPORT R47474, *supra* note 14.

[38] WRRDA, *supra* note 34; *see also* CRS REPORT R47474, *supra* note 14.

[39] America's Water Infrastructure Act of 2018, Pub. L. No. 115–270, 132 Stat. 3876.

[40] *See e.g.* Consolidated Appropriations Act of 2023, Pub. L. No. 117–328, 136 Stat. 4793, (requiring states, to the extent that there are sufficient projects or activities eligible for assistance, to utilize not less than 10 percent of their CWSRF capitalization grant for projects to address green infrastructure, water or energy efficient improvements, or other environmentally innovative activities).

[41] IIJA §50210(b), at 135 Stat 1169, *supra* note 33.

[42] *Id.* at 135 Stat. 1396.

[43] *Id.*

[44] *Id.* at 135 Stat 1169; *see also* H. COMM. ON TRANSP. & INFRASTRUCTURE, JURISDICTION AND ACTIVITIES OF THE SUBCOMM. ON WATER RES. AND ENVIRONMENT, 118th Cong., (2023) (on file with Comm.) [hereinafter JURISDICTION AND ACTIVITIES REPORT].

[45] *See* CRS REPORT R47633, *supra* note 3; *see also* CWSRF ANNUAL REPORT, *supra* note 31.

[46] *See* CRS REPORT R47633, *supra* note 3; *see also* CWSRF ANNUAL REPORT, *supra* note 31.

[47] *See* CRS REPORT R47633, *supra* note 3.

funding directly to community project funding.[48] Prior to the new practice, earmarked funds were provided separately from SRF appropriations.

Although the CWA originally directed EPA to publish a Clean Watersheds Needs Survey (CWNS) biennially, the last CWNS was published in 2016, documenting wastewater infrastructure needs from 2012.[49] IIJA directed EPA to conduct a needs assessment for all CWSRF-eligible projects by November 2023, and every four years following.[50]

The funding allocation percentages when the CWSRF program was originally created generally remain in effect today.[51] Although the legislative history does not contain a specific analysis of the numbers behind the allocation formulas, the formula represents a negotiation between the House and Senate and provide each state with at least half of a percent of the total appropriation in any given year.[52]

V. OTHER CLEAN WATER INFRASTRUCTURE PROGRAMS

Although the CWSRF program is generally considered the principal Federal source for wastewater project funding, a number of related authorities for funding exist.

The Water Infrastructure Finance and Innovation Act (WIFIA) authorizes EPA to provide direct loans or loan guarantees for a wide range of drinking water and wastewater projects.[53] In contrast to the CWSRF, under this authority, EPA provides credit assistance directly to eligible project recipients and may fund projects that may be ineligible for CWSRF assistance or are too large for traditional CWSRF funding.[54]

The Consolidated Appropriations Act of 2001 authorized EPA to establish a new grant program in the CWA to address combined sewer overflows, sanitary sewer overflows, or stormwater.[55] Projects under this grant program are subject to the same requirements as the CWSRF program. This authority received its first Federal appropriations in FY 2020.[56] IIJA also amended this grant program, requiring EPA to work with states to use at least 25 percent of grant awards on projects in rural communities with populations of fewer than 10,000 and financially distressed communities, as defined by each state.[57]

VI. WITNESSES

- Ms. Lori Johnson, Assistant Chief, Financial Services Division, Oklahoma Water Resources Board, *on behalf of* Council of Infrastructure Financing Authorities
- Mr. Todd P. Swingle, P.E., Chief Executive Officer and Executive Director, Toho Water Authority, Kissimmee, FL, *on behalf of* National Association of Clean Water Agencies
- Mr. James M. Proctor II, Senior Vice President and General Counsel, McWane Inc., *on behalf of* United States Chamber of Commerce
- Ms. Rebecca Hammer, Deputy Director, Federal Water Policy, Natural Resources Defense Council

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[48] *Id.*

[49] CWNS 2016, *supra* note 8; *see also* CRS REPORT R47474, *supra* note 14.

[50] CWA, *supra* note 7, §609.

[51] CRS REPORT R47474, *supra* note 14.

[52] *Id.*

[53] WRRDA, *supra* note 37; *see generally* EPA, *What is WIFIA?, available at* https://www.epa.gov/wifia/what-wifia; *see also* CRS REPORT R46471, *supra* note 21.

[54] CRS REPORT R46471, *supra* note 21.

[55] Consolidated Appropriations Act of 2001, Pub. L. No. 106–554; CWA § 221; *see also* JURISDICTION AND ACTIVITIES REPORT, *supra* note 44.

[56] JURISDICTION AND ACTIVITIES REPORT, *supra* note 44.

[57] *Id.*; IIJA, *supra* note 33, § 50204.

CLEAN WATER INFRASTRUCTURE FINANCING: STATE AND LOCAL PERSPECTIVES AND RECENT DEVELOPMENTS

THURSDAY, SEPTEMBER 28, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:02 a.m. in room 2167 Rayburn House Office Building, Hon. David Rouzer (Chairman of the subcommittee) presiding.

Mr. ROUZER. The Subcommittee on Water Resources and Environment will come to order.

I ask unanimous consent that the chairman be authorized to declare a recess at any time during today's hearing.

Without objection, so ordered.

I also ask unanimous consent that Members not on the subcommittee be permitted to sit with the subcommittee at today's hearing and ask questions.

Without objection, so ordered.

As a reminder, if Members wish to insert a document into the record, they can email it to DocumentsTI@mail.house.gov. Again, that's DocumentsTI@mail.house.gov.

I now recognize myself for 5 minutes for the purposes of an opening statement.

OPENING STATEMENT OF HON. DAVID ROUZER OF NORTH CAROLINA, CHAIRMAN, SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

Mr. ROUZER. First, thank you to our witnesses for being here today. I am eager to hear from you on the issues local communities are facing in their efforts to address the Nation's water and wastewater infrastructure needs. Specifically, I am most interested in hearing your insights on water infrastructure financing, especially the current condition of the Clean Water State Revolving Funds, or SRFs, as they are commonly known.

Our clean water infrastructure is something most Americans don't think about, but rely on 24/7. Ask anyone who has ever dealt with a sewer backup how important wastewater infrastructure is. In many cases and in many communities, these water and wastewater systems are long past their design life and in need of critical repairs, upgrades, or total replacement. As a result, leaks and

blockages are all too common across the Nation and represent a massive waste of a vital resource.

These needs are especially urgent for hundreds of communities trying to fix the problems of combined sewer overflows and sanitary sewer overflows. Wastewater infrastructure deficiencies are particularly acute in many small and rural communities. There are more than 16,000 private and public wastewater treatment systems nationwide, and approximately 80 percent serve communities with populations of 10,000 or less. For example, in my district there are almost 100 communities with 1,000 residents or less, including the town of Chadbourn in Columbus County. Chadbourn, interestingly enough, has wastewater systems as old as their date of incorporation, which was 1883. The Clean Water SRF program has allowed them to maintain their systems while they pursue long-term solutions.

According to the EPA's last "Clean Water Needs Survey Report to Congress," the total documented needs for sustainable wastewater infrastructure, combined sewer overflow and sanitary sewer overflow correction, and stormwater management nationwide are at least $270 billion over the next two decades.

In my home State of North Carolina alone, there is a documented need of $11 billion for clean water projects. To further underscore the need, coastal and low-lying inland communities in southeastern North Carolina experience frequent storms resulting in flooded rivers and watersheds, which often leave water and drainage systems in need of total repair and future mitigation.

These investments are expensive and cannot be handled by simply authorizing and appropriating the same or larger amounts of Federal funds. The Infrastructure Investment and Jobs Act recognized the importance of the Clean Water SRF program, but simply pumped more money at the problem without addressing some fundamental shortfalls. While Federal, State, and local investments are necessary, new approaches are needed to solve these problems. Integrated planning and greater regulatory flexibility can help communities struggling to address their needs and meet compliance mandates, while also reducing financial burdens currently levied on ratepayers.

When the Clean Water SRF program was created in 1987, the authors understood States and localities are the experts in addressing their own clean water infrastructure challenges. By setting up loan programs, States and localities would be able to leverage more financial resources for decades to come, much easier than relying on direct appropriations. So, it is important that we maintain and abide by the intent of this longstanding loan structure to continue responsibly addressing wastewater infrastructure needs decades into the future. To divert more and more of these funds to grants will make the program unsustainable and, in the end, help no one.

The current set-asides for grants and grant substitutes passed in IIJA will ultimately be harmful to the program, slowly draining the funds States have been able to leverage for decades under the traditional low-interest loan structure. When combined with unfunded mandates and burdensome regulations driving up baseline costs, it puts the long-term viability of the Clean Water SRF in question.

Wastewater infrastructure is incredibly important for my constituents and those of every Member of Congress. The Clean Water SRF is a great example of good public policy that helps keep wastewater costs down and provides reliable service for many communities and ratepayers around the country. In order to maintain a good clean water infrastructure well into the future, a robust and effective program is key.

So, I look forward to hearing from our witnesses today about how we can improve our clean water infrastructure, protect against environmental degradation, keep wastewater costs low for ratepayers, and address the challenges brought about by recent legislative changes surrounding the Clean Water SRF program.

[Mr. Rouzer's prepared statement follows:]

Prepared Statement of Hon. David Rouzer, a Representative in Congress from the State of North Carolina, and Chairman, Subcommittee on Water Resources and Environment

I'd like to first thank our witnesses for being here today—I am excited to hear from the members of this panel on the issues communities are facing in addressing the nation's water and wastewater infrastructure needs. Specifically, I am interested in hearing your insights on water infrastructure financing, especially the current condition of the Clean Water State Revolving Funds (SRFs).

Our clean water infrastructure is something most Americans don't think about every day but rely on 24/7. Just ask anyone who has ever dealt with a sewer backup how important our wastewater infrastructure is.

Indeed, in many communities, these water and wastewater systems are long past their design life and in need of critical repairs, upgrades, or total replacement. As a result, leaks and blockages are all too common across the nation and represent a massive waste of a vital resource. These needs are especially urgent for hundreds of communities trying to fix the problems of combined sewer overflows and sanitary sewer overflows.

Needs for improvement in wastewater infrastructure are especially the case for many small and rural communities. There are more than 16,000 private and public wastewater treatment systems nationwide, and approximately 80 percent serve communities with populations of 10,000 or fewer. In my district, there are 95 communities with less than 10,000 residents, including the Town of Chadbourn in Columbus County. Chadbourn has wastewater systems as old as its date of incorporation: 1883. The Clean Water SRF program has allowed them to maintain their systems while they pursue long-term solutions.

According to EPA's last "Clean Water Needs Survey" report to Congress in 2016, the total documented needs for sustainable wastewater infrastructure, combined sewer overflow and sanitary sewer overflow correction, and stormwater management nationwide are at least $270 billion over the next two decades.

In my home state of North Carolina alone, there is a documented need of $11 billion for clean water projects. To further demonstrate these needs, coastal and low-lying inland communities in southeastern North Carolina experience frequent storms resulting in flooded rivers and watersheds, often times leaving water and drainage systems in need of total repair and future mitigation.

Even by congressional standards, these investments are expensive and cannot be handled by simply authorizing and appropriating the same or larger amounts of federal funds. The Infrastructure Investment and Jobs Act (IIJA) recognized the importance of the Clean Water SRF program, but just threw money at the problem without addressing the shortfalls of the current programs. While federal, state, and local investments are necessary, new approaches are required to solve these problems.

Novel methods such as integrated planning and greater regulatory flexibility can help communities struggling to address needs and meet compliance mandates while also reducing financial burdens currently levied on ratepayers.

When the Clean Water SRF program was created in 1987, the authors understood states and localities are the experts in addressing their own clean water infrastructure challenges. By setting up loan programs, states and localities would be able to leverage more financial resources for decades to come, easier than relying on direct appropriations. It is important that we maintain the longstanding loan structure to

continue responsibly addressing wastewater infrastructure needs decades into the future. To do otherwise will make the program unsustainable.

The current set-asides for grants and grant substitutes passed in IIJA will ultimately be harmful to the program, slowly draining the funds states have been able to leverage for decades under the traditional low-interest loan structure. When combined with unfunded mandates and burdensome regulations driving up baseline costs, the long-term viability of the Clean Water SRF is in doubt.

The bottom line is that wastewater infrastructure is incredibly important for my constituents and for my colleagues here today. The Clean Water SRF is an example of good public policy that helps keep wastewater costs down and provides reliable service to those around the country. In order to maintain robust clean water infrastructure now and in the future, a robust and effective program is critical.

I look forward to hearing from our witnesses today about how we can improve our clean water infrastructure, protect against environmental degradation, keep wastewater costs low for ratepayers, and address the challenges brought about by recent legislative changes surrounding the Clean Water SRF program.

Mr. ROUZER. So, I yield back and now recognize Ranking Member Napolitano for 5 minutes for an opening statement.

Mrs. NAPOLITANO. Thank you, Mr. Chairman. I have a letter to insert into the record from the International Union of Operating Engineers.

Mr. ROUZER. Without objection, so ordered.

[The information follows:]

Letter of September 28, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, and Hon. David Rouzer, Chairman, and Hon. Grace F. Napolitano, Ranking Member, Subcommittee on Water Resources and Environment, from James T. Callahan, General President, International Union of Operating Engineers, Submitted for the Record by Hon. Grace F. Napolitano

SEPTEMBER 28, 2023.

The Honorable SAM GRAVES,
1135 Longworth House Office Building,
Washington, DC 20515.

The Honorable RICK LARSEN,
2163 Rayburn House Office Building,
Washington, DC 20515.

The Honorable DAVID ROUZER,
2333 Rayburn House Office Building,
Washington, DC 20515.

The Honorable GRACE F. NAPOLITANO,
1610 Longworth House Office Building,
Washington, DC 20515.

DEAR CHAIRMEN GRAVES AND ROUZER AND RANKING MEMBERS LARSEN AND NAPOLITANO:

Over two years ago the Council of Infrastructure Financing Authorities testified in the Water Resources and Environment Committee that compliance with Davis-Bacon Act prevailing wages was not "an issue." Since then, more than 10,000 workers have been cheated out of their wages, and the Wage and Hour Division of the Department of Labor has recovered nearly $30 million in back wages. Clearly, Davis-Bacon compliance is *an issue* for these workers.

The International Union of Operating Engineers (IUOE) represents 400,000 working men and women in North America, thousands of whom build and maintain water, wastewater, and other critical infrastructure throughout the United States. Members of the IUOE perform millions of hours of work annually building wastewater systems financed by the Clean Water Act-State Revolving Fund program. Stationary engineers of the IUOE also maintain and operate wastewater systems in private and public settings across the country. The IUOE is also a longstanding member of the nation's largest, oldest water-infrastructure advocacy coalition, the Water Infrastructure Network.

Contrary to the Council of Infrastructure Finance Authorities' (CIFA) argument that payment of prevailing wages "is not an issue," cheating on prevailing wages is rampant. In the last decade, enforcement efforts at the Department have resulted in the recovery of more than $229 million in back wages for over 76,000 workers. If compliance with this fundamental wage law was not a problem, one would reasonably expect higher levels of compliance.

Importantly, the Biden Administration has undertaken a major effort to streamline the regulations to implement this pillar of American labor law. In March 2022 the Biden Administration began a rulemaking process to update Davis-Bacon regulations for the first time in over forty years, modernizing the law and further streamlining its implementation. In a few short weeks, the rule is scheduled to go into effect, delivering major efficiencies to the administration of the Davis-Bacon Act and streamlining the "conformance" process for making wage determinations.

In fact, in 2011, the Government Accountability Office acknowledged CIFA's concerns regarding "conformances." The GAO report "identified dissatisfaction among regulated parties regarding the rigidity of the Department's county-based system for identifying prevailing rates, and missing wage rates requiring an overuse of "conformances" for wage rates for specific job classifications." It is one of the many issues addressed in the DOL's new rule.

In its final rule, the Department says that it " . . . agrees with commenters that addressing timeliness issues and the overuse of conformances are important goals. The use of BLS data, however, could cause its own problems with missing classifications . . . " Essentially, DOL dismissed the solution presented by CIFA and the Associated Builders and Contractors. Instead, "the Department is adopting new methods of reducing the need for conformances and more frequently updating wage determinations, including through the limited use of BLS data where it can reasonably be used to estimate wage-rate increases in between voluntary surveys."

The administrative requirements of the Davis-Bacon Act are critical to the prevention of fraud against government agencies and necessary to ensure that government contractors do not profit by failing to pay the minimum wage—the wage floor—to which construction workers are entitled. It is worth noting that the submission of certified payrolls through the Davis-Bacon Act serves as *the only additional protection afforded taxpayers against kickbacks, misclassification, and the employment of unauthorized workers on taxpayer-funded public projects*.

In conclusion, the Davis-Bacon Act continues to play a key role in the lives and livelihoods of America's construction workers. It is an "issue." The administrative costs to comply with the Davis-Bacon Act are minimal and are being streamlined by the Biden Administration now, bringing the law's administration into the 21st century.

The International Union of Operating Engineers appreciates the support of the committee and the clear bipartisan recognition of the role that the Davis-Bacon Act plays to support blue-collar workers. Please do not hesitate to reach out should you need technical assistance with the nation's fundamental labor standard for federally assisted construction, the Davis-Bacon Act.

Thank you for your consideration.

Sincerely,

JAMES T. CALLAHAN,
General President, International Union of Operating Engineers.

OPENING STATEMENT OF HON. GRACE F. NAPOLITANO OF CALIFORNIA, RANKING MEMBER, SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

Mrs. NAPOLITANO. Thank you very much for holding today's hearing to showcase the critical clean water investments made by the Bipartisan Infrastructure Law known as the BIL. Thank you for being a great partner, Mr. Chair.

Last Congress, House Democrats worked with the Biden administration to provide the largest investment in our Nation's crumbling infrastructure in over a generation. With each dollar invested and each new water infrastructure project implemented, everyday Americans in your district and mine realize the benefits of the transformational Bipartisan Infrastructure Law with cleaner and safer water and a more resilient and more livable environment.

For example, my congressional district in L.A. County is using BIL funding to carry out a list of long-awaited projects that benefit our community, our local economy, and our businesses and industries that rely on clean, safe, and resilient water for their success.

In just the past 2 years since the BIL was signed, Los Angeles County has announced numerous partnerships with the U.S. Environmental Protection Agency, the State of California, and local utilities to invest in our water-related infrastructure.

In May of 2022, the county closed a $441 million WIFIA loan that will support the Clearwater Project—a joint water pollution control plant effluent outfall tunnel project that will reduce flooding risks and prevent the contamination of local drinking water sources.

In July of 2023, Los Angeles Sanitation District was awarded close to $2 million from EPA's brownfields program that will allow the district to clean up oil-related contamination at a former industrial site to repurpose the property as a new wastewater recycling project.

Through both the BIL and the historic annual appropriations for the Clean Water SRF program, the county is moving forward on several wastewater and water recycling projects, including $266 million for the Advanced Water Purification Facility (AWPF) that will produce 19 million gallons per day of purified wastewater for groundwater recharge at Hansen Spreading Grounds in the San Fernando Valley, a major source of water supply for the city's drinking water.

Mr. Chairman, these are just a few of the thousands of examples of critical water-related investments happening all across America because of the BIL. And, because House Democrats specifically tailored these BIL investments to address the unique affordability concerns facing many minority, rural, and Tribal communities, all Americans, regardless of zip code, can benefit from these investments and have access to clean, safe, and reliable drinking and wastewater services.

Yet, Mr. Chairman, I remain concerned with the direction our current House leadership is taking towards sustaining these critical investments in the future. For example, the majority party has already pulled back from the bipartisan budget agreement reached earlier this year to avoid a governmental default, and now, on the precipice of a pointless Government shutdown, is advocating for deep draconian cuts to programs that benefit hard-working Americans. I am very strongly opposed to the proposed 40-percent cut to EPA's budget advanced by the majority and the likely equivalent reduction in protecting our clean water.

Mr. Chairman, as our witnesses today will reiterate, the strength of the American economy is reliant on clean water. It is a key ingredient for manufacturing, farming, food processing, small business development, tourism, and recreational businesses. If we do not protect our Nation's waters, this will have a negative impact on businesses, as they will not have the high-quality water they need for production and growth.

The decline of water quality will also require consumers, businesses, and residents to pay more in water utility bills to treat water before it comes to the tap.

Mr. Chairman, House Democrats proudly support continued investments in our clean water future. Now is not the time to pull back on Federal investments in our wastewater infrastructure.

I welcome our panelists here today and look forward to their valuable testimony.

[Mrs. Napolitano's prepared statement follows:]

Prepared Statement of Hon. Grace F. Napolitano, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Water Resources and Environment

Thank you, Mr. Chairman, for holding today's hearing to showcase the critical clean water investments made by the Bipartisan Infrastructure Law.

Last Congress, House Democrats worked with the Biden administration to provide the largest investment in our nation's crumbling infrastructure in over a generation.

With each dollar invested and each new water infrastructure project implemented, everyday Americans in your district and mine realize the benefits of the transformational Bipartisan Infrastructure Law with cleaner and safer water and a more resilient and more livable environment.

For example, in my congressional district, Los Angeles County is using BIL funding to carry out a list of long-awaited projects that benefit our community, our local economy, and the businesses and industries that rely on clean, safe, and resilient water for their success.

In just the past two years since the BIL was signed, Los Angeles County has announced numerous partnerships with the U.S. Environmental Protection Agency, the State of California, and local utilities to invest in our water-related infrastructure.

In May of 2022, the County closed a $441 million WIFIA loan that will support the Clearwater Project—a joint water pollution control plant effluent outfall tunnel project that will reduce flooding risks and prevent the contamination of local drinking water sources.

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And, because House Democrats specifically tailored these BIL investments to address the unique affordability concerns facing many minority, rural, and tribal communities, all Americans, regardless of zip code, can benefit from these investments and have access to clean, safe, and reliable drinking and wastewater services.

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For example, the majority party has already pulled back from the bipartisan budget agreement reached earlier this year to avoid a governmental default, and now, on the precipice of a pointless government shutdown, is advocating for deeper, draconian cuts to programs that benefit hard working American families.

I am strongly opposed to the projected 40 percent cut to EPA's budget advanced by the majority—and the likely equivalent reduction in protecting our nation's clean water.

Mr. Chairman, as our witnesses today will reiterate, the strength of the American economy is reliant on a clean water.

It is a key ingredient for manufacturing, farming, food processing, small business development, tourism and recreational businesses. If we do not protect our nation's waters, this will have a negative impact on business as they will not have the high-quality water they need for production and growth.

The decline of water quality will also require consumers, businesses, and residents to pay more in water utility bills to treat water before it comes to the tap.

Mr. Chairman, House Democrats proudly support continued investments in our clean water future. Now is not the time to pull back on federal investments in our wastewater infrastructure.

I welcome our panelists here today and look forward to their valued input.

Mrs. NAPOLITANO. I yield back.

Mr. ROUZER. The gentlelady yields back.

While I have the opportunity, I ask unanimous consent to enter into the record a letter sent on September 27, 2023, by the Western Governors' Association addressed to myself and Ranking Member Napolitano outlining the Western Governors' collective policy recommendations for clean water infrastructure financing.

Without objection, so ordered.

[The information follows:]

Letter and Attachments of September 27, 2023, to Hon. David Rouzer, Chairman, and Hon. Grace F. Napolitano, Ranking Member, Subcommittee on Water Resources and Environment, from Jack Waldorf, Executive Director, Western Governors' Association, Submitted for the Record by Hon. David Rouzer

SEPTEMBER 27, 2023.

The Honorable DAVID ROUZER,
Chairman,
Subcommittee on Water Resources and Environment, Committee on Transportation and Infrastructure, House of Representatives, 585 Ford House Office Building, Washington, DC 20515.

The Honorable GRACE F. NAPOLITANO,
Ranking Member,
Subcommittee on Water Resources and Environment, Committee on Transportation and Infrastructure, House of Representatives, 2165 Rayburn House Office Building, Washington, DC 20515.

DEAR CHAIRMAN ROUZER AND RANKING MEMBER NAPOLITANO:

With respect to the Committee's hearing scheduled for September 28, Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments, attached please find Western Governors' Association (WGA) Policy Resolutions 2021–10, Water Quality in the West, and 2021–08, Water Resource Management in the West. These resolutions include Western Governors' collective and bipartisan policy recommendations concerning the financing of clean water infrastructure.

The Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) have been the cornerstone of ensuring that Americans can access reliable and clean water. Investments in water delivery and wastewater infrastructure are essential to our nation's continued prosperity and environmental protection. In upholding the cooperative federalism model, Congress must ensure that adequate funding is provided to the CWA and SDWA State Revolving Funds (SRF) to assist states in addressing water infrastructure needs and complying with federal water quality and drinking water requirements. Western Governors also urge Congress provide greater flexibility and fewer restrictions on state SRF management.

I request that you include these documents in the permanent record of the hearing, as they articulate Western Governors' policy positions and recommendations on this important issue.

Thank you for your consideration of this request. Please contact me if you have any questions or require further information.

Sincerely,

JACK WALDORF,
Executive Director, Western Governors' Association.

Attachments (2)

ATTACHMENT 1

WESTERN GOVERNORS' ASSOCIATION
POLICY RESOLUTION 2021–10
WATER QUALITY IN THE WEST

A. BACKGROUND

1. Clean water is essential to strong economies and quality of life. In most of the West, water is a scarce resource that must be managed with sensitivity to social, environmental, and economic values and needs. Because of their unique understanding of these needs, states are in the best position to manage and protect their water resources.
2. Through the Clean Water Act (CWA), Congress has codified its policy "to recognize, preserve, and protect the primary responsibilities and rights of states to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the [EPA] Administrator in the exercise of his authority under [the CWA]."
3. The CWA further expresses Congress's policy that "the authority of each state to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this chapter . . . Federal agencies shall cooperate with state and local agencies, including authorized tribes, to develop comprehensive solutions to prevent, reduce, and eliminate pollution in concert with programs for managing water resources."
4. States and the Environmental Protection Agency (EPA) work together as co-regulators in the administration and implementation of the CWA and the Safe Drinking Water Act (SDWA). Congress has delegated to states, by statute, the authority to obtain approval to implement certain federal program responsibilities. When a state has been approved to implement a program and the state is meeting minimum program requirements, the role of federal agencies should be limited to funding, technical assistance, and research support. States should be free to develop, implement, and enforce statutory requirements using an approach that makes sense in their specific jurisdiction, subject to the minimum requirements of the federal acts.
5. The CWA was last reauthorized in 1987; attempts to reauthorize the Act since then have failed. Current federal regulations, guidance, and programs pertaining to the CWA do not always recognize the specific conditions and needs of most of the West, where water is scarce and even wastewater becomes a valuable resource to both humans and the environment. The West includes a variety of waters; small ephemeral washes, large perennial rivers, effluent-dependent streams, and wild and scenic rivers. In addition to natural rivers, streams and lakes, there are numerous man-made reservoirs, waterways and water conveyance structures. States need more flexibility to determine how to best manage these varying resources.

B. GOVERNORS' POLICY STATEMENT

Clean Water Act (CWA)

1. *State Authority and Implementation of CWA*: States have jurisdiction over water resource allocation decisions and are responsible for how to balance state water resource needs within CWA objectives. New regulations, rulemaking, and guidance should recognize this state authority.
   a) *CWA Jurisdiction*: Western Governors urge EPA and the U.S. Army Corps of Engineers to engage the states as sovereigns and co-regulators in the development of any rule, regulation, policy, or guidance addressing the definition of "waters of the United States" as that term applies to the jurisdictional scope of the CWA. Specifically, federal agencies should engage with states—through Governors or their designees—with early, meaningful, substantive, and ongoing consultation that adequately supports state authority. Such consultation should begin in the initial stages of development before irreversible momentum precludes effective state participation.
   b) *Total Maximum Daily Loads (TMDLs)/Adaptive Management*: States should have the flexibility to adopt water quality standards and set total maximum daily loads (TMDLs) that are tailored to the specific characteristics of western water bodies, including variances for unique state and local conditions.

c) *Anti-degradation*: CWA Section 303 gives states the primary responsibility to establish water quality standards (WQS) subject to EPA oversight. Given the states' primary role in establishing WQS, EPA should directly involve the states in the rulemaking process for any proposed changes to its existing regulations. Before imposing new antidegradation policies or implementation requirements, EPA should document the need for new requirements and strive to ensure that new requirements do not interfere with sound existing practices.

d) *Groundwater*: States have primary authority over the protection of groundwater and exclusive authority over the management and allocation of groundwater resources within their borders. The regulatory reach of the CWA does not extend to the management and protection of groundwater resources unless the activity in question is the functional equivalent of a direct discharge from a point source. In addressing pollution to groundwater resources, the federal government must recognize and respect state authority, work in collaboration with states, and operate within the designated scope of federal statutory authorities. EPA should engage with states with early, meaningful, substantive, and ongoing consultation on any regulatory processes focused on groundwater resources or the development and application of the meaning of "functional equivalent."

2. *Permitting*: Actions taken by EPA in its CWA permitting processes should not impinge upon state authority over water management or the states' responsibility to implement CWA provisions.

a) *State Water Quality Certification*: Section 401 of the CWA requires applicants for a federal license to secure state certification that potential discharges from their activities will not violate state water quality standards. Section 401 embodies cooperative federalism. States' mandatory conditioning authority should be retained in the CWA.

b) *General Permits*: Reauthorization of the CWA must reconcile the continuing administrative need for general permits with their site-specific permitting requirements under the CWA. EPA should promulgate rules and guidance that better support the use of general permits where it is more effective to permit groups of dischargers rather than individual dischargers.

c) *Water Transfers Rule*: Western Governors support EPA's current Water Transfers Rule, which exempts water transfers between waters of the United States from the CWA National Pollutant Discharge Elimination System (NPDES) permitting requirements when such transfers do not involve the addition of any pollutants. States possess adequate authority to address the water quality issues associated with such transfers. Western Governors believe that transporting water through constructed conveyances to supply beneficial uses should not trigger duplicative NPDES permit requirements.

d) *Pesticides*: Western Governors generally support the primary role of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in regulating agriculture and public health related pesticide applications to waters of the U.S. and will seek state-based solutions that complement rather than duplicate FIFRA in improving, where possible, environmental resources.

3. *Nonpoint Source Pollution*: Nonpoint source pollution requires state watershed-oriented water quality management plans; federal agencies should collaborate with states to carry out the objectives of these plans. The CWA should not supersede other ongoing federal, state, and local nonpoint source programs. Federal water policies must recognize that state programs enhanced by federal efforts could provide a firm foundation for a national nonpoint source policy that maintains the non-regulatory and voluntary nature of the program. In general, the use of point source solutions to control nonpoint source pollution is also ill-advised.

a) *Forest Roads*: Stormwater runoff from forest roads has been managed as a nonpoint source of pollution under EPA regulation and state law since enactment of the CWA. Western Governors support solutions that are consistent with the long-established treatment of forest roads as nonpoint sources, provided that forest roads are treated equally across ownership within each state.

b) *Nutrient Pollution*: Nitrogen and phosphorus (nutrient) pollution is a significant cause of water quality impairment across the nation, and continued cooperation between states and EPA is needed. This impairment is a serious

concern across western states and additional resources to make investments in wastewater treatment infrastructure are needed as part of a strategy to address it.

States should be allowed sufficient flexibility to utilize their own incentives and authorities to establish standards and control strategies to address nutrient pollution, rather than being forced to abide by one-size-fits-all federal numeric criteria. Successful tools currently in use by states include best management practices, nutrient trading, controlling other water quality parameters, and other innovative approaches.

4. *CWA Reauthorization*: Western Governors support reauthorization of the CWA, provided that it recognizes the unique hydrology and legal framework in western states. Further, any CWA reauthorization should include a new statement of purpose to encourage the reuse of treated wastewater to reduce water pollution and efficiently manage water resources.
5. *Good Samaritan Legislation*: Congress should enact a program to protect volunteering remediating parties who conduct authorized remediation of abandoned hardrock mines from becoming legally responsible under the CWA and/or the Comprehensive Environmental Response, Compensation, and Liability Act for any continuing discharges after completion of a remediation project, provided that the remediating party—or "Good Samaritan"—does not otherwise have liability for that abandoned mine or inactive mine site.
6. *Stormwater Pollution*: In the West, stormwater discharges to ephemeral streams in arid regions pose substantially different environmental risks than do the same discharges to perennial surface waters. Western Governors emphasize the importance of state expertise in water management, including management of ephemeral streams. The federal government must recognize and respect state authority and work in collaboration with state agencies to support tailored approaches that reflect the unique management needs of ephemeral streams.
7. *State-Tribal Coordination*: Western Governors endorse government-to-government cooperation among the states, tribal nations, and EPA in support of effective and consistent CWA implementation. While retaining the ability of the Governors to take a leadership role in coordination with the tribal nations, EPA should promote effective consultation, coordination, and dispute resolution among the governments, with emphasis on lands where tribal nations have treatment-as-state status under Section 518 of the CWA.

Safe Drinking Water Act (SDWA)

8. *Federal Assistance in Meeting SDWA Standards*: Western Governors believe that the SDWA and its standards for drinking water contaminants have been instrumental in ensuring safe drinking water supplies for the nation. It is essential that the federal government, through EPA, provide adequate support to the states and water systems to meet federal requirements. Assistance is particularly needed for small and rural systems, which often lack the resources needed to comply with federal treatment standards.
9. *Drinking Water Standards*: Contaminants such as arsenic, chromium, perchlorate, and fluoride often occur naturally in the West. Western Governors support EPA technical assistance and research to improve both the efficiency and affordability of treatment technologies for these contaminants. In any drinking water standards that the EPA may revise or propose for these and other contaminants, including disinfection byproducts, EPA should consider the disproportionate effect that such standards may have on western states and give special consideration to feasible technology based on the resources and needs of smaller water systems.
10. *Risk Assessments*: Analysis of the costs of treatment for drinking water contaminants should carefully determine the total costs of capital improvements, operation, and maintenance when determining feasible technology that can be applied by small systems. These costs should be balanced against the anticipated human health benefits before implementing or revising drinking water standards.
11. *Emerging Contaminants/Pharmaceuticals*: The possible health and environmental effects of emerging contaminants, including per- and polyfluoroalkyl substances (PFAS) and cyanotoxins produced by harmful algal blooms, and pharmaceuticals are of concern to Western Governors. Although some states have existing authorities to address possible risks associated with emerging

contaminants and pharmaceuticals, there is a need for continued investment in scientific research regarding human health effects of these contaminants.

Compliance with Federal Water Quality and Drinking Water Requirements

12. *State Revolving Funds*: Western Governors support EPA's Clean Water State Revolving Fund (SRF) and Drinking Water SRF as important tools that help states and local communities address related water infrastructure needs and comply with federal water quality and drinking water requirements. Western Governors also urge Congress and the Administration to ensure that the SRF Programs are adequately funded and provide greater flexibility and fewer restrictions on state SRF management.
13. *Restoring and Maintaining Lakes and Healthy Watersheds*: Historically, the Section 314 Clean Lakes Program and the Section 319 Nonpoint Source Management Program provided states with critical tools to restore and maintain water quality in lakes and watersheds. Western Governors urge the Administration and Congress to support these programs. Such support should not come at the expense of other federal watershed protection programs.
14. *EPA Support and Technical Assistance*: The federal government, through EPA, should provide states and local entities with adequate support and technical assistance to help them comply with federal water quality and drinking water requirements. EPA should also collaborate with and allow states to identify and establish priority areas, timelines, and focus on programs that provide the largest public health and environmental benefits.
15. *EPA Grant Funding for Primary Service—Rural Water Programs*: Some rural communities still lack basic water and sanitary services needed to assure safe, secure sources of water for drinking and other domestic needs. Adequate federal support, including but not limited to the Rural Utilities Service programs of the U.S. Department of Agriculture and SRFs through EPA, are necessary to supplement state resources.

Water Quality Monitoring and Data Collection

16. *Water Data Needs*: Western water management is highly dependent upon the availability of data regarding both the quality and quantity of surface and ground waters. Western Governors urge the federal government to support and develop programs that can be utilized by states for water resource management and protection and to provide assistance to states in developing innovative monitoring and assessment methods, including making use of biological assessments, sensors and remote sensing, as well as demonstrating the value to the states of the national probabilistic aquatic resource surveys.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in June 2024. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult http://www.westgov.org/resolutions for the most current copy of a resolution and a list of all current WGA policy resolutions.

ATTACHMENT 2

WESTERN GOVERNORS' ASSOCIATION
POLICY RESOLUTION 2021–08
WATER RESOURCE MANAGEMENT IN THE WEST

A. BACKGROUND

1. Water is a crucial resource for communities, industries, habitats, farms, and western states. Clean, reliable water supplies are essential to maintain and improve quality of life. The scarce nature of water in much of the West makes it particularly important to our states.
2. States are the primary authority for allocating, administering, protecting, and developing water resources, and they are primarily responsible for water supply planning within their boundaries. States have the ultimate say in the man-

agement of their water resources and are best suited to speak to the unique nature of western water law and hydrology.

3. Many communities in the West anticipate challenges in meeting future water demands. Supplies are nearly fully allocated in many basins across the West, and increased demand from population growth, economic development, and intensifying extreme weather and fire events places added stress on those limited water resources. Sustainability of our natural resources, specifically water, is imperative to the foundations upon which the West was developed. Growth and development can only continue upon our recognition of continued state stewardship of our unique resources and corresponding responsibilities.
4. Strong state, regional and national economies require reliable deliveries of good-quality water, which in turn depend on adequate infrastructure for water and wastewater. Investments in water infrastructure also provide jobs and a foundation for long-term economic growth in communities throughout the West. Repairs to aging infrastructure are costly and often subject to postponement.
5. Western Governors recognize the essential role of partnership with federal agencies in western water management and hope to continue the tradition of collaboration between the states and federal agencies.
6. Tribal nations and western states also share common water resource management challenges. The Western Governors Association and Western States Water Council have had a long and productive partnership with tribal nations, working to resolve water rights claims.

B. GOVERNORS' POLICY STATEMENT

1. *State Primacy in Water Management*: As the preeminent authority on water management within their boundaries, states have the right to develop, use, control and distribute the surface water and groundwater resources, subject to international treaties and interstate agreements and judicial decrees.
   a. *Federal Recognition of State Authority*: The federal government has long recognized the right to use water as determined under the laws of the various states; Western Governors value their partnerships with federal agencies as they operate under this established legal framework.

      While the Western Governors acknowledge the important role of federal laws such as the Clean Water Act (CWA), the Endangered Species Act (ESA), and the Safe Drinking Water Act (SDWA), nothing in any act of Congress or Executive Branch regulatory action should be construed as affecting, usurping, or intending to affect or usurp states' primacy over the allocation and administration of their water resources.

      Authorization of federal water resources development legislation, proposed federal surplus water rulemakings, and/or storage reallocation studies should recognize natural flows and defer to the states' legal right to allocate, develop, use, control, and distribute such waters, including but not limited to state storage and use requirements.

   b. *Managing State Waters for Environmental Purposes*: States and federal agencies should coordinate efforts to avoid, to the extent possible, the listing of water-dependent species under the ESA. When ESA listings cannot be avoided, parties should promote the use of existing state tools, such as state conservation plans and in-stream flow protections, to conserve and recover species.
2. *Infrastructure Needs*: Aging infrastructure for existing water and wastewater facilities and the need for additional water projects cannot be ignored. Water delivery and wastewater infrastructure investments are essential to our nation's continued economic prosperity and environmental protection, and they assist states in meeting federally-mandated standards under the CWA, SDWA, and other federal statutes. Western Governors support efforts to make the most of existing infrastructure while seeking creative solutions to add more infrastructure with limited resources.
   a. *Federal Support for Infrastructure Investment*: Congress should provide adequate support for the CWA and SDWA State Revolving Funds. Further, Congress should support restoration and repair of aging water infrastructure, commit to aiding efforts to address the recurring drought conditions across the West, and fully utilize the receipts accruing to the Reclamation Fund for their intended purpose in the continuing conservation, development and wise use of western resources to meet western water-related needs, including the

construction of Congressionally-authorized Bureau of Reclamation rural water projects and facilities that are part of Congressionally-authorized Indian water rights settlements.

Congress should authorize federal water resources development legislation on a regular schedule and appropriate sufficient funding so that all projects and studies authorized in such legislation can be completed in a timely manner.

The Bureau of Reclamation's WaterSMART Program provides valuable support to states, tribal nations, water and irrigation districts, and local entities to invest in water conservation projects and modern water delivery infrastructure.

The U.S. Army Corps of Engineers' Planning Assistance to the States (PAS or "Section 22") Program also funds critical work in western states as a program focused on comprehensive water resources planning.

Congress also should recognize the potential of greater private investment in water infrastructure, utilizing, where appropriate, such tools as loan guarantees, revolving funds, infrastructure banks and water trust funds.

Capital budgeting and asset management principles should be used to determine funding priorities based on long-term sustainability and not annual incremental spending choices. It should be accompanied by dedicated sources of funding with appropriate financing, cost-sharing, pricing and cost recovery policies.

b. *Additional Investment Tools*: Federal and state policymakers should also consider additional tools to promote investment in water infrastructure and reduce financing costs, including: public-private partnerships, bond insurance, risk pooling, and credit enhancements.

Congress should remove the state volume caps for private activity bonds used for water and wastewater projects, provide guaranteed tax-exempt status for bonds issued by state or local agencies to finance water infrastructure, provide loan guarantees, and otherwise support and encourage the use of other financing tools.

c. *Hydropower*: In consultation with affected states, Congress and the Administration should optimize federally-owned or licensed hydropower resources by increasing turbine efficiency and investing in conduit hydropower in irrigation canals and wastewater systems consistent with existing water diversions. Congress and the Administration should also authorize and implement federally-owned or licensed hydropower projects and programs through efficient permitting processes that: utilize new technology to improve renewable electric generation capacity, promote economic development, are consistent with the needs of native fisheries and riverine processes, and safeguard and solidify states' permitting and certification authority and indigenous peoples' rights.

d. *Infrastructure Planning and Permitting*: Federal infrastructure planning and permitting guidelines, rules and regulations should be coordinated with state processes, and sufficiently flexible to: (1) allow for timely decision-making in the design, financing and construction of needed infrastructure; (2) account for regional differences; (3) balance economic and environmental considerations; and (4) minimize the cost of compliance.

3. *Western States Require Innovative and Integrated Water Management*: Western Governors believe effective solutions to water resource challenges require an integrated approach among states and with federal, tribal and local partners. Federal investments should assist states in implementing state water plans designed to provide water for municipal, rural, agricultural, industrial and habitat needs, and should provide financial and technical support for development of watershed and river basin water management plans when requested by states.

Integrated water management planning should also account for flood control, water quality protection, and regional water supply systems. Water resource planning must preserve state authority to manage water through policies which recognize state law and financial, environmental and social values of water to citizens of western states today and in the future.

a. *Water Transfers*: Western Governors recognize the potential benefits of market-based water transfers, meaning voluntary sales or leases of water rights. The Governors support water transfers that avoid or mitigate damages to agricultural economies and communities without causing injury to other water rights, water quality, and the environment.

b. *Energy Development*: Western Governors recognize that energy development and electricity generation may create new opportunities for limited water resources. Western Governors recommend increased coordination across the energy and water management communities and support ongoing work to assess interactions between energy generation and water availability in the Western Interconnection.

c. *Conservation and Efficiency*: Because of diminished water resources and declining and inconsistent snowpack, Western Governors encourage adoption of strategies to sustain water resources and extend existing water supplies further through water conservation, water reuse and recycling, desalination and reclamation of brackish waters, and reductions in per capita water use. The Governors encourage the use of and research into promising domestic, municipal, industrial, produced, and agricultural water conservation strategies and technologies.

d. *Local Watershed Planning*: Western Governors encourage federal agencies and Congress to provide resources such as technical support to states and local watershed groups. States may empower these watershed groups to address local water issues associated with water quality, growth and land management to complement state water needs.

e. *Forest Health and Soil Stewardship*: Better land management practices for forests and farmland may help improve water availability and soil moisture retention. Wildfires can cause sediment runoff in water systems, leading to problems for reservoir management and water quality. Governors support policies and practices that encourage healthy and resilient forests and soils in order to make the most of existing water supplies.

f. *Intergovernmental Collaboration and Conflict Resolution*: Western Governors support the settlement of interstate water disputes, Indian and Native Hawaiian water rights claims, and other federal water needs and claims, the settlement of which are in the best interest of western states.

g. *State-Federal Coordination*: Western Governors recognize the important role of federal agencies in water resource management in the western states. Governors appreciate the efforts of federal agencies to coordinate water-related activities, particularly through the Western States Water Council, and support the continuation of these key state-federal partnerships.

4. *Western States Need Reliable Water Resource Information*: Basic information on the status, trends and projections of water resource availability is essential to sound water management.

a. *Basic Water Data*: Western Governors support federal programs dedicated to the improvement of data on snowpack, streamflow, soil moisture, and forecasting, including the Natural Resources Conservation Service's Snow Survey and Water Supply Forecasting Program; the National Oceanic and Atmospheric Administration's weather and hydrology-related data collection, monitoring, and drought information programs, including the National Integrated Drought Information System; the U.S. Geological Survey's Groundwater and Streamflow Information Program; and the National Aeronautics and Space Administration's National Land Imaging (Landsat) Program. Western Governors further support federal efforts to coordinate water data gathering and information programs across multiple agencies.

b. *Extreme Weather Events Planning*: Western Governors recognize the significant effects posed by extreme weather events and variability in water supplies. Western Governors urge Congress and the Administration to work closely with states and other resource managers to improve predictive and adaptive capabilities for extreme weather variability and related impacts. We specifically urge the federal government to place a priority on improving the sub-seasonal and seasonal precipitation forecasting capabilities that could support water management decision-making.

c. *Water Data Exchange*: The Western Governors' Association and the Western States Water Council have worked together to create the Water Data Exchange, an online portal that will enable states to share their water data with each other, federal agencies, and the public via a common platform. The Governors encourage the use of state water data in planning for both the public and private sectors.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in June 2024. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult http://www.westgov.org/resolutions for the most current copy of a resolution and a list of all current WGA policy resolutions.

Mr. ROUZER. I now recognize the ranking member of the full committee, Mr. Larsen, for 5 minutes for an opening statement.

OPENING STATEMENT OF HON. RICK LARSEN OF WASHINGTON, RANKING MEMBER, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. LARSEN OF WASHINGTON. Thank you, Chair Rouzer and Ranking Member Napolitano, for holding this hearing on clean water infrastructure financing, and thank you to the witnesses for joining us today.

I have to admit, I am a little disappointed, walking down the hallways here and seeing the big lineup outside, and then realizing they weren't here for the clean water infrastructure hearing. I do think it is an important issue, perhaps not as important as other things, but I am glad we are having this hearing and the folks at home can participate otherwise.

In June, I joined EPA's Assistant Administrator for Water, Radhika Fox, in my district in Ferndale, Washington, to announce over $278 million in funding for water infrastructure for American Indian Tribes and Alaska Native Villages. These historic investments were the largest ever made by the EPA to Tribes through regular appropriations funding.

Clean water is a human right that historically underserved communities, including Tribal communities, have lacked access to for far too long. Investments like these made possible by the Bipartisan Infrastructure Law will improve lives, level the playing field for communities, and create jobs.

In the BIL, on a bipartisan basis, Congress affirmed its commitment to water infrastructure with significant investments: $14.4 billion in Federal dollars for upgrading wastewater systems, preventing pollution, and supporting restoration programs in places like Puget Sound and the Salish Sea. These investments are critical, providing a lifeline to communities across the country struggling to maintain water quality. Members who voted for the BIL voted for clean water.

House Democrats have consistently supported investments in water infrastructure to protect public health and the work that EPA and other agencies do in support of this clean water mission. In contrast, the House Republican Interior Appropriations bill proposes a two-thirds reduction in funding for the Clean Water SRF, a cut of over $1 billion.

The Clean Water State Revolving Fund, or the SRF, has been the linchpin of efforts to protect and improve water quality for over

three decades. I suspect that's why, despite their differences, all the witnesses appearing before us today agree on the importance of Clean Water SRF funding.

In just the last 2 years, in the district I represent, the Clean Water SRF has been used to upgrade aging sewer and water equipment, improve nutrient removal capabilities, and protect local groundwater supply. And I have toured, far too many to count, wastewater facilities in my district—it's the thing you get to do when you are a Member of Congress—and I can assure you there is plenty more work that needs to be done.

From a $1.4 million SRF loan in Whatcom County to a $200,000 grant to the Lummi Tribe for engineering reviews, the Clean Water SRF is making a difference. Established in 1987, it has been critical for countless communities striving to upgrade and maintain their water and wastewater infrastructure. It has provided low-interest loans and grants to States and municipalities, allowing them to undertake vital projects that protect public health, preserve our natural resources, and stimulate economic growth.

Unfortunately, we have at times neglected to invest in our infrastructure. Aging pipes, polluted waterways, and increasingly frequent extreme weather events have stretched our water systems and wastewater systems to a breaking point. The most recent EPA report on wastewater infrastructure needs estimated we would need $271 billion over the next 20 years to continue to meet Federal standards for water quality. These challenges are not limited to one region; they affect communities from coast to coast and across the political spectrum.

Under the Bipartisan Infrastructure Law, $11.7 billion in supplemental appropriations for the Clean Water SRF will be provided through 2026, on top of what should be continued in regular appropriations. These investments are a downpayment on transforming our Nation's wastewater infrastructure, and their significance cannot be overstated. This funding will enable communities large and small to embark on a new era of water infrastructure projects that will modernize our systems, improve water quality, and ensure the safety and health of citizens.

The impact of this investment goes beyond the immediate benefits of improved water quality. It will create jobs. It will stimulate local economies. It will support American business.

The Bipartisan Infrastructure Law recognizes that investing in our water infrastructure is an investment in our future.

So, I thank you again, Mr. Chair and Ranking Member, for holding this hearing, and I look forward to the testimony.

[Mr. Larsen of Washington's prepared statement follows:]

Prepared Statement of Hon. Rick Larsen, a Representative in Congress from the State of Washington, and Ranking Member, Committee on Transportation and Infrastructure

Thank you, Chairman Rouzer and Ranking Member Napolitano, for holding this hearing on clean water infrastructure financing, and thank you to the witnesses for joining us today.

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nounce over $278 million in funding for water infrastructure for American Indian Tribes and Alaska Native Villages.

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I suspect that's why, despite their differences, all the witnesses appearing before us today agree on the importance of Clean Water SRF funding. In just the last two years, in the district I represent, the Clean Water SRF has been used to upgrade aging sewer and water equipment, improve nutrient removal capabilities, and protect local groundwater supply.

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This funding will enable communities large and small to embark on a new era of water infrastructure projects that will modernize our systems, improve water quality, and ensure the safety and health of our citizens.

The impact of this investment goes beyond the immediate benefits of improved water quality. It will also create jobs, stimulate local economies, and support American businesses.

The Bipartisan Infrastructure Law recognizes that investing in our water infrastructure is an investment in our future.

Thanks again to the Chairman and Ranking Member for holding this hearing, I look forward to the testimony.

Mr. ROUZER. I thank the gentleman. I would now like to welcome our witnesses. And again, thank you for being here today.

First, we have Ms. Lori Johnson, assistant chief, Financial Assistance Division, at the Oklahoma Water Resources Board, here on behalf of the Council of Infrastructure Financing Authorities.

We have Mr. Todd Swingle, CEO and executive director of Toho Water Authority in Kissimmee, Florida, on behalf of the National Association of Clean Water Agencies.

And we have Mr. Jim Proctor, senior VP of legal and external affairs at McWane, Incorporated, on behalf of the U.S. Chamber of Commerce.

And last, but certainly not least, Ms. Rebecca Hammer, the deputy director for Federal water policy at the Natural Resources Defense Council.

So, briefly, let me explain the lighting system, of which I am sure you are already fully aware. Green means go; yellow means you've got about 30 seconds left; and red means wrap it up as quick as you can.

I ask unanimous consent that the witnesses' full statements be included in the record.

Without objection, so ordered.

As your written testimony has been made part of the record, the subcommittee asks that you limit your oral remarks to roughly 5 minutes.

With that, Ms. Johnson, you are recognized for 5 minutes.

TESTIMONY OF LORI JOHNSON, ASSISTANT CHIEF, FINANCIAL ASSISTANCE DIVISION, OKLAHOMA WATER RESOURCES BOARD, ON BEHALF OF THE COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES; TODD P. SWINGLE, P.E., CHIEF EXECUTIVE OFFICER AND EXECUTIVE DIRECTOR, TOHO WATER AUTHORITY, ON BEHALF OF THE NATIONAL ASSOCIATION OF CLEAN WATER AGENCIES; JAMES M. PROCTOR II, SENIOR VICE PRESIDENT, LEGAL AND EXTERNAL AFFAIRS, MCWANE, INC., ON BEHALF OF THE U.S. CHAMBER OF COMMERCE; AND REBECCA HAMMER, DEPUTY DIRECTOR OF FEDERAL WATER POLICY, NATURAL RESOURCES DEFENSE COUNCIL

TESTIMONY OF LORI JOHNSON, ASSISTANT CHIEF, FINANCIAL ASSISTANCE DIVISION, OKLAHOMA WATER RESOURCES BOARD, ON BEHALF OF THE COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES

Ms. JOHNSON. Thank you, Chairman Rouzer, Ranking Members Napolitano and Larsen, and members of the committee, for allowing me to testify before you today. My name is Lori Johnson, and I am the assistant chief of the Financial Assistance Division of the Oklahoma Water Resources Board. I am testifying today on behalf of the Council of Infrastructure Financing Authorities, also known as CIFA, which is a national organization that represents the Clean Water SRFs around the country.

Clean Water SRFs around the country wanted me to leave you with three take-home messages today.

First, we love loans. I know I am probably one of the few witnesses to testify to that, but the SRFs love subsidized loans because they are a model of fiscal responsibility. Federal funding is used over and over in perpetuity to meet the never-ending need to repair, rehabilitate, and replace aging infrastructure. For example, Federal appropriations from the 1990s are being used today to finance billions of dollars in infrastructure projects. Without loan re-

payments, these water projects would likely cost more or wouldn't be built at all.

We also love SRF subsidized loans because they foster fiscal responsibility. To qualify for a loan, these communities have to have their finances in order.

And the SRFs love subsidized loans because they save money, real money. Subsidized loans can save as much as two-thirds in interest payments, which is essentially a grant equivalent, financing costs which would otherwise be passed on to ratepayers through utility bills.

Second, the cumulative impact of Federal mandates is increasing the cost of water infrastructure and threatening the affordability of SRF subsidized loans. Since 2009, a growing number of Federal mandates has eroded the savings from SRF subsidized loans. Today, Federal mandates impact many aspects of water infrastructure projects, including planning and design, procurement of professional services, wages for construction workers, and the eligibility of construction materials, all of which impact the cost of the project.

While well-intentioned public policy, these Federal mandates may not be achieving the goals originally envisioned by Congress and, more importantly, the goals of the Clean Water Act, which is to maintain, restore, and protect the quality of the Nation's waters. The Clean Water SRFs urge the committee to fully evaluate the impact of Federal mandates on SRF subsidized loans, specifically whether these mandates are increasing protection for public health and the environment, which are the goals of the SRF programs.

Third, the Clean Water SRFs urge the committee to establish a separate authorization for congressional earmarks. For the last 2 years, the Appropriations Committee has diverted more than $1.3 billion in annual Federal funding from the Clean Water SRFs to pay for congressional earmarks. While supplemental funding in the Infrastructure Investment and Jobs Act is mitigating the immediate damage of those cuts, shifting Federal funding from loans to grants will have lasting effects on the Nation's ability to finance water infrastructure in the future, not to mention undermining the transformation potential of the Infrastructure Investment and Jobs Act.

Additionally, the Clean Water SRFs face a fiscal cliff when this short-term funding ends in just 3 years. Establishing a separate authorization would provide greater transparency to annual Federal funding for the Clean Water SRFs, which is essential for managing the SRF project pipeline.

Thank you again for the opportunity to testify on behalf of the Clean Water SRFs. I look forward to answering any questions you may have.

[Ms. Johnson's prepared statement follows:]

Prepared Statement of Lori Johnson, Assistant Chief, Financial Assistance Division, Oklahoma Water Resources Board, on behalf of the Council of Infrastructure Financing Authorities

Chairman Rouzer, Ranking Member Napolitano and members of the Committee, thank you for the opportunity to testify before you today on behalf of the 51 Clean Water State Revolving Funds (SRFs), the nation's premier programs for financing water infrastructure that protects public health and the environment.

My name is Lori Johnson and I am Assistant Chief of the Financial Assistance Division for the Oklahoma Water Resources Board, which manages the Clean Water SRF in the Sooner State. I also serve as Secretary for the Board of Directors of the Council of Infrastructure Financing Authorities (CIFA), which is a national not-for-profit organization that educates and advocates on behalf of the Clean Water and Drinking Water SRFs.

THE CLEAN WATER SRFS ARE A NATIONAL MODEL FOR FEDERAL INVESTMENT IN INFRASTRUCTURE.

More than three decades ago, Congress established the Clean Water SRFs as federally subsidized loan programs to provide affordable financing for municipal water infrastructure that protects public health and the environment. Since then, the Clean Water SRFs have used $52 billion in federal capitalization grants to generate $163 billion in financial assistance for more than 46,000 clean water infrastructure projects in communities across the nation.

Because of Congress' foresight and fiscal responsibility, the Clean Water SRFs are generating a recurring, renewable source of revenue to meet the never-ending need to repair, rehabilitate and replace aging water infrastructure. As of 2022, loan repayments permanently revolving in the Clean Water SRFs topped $63 billion, exceeding cumulative federal funding and financing projects that may never have been built had Congress created a grant program instead.

The Clean Water SRF subsidized loans save money to keep water bills affordable.

In 2022, the average interest rate on an SRF subsidized loan was 1.2%[1], while the average interest rate on a municipal bond was 3.8%[2]—more than triple the average SRF interest rate. A utility that finances a $10 million project through an SRF will save more than $3.15 million, or 71%, in interest payments, compared to the interest on a municipal bond. Reducing the cost of water infrastructure alleviates pressure on utilities to raise rates for wastewater, stormwater and recycled water services.

The Clean Water SRFs are effective and responsive to communities.

The Clean Water SRFs are effective because federal law allows states to customize their program within a broad federal framework. This flexibility, which is a hallmark of the SRF state-federal partnership, allows the SRFs to be responsive to the diverse and evolving needs of communities across the nation—from small communities such as Tabor City, North Carolina, with a population of 4,000, to urban centers, such as Los Angeles, California, with a population of nearly four million.

The Clean Water SRFs are efficient, low-cost infrastructure funding programs.

The amount of annual federal funding that can be used to administer the Clean Water SRFs is capped at just 4%. To maximize the amount of federal funding for water infrastructure projects, some SRFs use state funding or other revenue sources to pay staff and administrative expenses. To improve the impact and outcomes of federal funding, some SRFs use the administrative allotment to fund technical assistance, apprenticeship programs, or other statewide initiatives.

The Clean Water SRFs efficiently deliver billions in financial assistance every year.

Just last year, the Clean Water SRFs delivered $9.6 billion in state and federal funding for more than 1,600 water infrastructure projects. More than half of the water infrastructure projects were in small and rural communities with a population of less than 3,500. SRFs are often the only funding option for small and rural communities, which lack the revenue to qualify or afford financing on the municipal bond market.

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[1] According to the U.S. Environmental Protection Agency, the average Clean Water SRF interest rate was 1.2% in 2022.

[2] According to the Securities Industry and Financial Markets Association, the average interest rate for a 20-year high grade average was 3.8% in 2022.

WHILE WELL-INTENDED, FEDERAL MANDATES ON SRF SUBSIDIZED LOANS ARE INCREASING THE COST OF WATER INFRASTRUCTURE; THESE COSTS ARE THEN PASSED ONTO HOUSEHOLDS AND SMALL BUSINESSES IN HIGHER WATER BILLS. PERHAPS MORE IMPORTANTLY, THESE FEDERAL MANDATES MAY NOT BE ACHIEVING THE GOALS THAT CONGRESS INTENDED.

Since 2009, Congress has added multiple federal mandates on SRF subsidized loans, including state funded loans. Today, federal mandates impact nearly every aspect of a water infrastructure project, including planning and design, procurement of professional services, wages for construction workers, and eligibility of building materials.

Mandate	Enacted	Federally Financed Projects	State Financed Projects
Davis Bacon	2009	X	X
American Iron and Steel	2014	X	X
Water and Energy Certification	2014	X	X
Fiscal Sustainability Plan	2014	X	X
Engineering Procurement	2014	X	
Build America, Buy America	2021	X	

DAVIS BACON PREVAILING WAGE LAWS

Since 2009, annual appropriations bills and subsequently the Clean Water Act have required all SRF projects, including those financed by state funding, to comply with Davis Bacon, which requires construction workers to be paid the federal prevailing wage rate for the county in which the project is built.

For most projects, paying the federal prevailing wages isn't an issue, especially in today's tight labor market which often requires contractors to pay more than the federal prevailing wage to attract and retain skilled workers. The problem is the prescriptive, burdensome and duplicative federal procedures and paperwork required to demonstrate compliance with the federal mandate.

CIFA offers these suggestions to streamline the compliance procedures for Davis Bacon while maintaining the mandate for federal prevailing wages:

- *Modernize the contract threshold and index the threshold to inflation*: Davis Bacon applies to water infrastructure projects that cost more than $2,000, a threshold that hasn't been updated since the law was enacted in 1931. For context, the average cost of a water infrastructure project in a small community (fewer than 10,000 people) was $1.8 million in 2022.
- *Allow the use of the wages published by the Department of Labor's Bureau of Labor Statistics in lieu of conformance*: Wage determinations are not always available for every job in every county, especially in rural counties. Allowing the use of a trusted, alternative source for wages would eliminate the need for conformance, which can be a lengthy process for getting a wage determination.
- *Allow compliance with state prevailing wage laws to satisfy compliance with Davis Bacon*: 26 states have state prevailing wage laws and must comply with both federal and state compliance procedures, which is duplicative and increases the cost of compliance but may not benefit workers.
- *Allow Governors to develop compliance procedures that better align with state law*: The Clean Water Act allows Governors to develop compliance procedures,[3] but EPA has not approved implementation of this provision.
- *Allow state prevailing wages to be used in lieu of federal prevailing wages*: According to a 2019 audit by the Inspector General of the Department of Labor,[4] the agency adopts state prevailing wages for transportation projects but not for

[3] Clean Water Act 33 U.S.C. §1382 (b) (6) treatment works eligible under this chapter which will be constructed in whole or in part with assistance made available by a State water pollution control revolving fund authorized under this subchapter, or section 1285(m) of this title, or both, will meet the requirements of, or otherwise be treated (as determined by the Governor of the State) under sections 1371(c)(1) and 1372 of this title in the same manner as treatment works constructed with assistance under subchapter II of this chapter;

[4] *Better Strategies are Needed to Improve the Timeliness and Accuracy of Davis-Bacon Prevailing Wage Rates*, U.S. Department of Labor Inspector General, Report Number 04–19–001–15–001, March 29, 2019.

water and other projects. Extending this accepted practice to water infrastructure projects would eliminate duplication and reduce the cost of administration for water infrastructure projects.

AMERICAN IRON AND STEEL AND BUILD AMERICA, BUY AMERICA ACT

Two federal mandates for domestic procurement apply to water infrastructure projects financed with SRF subsidized loans.

- Since 2014 annual appropriations bills and subsequently the Clean Water Act have required all SRF projects, including those financed with state funding, to use iron and steel made in the U.S., known as America Iron and Steel (AIS) requirements.
- Since 2021, the Build America, Buy America Act (BABAA) has required all federally funded water infrastructure projects, including federally funded SRF projects,[5] to use iron, steel, construction materials and manufactured products made in the U.S.

Clear guidance, consistent implementation and equal application of the law are needed to successfully implement BABAA and ensure critical water infrastructure projects remain on track, on time and on budget. With the second anniversary of BABAA quickly approaching, it is imperative that EPA provide detailed guidance for demonstrating compliance with BABAA, especially for manufactured products.

While EPA has issued a waiver for projects that initiated design planning by the effective date of the law, many SRFs no longer have projects that qualify for this waiver. In the absence of clear guidance for demonstrating compliance and in an abundance of caution, some SRFs are urging borrowers to apply for a project-specific waiver to avoid potential non-compliance. Until there is clarity on compliance, EPA and the Made In America Office (MIAO) could quickly become overwhelmed with requests for project-specific waivers.

Additionally, EPA has proposed sunsetting the current BABAA waiver for SRF projects on September 30, 2024. SRF projects that are eligible for the current waiver, particularly large, multi-year projects that are already under construction, are likely to abandon SRF financing rather than redesign their projects. This unintended consequence will likely increase the cost of water infrastructure, which will be passed onto households and small businesses in higher water bills.

CIFA offers these suggestions for strengthening implementation of and compliance with BABAA:

- *A Level Playing Field*: The same types of water infrastructure projects are treated differently depending on the agency and program that provides federal funding. As a result, some programs may have more, or less, stringent requirements than other programs, creating inequity among recipients of federal funding. Requiring the same rules for the same types of water infrastructure projects will ensure a level playing field.
  - The EPA, U.S. Department of Agriculture Rural Development, U.S. Department of Interior Reclamation Grants and U.S. Department of Housing and Development Community Development Block Grants have different rules for the same types of water projects, which creates confusion across the water sector, especially for projects that are co-funded.
  - EPA has different rules for different programs that fund the same types of water projects *within* the agency. Several of these programs are delegated to the states and managed by the SRFs, creating even more confusion about rules of compliance.
- *Standards for Demonstrating Compliance*: The SRFs need clear and consistent guidance for documenting compliance. For example, will manufacturers have to provide documentation for every step in the manufacturing process (supplier, fabricator, manufacturer, processor) and for every subcomponent in a manufactured product (water purification technologies can have hundreds of subcomponents)?
- *Conflicting Standards*: The SRFs believe AIS and BABAA have conflicting guidance for precast concrete products and subcomponents of iron and steel products. Providing explicit direction, such "compliance with AIS satisfies compliance with BABAA," would ensure consistency for programs with the AIS mandate.
- *Codify the Current BABAA Waiver for SRFs*: The current BABAA waiver for SRF projects exempts projects that initiated design planning before the effective date of the law. Waiving BABAA requirements for projects that were designed

[5] Federally funded SRF projects include "equivalency projects."

or under construction before the law took effect ensures communities can maintain affordable SRF financing for their water infrastructure projects without going back to the drawing board.

- *Waiver Decisions*: The turnaround time for a decision on waivers is unknown. A typical AIS waiver takes about eight weeks. Because the waiver must be approved by both EPA and MIAO, it's anticipated that the turnaround time for a BABAA waiver could take as long as 16 weeks. Requiring a specific turnaround time for waiver decisions is essential for planning purposes and to avoid liquidated damages for contractors that miss deadlines due to BABAA waiver determinations.

WATER AND ENERGY EFFICIENCY CERTIFICATION

Since 2014, the Water Resources Reform and Development Act (WRRDA) has required all SRF borrowers to conduct a cost and effectiveness analysis and certify that their project "maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation."

Conducting a cost and effective analysis increases the cost of water infrastructure projects but may not provide significant, or even measurable, environmental benefits for most SRF projects, especially those in small and rural communities with populations fewer than 10,000 people which comprise two-thirds of SRF loans.

For example,

- Conservation or reducing consumption is an important goal for drinking water projects. However, conservation is challenging for projects that lack a consumption component, such as collecting and treating wastewater and stormwater.
- The analysis is irrelevant, but still required, for projects specifically designed to reuse or recycle water or to reduce energy consumption, which are the goals of the federal mandate.
- The analysis is unnecessary, but still required, for projects that don't use any energy, such as gravitational sewer collection systems, lagoon treatment systems or pipe replacement projects.

SRFs understand the importance of pursuing water and energy efficiency, but allowing SRFs to identify the projects that will benefit from this cost and effectiveness analysis is a more efficient and effective approach for achieving Congress' goals.

FISCAL SUSTAINABILITY PLAN

Since 2014, WRRDA has required *select* SRF borrowers to develop a fiscal sustainability plan for the water infrastructure project being financed. The law requires the plan to include an inventory of critical assets, an evaluation of the condition and performance of assets, and a funding plan to maintain, repair and replace the assets. These select SRF borrowers must also certify implementation of water and energy efficiency as part of the plan.

Complying with this federal mandate increases the cost of water infrastructure but may not further the goal of fiscal sustainability. The federal mandate only applies to projects that receive SRF loans, not to projects that are financed by bonds issued by municipalities and purchased by the SRFs. Additionally, while the fiscal sustainability plan is intended to be a "living document" to improve operations and management, many small and rural communities with few professional staff don't have the capacity to continually review, revise and implement these plans.

The Clean Water SRFs understand the importance of fiscal responsibility and financial sustainability and conduct a thorough review of an applicant's financial health as part of their underwriting process before a subsidized loan is awarded. SRFs also provide grant funding for rate studies and asset management plans to foster accountability for the federal and state investment in clean water infrastructure.

ARCHITECTURAL AND ENGINEERING PROCUREMENT

Since 2014, WRRDA has required borrowers of federally funded SRF projects to use the federal procurement process to select architects and engineers. Established by the Brooks Act, the federal procurement process requires selection based solely on qualifications and prohibits the cost of services from being considered as a factor.

Approximately two-thirds of states have a "mini" Brooks Act which aligns to the federal process and allows for seamless procurement. However, in other states, the federal procurement process conflicts with the state procurement process, making it difficult or impossible to implement.

Even in states where the state and federal procurement process are aligned, this federal mandate poses an obstacle. Many borrowers engage an engineering firm be-

fore deciding to pursue SRF financing. Small communities may be prohibited from using an engineer that serves on long-term contract as staff augmentation.

In some states, this requirement deters communities from pursuing SRF financing for planning and design. In other states, the SRFs issue separate loan agreements—one for engineering funded with state money and one for construction funded with federal money—which creates more process, paperwork and expense without more protection for public health and the environment.

THE CLEAN WATER SRFS ARE CONCERNED ABOUT THE TRANSFORMATION OF THESE STATE-RUN, SUBSIDIZED LOAN PROGRAMS INTO A TOP-DOWN, ONE-SIZE-FITS-ALL FEDERAL GRANT PROGRAM.

In addition to federal mandates on borrowers, federal mandates on the Clean Water SRFs are eroding the lending power of the SRFs. Diverting annual federal funding from the SRFs to provide grants for congressional earmarks and requiring the SRFs to use annual federal funding as grants or principal forgiveness, instead of subsidized loans, reduces leveraging to meet current demand and permanently eliminates a reliable source of recurring revenue to fund water infrastructure projects in the future.

Transforming the SRF subsided loan program into a grant program has permanent adverse consequences. Every federal dollar diverted from SRF subsidized loans to congressional earmarks, grants or principal forgiveness permanently eliminates a recurring source of funding to build water infrastructure projects in the future. Unlike grants that fund one project, SRF subsidized loans generate loan repayments that can be used, and reused, in perpetuity to fund multiple water infrastructure projects, alleviating the cost of construction and compliance on future generations.

ADDITIONAL SUBSIDY (GRANTS AND PRINCIPAL FORGIVENESS)

Federal mandates requiring the SRFs to use annual federal funding as grants or principal forgiveness, instead of subsidized loans, have *doubled* in the last two years. Increased federal mandates for additional subsidy have coincided with the return of earmarks, which means the majority of annual federal funding is being provided as grants or grant-equivalents, instead of subsidized loans.

Since 2009, appropriations bills have mandated that the SRFs provide a percentage of annual federal funding as grants or principal forgiveness, known as additional subsidy. Since 2021, the Clean Water Act has mandated the Clean Water SRFs provide 10% of their annual federal funding as grants or principal forgiveness. In 2023, the total federal mandate for grants or principal forgiveness is 20% of annual federal funding.

While additional subsidy is an important tool, SRFs believe it should only be used when absolutely necessary to help communities that couldn't otherwise afford to build clean water infrastructure. A one-size-fits-all federal mandate for additional also ignores the variability of need from state to state. For example, states with generous state grant programs for water infrastructure could use 100% of annual federal funding for SRF subsidized loans.

Additionally, the Infrastructure Investment and Jobs Act (IIJA) mandates that 49% of supplemental funding be provided as grants or principal forgiveness, permanently eliminating a significant source of recurring funding for future water infrastructure.

Recommendation: End federal mandates for grants or principal forgiveness.

Ending the federal mandate wouldn't end the SRFs' ability to provide grants or principal forgiveness. The Clean Water Act allows up to 30% of annual federal funding to be used as grants or principal forgiveness for communities that meet affordability criteria. Even without the federal mandates, the SRFs would continue to help communities that couldn't otherwise afford to pay for clean water infrastructure. Moreover, many Clean Water SRFs would prefer to use state grant programs, which have more flexibility and fewer requirements, to help communities with significant affordability challenges.

STATE MATCH

The Clean Water Act requires states to match 20% of the annual capitalization grant. When the match requirement was established, 100% of federal funding had to be used for subsidized loans; the law didn't *allow* federal funding to be used for grants or principal forgiveness.

Some SRFs, like the Oklahoma Clean Water SRF, issue revenue bonds to provide state match. However, federal mandates for grants or principal forgiveness jeop-

ardize the ability of the SRFs to generate state match because only interest payments on subsidized loans can be used to repay the bond. Because federal mandates for grants or principal forgiveness reduce funding for subsidized loans, some SRFs may need to raise interest rates to generate adequate state match.

Recommendation: End state match for federally mandated grants and principal forgiveness.

States should only be required to match federal funding for SRF subsidized loans, not for federally mandated grants or principal forgiveness.

CONGRESSIONAL EARMARKS

Over the last two years, Congress has diverted $1.3 billion or 40% of annual federal funding from the Clean Water SRFs to create a gigantic new EPA grant program for congressional earmarks. The proposed 2024 appropriations bills from the U.S. House of Representatives and U.S. Senate would divert another $815 million from Clean Water SRF subsidized loans to one-time grants—$470 million for House earmarks and $345 million for Senate earmarks. Additionally, the House appropriations bill would provide less than $65 million to split among 50 states and Puerto Rico for Clean Water SRF projects, a 96% cut from annual federal funding of $1.6 billion just three years ago.

Congressional earmarks have also undermined the transformational potential of the IIJA. While the IIJA has provided $4.1 billion in *supplemental* federal funding for the Clean Water SRFs over the last two years, nearly one-third, or $1.3 billion, was needed to backfill cuts to annual federal funding caused by using the SRF capitalization grant to pay for congressional earmarks. If this practice continues, the SRFs face a program-ending funding cliff when short-term IIJA funding ends in three years.

Recommendation: Establish a separate authorization for congressional earmarks.

Creating a separate authorization for congressional projects would restore transparency and fiscal integrity to the Clean Water SRFs.

MINOR TWEAKS TO THE IIJA WILL IMPROVE OPERATIONS AND OUTCOMES.

IIJA FUNDING FOR EMERGING CONTAMINANTS

The IIJA provided $1 billion over five years to the Clean Water SRFs specifically to remediate the potential harm of emerging contaminants on public health and the environment. However, appropriate restrictions in the base program are limiting the most effective use of this short-term dedicated funding.

- Under current law, routine water quality testing and monitoring is ineligible for SRF funding. While CIFA supports this prohibition for the base program, testing and monitoring are critical activities for developing a comprehensive plan to detect, prevent and mitigate emerging contaminants.
- Under current law, watershed studies, which include water quality testing and monitoring, are eligible for SRF funding. However, EPA limits eligibility to studies in watersheds with *known* contamination; studies to *detect* contamination in a watershed are ineligible.
- Under current law, capital improvement projects for pretreatment at industrial facilities are eligible for SRF funding if discharges are treated beyond pretreatment standards. A utility or government agency must serve as a conduit for the SRF loan, also known as a pass-through loan. However, this option has not been widely used to date.

Recommendation: Expand the eligible uses of funding for emerging contaminants

Explicitly allow SRFs to use IIJA emerging contaminants funding for sampling, testing and monitoring to detect sources of contamination, watershed studies to detect and map the pathways of contamination, and capital improvement projects at industrial facilities to pretreat wastewater to reduce and prevent contamination.

TECHNICAL ASSISTANCE

As part of the IIJA, the Drinking Water and Wastewater Infrastructure Act amended the Clean Water Act to allow the Clean Water SRFs to use up to 2% of annual federal funding to provide technical assistance to small and rural communities. While similar to a long-term provision in the Safe Drinking Water Act, the

Drinking Water SRFs have more flexibility to fund qualified providers,[6] including private sector professionals, while the Clean Water SRFs can only fund government and not-for-profit providers[7].

CIFA defines technical assistance is the targeted delivery of professional services to help communities comply with water quality standards, build physical, financial and operational resiliency, and develop and implement an economically and technically sound plan for capital improvement projects. Unfortunately, government and non-profit providers have limited capacity to provide needed professional services, such as engineering, environmental assessment, and accounting, to accomplish these goals for small and rural communities.

Recommendation: Expand eligible providers for technical assistance

Align the language in the Clean Water Act to the language in the Drinking Water Act to allow the SRFs to use up to 2% of annual federal funding for technical assistance provided by any qualified provider, including government, not-for-profit organizations or private sector entities.

THANK YOU FOR YOUR PARTNERSHIP.

On behalf of the Clean Water SRFs, thank you for your partnership. With your continued support, the Clean Water SRFs will continue to finance water infrastructure projects that improve water quality and provide safe and affordable wastewater services for hundreds of millions of Americans.

Mr. ROUZER. Mr. Swingle.

TESTIMONY OF TODD P. SWINGLE, P.E., CHIEF EXECUTIVE OFFICER AND EXECUTIVE DIRECTOR, TOHO WATER AUTHORITY, ON BEHALF OF THE NATIONAL ASSOCIATION OF CLEAN WATER AGENCIES

Mr. SWINGLE. Good morning, Chairman Rouzer, Ranking Members Larsen and Napolitano, and to all the members of the subcommittee. Thank you for the opportunity to testify on behalf of the National Association of Clean Water Agencies, NACWA, the Nation's leading organization of publicly owned clean water utilities. It is an honor to be here today.

My name is Todd Swingle, and I am the CEO and executive director of Toho Water Authority in Kissimmee. Toho provides water, wastewater, and reuse water services to approximately 430,000 residents and visitors of central Florida. I am also a board member of NACWA.

Communities across the country face a growing array of complex water challenges, including increasingly stringent compliance obligations. As we strive to deliver on the public health and environmental protection outcomes that our communities expect and deserve, Clean Water State Revolving Funds, integrated water resource planning, and the remaining topics of my testimony are critical.

Since 1987, SRFs have served as the primary Federal financing tool helping local communities more affordably meet Clean Water Act compliance obligations. The Clean Water SRF's low-interest

[6] Safe Drinking Water Act, U.S.C. 42 §300j–12 (g)(2)(C) "An additional 2 percent of the funds annually allotted to each State under this section may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State."

[7] Clean Water Act, U.S.C. 33 §1383 (k) "A State may use an additional 2 percent of the funds annually awarded to each State under this subchapter for nonprofit organizations (as defined in section 1254(w) of this title) or State, regional, interstate, or municipal entities to provide technical assistance to rural, small, and tribal publicly owned treatment works (within the meaning of section 1254(b)(8)(B) of this title) in the State."

rates are particularly helpful in times such as these, when interest rates for other borrowing options are elevated.

In Florida and across the country, SRF investments have helped both urban and rural utilities to treat wastewater to higher standards, improve energy efficiency, capture and reuse biogas, enhance beneficial reuse, reduce nitrogen and phosphorus loading, and address wet weather and resiliency challenges.

Building on the Clean Water SRFs, the 5-year, $11.7 billion Infrastructure Investment and Jobs Act serves as a historic investment in clean water infrastructure. However, this was intended to be a one-time infusion of capital to the Clean Water SRFs in addition to the ongoing annual appropriations. Likewise, the return of community project funding provides an alternative option for communities to address the rapidly widening funding gap.

Growing a portfolio of accessible funding approaches is critical to delivering on our promise of public health and a clean water environment. With all due respect to the committee, the current Clean Water SRF investments proposed in the House's fiscal year 2024 appropriations bill are not adequate to achieve these goals. It is imperative that Congress fully appropriate the amounts authorized under the IIJA, and fund earmarks from a source other than the Clean Water SRF.

At the top of the list of challenges for utilities is PFAS. Utilities embrace a role that we play in removing PFAS under Clean Water Act science-based regulatory processes, but it is the actual polluters who alone must be held liable. While the IIJA allocated $1 billion in mandatory Federal funding for emerging contaminants, the Clean Water SRF is designed for capital infrastructure investments.

Today, the need for many utilities includes PFAS monitoring, assessments, and pretreatment efforts. It is important that Congress provide a legislative fix to allow for flexible access to this funding for these needs.

Another important provision of the IIJA is the requirement that 49 percent of the mandatory dollars be allocated as a subsidy, essentially forgivable loans or grants for disadvantaged communities. To date, we have heard that numerous States have updated their definition of disadvantaged communities, consistent with the EPA's recommendation to consider multiple factors like unemployment, how water and sewer rates compare to the lowest quintile income, and ensuring funds reach urban areas of poverty, as well as rural and small communities. We recommend that Congress continue to monitor the success of these subsidies and remain open to providing further direction.

In addition to funding, the regulatory approaches are instrumental in delivering effective, affordable solutions. Furthering acceptance of integrated planning is another key way that regulators can help communities stretch limited infrastructure dollars. NACWA greatly appreciates the bipartisan leadership of this committee in getting integrated planning codified to the Clean Water Act in 2018. We look forward to working with Congress and EPA to help State regulators further enhance this critical tool.

Finally, it is imperative that Congress enact sensible, targeted reforms to the Clean Water Act to provide regulatory certainty

needed for utilities to effectively and affordably plan and invest in long-term capital projects to meet compliance obligations. Without regulatory certainty, investments such as those made through the Clean Water SRF will not have the full positive impact intended.

In closing, growing the water infrastructure funding portfolio, maintaining and growing the foundational Clean Water SRFs, and addressing the other challenges, including integrated planning and regulatory certainty, are critical as utilities strive to continue providing essential clean water services to our communities. NACWA appreciates the ongoing engagement by the committee on these critical issues.

Thank you again for the opportunity to testify before you today, and I would be happy to answer any questions from the committee.

[Mr. Swingle's prepared statement follows:]

Prepared Statement of Todd P. Swingle, P.E., Chief Executive Officer and Executive Director, Toho Water Authority, on behalf of the National Association of Clean Water Agencies

INTRODUCTION

Good morning, Chairmen Graves and Rouzer, Ranking Members Larsen and Napolitano, and to all the members of the Subcommittee. Thank you for the opportunity to testify on behalf of the National Association of Clean Water Agencies, or NACWA. It is an honor to be here with you.

My name is Todd Swingle, and I am the CEO and Executive Director of the Toho Water Authority (Toho) in Kissimmee, Florida. Toho operates 17 water treatment facilities and nine wastewater treatment facilities, treating and distributing over 50 million gallons of potable water and reclaiming approximately 35 million gallons of wastewater each day for the 430,000 residents and visitors that we serve throughout the region.

I am also a Board member of NACWA, the nation's leading organization of publicly owned clean water utilities. Toho's 500 plus employees, like the workforces of NACWA member utilities from Coast-to-Coast, are on the front lines each day providing essential services. Our utilities are anchor institutions within our communities and for over 50 years since the enactment of the Clean Water Act (CWA), NACWA's members have made incredible progress in cleaning up the Nation's vital water resources, supporting economic prosperity in our communities, and improving the quality of life of all Americans in line with the CWA's "cooperative federalism" framework.

Communities across the country face a growing array of complex water quality challenges including increasingly stringent CWA compliance obligations. As we strive to deliver on the public health and environmental protection outcomes that our communities expect and deserve, the Clean Water State Revolving Fund (CWSRF), integrated water resource planning flexibility and the remaining topics of my testimony are critical throughout the Nation.

CLEAN WATER STATE REVOLVING FUND (CWSRF) AND INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA)

Since the establishment of the CWSRF under the 1987 CWA amendments, Congress has appropriated over $50 billion in federal investment collectively to the state CWSRFs, who in turn have provided over $160 billion to local communities. These low-interest loans, and in some cases grants through additional subsidization provisions, provided under the CWSRF have remained the primary federal clean water financing tool that public clean water utilities have used to help their local communities more affordably meet their CWA compliance obligations and upgrade their aging treatment plants and critical infrastructure. The low interest rates offered by the CWSRF can be particularly helpful, especially during times such as these when interest rates for other borrowing options are elevated.

In Florida and across the country, SRF investments have helped fund projects to treat wastewater to higher standards, improve energy efficiency and lower emis-

sions, capture and reuse biogas, reduce nitrogen and phosphorus loading, and address wet weather and resiliency challenges, among many other types of projects.

The historic water infrastructure investments further provided under the Infrastructure Investment and Jobs Act (IIJA), also referred to as the Bipartisan Infrastructure Law (BIL), are the most critical investments for clean water since the Construction Grants Program helped build the network of wastewater treatment agencies after passage of the CWA in 1972. The IIJA or BIL's $11.7 billion over five years to the CWSRF in direct mandatory appropriations will be instrumental in helping many communities upgrade their clean water infrastructure and treatment systems.

However, these five-year investments were intended to be a one-time infusion into the CWSRF *in addition to the ongoing annual appropriations*. It is imperative that Congress continue providing the highest level of annual CWSRF appropriations and, as provided under the authorizing portions of the IIJA, fully maximize these historic investments and ensure the long-term viability of this bipartisan program.

Likewise, the return of Community Project Funding, also known as earmarks, provide an alternative option for communities to address critical infrastructure projects. The Nation's growing water infrastructure needs are already resulting in a rapidly widening funding gap. Growing a portfolio of accessible funding approaches is critical to communities and the Nation in delivering on our promise of public health and a clean water environment.

With all due respect to the Committee, the current investments in the CWSRF proposed in the House's FY2024 budget are not adequate to achieve these goals. It is imperative that Congress fully appropriate the CWSRF at the amounts authorized under the IIJA and fund earmarks from a source other than the CWSRF.

CWSRF investments are vital for helping both urban and rural communities more affordably meet 21st century clean water challenges to maintain and update their clean water infrastructure; expand treatment systems and technologies to address new pollutant standards and to remove per- and polyfluoroalkyl substances (PFAS); advance reuse initiatives; manage population growth, industrial and agricultural expansion and land development pressures; and help utilities improve resilience to storms and other natural impacts, among others.

PFAS and Emerging Contaminants

At the top of this list of challenges, public clean water utilities are extremely concerned about the potential health and environmental risks associated with exposure to PFAS. PFAS remediation must be paid for by the polluters—those who manufactured and profited from this ubiquitous chemical. The innocent water or wastewater treatment utility ratepayers who had no part in creating or profiting from PFAS must not in any way be left holding the bill to deal with PFAS. There is a role for utilities to appropriately play in the removal of PFAS under the CWA based on a science-based regulatory processes, but it is the actual polluters who alone must be held liable.

An important provision in the IIJA was the specific allocation of an additional $1 billion in mandatory federal funding through the CWSRF for utilities to address Emerging Contaminants, including PFAS. However, with these dollars flowing through the SRF, a program designed for the purpose of capital infrastructure investments, clean water utilities have mostly been unable to utilize these resources for the types of efforts that they are currently undertaking to address PFAS—such as monitoring, assessments, and pretreatment efforts with industrial users they serve. Essentially, the types of proactive efforts not commonly supported by the CWSRF because they are not deemed to be "infrastructure" projects.

Unfortunately, there are currently no available technologies that effectively and affordably destroy PFAS in clean water or biosolids at the scale managed by public clean water utilities. Additionally, state SRFs have the authority to request full transfer of CWSRF funds designated for Emerging Contaminants to be applied to accounts for drinking water, which several states have already opted to do.

It is important that Congress provide a legislative fix to allow clean water utilities more flexible access to this IIJA funding to do critical PFAS monitoring and assessment work so local communities can understand the key sources of PFAS loading to their water systems, identify opportunities for controls, and prioritize opportunities for investment to reduce PFAS.

Affordability

Another important provision in the IIJA, and one that NACWA helped champion, is a requirement that 49 percent of the mandatory dollars under the legislation flowing to the SRF programs must be allocated by the states as additional sub-

sidization—meaning that these funds are essentially forgivable loans (or grant equivalents). This provision is particularly important for getting federal help to target areas facing serious need or financial hardship and to disadvantaged communities that might not have the capacity for loan financing.

Because the SRFs are run through the states—each of which has its own rules for applying additional subsidization—EPA has provided recommendations for how states should consider targeting such funds to reach potentially eligible areas and communities. Strengths of this guidance include encouraging states to look beyond singular metrics of disadvantage and consider various metrics like unemployment, comparison of water and sewer rates compared to lowest quintile income, and ensuring funds reach urban areas of poverty as well as rural and small communities.

While EPA has laid out this guidance, the task of implementation falls to the states. Given the significant influx of funding, NACWA strongly believes that states must be innovative in how they apply this additional subsidy, and we stand ready to further serve as a resource in how states update their definitions. To date, we have heard that numerous states have updated their definitions of disadvantaged communities to be more inclusive. We recommend that Congress continue to monitor how additional subsidies are applied and remain open to providing further direction to the programs as implementation advances. This will help ensure that the IIJA resources help those urban and rural communities more affordably and directly access much-needed infrastructure funding.

Congress should also provide oversight for how EPA addresses affordability issues. Earlier this year, EPA finalized its revised Financial Capability Assessment (FCA) Guidance, which is used by EPA and the states to determine how much a community can afford to pay to meet increasing compliance requirements under the CWA.

For several years prior, NACWA, in partnership with the other major water sector organizations, and key municipal groups, jointly worked with EPA under both the Obama and Trump Administrations to advocate for a new approach that specifically looked at the impacts that the cost of compliance with expanding CWA mandates would have on low-income households within an impacted community, as opposed to broader service area metrics that often mask the actual impact on individual households in the lower quartile of the service areas income bracket.

Unfortunately, the new FCA Guidance failed to fully embrace this low-income approach, meaning that the true impacts on these rural and urban households may not be fully considered and could leave them paying a disproportionate amount of their income on water and sewer bills.

This is a key opportunity for Congress to support true water affordability by providing oversight of how EPA addresses affordability issues and by ensuring its affordability guidance truly aims to help actual low-income households in urban and rural areas.

INTEGRATED PLANNING

Furthering the acceptance of Integrated Planning by state and federal regulatory/permitting and enforcement agencies is another way that regulators can help communities stretch limited infrastructure investment dollars. Integrated Planning can help large and small communities better manage costs and prioritize their growing list of clean water investments and obligations more affordably over time to best serve their ratepayers. NACWA greatly appreciates the bipartisan leadership of this Committee in getting Integrated Planning codified into the Clean Water Act in 2018. We look forward to further working with Congress and EPA to help state regulators in particular enhance this critical tool and incorporate Integrated Planning approaches into permitting and enforcement, and help communities best develop their Integrated Planning framework and work with their regulators on approval.

REGULATORY CERTAINTY

Finally, it is imperative that sensible, targeted reforms to the CWA are enacted to ensure that clean water utilities have the regulatory certainty needed to effectively and affordably plan and invest in long-term capital infrastructure projects and meet their compliance obligations.

Without regulatory certainty, as well as improved transparency and due process, greater scientific integrity, and protection for utilities against the increasing number of unwarranted CWA citizen suits, investments such as those made through the CWSRF will not have the full positive impact intended to affordably provide local communities with the highest levels of water quality improvement. NACWA has previously testified before this Committee about these issues and looks forward to working with the Committee on this important topic.

CONCLUSION

Growing the water infrastructure funding portfolio, including the foundational CWSRF, and addressing the other challenges I have mentioned are critical as utilities strive to continue providing essential public clean water services to their communities. NACWA appreciates the ongoing engagement by the Committee with the public clean water sector on these critical issues. Thank you again for the opportunity to testify before you today and I would be happy to answer any questions the Committee may have.

Mr. ROUZER. Mr. Proctor.

TESTIMONY OF JAMES M. PROCTOR II, SENIOR VICE PRESIDENT, LEGAL AND EXTERNAL AFFAIRS, MCWANE, INC., ON BEHALF OF THE U.S. CHAMBER OF COMMERCE

Mr. PROCTOR. Chairman Rouzer, Ranking Member Napolitano, Ranking Member Larsen, members of the subcommittee, thank you for the opportunity and the invitation to be here today to talk about clean water infrastructure financing.

My name is Jim Proctor. I am with McWane, Incorporated. We are a privately owned company that for over 175 years has provided the basic building blocks of the country's water infrastructure. We employ more than 6,000 team members across the country in 14 States and 25 manufacturing facilities.

Over the past several years, Congress has passed monumental legislation that includes substantial investments in water infrastructure. However, several problems have emerged that could jeopardize the ability of the States and the private sector to realize the opportunities that Congress intended to create.

One such obstacle is the lack of regulatory clarity in many critical areas. For example, the authorization for the funds for emerging contaminants expires in December 2027. However, EPA has yet to issue effluent limitation guidelines for any PFAS. Knowing the standards that utilities must meet is critical to the design of waste treatment and other projects in evaluating and selecting the appropriate technology. These delays in announcing standards are putting utilities and State agencies in a squeeze that could preclude the funding of important projects.

Second, earmarks for specific projects demonstrate responsiveness to constituent needs and offer an important tool to Members of Congress to respond to those needs. But they should be additive to the existing SRF allocations. More than 1,400 projects were earmarked for funding in the SRF appropriations for 2022 and 2023, constituting the majority of the funding for 2023. Although the funding must attach within 2 years, to date, fewer than 200 of those 1,400 projects for 2022 and 2023 have applied for approval, and fewer still have been approved. Earmarks that aren't additive reduce the funding available for other non-earmarked SRF projects with acute need, reduce the funds available for program administration, and create uncertainty in the planning process, all of which slows the allocation of funding across all projects.

But in addition, delays in the allocation of this earmarked funding also creates uncertainty in the private sector, which discourages the capital investment needed to ensure that supply chains are able to provide the critical products and equipment to meet the needs of project owners. For example, our industry saw a signifi-

cant post-COVID surge in demand that created production and delivery backlogs for a short period of time.

The infrastructure programs passed by Congress, though, signaled an assurance of continued demand that prompted us to significantly increase our capital expenditures and expand capacity not only to eliminate those existing backlogs, but also to position our plants to serve the needs created by the infrastructure programs. However, the slow commencement of projects and uncertainties about the programs have resulted in a dramatic decrease in demand that has forced us to consider reducing production expansion plans and associated employment. Also, permitting delays have slowed the construction of expansion projects, a situation that will be aggravated by the possible adoption of EPA's new $PM_{2.5}$ standards.

Because many other producers face the same situations, when projects eventually do commence, the demand for essential products with which to build those projects will hit the market in a large, compressed surge that manufacturers could be ill-positioned to meet, which could result in delays or cancellations of projects and increased costs.

To avoid these problems, we ask the members of this committee to consider extending some of the deadlines applicable to the Bipartisan Infrastructure Law and IRA funding to engage with EPA to accelerate the rollout of the authorized funding to increase the availability of much-needed technical assistance, and to ask your colleagues on the Appropriations Committee to support full funding for the SRF in addition to whatever earmarks they might deem appropriate.

Thank you very much for the opportunity to testify, and I will be happy to answer any questions.

[Mr. Proctor's prepared statement follows:]

Prepared Statement of James M. Proctor II, Senior Vice President, Legal and External Affairs, McWane, Inc., on behalf of the U.S. Chamber of Commerce

Chairman Rouzer, Chairman Graves, Ranking Member Napolitano, Ranking Member Larsen, and members of the subcommittee, thank you for the invitation to testify today on Clean Water Infrastructure financing.

During my career I have had the privilege to help promote policies that will make our water infrastructure systems more resilient, secure, and efficient, working not only in my capacity as senior vice president for McWane, Inc., but also as a member of the executive committee of the BuildStrong Coalition, the corporate advisory council of the Blue-Green Alliance, the Water Infrastructure Leadership Group (the "Ad Hoc Group"), the U.S. Water Partnership, the Environmental Protection Agency's National Drinking Water Advisory Council, and the role in which I am here presenting today, chair of the U.S. Chamber of Commerce's Business Task Force on Water Policy.

My company, McWane, is deeply involved in water infrastructure. For almost 175 years McWane has proudly provided the building blocks for our nation's water infrastructure, supplying the pipe, valves, fittings, and related products that transport clean water to communities and homes across the country and around the world. More recently we have expanded our operations into the fields of infrastructure technology and electric power distribution. We employ more than 6,000 team members, who work in 25 manufacturing facilities in fourteen states.

Over the past several years Congress has passed monumental infrastructure legislation that includes substantial investments in water infrastructure, including $11.7 billion for the Clean Water State Revolving Funds over five years through the Bi-

partisan Infrastructure Law. However, several problems have emerged that could jeopardize the ability of the states and the private sector to realize the opportunities that Congress intended to create. First, the BIL imposes short deadlines that have been compressed even further by EPA's slow roll out of guidance for the implementation of some of the governing principles for the programs. The impact of these impending deadlines has been and will be particularly acute with the funds allocated for emerging contaminants. The authorization for these funds expires in December 2027, with a possibility of an extension until 2029. However, EPA has yet to recommend water quality criteria or issue effluent limitations guidelines for any PFAS. Knowing the standards that utilities must meet is critical to the design of waste treatment and other projects and evaluating and selecting the appropriate technology. Unless and until utilities know what to target, they cannot design the projects and select the appropriate equipment. These delays in announcing the standards coupled with the impending deadlines are putting utilities and state agencies in a squeeze that could preclude the funding of important projects.

Second, it is true that earmarks for specific projects can demonstrate responsiveness to constituent needs and offer an important tool to Members of Congress, but they should be additive to the existing SRF allocations. More than 1,400 projects were earmarked for funding in the latest SRF appropriation, constituting the majority of the funding for 2023. Although the funding must attach within two years, to date fewer than 200 of these 1,400 projects for 2022–23 have applied for approval and fewer still have been approved. Earmarks (that are not additive) reduce the funding available for other, non-earmarked SRF projects with acute need, reduce the funds available for program administration, and create uncertainty in the planning process, which will slow the allocation of funding across all projects. But but even to the extent they serve important needs of their own, the delays in the allocation of this earmarked funding also creates uncertainty in the private sector, which discourages the capital investment needed to ensure that supply chains are able to provide critical products and equipment to meet the needs of project owners.

For example, our industry saw a significant, post-COVID surge in demand that created production and delivery backlogs. Although we knew that situation was temporary, the passage of BIF, IRA, and the 2022–23 appropriations provided the assurance of continued demand necessary to significantly increase our capital expenditures and expand capacity, not only to eliminate those backlogs, but also to position our plants to serve the needs created by the infrastructure programs. However, the slow commencement of specific projects has resulted in a dramatic *decrease* in demand that, together with the uncertainty about whether projects will even receive funding before the deadlines, has compelled us to rethink our expansion plans and reduce the number of production shifts and associated employment. Moreover, even for those capital projects that remain in play, permitting delays are a continuing problem. Because many other producers face the same situations, when projects eventually do commence, the demand for essential products with which to build those projects will hit the market in a large but compressed surge that manufacturers will be ill-positioned to meet, which could result in delays or cancellations of projects and increased costs.

Furthermore, the increased use of earmarks disrupts the states' ability to prioritize projects based on need, because in some cases the funds are directed to projects with low need at the expense of those in disadvantaged areas. And since earmarked dollars are dispensed directly by EPA, not the states, they are not paid back into the revolving fund, and thus cannot be reloaned again for future projects.

To avoid these issues, we ask the members of this committee to consider extending some of the deadlines applicable to the BIL and IRA funding, to engage with EPA to accelerate the roll out of the authorized funding, increase the availability of much needed technical assistance, and to ask your colleagues in the appropriations process to support full funding for the SRFs aside from whatever earmarks they might deem appropriate. There is consensus on these issues across the stakeholder community: The Chamber and a broad coalition of stakeholders sent a letter to appropriators supporting full SRF funding and funding for water provisions in the BIL, which were authorized but not appropriated.[1] The leaders of 45 state and territorial environmental agencies also recently called on Congress to restore funding for—and fully appropriate—the Clean Water and Drinking Water State Revolving Funds.

I also would like to make several points about how to improve the current state of clean water infrastructure financing.

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[1] https://www.uschamber.com/environment/coalition-letter-on-water-infrastructure-program-funding

First, meeting our clean water infrastructure needs requires a *partnership* between the public and private sectors. Many smaller, disadvantaged utilities are simply overwhelmed by the financial and increasingly complex management challenges that they face. As a result, many of them are regularly out of compliance with applicable water quality standards but lack the expertise and resources to rectify the problems. Although there are public and private utilities that could help, they are often reluctant to do so because of fear of inheriting the distressed entity's enforcement problems. In addition, private utilities are currently ineligible for Clean Water SRF funding. As a result, a private utility cannot assume ownership of a struggling public utility unless any outstanding SRF loans are repaid immediately. These problems create poison pills that effectively bar Good Samaritan-private entities from helping protect the public when distressed utilities cannot do so on their own. To eliminate these obstacles to private sector assistance, Congress should: provide a "safe harbor" for the acquirer of a troubled system that proscribes enforcement for a time period sufficient to bring it into compliance; expand Clean Water SRF eligibility to include private entities; and extend an investment tax credit to the acquirer of non-compliant systems with fewer than 10,000 service connections.

Second, meeting our clean water infrastructure needs also requires *regulatory consistency*. At present, concern over PFAS has some EPA regions getting ahead of the regulatory process. For example, some wastewater utilities are being asked to monitor for dozens of PFAS, even without a complete analysis of whether the specific PFAS presents a public health risk before the promulgation of a water quality standard.

The Chamber has long made permitting reform a top priority, especially considering the massive infusion of funding from the BIL. If we are to meet our ambitious climate and infrastructure goals as a nation, projects must begin without delay. This does not mean that environmental protections should not be part of the process but rather reviews should be timebound with concrete milestones.

Third, meeting our clean water infrastructure needs requires *innovation*. Communities around the country are facing daunting investment challenges. There are many technological solutions that can provide more efficient and less expensive ways to protect public health and the environment. Many such technologies would benefit rural and disadvantaged communities in particular, making access to clean water more affordable. Not only should EPA encourage the use of these innovations through targeted project funding and streamlined approvals, but it should also provide financial assistance for their development. Money invested in innovation will be recouped with cost savings.

Fourth, permitting delays remain a problem for both manufacturers and utilities. Even in emergency situations environmental reviews of clean water projects can drag on for six months or more, leaving communities at risk in the interim. Similarly, obstacles and delays in the permitting of capacity expansions, such as those that will result from EPA's new PM 2.5 regulation, will diminish the ability of American industry to produce the products essential to infrastructure projects across the country.

Fifth, meeting our clean water infrastructure needs requires *technical assistance*. Accessing the SRFs is sometimes a very complex process that requires specialized expertise, which is often lacking in the communities that could benefit most. That is why for drinking water infrastructure the Chamber and its partners developed the Small and Disadvantaged Community Water Funding Roadmap to identify the latest public and private technical assistance resources that will help communities access the water and resilience funding in the BIL. You may have seen that our colleague George Hawkins, who is a leading thinker in this area, received an EPA grant to reach the disadvantaged communities. The Chamber also was a strong supporter of the recent FEMA designations of 483 Community Disaster Resilience Zones in communities nationwide that can help direct funding to the most vulnerable and the most at risk.

Technical assistance funding for disadvantaged and rural communities from the Infrastructure Law has been very slow. For example, the Environmental Finance Centers, a major source of the new technical assistance, were not online until November 2022. That means we were already in the second year of the five-year BIL funding window before technical assistance was provided to small communities to help them plan projects and get on state Intended Use Plans.

Sixth, wastewater is often viewed as a source of pollution, but should be *promoted as a resource* to provide sustainable nutrients and energy. At a time when climate impacts are exacerbating water scarcity in regions across our nation and the world, private sector innovation and solutions are needed to more effectively reuse and recycle wastewater for various applications—from flushing toilets to irrigation and process water.

The Chamber last year launched the *Industrial Water Reuse Champions Awards* to recognize companies that are leading in this effort and to encourage their peers to join. The initial winners represented sectors across the economy—Apache, Intel, and PepsiCo.

Finally, addressing the aging water workforce should be a top priority for our nation. Congress should build on the current EPA efforts and increase coordination with the U.S. Department of Labor and other agencies in developing a workforce development program that will help American workers get the skills and credentials needed to support the operation, maintenance, and improvement of the water and wastewater systems of tomorrow. Congress should enact policies that simplify the award and interstate recognition (e.g., reciprocity and portability) of water operator and engineering certifications.

Thank you again for the opportunity to testify. I would be happy to answer any questions.

Mr. ROUZER. Ms. Hammer.

TESTIMONY OF REBECCA HAMMER, DEPUTY DIRECTOR OF FEDERAL WATER POLICY, NATURAL RESOURCES DEFENSE COUNCIL

Ms. HAMMER. Thank you, Chairman Rouzer, Ranking Members Larsen and Napolitano, and members of the committee. I appreciate the opportunity to testify today. My name is Becky Hammer. I am the deputy director of Federal water policy for the Natural Resources Defense Council.

NRDC is a nonprofit organization working to protect public health and ensure a safe, sustainable environment for all people. At NRDC, I advocate for policies to ensure that everyone in this country has access to wastewater and stormwater infrastructure that works.

No matter where they are located, these systems should provide communities with clean waterways, safe sanitation, and protection from urban flooding without imposing unaffordable costs on families. Unfortunately, that is not the reality for far too many people. Across the United States, polluted runoff and sewage degrade sources of drinking water, while rainwater floods streets and homes. Aging systems are stressed by changing precipitation patterns and population shifts. In some rural areas, a complete lack of sanitation infrastructure has created a public health crisis.

The Infrastructure Investment and Jobs Act, IIJA, also known as the Bipartisan Infrastructure Law, or BIL—this law has too many names—took a significant step toward tackling these problems by providing a critical and historic investment in America's wastewater and stormwater systems. I want to take this opportunity to thank all the Members who worked on and supported that legislation. The funding it provided will make a real difference to many communities.

Yet even after this influx of supplemental funds, our country still faces an enormous backlog of clean water infrastructure needs that can be measured in the hundreds of billions of dollars. In many places, State and local resources are simply insufficient to cover these costs. We should not accept communities having to live with health and environmental burdens when we have the ability to help.

I ask the members of this committee to work with your colleagues who have responsibility for appropriations to ensure that the Clean Water State Revolving Fund receives the full funding au-

thorized in IIJA. Recent proposals to reduce appropriations would undercut this committee's work to provide much-needed resources to cities and towns that have been waiting years or even decades for assistance.

I also echo the concerns of the other witnesses about the practice of taking water infrastructure earmarks out of the State allotment. This practice results in unpredictable fluctuations in State funding, frustrates public engagement and long-term planning, and reduces the number of grants available to disadvantaged communities. Any clean water project earmarks should be additional to SRF State allotments.

On the subject of disadvantaged communities, IIJA's requirement to distribute 49 percent of the supplemental funds as additional subsidy that does not have to be repaid is a game-changer for small, rural, and low-income communities that cannot afford a traditional SRF loan. These communities have faced obstacles to accessing SRF assistance for too long. By asking EPA and the States to make a greater effort to reach them, IIJA has created an enhanced awareness of the need to make the program more inclusive moving forward.

To build on that progress, Congress should not only maintain existing statutory requirements for additional subsidization, but also raise the limit beyond 30 percent of the annual capitalization grant so that States with the financial capacity to distribute more than that can exercise their discretion to do so.

At the same time, Congress should provide resources to EPA for technical assistance to help State SRF managers eliminate policy barriers that continue to exclude disadvantaged communities from the program, such as caps on the amount of subsidy an individual applicant can receive.

Critically, Congress should also establish a permanent Federal water and sewer assistance program. Communities facing affordability challenges may defer implementing infrastructure projects to avoid raising rates on residents. Assistance for low-income households can not only help people afford basic needs like water and sewer service, but also put communities in a better position to access SRF assistance.

As Congress works to establish a permanent program, it should also provide additional bridge funding for the temporary LIHWAP program that is about to expire.

I want to make two final points before I conclude.

First, Congress should make the Green Project Reserve a permanent feature of the Clean Water SRF to guarantee continued support for sustainable projects that provide multiple benefits to communities.

And second, Congress should work with EPA to improve transparency around IIJA spending decisions and SRF funding more generally by publishing project-level data in an online dashboard. The American public deserves to know how these historic funds are being used.

I would be happy to discuss any of these recommendations in more detail. Thank you.

[Ms. Hammer's prepared statement follows:]

Prepared Statement of Rebecca Hammer, Deputy Director of Federal Water Policy, Natural Resources Defense Council

Chairman Graves, Ranking Member Larsen, Subcommittee Chair Rouzer, Subcommittee Ranking Member Napolitano, and members of the Subcommittee:

Thank you for the opportunity to testify today about the importance of robust federal funding and support for our nation's clean water infrastructure. My name is Rebecca Hammer, and I am the deputy director of federal water policy for the Natural Resources Defense Council (NRDC). NRDC is an international, non-profit environmental organization working to protect the world's natural resources, improve public health, and ensure a safe and sustainable environment for all.

SUMMARY OF TESTIMONY

The Infrastructure Investment and Jobs Act of 2021 (IIJA) was a historic bipartisan investment in our nation's infrastructure that will make progress toward our goals of providing every person in this country with clean waterways and safe sanitation, ensuring the long-term viability of our wastewater and stormwater systems in a changing environment, and lifting up families and communities who struggle to bear the burden of unaffordable water and sewer costs. In my testimony, I will focus on the importance of building upon the momentum of IIJA to continue closing the clean water infrastructure gap, ensuring that funds support underserved communities and sustainable projects, and providing transparency in spending decisions.

To achieve these goals, NRDC recommends:

- Funding the Clean Water State Revolving Fund (CWSRF) at the full IIJA-authorized level, at minimum, with any congressionally directed spending provided *in addition* to that funding.
- Raising the statutory limit on the amount of additional subsidization that states are allowed to provide.
- Providing resources for the Environmental Protection Agency (EPA) to provide technical assistance to state CWSRF managers on best practices for improving the accessibility and fairness of their programs.
- Establishing a permanent federal water and sewer assistance program, and providing additional funding for the existing temporary Low-Income Household Water Assistance Program (LIHWAP) as a bridge to the establishment of that permanent program.
- Making the Green Project Reserve a permanent feature of the CWSRF by codifying it in statute.
- Providing more resources for outreach and technical assistance to potential Green Project Reserve applicants.
- Requiring and supporting enhanced public transparency around IIJA-funded CWSRF projects and technical assistance efforts.

AMERICA'S WASTEWATER AND STORMWATER SYSTEMS FACE CHALLENGES THAT THREATEN THEIR ABILITY TO PROVIDE CLEAN WATER, THRIVING COMMUNITIES, AND A HEALTHY ENVIRONMENT

All people in America should have access to wastewater and stormwater infrastructure that works. No matter where they are located, these systems should provide communities with clean waterways, effective sanitation, and protection from urban flooding.

Yet in many areas, our nation's infrastructure is not up to the task of meeting those objectives. Pipes, septic tanks, and treatment facilities have exceeded their intended lifespans and are breaking down. As population growth puts stress on wastewater systems, fifteen percent of treatment plants have already reached or exceeded their design capacity.[1] Elsewhere, communities affected by depopulation and disinvestment struggle to update their infrastructure to meet existing demand.[2] Hundreds of cities and towns are still served by combined sewer systems that overflow into nearby rivers and lakes when it rains, and many flood control measures are

[1] American Society of Civil Engineers, 2021 Report Card for America's Infrastructure: Wastewater, https://infrastructurereportcard.org/wp-content/uploads/2020/12/Wastewater-2021.pdf.

[2] See Rachel Butts and Stephen Gasteyer, "More Cost per Drop: Water Rates, Structural Inequality, and Race in the United States—The Case of Michigan," *Environmental Practice* 13, no. 4 (2011): 386–95, https://doi.org/10.1017/S1466046611000391.

not capable of handling the increasingly vast quantities of runoff generated by sprawling development.

As a result, sewage spills foul our waterways, polluted stormwater degrades once-productive ecosystems, and rainwater floods our streets and homes. The American Society of Civil Engineers rated the nation's wastewater infrastructure a D+, and its stormwater infrastructure a D, in its most recent infrastructure report card.[3]

Some rural communities do not have access even to inadequate sewer infrastructure, as they lack functional wastewater treatment entirely.[4] According to the U.S. Census Bureau's American Housing Survey, 180,000 households use rudimentary sewage disposal approaches like outhouses and chemical toilets, and 35,000 households have no form of wastewater treatment at all.[5] Exposure to raw sewage can cause disease outbreaks and hookworm infections. The situation is especially dire in regions such as the Black Belt of Alabama, where homes have "straight pipes" discharging untreated waste into their yards; Hawaii, where cesspools are leaking 53 million gallons of untreated waste into streams, oceans, and drinking water every day; and indigenous communities in the Southwest and Alaska that lack plumbing and sanitation infrastructure, just to name a few examples.[6]

Climate change is adding further stress to our wastewater and stormwater systems, even those in good condition. Wastewater treatment plants are typically located at low elevations and along coastlines, which makes them particularly susceptible to floods and sea level rise. When tanks and pipes are inundated, these facilities can discharge raw sewage into nearby communities and waterways. In 2017, flooding from Hurricane Harvey caused 40 wastewater treatment facilities to become inoperable and led to the release of 23 million gallons of untreated wastewater.[7] Even smaller flooding events, if they occur more often, can impose significant costs, such as frequent pumping to keep parts dry and a reduced lifespan of components exposed to water. One study estimated that four million people in the U.S. could lose access to municipal wastewater services with 30 centimeters (around 1 foot) of sea level rise; this estimate rises to 31 million people if sea level rise reaches 180 centimeters (around 6 feet).[8]

As heavy precipitation events and extreme storms grow more frequent, increasingly disruptive flood events are occurring in communities across the country. Most stormwater systems are designed to handle the "10-year" or "100-year" storm, concepts that climate change has rendered obsolete. Urban flooding already results in $9 billion in damages each year, a figure that is certain to grow unless we take swift action to adapt and modernize our infrastructure.[9] These storms also impact water quality: as more intense precipitation leads to increased runoff, more stormwater pollution is washed into our waterways, including sediments, nitrogen from agriculture, disease pathogens, pesticides, herbicides, and more. This pollution imposes steep costs on communities, including higher treatment costs for the two-thirds of America's drinking water that comes from rivers, streams, and lakes.

While infrastructure challenges are widespread, they affect certain communities more severely than others. Across the country, socioeconomically disadvantaged people face greater challenges in accessing properly functioning sanitation systems and

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[3] American Society of Civil Engineers, 2021 Report Card for America's Infrastructure, https://infrastructurereportcard.org/.

[4] EPA, "Closing America's Wastewater Access Gap Community Initiative," https://www.epa.gov/water-infrastructure/closing-americas-wastewater-access-gap-community-initiative.

[5] U.S. Environmental Protection Agency, Office of Water, *Report to Congress on the Prevalence Throughout the U.S. of Low- and Moderate-Income Households Without Access to a Treatment Works and the Use by States of Assistance Under Section 603(c)(12) of the Federal Water Pollution Control Act* (July 2021), p. 6, Table 2, https://www.epa.gov/system/files/documents/2022-01/low-mod-income-without-treatment_report-to-congress.pdf.

[6] See Dennis Pillion, "This Is Unacceptable: EPA Chief Visits Failing Sewage Systems in Alabama Black Belt," AL.com, Mar. 5, 2022, https://www.al.com/news/2022/03/this-is-unacceptable-epa-chief-visits-failing-sewage-systems-in-alabama-black-belt.html; Hawaii Department of Health, Cesspools in Hawai'i, https://health.hawaii.gov/wastewater/home/cesspools/; Dig Deep & U.S. Water Alliance, *Closing the Water Access Gap in the United States* (2019), https://uswateralliance.org/sites/uswateralliance.org/files/publications/Closing%20the%20Water%20Access%20Gap%20in%20the%20United%20States_DIGITAL.pdf.

[7] Texas Commission on Environmental Quality, Sanitary Sewer Overflows from Hurricane Harvey, https://www.tceq.texas.gov/response/hurricanes/sanitary-sewer-overflows; Hurricane Harvey: Status Summary of Impacted Public Drinking Water and Wastewater Systems, https://www.tceq.texas.gov/assets/public/response/hurricanes/hurricane-harvey-tracking-summary.pdf.

[8] Michelle Hummel et al., "Sea Level Rise Impacts on Wastewater Treatment Systems Along the U.S. Coasts," Earth's Future (2018), https://agupubs.onlinelibrary.wiley.com/doi/10.1002/2017EF000805.

[9] National Academies of Sciences, Engineering, and Medicine, Framing the Challenge of Urban Flooding in the United States (2019), https://www.nap.edu/catalog/25381/framing-the-challenge-of-urban-flooding-in-the-united-states.

flooding controls.[10] Conventional approaches to paying for infrastructure—which rely on local sources of revenue to fund investments—have deepened inequities along racial and economic lines. For example, in many cities, historically redlined neighborhoods are exposed to a higher risk of urban flooding than other areas.[11]

In light of these varied threats, federal support for wastewater and stormwater infrastructure is more important than ever. We must ensure that all communities have the resources they need to build, maintain, and operate systems that can serve their residents effectively and affordably, now and in the future.

THE INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA) PROVIDED HISTORIC FUNDING TO COMMUNITIES, BUT MORE IS NEEDED

IIJA's appropriation of $11.7 billion in supplemental funding for the Clean Water State Revolving Fund (CWSRF), our nation's largest dedicated source of wastewater and stormwater financing, was a much-needed investment in American communities' clean water infrastructure. That funding—distributed over a five-year period—will support efforts across the country to clean up waterways and provide safe sanitation. States have already begun to award IIJA funds to projects that will fix broken sewer pipes and pumps, upgrade treatment plants to provide greater pollution reductions, extend service to areas that lack centralized wastewater treatment, restore wetlands and floodplains to prevent flooding, implement energy and water efficiency upgrades, and eliminate combined sewer overflows.

These funds are providing a lifeline for many communities that have been waiting for assistance, in some cases for years or even decades. Yet despite the progress this investment will make toward addressing our clean water infrastructure backlog, an enormous gap still exists.

IIJA's $11.7 billion in CWSRF funds represent a small fraction of the $271 billion *minimum* that communities are estimated to need in order to maintain and repair their wastewater and stormwater infrastructure over the next twenty years.[12] In fact, the true need is certainly much higher, as that EPA dollar figure is now a decade out of date and is widely agreed to be a substantial underestimate—it does not account for inflation or include a reliable inventory of necessary nonpoint source projects. It also does not consider the resources needed to adapt to climate change, which utilities say could add hundreds of billions of dollars in additional water infrastructure funding requirements through the middle of the century.[13] A new EPA survey of clean water infrastructure needs will be released next year, which should give us a better understanding of the true level of investment required.

No matter what the specific estimate is, it is clear that need far outstrips the resources that have been provided. Even accounting for the one-time influx of supplemental IIJA funds, the federal government's contribution to water infrastructure spending as a share of total investment has fallen dramatically over the last several decades.[14] When federal support is unavailable, state and local governments are left to pick up the tab. This burden has strained municipal and utility budgets across the country, and many important projects are not being implemented as a result. The Value of Water Campaign has estimated the annual funding gap for drinking water, wastewater, and stormwater infrastructure—in other words, the gap between actual spending and estimated needs each year—is $82 billion.[15] This figure tells us that relying on state and local resources is not an adequate way to fund infrastructure that is necessary to keep our families safe and healthy.

Because of this heavy reliance on local funds, the quality of a community's infrastructure largely depends on the financial capacity of its residents. Communities with less wealth have been forced to postpone or forego important projects, endangering public health and environmental quality. Other communities have sought alternative, more expensive financing for their projects, which requires them to raise

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[10] See Amy Vanderwarker, "Water and Environmental Justice," chapter 3 in Juliet Christian-Smith et al., *A Twenty-First Century U.S. Water Policy* (Oxford, U.K.: Oxford University Press, 2012), 52–89, https://pacinst.org/wp-content/uploads/2013/02/water__and__environmental__justice__ch3.pdf.

[11] Kriston Capps and Christopher Cannon, "Redlined, Now Flooding," Bloomberg CityLab, March 15, 2021, https://www.bloomberg.com/graphics/2021-flood-risk-redlining/.

[12] U.S. Environmental Protection Agency, Clean Watershed Needs Survey 2012 Report to Congress, https://www.epa.gov/cwns/clean-watersheds-needs-survey-cwns-report-congress-2012.

[13] National Association of Clean Water Agencies & Association of Metropolitan Water Agencies, Confronting Climate Change: An Early Analysis of Water and Wastewater Adaptation Costs (2009), https://www2.nacwa.org/images/stories/public/2009-10-28ccreport.pdf.

[14] Value of Water Campaign, The Economic Benefits of Investing in Water Infrastructure (2017), p. 5, http://thevalueofwater.org/sites/default/files/Economic%20Impact%20of%20Investing%20in%20Water%20Infrastructure__VOW__FINAL__pages.pdf.

[15] Id. at p. 2.

rates and jeopardize the affordability of service for their customers. Neither alternative is acceptable.

In order to bring relief to communities and ensure that all people in this country have access to high-quality infrastructure, Congress should fund the Clean Water State Revolving Fund *at least* at the full IIJA-authorized level. CWSRF appropriations in the past two years have fallen short of the authorized amount by more than half. Concerningly, recent budget proposals for FY24 would slash appropriated funding for the program even further. The intent of IIJA was to *supplement* current funding levels and provide help to more communities than ever before, not to offset steep cuts to annual spending and leave overall program investments barely holding steady.

Not only is total program funding falling short, but the recent practice of diverting that funding away from state CWSRF programs toward congressionally directed spending is particularly concerning. In FY23, more than half of the total CWSRF appropriation was directed to specific earmarked projects, leaving less than half for states to allocate through their programs.[16] Proposed FY24 spending bills would increase the proportion of funding directed to earmarks even more dramatically.

This shift has several negative consequences. First, it circumvents the existing allotment formula prescribing how much CWSRF funding flows to states each year, creating a situation where some states come out ahead and others lose.[17] The unpredictability of these fluctuations creates confusion and makes it difficult for states to implement their long-term infrastructure improvement plans. Second, while funds that flow through state CWSRF programs are subject to public engagement and oversight through the annual adoption of the state's intended use plan, there is no formal opportunity for the public to weigh in on decisions around earmarks, frustrating transparency and accountability. Third, the CWSRF program requirements that apply to state-distributed funds, such as the reservation of grant funds for disadvantaged communities, do not apply to congressionally directed spending. This can result in wealthy, politically connected communities receiving earmark grant funds they do not need and would not have qualified for under normal CWSRF rules, leaving such funds unavailable for lower-income communities that depend on them.[18]

While many congressionally directed spending projects are worthwhile projects with positive benefits for communities, funding for such projects should come *on top of* the regular annual CWSRF appropriation, rather than being carved out of it.

Reducing appropriations and diverting funds toward earmarks would diminish the impact of IIJA's historic funds and undermine that legislation's purpose. If we want to make a meaningful dent in our country's infrastructure needs, we must increase—not decrease—CWSRF annual appropriations. We must also fully fund the other important programs authorized in IIJA, such as the Sewer Overflow and Stormwater Reuse Municipal Grants Program and the Household Decentralized Wastewater Grant Program. Alongside these funds, Congress should provide additional resources to EPA and state CWSRF administrators so they can continue to build capacity to operate these programs efficiently.

A recent national poll of U.S. voters shows that the vast majority of people (68%) believe water infrastructure should be a top priority for investment by the federal government, a higher positive response rate than for any other type of infrastructure.[19] Increasing federal funding for water systems would not only support public health and the environment, it would also generate billions of dollars in economic activity and create thousands of jobs.[20] And it would make funds available for beneficial but cost-intensive infrastructure such as water recycling and reuse projects that can help arid regions adapt to conditions of increasing water scarcity. Members of this Committee and Subcommittee should work with their colleagues on the Appropriations Committee to ensure that substantially enhanced funding for the CWSRF and other clean water programs is provided in FY24 and beyond.

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[16] See Tony Room, "States Lose Federal Water Funds as Lawmakers Redirect Money to Pet Projects," Washington Post, July 24, 2023, https://www.washingtonpost.com/business/2023/07/24/water-infrastructure-congress-earmarks/.

[17] Id. (noting that 38 states have been shortchanged about $660 million in DWSRF and CWSRF funding combined over the last two years due to earmarks).

[18] Id. (noting that in some states, very few congressionally directed spending projects have been located in disadvantaged communities).

[19] Water Hub, National Voter Poll on Water Access, Affordability, and Safety (Aug. 2023), https://waterhub.org/wp-content/uploads/2023/09/August-2023-Polling-Memo.pdf.

[20] Value of Water Campaign, The Economic Benefits of Investing in Water Infrastructure.

CONGRESS SHOULD SUPPORT EFFORTS TO DIRECT FUNDING TO DISADVANTAGED COMMUNITIES AND IMPROVE WATER & SEWER AFFORDABILITY

A key component of IIJA's investment in clean water infrastructure was its requirement that states distribute 49 percent of the supplemental funds in the form of additional subsidization—grants, principal forgiveness, and other forms of assistance that recipients do not have to repay.[21] IIJA also amended the Clean Water Act to require that states distribute at least 10 percent of their annual CWSRF capitalization grants in the form of additional subsidization each year, leaving in place the statute's existing maximum limit of 30 percent.[22]

Additional subsidization is a critical tool for ensuring that all communities can take advantage of CWSRF assistance. Communities with a small, declining, and/or low-income rate base often experience difficulty obtaining financing for infrastructure projects and in many cases cannot afford to pay back even a low-interest CWSRF loan. These jurisdictions may have the means to carry out priority projects only if they receive additional subsidization. As a result, additional subsidization facilitates high-impact projects that would not otherwise get built. This is what the CWSRF program is about at its core: ensuring that the environmental and public health benefits of good-quality infrastructure are not a privilege for the few, but rather are accessible to everyone in this country, even those living in less affluent jurisdictions.

Prior to IIJA, states distributed relatively little funding in the form of additional subsidization. From 2011 to 2020, for example, states distributed only about 4 percent of total assistance as additional subsidization ($2.6 billion out of $62.5 billion).[23] Many CWSRF program managers have been hesitant to distribute funding that does not "revolve" as loan repayments because of concerns about the long-term viability of the state's fund. This perspective has led to state programs that are financially stable but are not serving the communities that need help the most, frustrating the purpose and goals of the CWSRF.

In its focus on providing more funding as grants and principal forgiveness, IIJA is helping to bring about a shift in mindset that is long overdue. Requiring nearly half of the supplemental funds to be distributed as additional subsidization has had a significant impact on the way EPA and states implement the CWSRF program. It has raised awareness of the need to adopt policies that make the program accessible to a wider range of potential recipients and to conduct outreach to communities that have not participated in the past. Implementing this additional subsidization requirement has proven to be feasible and has already resulted in communities receiving CWSRF assistance that have never received it before.

Congress should build upon IIJA's progress in this area by raising the permanent statutory limit on additional subsidization beyond 30 percent of the annual capitalization grant. Given the immense positive impact of these funds, states should have the discretion to distribute more subsidization than this arbitrarily low threshold allows, assuming they determine that they have the community demand and financial capacity to do so.

That said, even if greater amounts of additional subsidization become available, many states still have policies on the books—in their intended use plans (IUPs), regulations, and state statutes—that make it difficult for certain underserved communities to access that funding. For example, many states cap the amount of additional subsidization an individual recipient can receive, excluding the neediest jurisdictions from accessing CWSRF funds. Some states set this cap as low as 20 or 30 percent of the total award. A low-income community that cannot finance the remaining 70 or 80 percent of the project costs on its own will not be able to access CWSRF assistance with such a cap in place. Other state policies that make it harder for communities to obtain funding include limiting subsidization eligibility based on strict population thresholds, not allowing disadvantaged areas within non-disadvantaged communities to qualify for subsidization, and failing to account for affordability or financial need within the state's project ranking system.

Policies like these have led to inequities in the distribution of past years' CWSRF funding. A nationwide analysis of CWSRF awards between 2011 and 2020 found that small and minority communities were statistically less likely to receive assistance.[24] Federal guidance is needed to encourage and assist states in updating their

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[21] Pub. L. No. 117–58, Title VI.

[22] Pub. L. No. 117–58, § 50210(a)(1)(B) (codified at 33 U.S.C. § 1383(i)(3)(B)(i)(II)).

[23] EPA, *Clean Water SRF Program Information: National Summary*, February 2022, 15–16, line 109; 19–20, line 128; and 65–66, lines 321 and 323, https://www.epa.gov/system/files/documents/2022-03/us21.pdf.

[24] Katy Hansen, EPIC & Becky Hammer, NRDC, *A Fairer Funding Stream: How Reforming the Clean Water State Revolving Fund Can Equitably Improve Water Infrastructure Across the*

policies to ensure that all communities have a shot at obtaining CWSRF funds. Congress should provide resources for EPA to provide technical assistance to state CWSRF managers on best practices for improving accessibility and fairness in their programs.

Beyond state program rules, another policy mechanism to make it easier for disadvantaged communities to access CWSRF funds is financial assistance for low-income customers. Water and wastewater utility bills have been increasing at more than three times the rate of inflation in recent years.[25] Researchers have found that 10 percent of households spend more than 4.5% of their annual income on essential water and sewer services.[26] Communities facing greater affordability challenges often defer implementing infrastructure projects to avoid raising rates on vulnerable residents. Conversely, communities with more affordable sewer rates that do not unduly burden their customers are in a better position to access CWSRF assistance and carry out needed construction and maintenance work.

In order to support water and sewer affordability in all communities, Congress should establish a permanent federal water and sewer assistance program. In the meantime, Congress should also provide additional funding in FY24 for the existing temporary Low-Income Household Water Assistance Program (LIHWAP) as a bridge to the establishment of that permanent program. Through the third quarter of FY23, LIHWAP helped over 1.1 million households nationwide afford their water and sewer bills.[27] Recent national polling found that 79 percent of voters support the federal government helping lower-income families with their water and sewer bills, and 76 percent support extending LIHWAP funding when the program expires at the end of this fiscal year.[28] Drawing from experience with program implementation to date, any LIHWAP funding moving forward should require improvements to administration, such as automatic enrollment of households that already participate in other income-qualified programs.

CONGRESS SHOULD SUPPORT INCREASED INVESTMENT IN GREEN PROJECTS

A priority in CWSRF program implementation over the past decade and a half has been to encourage applicants to carry out sustainable "green" projects: green stormwater infrastructure, water and energy efficiency upgrades, and other environmentally innovative activities. These projects can provide wide-ranging benefits to communities. For example, green infrastructure reduces stormwater volumes and pollutant loads, leading to cleaner waterways, reduced wastewater treatment needs for combined sewer systems, reduced flooding, and increased groundwater recharge. It is frequently more cost-effective than gray infrastructure, so it can reduce the costs of water quality compliance and flood control for communities and ratepayers.[29]

For its first two decades, the CWSRF did not fund many green projects. According to the EPA, many states had "little or no history" of funding such projects because their programs focused on traditional infrastructure, or because state law presented obstacles.[30] Then, in 2009, Congress passed the American Recovery and Reinvestment Act (ARRA). ARRA provided supplemental appropriations for the CWSRF and required that states allocate at least 20 percent of these new funds as a Green Project Reserve (GPR) for green infrastructure, water efficiency, energy efficiency, and other environmentally innovative projects. It also made GPR projects eligible for additional subsidization.[31] Since 2009, Congress has extended the GPR in appro-

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Country (2022), https://www.nrdc.org/sites/default/files/clean-water-state-revolving-fund-infrastructure-report.pdf.

[25] David Harrison, "Why Your Water Bill Is Rising Much Faster Than Inflation," *The Wall Street Journal*, March 15, 2018, https://www.wsj.com/articles/who-is-paying-to-fix-outdated-water-and-sewer-systems-you-are-1521106201.

[26] Diego S. Cardoso & Casey J. Wichman, "Water Affordability in the United States," Water Resources Research, Vol. 58, Issue 12, November 2022, https://agupubs.onlinelibrary.wiley.com/doi/abs/10.1029/2022WR032206.

[27] Quarterly LIHWAP Report Snapshot, https://lihwap-hhs-acf.opendata.arcgis.com/pages/quarterly-snapshot.

[28] Water Hub, National Voter Poll on Water Access, Affordability, and Safety, p. 1–2.

[29] Environmental Protection Agency, Green Infrastructure Cost-Benefit Resources, https://www.epa.gov/green-infrastructure/green-infrastructure-cost-benefit-resources.

[30] EPA, ARRA Clean Water State Revolving Fund Green Project Reserve Report (2012), p. 8, https://www.epa.gov/sites/production/files/2015-04/documents/arra__green__project__reserve__report.pdf.

[31] American Recovery and Reinvestment Act of 2009, P.L. 111–5 (123 Stat. 169).

priations acts each year, though starting in FY2012 the requirement was reduced from 20 percent to 10 percent of the state's annual CWSRF capitalization grant.[32]

The establishment of the Green Project Reserve led many states to fund green projects with CWSRF resources for the first time. Over the past fourteen years, the GPR has funded hundreds of beneficial green infrastructure projects across the country—everything from urban reforestation and wetlands preservation to green roofs and roadway retrofits. Additionally, the GPR has supported energy efficiency and water efficiency projects that advance clean water objectives by upgrading the efficiency of pumps and motors, powering clean water facilities with renewable energy from on-site resources, and reducing both customer and facility water use. Decentralized wastewater treatment solutions in areas lacking access to sanitation are also eligible for the GPR in the "environmentally innovative" category.[33]

The EPA determined last year that if the Green Project Reserve is included in an annual appropriations bill, it applies to the IIJA capitalization grants for the corresponding fiscal year.[34] Green projects are also eligible for the 49% of supplemental IIJA CWSRF funds that must be distributed as additional subsidization (discussed above).[35] As a result, IIJA has created strong incentives for the implementation of sustainable infrastructure and has already funded dozens of GPR-eligible projects.

Despite the program's growing impact, overall the CWSRF has been underutilized as a funding source for green projects. Since the establishment of the Green Project Reserve in 2009, EPA data indicate that only 10.6 percent of total CWSRF assistance has gone to GPR projects ($10.2 billion out of $95.7 billion).[36]

Under the existing Green Project Reserve requirement, states do not have strong incentives to educate potential applicants about the benefits of green projects and the availability of GPR funding, nor to assist them with their funding applications. The current 10 percent requirement only applies to the extent that a state receives "sufficient eligible project applications."[37] EPA has interpreted this rule to require a "good faith solicitation effort" by the state to identify eligible GPR projects, but the state's annual open solicitation for CWSRF projects is deemed to meet the requirement, even if the state does not conduct any outreach on the Green Project Reserve specifically.[38] This interpretation largely takes the burden off the state CWSRF program to actively solicit potential GPR projects. As a result, states sometimes fail to meet the GPR requirement. For example, in 2020 Florida fell short of the requirement because it did not receive sufficient project applications.[39] Oregon did not fund a single GPR project that year.[40] Missouri is two years behind on awarding its GPR dollars.[41]

Additionally, the amount of funding that Congress requires states to allocate to the Green Project Reserve has fluctuated over time and has never been codified in statute, making potential applicants uncertain about whether GPR funds will be available for their projects in future years.[42] This uncertainty depresses demand for funds.

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[32] See Congressional Research Service, "Greening" EPA's Water Infrastructure Programs through the Green Project Reserve (2016), https://www.everycrsreport.com/reports/IN10540.html.

[33] EPA, "2012 Clean Water State Revolving Fund 10% Green Project Reserve: Guidance for Determining Project Eligibility," pp. 11–12, https://www.epa.gov/sites/production/files/2015-04/documents/green__project__reserve__eligibility__guidance.pdf.

[34] Radhika Fox, EPA Assistant Administrator, Memorandum: Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law (March 2022), p. 22, https://www.epa.gov/system/files/documents/2022-03/combined__srf-implementation-memo__final__03.2022.pdf.

[35] Id., p. 3.

[36] EPA, *Clean Water SRF Program Information: National Summary* (February 2023), https://www.epa.gov/system/files/documents/2023-02/us.pdf.

[37] See Consolidated Appropriations Act 2023, p. 335, https://www.congress.gov/117/plaws/publ328/PLAW-117publ328.pdf.

[38] See EPA, Procedures for Implementing Certain Provisions of EPA's Fiscal Year 2012 Appropriations Affecting the Clean Water and Drinking Water State Revolving Fund Programs, p. 3, https://www.epa.gov/sites/production/files/documents/final__fy12__srf__guidelines__1.pdf.

[39] Florida Department of Environmental Protection, CWSRF 2020 Annual Report, p. 13, https://floridadep.gov/sites/default/files/CWSRF%20Annual%20Report%202020.pdf.

[40] Oregon Department of Environmental Quality, Clean Water State Revolving Fund Annual Report, September 2020, p. 7, https://www.oregon.gov/deq/wq/Documents/cwsrfAnnualRep2020.pdf.

[41] Missouri Department of Natural Resources, Clean Water State Revolving Fund 2022 Annual Report, pp. 10, https://dnr.mo.gov/document-search/fiscal-year-2022-clean-water-state-revolving-fund-annual-report.

[42] See Illinois EPA, Water Pollution Control Loan Program 2024 Intended Use Plan (July 2023), p. 16, https://epa.illinois.gov/content/dam/soi/en/web/epa/topics/grants-loans/state-revolving-fund/documents/2024-iup/WPCLP-2024-IUP-Final.pdf ("*Despite uncertainty regarding the*

To resolve this issue, Congress should end the process of inserting the Green Project Reserve requirement into annual appropriations bills and codify it permanently in statute. A statutory Green Project Reserve is needed to ensure that state CWSRF programs have a continued mandate to fund green projects. As pre-2009 history shows, without the GPR requirement it is likely that fewer green projects will receive CWSRF assistance. Decades of implementation have proven that these projects offer significant benefits to utilities, ratepayers, the environment, and public health. Congress should affirm its durable support for them by writing the GPR into law.

Finally, when states fall short of the Green Project Reserve minimum requirement, it isn't because there are no possible green projects for communities to implement. According to the EPA, many potential GPR applicants are simply unaware of the funding opportunities available.[43] States can address this knowledge gap through marketing and outreach, but they need resources in order to do so. Small and disadvantaged communities need technical assistance to develop projects and complete applications, and this assistance requires resources as well. Congress should set aside more funding for states to build awareness and expertise among potential GPR applicants, with the goal of ensuring that no state ever falls short of its minimum Green Project Reserve requirement due to a lack of eligible project applications.

CONGRESS SHOULD REQUIRE INCREASED TRANSPARENCY AROUND SPENDING DECISIONS

With a federal investment as substantial and historic as IIJA, it is critical that the public understand which communities are receiving funds and what kinds of projects they are carrying out. At present, it is difficult to access information about states' CWSRF IIJA awards in a timely or efficient manner. There is no centralized public database of funded projects, so stakeholders must look at each state's intended use plan, one by one, and those plans do not always contain details on specific projects or the kind of consistent information that would make national data aggregation possible. This situation frustrates accountability for ensuring that IIJA's critical supplemental funding is being spent efficiently and equitably. Greater transparency around spending decisions is required in order to understand where policy reforms may be needed at the federal and state levels to improve program operations and achieve better results.

Congress should direct EPA to publish all IIJA clean water infrastructure spending data—with the long-term goal of including *all* CWSRF award data, not limited to this supplemental funding—in a nationwide online database or dashboard that is updated on a frequent basis. The database should be searchable by state, county, and census tract and include other important standardized information such as the financial terms of the award, the project type and description, the recipient's eligibility to receive additional subsidization under the state's affordability criteria, and the project's eligibility under the Green Project Reserve. Such a requirement would improve EPA's ability to oversee, manage, and monitor this substantial investment of public funds. It would also be consistent with existing federal policies requiring agencies to assess the results of other government programs.

Finally, it is important for the public to understand where IIJA's substantial technical assistance funding is going and what assistance providers are doing with it. The Biden administration has made several announcements over the past year about large grants distributed to Environmental Finance Centers and other entities to help communities access IIJA funds.[44] The recipients of these grants should be required to publicly report on their activities, including the communities they assist and whether those communities are ultimately successful in obtaining IIJA funds. Information must be available to assess their performance so that EPA can make informed decisions about which providers to support in future years.

Congress should support all of these transparency, tracking, and reporting activities by providing the resources necessary to carry them out. Stronger reporting requirements could be implemented with little burden on CWSRF recipients if Congress provides adequate resources for data collection and instructs EPA to take the lead on gathering and aggregating the data.

Federal GPR requirement, the Illinois EPA is taking steps to institutionalize certain green infrastructure practices . . .").

[43] EPA, Financing Green Infrastructure: A Best Practices Guide for the Clean Water State Revolving Fund (2015), p. 3, https://www.epa.gov/sites/default/files/2016-01/documents/final_gi_best_practices_guide_12-9-15.pdf.

[44] See EPA, Water Technical Assistance, https://www.epa.gov/water-infrastructure/water-technical-assistance-waterta.

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Thank you for the opportunity to testify today. NRDC looks forward to working with the Subcommittee on solutions to provide all communities with high-quality, sustainable, and affordable wastewater and stormwater infrastructure.

Mr. ROUZER. Thank you very much. I have to say, you all get the gold star, the gold medal, whatever you want. I have never seen four panelists stay within 5 minutes.

[Laughter.]

Mr. ROUZER. Staff, have you ever seen all four stay within 5 minutes?

Mrs. NAPOLITANO. And even [inaudible].

Mr. ROUZER. I tell you what, you all—I applaud.

[Laughter.]

Mr. ROUZER. Anyway, I can assure you no Member of Congress can stay under 5 minutes.

[Laughter.]

Mr. ROUZER. So, with that, I will allocate 5 minutes to myself.

So, Ms. Johnson, I am going to start with you. Obviously, it's no secret we have an aging infrastructure. The average age is 40 to 50 years old. That is just the average. I mentioned my town of Chadbourn in my district that has had a system in place since 1883.

My question is this: What do you estimate the total need in the country to be?

And then, can you talk a little bit about what the investment is, as well? Because it is a pretty large gap there.

Is the need twice as large as the available supply of dollars? Ten times? What is your thought?

Ms. JOHNSON. I don't know specifically the need of the entire Nation off the top of my head. I know in Oklahoma, the last update we had to our comprehensive water plan, we identified an $80 billion infrastructure need over the next 50 years for water and wastewater infrastructure. And since the inception of all of our financing programs, we have funded approximately $6 billion of infrastructure needs.

So, there is quite a difference, I am sure, that can extrapolate to the entire country's demand for water and wastewater infrastructure.

Mr. ROUZER. Well, absolutely. I think it is important to underscore just what a wide gap exists there, and we must maximize every dollar that we can. It is going to get harder and harder to get the dollars needed, given the nature of the budget situation here in Washington with a $32–$33 trillion debt. There is going to be more and more pressure to cut discretionary dollars because nobody really wants to touch the mandatory spending, which is what really is driving the debt.

Let me ask this. In your experience running a Clean Water SRF, what do you see as the easiest hurdle or hurdles to remove to help ensure that we are maximizing each Federal dollar?

Ms. JOHNSON. While the SRF programs are a great model for leveraging the Federal funding and maximizing capacity in their State, in Oklahoma we are a leveraged State, so, we issue debt in order to meet the demand in our State for infrastructure financing.

So, as far as hurdles, of course, all of the Federal mandates that I mentioned earlier are increasing the cost of projects, while not necessarily meeting the intention of the Federal mandate or the goals of the Clean Water Act.

So, removing or revising those Federal mandates after—a lot of these Federal mandates have been in place for more than a decade. So, we are looking at those mandates to make sure that they have had the transformational gap that Congress intended when they proposed those mandates. And if they are not meeting that intention, then maybe it's time to revise them.

Mr. ROUZER. Let me ask this, and I will open it up for the rest of the panel. Are we concerned that maybe we are putting too much money towards grants movement that way that is going to shortchange us long term?

Ms. JOHNSON. I believe so. While it is very important for the very small, disadvantaged communities to have an opportunity for grant funding to finance their infrastructure needs, grant funding can have a negative impact on infrastructure financing and public health and the environment protection because large grant programs like we are seeing currently, communities rely on that and delay their infrastructure projects, hoping that they are the next in line to receive a grant that may or may not come their way. So, while they are waiting for grant funding, their infrastructure is not meeting the compliance requirements for the Clean Water Act.

Mr. ROUZER. Thank you.

Mr. Swingle and Mr. Proctor, I am running out of time here. But real quickly, are there any specific suggestions for Congress as it relates to permitting reform?

This is a subject that we are taking a real close look at. Either one of you. And turn on your microphone.

Mr. SWINGLE. We represent four different member governments and having flexibility to make sure that we are using our dollars as wisely as possible. So, tying into integrated planning and also funding flexibility, as well, is absolutely critical.

Mr. ROUZER. Thank you.

My time is expired. Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

To all the panel, thank you for recognizing the historic clean water investment contained in the BIL. More than ever, sustaining the Federal commitment to robust infrastructure investments requires constant attention. And as the chairman stated, we have an aging infrastructure. Do you support cutting clean water infrastructure investment by roughly two-thirds, as recommended by my colleagues?

And what would be the consequences of such a cut?

Ms. JOHNSON. No, we do not support cuts to the SRF programs. In fact, we suggest fully funding the SRFs to the full authorization levels.

Mrs. NAPOLITANO. Mr. Swingle?

Mr. SWINGLE. And we agree that funding the full authorization levels is important.

Having a diverse funding portfolio, as I stated, is absolutely critical. We are continuing to see increasing regulations, and the cur-

rent inflationary environment in the utility sector is as significant or more profound than many other areas of the economy.

Mrs. NAPOLITANO. Thank you.

Mr. Proctor.

Mr. PROCTOR. As I mentioned in my opening remarks, we agree, as well.

Two things to keep in mind. Without full funding, the States are deprived of critical administrative resources that they need to implement the programs, whether they are regular programs or earmarked. But another thing is, if the funds aren't fully funded, they don't continue to revolve to where the money gets lent out, and then it gets paid back, and then it is available for future projects, as well.

Mrs. NAPOLITANO. Ms. Hammer?

Ms. HAMMER. We absolutely would not support cuts. As the other witnesses have stated, the demand far exceeds the available resources.

Just in one State, Texas, last year, they had $378 million to distribute through their Clean Water SRF, but received requests for $2.8 billion worth of projects. So, they could fund only about one-eighth of the existing demand. And now that is—every State has different needs, but it is clear that the demand is there, and cutting available funds would have huge impacts.

Mrs. NAPOLITANO. Thank you.

Mr. Swingle and Ms. Hammer, last Congress, we worked closely with your organizations to reauthorize the Clean Water State Revolving Fund for the first time since its enactment. There were, however, some provisions not included in the final package, including increasing the percentage of funds awarded as a grant rather than loans. Do your organizations support increasing the amounts of base SRF funds to go to our communities as grant or loan substitutes?

Ms. JOHNSON. Let me make sure I understand the question. Are you asking if we support increased grant funding and loan forgiveness?

Mrs. NAPOLITANO. Yes, ma'am, but I asked the question to Mr. Swingle and Ms. Becky Hammer.

Ms. JOHNSON. Thank you.

Mr. SWINGLE. Thank you. Yes, we support the grant funding as proposed in IIJA. We think that that particularly, again, in this current pace of change for utilities, that those grant funds do play a significant role, particularly for disadvantaged communities.

We are seeing—we often, as utilities, think in terms of not years, but decades, when we are making infrastructure investments. And because of the pace of change of the regulatory environment and those cost changes, the grants do particularly help those small, disadvantaged communities in adapting to supporting their ratepayers.

Mrs. NAPOLITANO. Thank you.

Ms. Hammer?

Ms. HAMMER. Yes. Additional subsidization grants are really the only option for a large number of communities, as well as certain types of projects. For example, important nonpoint source projects

that don't have a revenue stream available to repay a loan would not be possible without additional subsidization.

Not all States operate separate grant programs that could make up the difference if additional subsidization weren't available. And to me, it really goes to the core of what the purpose of this program is. Do we really want to have a fund that revolves in perpetuity, but doesn't help the communities that actually need assistance?

The entire purpose of this program is to help communities implement infrastructure projects that they wouldn't be able to do otherwise. So, if anything, we should be distributing more funding as subsidy.

Mrs. NAPOLITANO. Thank you.

Mr. Proctor, what has been the single tangible benefit of the requirement to utilize American-made iron and steel in clean water infrastructure projects for the iron and steel industry in the U.S.?

Do you think this provision fundamentally increases the cost of clean water projects?

Mr. PROCTOR. Well, speaking on behalf of McWane, I will talk with respect to American iron and steel, which is the program most applicable to our industry. And to quote EPA, it has been a resounding success. It has increased capacity, it has brought production back to the U.S., it has increased jobs. It has done everything that it was intended to do.

And to give you an example from our industry, there used to be dozens of manufacturers of waterworks fittings, which are products that are critical to pipelines across the country. By the time the Great Recession hit, we were down to one last remaining domestic manufacturer, and that was us. And we were close to having to close our last plant. But the passage of AIS saved all of those jobs. Not only that, but it gave us the incentive to reinvest in the plant and increase jobs.

And more importantly, the very companies that were the architects of the demise of the domestic industry realized that if they wanted to participate in these programs, they had to reshore the production of those products. So, they opened up a new plant in Oklahoma, and they are today manufacturing those products that they tried to take over to other countries across the ocean.

Mrs. NAPOLITANO. Thank you.

Sorry, Mr. Chair. I yield back.

Mr. ROUZER. The gentlelady yields back. Mr. Van Orden, you are recognized for 5 minutes.

Mr. VAN ORDEN. Thank you, Mr. Chairman. I understand everybody here has the sense of displeasure with congressionally directed spending at the expense of the State allocations. But I live in a very rural area, and I will be frank with you. Sometimes people play politics with this issue, and I think that is, frankly, despicable. I submitted several congressionally directed spending things for projects, and my primary—my cutoff in order of precedence was clean water as the first one, and then it was public safety. So, I get what you are saying.

But unfortunately, again, sometimes when the Federal Government sends moneys to State governments, they are allocated in a way that there is a big political thumb on that. And rural areas, which the Third Congressional District of the State of Wisconsin

predominantly is, oftentimes are neglected. So, I really—I want you to think about that in that context, that we are not throwing stuff around here and trying to take away from the State's ability to allocate funds for clean water. We want to make sure that Federal moneys are going directly to where they can have the most impact. Is that clear with everybody here?

So, a lot of things that I hear from my folks that make these projects more difficult to administer is the moving needle from the EPA, especially when we are talking about different levels for agricultural runoff, phosphates, nitrates, and now the PFAS. So, I want to ask you—and we will just start with Ms. Johnson, if that is all right—with the EPA saying that the PFAS is in our hazardous materials, essentially, a lot of the concerns from our municipal water treatment facilities is that they are going to be held liable in some way for not being able to get the water to a clean enough level to a moving standard from the EPA. Have you heard that?

Ms. JOHNSON. I have not heard that, personally. I know communities are used to the ever-changing regulations in the water and wastewater industry and will do everything they can to meet those compliance requirements.

Mr. VAN ORDEN. So, when you are saying that because Members of Congress, who speak directly to our constituents on a daily basis, we are cherry picking money out of these funds to put them directly where they are needed, add some uncertainty?

The same thing happened—uncertainty for planning financially, the same thing happens to each one of these municipalities with this moving target.

Mr. Swingle, have you heard from folks about the issue of the moving target from the EPA for these different standards?

I mean, you are one of the guys, right?

Mr. SWINGLE. Excuse me?

Mr. VAN ORDEN. You are running one of these, correct?

Mr. SWINGLE. I am sorry, I didn't understand.

Mr. VAN ORDEN. What you do for your day job, you are predominantly responsible for conducting these operations, correct?

Mr. SWINGLE. Yes, that is correct. Now——

Mr. VAN ORDEN [interrupting]. So, then, I guess, have you heard this, Mr. Swingle?

Mr. SWINGLE. We do operate under the Florida Department of Environmental Protection, which is a delegated authority. And so, we do have uncertainty about where we will land with PFAS.

And in Florida in particular, it is somewhat complex because as a utility, we have eliminated all surface water discharges, but use our treated effluent that is to public reuse standards for replenishing groundwater. And the complexities of that uncertainty associated with the regulatory environment, and whether that would be regulated by the MCLs that are proposed on the drinking water side or on the—through, ultimately, a flow-down from EPA on the wastewater side, does create significant uncertainty for us.

Mr. VAN ORDEN. So, from your perspective, from your position where you are at, if the EPA could be more consistent upfront and possibly share things on a more regular basis, it would make your job easier?

Mr. SWINGLE. Regulatory certainty is absolutely critical for utilities when we are making these significant investments.

Mr. VAN ORDEN. Outstanding. Just to be clear, we have an entire town. Every single well has been contaminated by PFAS because there is an airfield right there on French Island, actually. It is a township of Campbell. It is a beautiful place.

Mr. Proctor.

Mr. PROCTOR. Well, PFAS is, obviously, a very complex topic. But if I could address your question from the standpoint of the private sector and the people that make the things that are going to be necessary to help resolve the problem, I hear a lot from—well, one thing that is certain——

Mr. VAN ORDEN [interrupting]. Mr. Proctor, you have 17 seconds.

Mr. PROCTOR. I am sorry?

Mr. VAN ORDEN. You have now 15 seconds.

Mr. PROCTOR. I am sorry. I still couldn't hear.

Mr. VAN ORDEN. My time is expired. I yield back.

Mr. PROCTOR. OK.

Mr. ROUZER. Mr. Carter.

Mr. CARTER OF LOUISIANA. Thank you very much, Mr. Chairman.

As a former local and State elected official, I understand the importance of intergovernmental coordination when it comes to protecting precious resources, particularly in the event of a disaster.

Right now, in my home State of Louisiana, we are facing the impending crisis of saltwater intrusion currently creeping up the Mississippi River. My office has been working in close coordination with the Army Corps of Engineers, the State, and the city of New Orleans, and the Sewerage and Water Board to combat the saltwater intrusion.

What role do you see State and local government playing in preparing for disaster events such as this that may threaten drinking water and the water supply?

How can Federal agencies help their State and local governments better prepare for these events?

Ms. Hammer, could you address that for us?

Ms. HAMMER. Thanks for the question. I am actually not sure I am positioned to answer that, as I don't work on disaster preparedness and response issues.

Do any of the other witnesses?

Mr. CARTER OF LOUISIANA. Anybody else want to take a crack at that?

Yes, sir, Mr. Proctor.

Mr. PROCTOR. Well, one thing I would note is the new BRIC program that Congress created—I guess it was back in 2017—provides some terrific opportunities for communities to access funding to address predisaster mitigation, including things like saltwater infiltration and that sort of thing. So, there are programs out there available to communities.

But I think there have been some problems with rolling out some of that BRIC funding over the past couple of years. And if we could eliminate some of those obstacles, that would be another source of resources for communities to address that issue.

Mr. CARTER OF LOUISIANA. OK. On December 21, EPA announced that they were providing $275 million in WIFIA grants to

the city of New Orleans and Sewerage and Water Board to modernize the city's aging and storm-damaged water system. EPA's financing of this project has historically helped protect communities in historically underserved areas from the impact of storm events and climate change.

How does WIFIA expanded eligibility help EPA supplement the CWSRF program?

Mr. SWINGLE. Part of the testimony that I talked about was a portfolio of funding approaches, and that is absolutely critical. As our particular utility already has a WIFIA loan, we are now in the process of our second. But for many smaller utilities, WIFIA isn't the right solution. And that is where SRF and WIFIA and the community appropriations all come into play to create that portfolio.

As utilities, we are reflections of our community. And often the differences in these funding approaches also recognize that flexibility and add to each community being able to access funding that is appropriate for their needs.

Mr. CARTER OF LOUISIANA. As our climate rapidly changes due to global warming, drinking water increasingly becomes a more precious natural resource. How do we see drought and arid conditions affecting State and local water agencies?

Mr. SWINGLE. Well, as a State and local water agency, I will address that. We are very proactive in our planning, both for conservation and diversifying our supplies. Where we were traditionally a groundwater-only entity, we are now diversifying into surface water reservoirs. We are doing extensive groundwater recharge to create future supplies. And that is where also flexibility in the regulatory and funding environment particularly comes into play for us, as local utilities.

Mr. CARTER OF LOUISIANA. So, with the Clean Water State Revolving Fund, how has BIL's investment into the program helped improve clean water in the States?

Ms. JOHNSON. The investment through the Infrastructure Investment and Jobs Act was a historic investment into the Clean Water SRF programs. As I mentioned previously, with the cuts to the regular program, it is really mitigating the effects of those cuts at this point in time and putting a Band-Aid on it, basically, for diverting those funds.

And so, in Oklahoma, we are a leveraged State. So, we issue debt to make sure that we meet the capacity and the demand for projects in our State. And so, in doing so, the more funds we divert out as grants or loan forgiveness, the less loans that we are able to make to be able to repay that debt.

Mr. CARTER OF LOUISIANA. And all of these critical issues would be further exacerbated with a Government shutdown.

VOICE. Yes.

Mr. CARTER OF LOUISIANA. My time is expired. I yield back.

Mr. ROUZER. Mr. Owens, you are recognized.

Mr. OWENS. Thank you.

Mr. Proctor, you mentioned in your testimony that clean water infrastructure requires innovation. In what ways do you see the clean water industry looking to innovate?

Mr. PROCTOR. Well, one area is back to the topic of PFAS. As I mentioned a second ago, that is a very complex topic, and it is

going to require a lot of innovation and a lot of new technology from the private sector to be able to address that topic.

One concern that many people in the private sector have is that one of the remedies EPA is considering is to designate PFAS a CERCLA constituent. We have a lot of concern about that because that could potentially disincentivize the private sector from getting involved in this topic. If there is a prospect that they could get sucked into extensive and expensive litigation and liability simply by providing some of the solutions, that is a serious disincentive to going down that path.

And so, as we start to look for the solutions for the PFAS problem, we need to be mindful of unintended consequences.

Mr. OWENS. Very good. Ms. Johnson, in your testimony, you outline several Federal mandates that have made costs for clean water projects too expensive, even with funding available. What do you estimate the total extra cost of these mandates have added to projects?

And would you agree that these added costs might stifle innovation that Mr. Proctor just mentioned?

Ms. JOHNSON. So, it is very difficult to quantify the cost of federalizing State programs, but there is a cost. Obviously, it takes time and effort to document compliance with all of these Federal requirements that may or may not be meeting the intention of the congressional requirement. So, while we don't have a statistical data for the actual true cost of the added Federal mandates to the program, we do know that it does drive infrastructure costs up.

Mr. OWENS. OK. With these costs, do you believe there is a—because we have chosen winners and losers when it comes to receiving funds? And why, if that is the case.

Ms. JOHNSON. I am sorry, can you repeat that?

Mr. OWENS. Do you believe, with the costs you are talking about, does this preemptively choose losers and winners in the industry you are part of?

Ms. JOHNSON. Yes, and increased costs of infrastructure is going to trickle down to the ratepayers in your local communities, especially in the disadvantaged communities where their priority is keeping rates affordable for their fixed-income homeowners.

Mr. OWENS. OK. I am just—I will just say this. Thank you for your innovation, because this is really what makes our country what it is. And obviously, here in DC, they have no clue what that looks like. So, I love the fact of innovation being a topic. We just have to make sure to give you the bandwidth to make sure that happens. So, thank you, and I will yield back.

Ms. JOHNSON. Thank you.

Mr. ROUZER. Ms. Scholten.

Ms. SCHOLTEN. Thank you, Mr. Chair, and thank you so much to all of our witnesses here today.

Congresswoman Hillary Scholten from Michigan's Third Congressional District. I am proud to represent miles of beautiful Lake Michigan shoreline, as well as the Grand River, the largest river system in our State.

This topic today is so important to me for a number of reasons. Water is a way of life in west Michigan and not only for providing recreation. My family, we are year-round anglers, but the Great

Lakes watershed is a multibillion-dollar industry. Keeping our water systems healthy and clean is a top priority for me.

We have been talking a lot about PFAS contamination, which is a huge problem. Michigan has been leading the way for decades in identifying and remediating PFAS contamination sites throughout our State. And Michigan's Third Congressional District is no exception.

Mr. Swingle, I am wondering if you could talk a little bit more specifically about some remediation efforts that you see possible, and where we might be sort of losing the way in addressing this deeply difficult issue. Specifically, how can Congress help clean water agencies address PFAS remediation, and what infrastructure do we need to prevent this sort of contamination in the future? It feels like a problem that we continue to throw more and more money at without really solving the problem.

Mr. SWINGLE. Thank you. Yes, it really has to be a multipronged approach because, as you are very well aware, as public utilities, we are passive receivers of this pollution that comes from a variety of sources.

As in my testimony, right now, understanding exactly where these pollutants are coming from in our systems so that we can target removal of those constituents upstream. It is always more cost effective to remove at the source rather than when you get to our systems and have the entirety of a flow from an entire community.

So, as—one of the things that I did mention was ensuring that that fix was in place to allow some of that mandatory funding from IIJA to be accessible for that upfront assessment and planning and pretreatment. That is absolutely critical.

The other is, because of the timelines associated with PFAS regulation, is ensuring that we do have that regulatory certainty. Utilities across the country will be investing millions and millions, if not billions and billions, of dollars. And ensuring that that infrastructure that we build, that we have to make sure that we have in place, that it is effective investments. And again, ultimately, that we are not also responsible for the liability associated with the pass-through of those discharges.

But we do face many technology challenges right now. Our systems at that scale right now are not equipped to cost-effectively handle PFAS. And so, there is significant research and development on the technology side that is required, as well.

Ms. SCHOLTEN. Thank you. That was really informative.

In the rest of my time, Mr. Proctor, I want to move on to you with a question. I am very receptive to the need to potentially extend some of these deadlines for the Bipartisan Infrastructure Law, and you talk about the need for additional technical assistance. Can you speak a little bit more specifically about what kind of technical assistance is needed, how it would be used, and how it would help?

Mr. PROCTOR. Well, the process for applying for SRF loans and grants can be very arcane sometimes, and complex. And typically, the utilities that need that assistance the most are the most ill-equipped and lack the expertise to be able to figure out that process. And that is where technical assistance becomes critical. Pro-

viding them the resources, the information that they need to be able to take advantage of the funding is a very, very important part of making sure that that money gets where it needs to go.

Going back to something I said in my opening comments, the lower the appropriations for the regular allocations to the SRFs, the less technical assistance is going to be available for those disadvantaged communities. And so, I would just reiterate my plea that you all work with the folks over on the appropriations side to make sure that that money gets there.

Ms. SCHOLTEN. Thank you. My time is up. I yield back.

Thank you all.

Mr. ROUZER. The gentlelady yields back. Mr. Collins, you are recognized for 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman. I would like to start off by telling people this is kind of my industry sitting in here, because I am in the transportation—I am in the trucking business. And so, a lot of times I like to focus kind of on what I know a little bit about.

And so, I want to kind of go into the supply chain issues a little bit. It is obvious that up here, as much as—this Congress, any time you say "supply chain," heads turn. So, it has been, especially since the pandemic, in the forefront of people's minds, whether they are service providers or manufacturers.

And Mr. Proctor, as a manufacturer, I would love to know how you have been impacted by these supply chain disruptions.

Mr. PROCTOR. Fairly severely on a number of different fronts.

We make ductile iron pipe, ductile iron valves, fittings, that sort of thing. And to give you one example, the war in Ukraine has had a significant impact on our ability to manufacture those products. Russia and Ukraine are the largest, not the sole sources, of magnesium, which is a critical element to the manufacture of those products. And so, the war over there has disrupted our supply chain significantly when it comes to those basic raw materials.

But the other thing that I want to emphasize is workforce development. When we talk about supply chains, we need to keep in mind the people that actually do the work that produces these products. We need more people who are willing to come in and help us provide those services, and that is a real challenge for us.

And so, as you are thinking about things that could be done to not only improve supply chain issues but also the operation of the utilities themselves, please keep in mind that workforce development and training good folks who want to come in and work for what is really one of the last opportunities for someone without a college education to make a good, solid middle-class wage.

Mr. COLLINS. I couldn't agree with you any more. Usually behind supply chain issues is workforce. We always end up talking about workforce. As a matter of fact, we were just talking about it at a meeting I had this morning at 8 o'clock. And you are exactly right.

I also sit on the Committee on Natural Resources. And when you were talking about critical minerals and the fact that we are 80 percent dependent on China to process the critical minerals that we need here in this country, and then you factor in the fact that we have an administration that has continually not allowed mining in our own country, much less processing, because we are down to

three smelters, so, I think that is a very important point, that we move our mineral mining processing right back to the United States, and get away from this dependence on some of these countries.

Mr. PROCTOR. Well, if I could echo that, our products are made from 95 percent recycled content, which means iron and steel scrap. But the global demand for scrap is such now that it is getting increasingly difficult to find scrap that can go into our processes.

What that means is at some point in time, we are going to have to look to developing iron and steel from mining and refining and other activities like that. And so, that's a future issue that is going to become more acute as the years go by.

Mr. COLLINS. Well, I've got one more question for you. I know I am getting limited here, but so, there has obviously been an impact on the construction and completion of the projects that you are supplying for, correct?

Mr. PROCTOR. Yes.

Mr. COLLINS. All right. Besides workforce development, is there anything else that Congress can be doing? Permitting or anything in that area?

Mr. PROCTOR. Absolutely, and I will give you one specific example.

EPA is currently considering a discretionary review of the $PM_{2.5}$ rules. If they ratchet down the $PM_{2.5}$ requirements beyond where they are now, it is going to put almost the entire country in a nonattainment situation. And that means projects that would expand capacity and increase jobs and increase the ability of the manufacturing sector to meet the demand for the sort of products that we are going to need to build all these projects, it is going to be virtually impossible.

We all want clean air, don't get me wrong. But if you look at the statistics, our air now is the cleanest it has been in 40 years, and it is the cleanest in the world in many respects. So, let's make certain that, as we are looking at these new regulations and changes, that we keep in mind, once again, the unintended consequences.

Mr. COLLINS. Yes, sir, something I like to call common sense.

Thank you, Mr. Chairman. I know I am out of time. Thank you.

Mr. ROUZER. Mrs. Sykes.

Mrs. SYKES. Thank you, Mr. Chair. Thank you, Ranking Member, for this. And to our witnesses, welcome, and I appreciate your testimony.

One thing that has become very clear is how important the Bipartisan Infrastructure Law is nationwide, not just in my community in Ohio's 13th Congressional District.

And you have talked about how the Clean Water State Revolving Fund especially is important. And having been a State-level legislator, I have talked about this quite a bit. And so, it is good to see the synergy—or lack of synergy, sometimes—between how these programs work.

Mr. Swingle, I want to ask you briefly, in your testimony, you mentioned the current investments in the Clean Water State Revolving Fund proposed in the House's budget are not adequate. Can you talk about why this proposed funding does not meet the

needs of our communities, and what would happen if we funded the Clean Water State Revolving Fund at the proposed fiscal year 2024 levels?

Mr. SWINGLE. Thank you, yes. We have talked about funding or cost increases that are driven by both the regulatory environment and the inflationary environment, and so, as we get to this discussion where there is a reduction in either the Clean Water SRF or just funding in general, that gap has to be widening.

And we know the importance of clean water. And when that funding gap exists, there are going to be reductions in—whether it is compliance or the ability to meet the needs of the communities.

Mrs. SYKES. Thank you for that answer.

So, it is clear we need to hold up the spirit of the Bipartisan Infrastructure Law and keep investing in those critical programs, not just for my district but across the country, and including in your community. It is why I was proud to lead a letter with Ranking Member Napolitano to the Appropriations Committee, speaking of that, with 30 of my colleagues earlier this year requesting robust funding for those water infrastructure programs, and also why Representative Nikema Williams of Georgia and I introduced a bill to ensure funding for environmentally friendly water infrastructure projects.

Working with organizations like the American Rivers to advance bills like the WISE Act would ensure longevity of our infrastructure and the environment and protect these programs to come. So, Mr. Chairman, at this time, I request unanimous consent to submit a report by American Rivers on the Clean Water State Revolving Fund for the record.

Mr. ROUZER. Without objection.

[The information follows:]

Report, "Using Clean Water State Revolving Funds for Greening and Climate Resilience: A Guide for Local Governments," by American Rivers, January 2023, Submitted for the Record by Hon. Emilia Strong Sykes

[The 15-page report is retained in committee files and is available online at https://www.americanrivers.org/wp-content/uploads/2023/02/CWSRF-Guide-for-Municipalities.pdf.]

Mrs. SYKES. Thank you, Mr. Chairman.

Ms. Hammer, I want to turn to you now. I was drawn to a comment in your testimony and was hoping that you could discuss a little bit further about water affordability and cost. We are all concerned about it. I hear my community members talk about inflation and water. Obviously, affordability is rising to the surface, especially post-pandemic. Most people were not aware that there was such a thing called water shutoffs, and people's water would be shut off for lack of payment.

The Low-Income Household Water Assistance Program is vitally important, and you make a suggestion to make this permanent. Can you talk a bit more about that?

And I will just say that this program has helped about 25,000 Ohio households make ends meet, protecting their quality of life

and safety. So, why would you suggest that we make this pilot program permanent?

Ms. HAMMER. Thanks. I really appreciate that question.

As I had discussed in my written testimony, there truly is an affordability crisis in this country. Some recent studies have found that anywhere between around 10 to 20 percent of households are experiencing affordability challenges with water and sewer bills. Most utilities do not operate their own low-income assistance programs. In many cases, State law can be a barrier to those, or they simply don't have the resources.

And as you mentioned, the LIHWAP program that was adopted during the pandemic has made a huge difference for many, many people. It has helped over 1 million households nationwide maintain access to water or sewer service. But of course, it was established as a temporary program, and it is currently about to expire, yet the need is not going away.

So, we need to address it through the adoption of a permanent program, whether that is LIHWAP made permanent or a program at a different agency. We are pretty open to the different options, but any permanent program that makes households automatically eligible for participation if they are already participating in another Federal income-qualified assistance program, that would really boost participation. Right now there have been a number of barriers to enrollment that have reduced participation rates.

Mrs. SYKES. Thank you so much. And my final question I want to direct to Ms. Johnson.

In your testimony, you mentioned, in relation to compliance with the Davis-Bacon Act, that you did not find that there was an issue, it "isn't an issue." This morning, the International Union of Operating Engineers submitted a letter to members of the committee—or shared, I would say—and they identified that there, in fact, is an issue, at least according to their assertion. Over 10,000 workers, upwards of $30 million in wages, have not been appropriately disbursed. What is your response to that?

Ms. JOHNSON. So, from my experience with the Davis-Bacon wage rate act is the issue is more of the compliance procedures, not necessarily the wage rates, especially in today's tight labor markets, where contractors are having to pay above and beyond the wage rates to attract skilled workers. The actual wage rates are not the issue, but it is actually the burdensome administrative oversight of the act.

Mrs. SYKES. Thank you.

Mr. Chair, I tried to be under my 5 minutes so I could get cheered on, too, but I apologize. I yield back.

Mr. ROUZER. That is all right.

Mr. Collins—I mean, Mr. Ezell. My apologies.

Mr. EZELL. No problem. We do kind of talk alike, so, we are from the same area of this country.

Mr. ROUZER. You two are sitting down there beside each other.

Mr. EZELL. That is right. So, I want to thank all of you for coming today. I know it is a lot going on right now, but I just thank you all for being here today. And Mr. Chairman, thank you for the opportunity.

Mr. Proctor, in previous hearings, I have raised some similar concerns that you highlighted in your testimony. I agree we cannot allow these issues to hinder the improvement of critical water systems in Mississippi and across our Nation. One of the issues that both you and I have emphasized is the infrastructure funding passed by Congress and the impending deadlines.

As you noted, EPA has not yet recommended water quality criteria or issued effluent limitations guidelines for PFAS. I understand there is a lack of testing capacity for PFAS, and particularly in rural States. How does this affect the States' ability to meet the deadlines placed on these funds?

Mr. PROCTOR. Well, in the absence of certainty about what targets they are going to have to meet from a regulatory standpoint, as I mentioned earlier, it makes it very difficult to figure out how to design the projects, what technology you need, what systems you need, and that sort of thing. And so, the longer that clarity doesn't occur, the more utilities are going to start bumping up against these deadlines.

And you know, again, one of the concerns that we have from the standpoint of the people that are going to provide the products that go into that is, if we get up against those deadlines and all of a sudden there is a massive surge in demand, that could create bottlenecks that could increase cost to the projects and potentially put the project itself at risk.

Mr. EZELL. Thank you. What factors would you recommend for the EPA to consider when planning on requiring testing for PFAS?

Mr. PROCTOR. I am sorry.

Mr. EZELL. What would these factors—what would you recommend for the EPA to consider when planning on requiring testing for PFAS?

Mr. PROCTOR. Well, I don't really have an opinion on what the standards ought to be. But as I said earlier, it is a very complex topic, and it is something that is going to require a lot of private-sector participation to evaluate those standards.

Mr. EZELL. All right, thank you. I want to move on.

Ms. Johnson, EPA recommends that States utilize the full Drinking Water State Revolving Fund 2 percent small system technical assistance set-aside and the newly available Clean Water State Revolving Fund 2 percent technical assistance funds to enhance or build programs that proactively identify, engage with, and provide assistance to rural, small, and Tribal publicly owned treatment works and drinking water systems, particularly in disadvantaged communities. Have you benefited from these technical assistance dollars?

Ms. JOHNSON. So, the requirement in the Clean Water SRF programs is that the 2 percent technical assistance, if utilized, has to be utilized to State agencies or nonprofit entities, while in the Drinking Water SRF program, it also allows contracting with private firms and entities to distribute that technical assistance.

So, many States around the country, under the Clean Water SRF programs, have technical assistance programs outside of the 2 percent technical assistance that they have been administering for many years through their administrative fees that they charge on the loans to help their borrowers.

Mr. EZELL. Thank you. And you know, everybody in here wants clean water. We all do that. And we want to do whatever we can as a Congress to help you and to help us move along. But sometimes we've just got to get through some of this redtape to help these smaller communities like places in my home State.

So, thank you, Mr. Chairman. I yield back.

Mr. ROUZER. The gentleman yields back.

Ms. Hoyle.

Ms. HOYLE OF OREGON. Thank you, Mr. Chair. I would like to make a comment, as opposed to a question.

I have heard through testimony—your testimony, Ms. Johnson, and some of my colleagues'—where you talk about Federal regulation increasing costs. And I think it is really important to be transparent that I believe what you are referring to is Davis-Bacon prevailing wage, among other things. And so, I just think it is important that we take a step back as to why we have prevailing wage for projects built with Federal dollars.

In 1931, the Davis-Bacon Act was passed, and this was a way to ensure that when we use taxpayer dollars, that those dollars were spent for the highest quality work. Because this—we are building things that we want to last for generations. And so, what we don't want is for sub-par contractors—and as labor commissioner, I worked with business, I worked with labor, and the vast majority of businesses do want to do the right thing, the vast majority of contractors. However, there are people that don't.

And so, if we allow in Federal projects—and in Oregon on projects that use State dollars—to bid just on price, then what happens is you get low-bid contractors and bad things happen. More workers die. Those projects don't last. Buildings cave in. It is unsafe.

Now, I personally, having run an agency that had been not invested in in four decades prior to my coming in, I am actually very passionate about streamlining Government bureaucracy, about making sure that we are not being duplicative, making sure that people can understand Government, that—again, that we have our Federal employees at the Department of Labor or wherever else having the resources, meaning that they have IT resources, that they have enough people to do the job, that our businesses and our workers can access Government easily. That may be an odd thing to be passionate about, but we have all been stuck in places. And I can tell you, I talk to Federal employees all the time that are frustrated that they don't have the tools to actually directly do what we need to do.

Now, the Biden administration has a final rule that will go into effect next month to ease the compliance burden and reduce some of the duplicative, overly technical nature of complying with the Davis-Bacon laws. And that is important. But what we don't need to do—because I would disagree that we don't need Davis-Bacon anymore because everybody is just going to pay the right wage. Again, coming from a State with little Davis-Bacon and enforcing wage and hour laws, routinely when we would come in and find that there was egregious wage theft on a construction site too often, so often, we would have workers from States that had right-to-work-for-less laws that didn't understand that they needed to be

paid a prevailing wage. So, workers do need protections, not because of the vast majority of contractors, but because there are people that would take advantage of the law.

But we also aren't going to always have a strong economy like the kind of economy where you can't find workers, right? The prevailing wage laws means that the best contractors that have really strong apprenticeship programs, that invest in their workforce safety, that they get to compete and that our local contractors get to compete instead of having a national low-bid contractor come in.

So, I agree that we need to reduce the regulatory burden, but in doing that, we should not undermine the protections that Davis-Bacon offers to our taxpayers so that we can get the best value for our taxpayer dollars, the protections that prevailing wage offers to workers, and the benefit that we give to level the playing field for those contractors that will pay more and do better. Because we deserve to have the absolute best bang for the buck with our Federal dollars.

So, I just wanted to point that out. I really don't have a question, but I want to—I am happy to work with you on the streamlining piece, but also, we have to invest in the agencies we want to do the job. Because if you don't have enough people, and you don't have the right resources, and you don't have—you are still working on a COBOL system, it is impossible—it is impossible—to achieve the things we want to achieve. So, it is a both/and.

Thank you very much.

Mr. ROUZER. The gentlelady yields back. Mr. Duarte.

Ms. HOYLE OF OREGON. I yield back.

Mr. DUARTE. Thank you, Mr. Chairman. It is great to be here today. I have been waiting for this committee hearing. Thank you.

I represent a community in California's Central Valley that has a lot of small farm towns with great needs for, of course, California compliance standards on wastewater and drinking water, very, very high, and many of these towns don't have a lot of new growth to put the cost of a new treatment plant onto developer fees. So, they have got very few options, very small tax base. And many of these farmworker towns, this is a Voting Rights Act district with two-thirds Hispanic voters. And so, it is my pride to represent them, but nonetheless, we have some challenges.

So, Ms. Johnson, Mr. Swingle, it sounds like you have got quite a bit of experience with the proverbial honeypots of funding for clean water projects and sewer and wastewater projects. And I would just like you to survey for me really quick what you think—we spoke to some specific programs today, but where you think some of the different Government sources of funding are for these types of projects in smaller rural towns.

Ms. JOHNSON. So, I am not sure I completely understand the question.

Mr. DUARTE. How do I—aside from the grants we are talking about today specifically, what are the different grant programs and funding sources within the Federal Government for clean water and wastewater treatment, particularly in smaller rural towns?

Ms. JOHNSON. OK. Besides the Clean Water SRF program, I am aware of some other smaller grant programs, the Sewer Overflow and Stormwater Reuse Municipal Grant program, often referred to

as OSG Grant program. And I believe there are other programs at other Federal agencies. Rural development has CDBG grants and other grant programs.

I am not sure of all of the funding programs out there. I know the Indian Health Service offers grant programs to small communities within their Indian nations.

Mr. DUARTE. OK, Mr. Swingle, you are reaching for it.

Mr. SWINGLE. Well, and I would just like to add that I think it is complicated. We have talked about the largest ones today, and that is evident. But there are others, and we would be happy to follow up and provide what we have as far as an inventory.

But I think that is also the complexity of ensuring that these other programs that are in place, that they are accessible, and that they truly do meet the needs, which right now, based on the testimony you have heard from throughout this panel, is that the growing needs across the water sector just aren't being met.

Mr. DUARTE. Thank you very much. In terms of Federal resources, I also understand that the Clean Water Act has a block grant program that goes to each State individually, annually. I know that—I understand that California's is over $300 million.

Are you familiar with these moneys and how they are used in your States?

And how would I go about comparing that to what is happening in California?

I just have a feeling they are not getting to clean water programs as I would define them.

Ms. JOHNSON. Yes, I would encourage you to reach out to your States, for sure, on what all funding sources are available to the communities within your States.

In Oklahoma, we work collaboratively with other funding agencies in our State to maximize the resources available to our communities within Oklahoma so that they have every opportunity to get either grant or loan funding for their critical infrastructure needs, based on their situation. And I know many other States have similar programs.

Mr. DUARTE. Yes, thank you.

Yes, sir, Mr. Proctor.

Mr. PROCTOR. As we talk about available resources, one of the things that we shouldn't forget is the opportunity for public-private partnerships. If we could expand the use of those partnerships, that gives us the ability to tap into private-sector funding to alleviate a lot of these problems, as well as whatever may be available from the Federal Government.

Mr. DUARTE. Thank you.

And Ms. Hammer, you are with the NRDC, an environmental activist group—advocacy group, let's call it. The San Joaquin Delta of California has 60 municipalities releasing not tertiary-treated discharge into the delta, causing algal blooms and other environmental problems. Is this on your radar, and is your group pressuring for some kind of remedy here?

Ms. HAMMER. I am not sure. We have an office in San Francisco that I believe handles California-specific issues, so, I would be happy to consult with them and get back to you.

Mr. DUARTE. I would really appreciate that.

Ms. HAMMER. Sure thing.

Mr. DUARTE. Thank you to the chair, and I will yield back.

Mr. ROUZER. The gentleman yields back. Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Ms. Hammer, the District of Columbia, like States, has benefited greatly from the Bipartisan Infrastructure Law and clean water infrastructure State revolving funds. You mentioned that the increased frequency of storms caused by climate change is leading to higher pollution in our Nation's waterways, and thus, increased treatment costs for two-thirds of our country's drinking water. The District of Columbia, which I represent, is one such jurisdiction, and DC is wholly reliant on the Potomac River for our drinking water, meaning DC's drinking water is continuously at risk.

How can greater transparency in clean water infrastructure financing increase equity for historically marginalized and underserved communities, particularly communities of color that are impacted disproportionately by pollution?

Ms. HAMMER. Thanks for that question. So, we, NRDC, recently conducted a study looking at the past 10 years of funding decisions under the Clean Water State Revolving Fund program.

First of all, I would say that transparency is a challenge with the data through that program. It is very difficult to access project-level information in terms of who is receiving funds. So, that was the reason for my recommendation for a public online dashboard that EPA could manage.

But the study that we did found that smaller communities and communities with higher populations of color were statistically less likely to receive Clean Water SRF awards during that 10-year period. So, it is really important for State SRF program managers to keep that in mind, to assess what are the barriers to participation in the program, are there policies in place that may be blocking certain communities from accessing funds.

Ms. NORTON. Thank you, Ms. Hammer. You also mentioned that urban flooding currently results in $9 billion in damages each year. What are the benefits of dedicated climate resilience funding for wastewater and stormwater infrastructure in flood-prone areas, and how do the costs compare?

Ms. HAMMER. Well, wastewater and stormwater infrastructure are facing a wide range of threats from climate change. Flooding is certainly one, sea level rise is another. Many wastewater facilities are located right on waterways.

And the—one of the best approaches there is—just more funding is needed, in general, to help utilities manage those threats. The more dedicated funding we can provide to sustainable green infrastructure, the better. Those approaches are really adaptable, flexible. They can be scaled up or down. Unlike hard infrastructure, they can be scaled easily and quickly. They provide multiple benefits to communities such as reducing the urban heat island effect and others.

So, we would support dedicated funding, particularly through the continued existence of the Green Project Reserve.

Ms. NORTON. Mr. Swingle, you said that there are currently no available technologies that both effectively and affordably destroy PFAS in drinking water at the scale necessary for public water

utilities. How can Congress aid with developing these necessary technologies and ensuring that public clean water utilities can afford them?

Mr. SWINGLE. That exists on both the clean water and the drinking water side, where there is a need for additional research. And tying into—this is a place where I do very much agree with the private sector to make sure that we have got those private-sector partnerships on developing and deploying and validating technologies that can be produced at scale. Because while the technologies are there, they are often not affordable at the scale when we are talking communitywide systems.

Ms. NORTON. Thank you. I yield back, Mr. Chairman.

Mr. ROUZER. The gentlelady yields back. Mr. James, you are recognized.

Mr. JAMES. Thank you, Mr. Chairman. I would like to thank the chair for this opportunity to speak, and I would like to thank the witnesses for being able to make it up to Capitol Hill today and testify in front of this committee regarding the state of clean water infrastructure.

Throughout my service, I recognize that we all have a great duty not just to our servicemembers and veterans, but right here, starting in the District of Columbia, representing the folks in our district—me, back in the 10th Congressional District in Michigan. And part of that is making sure that we have the very basic needs met, clean drinking water.

I have heard a number of great conversations here today, but I would like to piggyback on my colleague's last statements specifically related to rain and stormwater.

Two-inch-plus rain events have steadily increased in frequency since 1964. Specifically, there was an 89-percent increase for the State of Michigan 1964–2013, a 128-percent increase for southeast Michigan. Specifically, for whomever can answer, what types of wastewater treatment projects at wastewater treatment facilities are eligible for CWSRF emerging contaminants funding?

Any ideas?

Ms. JOHNSON. I can try to address that. The CWSRF emerging contaminant funding is a very narrow eligibility under the CWSRF program, but has specific funding through the Infrastructure Investments and Jobs Act. The guidance for that funding was delayed in coming out, and so, State SRF programs are trying to understand the particulars with administering those funds currently. They are quite prescriptive, from what we have been told, and that the CWSRF programs cannot use the funding for monitoring to detect emerging contaminants. And so, an emerging contaminant would have had to have been previously detected in order to use those funds. And without those being regulated contaminants, a lot of especially small communities are not actively testing for those contaminants.

Additionally, the CWSRF emerging contaminant funding is not allowed to be used for detecting the source of contamination. So, once identified, they can't use the funds to figure out where it is coming from. So, the Clean Water SRF——

Mr. JAMES [interrupting]. That is interesting, Ms. Johnson. I am going to have to look into that. Thank you.

Ms. JOHNSON. Thank you.

Mr. JAMES. One more quick question in the limited time that we have. After speaking with my colleague and former Representative, Candice Miller, discussing combined sewerage overflow projects in order to fully protect Michiganders from increasingly devastating floods, we have determined that nearly $181 million in design and construction will be needed to protect our homes. This includes nearly $70 million for the Nine Mile emergency bypass rehabilitation, $22 million for electrical system replacements, and nearly $30 million for canal rehabilitation in our district alone.

In 1½ minutes, anybody who can answer, what kinds of planning and assessment activities are eligible for the CWSRF as we examine this moving forward?

Ms. JOHNSON. The CWSRF programs can fund a wide range of planning activities. Some of the problems with using those funding sources for planning activities is the Federal procurement requirements for engineering services. Oftentimes the State and Federal requirements for procuring those services contradict each other. And so, compliance with procuring services in a State doesn't always meet the Federal requirements, so, they use funding sources outside the CWSRF to utilize for their planning efforts.

Mr. JAMES. Thank you very much. I know the chairman shares my passion for regulatory reform and streamlining. So, I am excited to work with the chairman and my colleagues on that.

With that, sir, thank you. I yield back.

Mr. ROUZER. Mr. Moulton.

Mr. MOULTON. Thank you, Mr. Chairman. When you drive up to my hometown from Boston, you go along this beautiful beach right between Lynn and Swampscott. It is called King's Beach, literally fit for a king, and yet it is closed 90 percent of the time. It is the most polluted beach in Massachusetts. Now, Lynn is a majority minority community, and you will often see families out there, even when the beach is closed, because it is the only beach they have access to at all. So, it is a major issue for the community.

The problem is that, with most of the clean water funding available through the Bipartisan Infrastructure Law and other legislative vehicles only available as loans, many local governments just don't have the tax base large enough to pay them back. And Massachusetts doesn't have a county system anymore, so, it is hard to coordinate different cities and towns working together, although Lynn and Swampscott are moving in that direction.

So, Mr. Swingle, what should we be doing to support a more regional approach to water quality issues like those that are plaguing King's Beach?

And what mechanism would you suggest we use when our current system is so segmented?

Mr. SWINGLE. Across the water sector, I think part of this is ensuring that we have organizations and use organizations like NACWA for best practice sharing. We have many large utilities across the country that do have expertise and capabilities.

And in my State, in Florida, through our association, which is the Florida Water Environment Association Utility Council, we do a lot to help and provide that resourcing in terms of just assistance and consultation for smaller utilities. So, I think that is very im-

portant, on State levels, is utilities helping utilities and working together and creating partnerships with the regulatory environment.

The second piece that I emphasize that remains absolutely critical is that diversity of funding approaches. I don't believe that there is any singular funding approach that will work for everyone. And so, having funding approaches that make sense for the different communities that we serve and their differences is absolutely critical in order to be successful to address the situations that are——

Mr. MOULTON [interrupting]. Ms. Hammer, I want to ask about this, specifically. Picking up on where Mr. Swingle left off, what should we be doing to ensure that Federal infrastructure funding is accessible for environmental justice communities like Lynn in the amount required to make a difference?

Ms. HAMMER. Thanks. As we have discussed a few times today, it is extremely important that funding continue to be available in the form of additional subsidization grants and principal forgiveness that doesn't have to be repaid, which is the only option for many communities that can't afford a loan.

Technical assistance is also incredibly important. A number of communities don't have the on-staff resources to navigate the process. Preparing an application for SRF assistance can cost tens of thousands of dollars. So, the more technical assistance resources that we can provide to EPA, to other providers, would make a huge difference.

Mr. MOULTON. So, we also in Massachusetts have a big issue with combined sewerage overflows. We have heard that brought up by several of my colleagues today already.

North of King's Beach is the Merrimack River, and I have got six towns in my district that the Merrimack River flows through. And as we are having more frequent bad rainstorms with climate change, there are a lot more CSO events, and it is a real problem. And a lot of the upriver towns that are not necessarily in my district but contribute to the problem here just don't have the money to upgrade their sewerage systems to handle this.

So, Ms. Hammer, I am glad to see that the Bipartisan Infrastructure Law authorizes a program specific to combined sewerage overflow issues, but can you comment on how that program works and how it could help my district and other districts upstream on the Merrimack River?

Ms. HAMMER. We were also really glad to see that program get included. It has taken a really long time to get it up and running.

Mr. MOULTON. Why has it taken so long to get it up and running?

Ms. HAMMER. I am not entirely sure. I know that the amount of funding that was appropriated for it was a lot less than was authorized. So, getting that appropriation level up would be helpful, but just administrative delays——

Mr. MOULTON [interrupting]. Are there ways that we should expand the program, as well?

Ms. HAMMER. Sorry?

Mr. MOULTON. Are there ways we should expand the program, as well?

Ms. HAMMER. Expand the program? I don't have any specific recommendations on that right now, other than increased appropriations.

Mr. MOULTON. All right. Thank you, Mr. Chairman. I yield back.

Mr. ROUZER. The gentleman yields back. Mr. Westerman.

Mr. WESTERMAN. Thank you, Chairman Rouzer and Ranking Member Napolitano. These hearings are obviously very important as you work towards keeping that record going on getting a WRDA bill done, and I look forward to being part of that. Thank you to the witnesses for being here today.

Ms. Johnson, I come from your neighboring State of Arkansas. I represent a rural district. The areas in Arkansas are much like the areas in Oklahoma. And I wanted to ask you your thoughts on how the current structure of the Clean Water SRF better serves rural areas like ours as opposed to some kind of federally mandated system.

Ms. JOHNSON. Thank you for the question. Yes, Oklahoma is a very rural State, and we have been funding projects in rural Oklahoma for the past 30 years, not just with the recent attention on small, disadvantaged communities. Those communities are the backbone of rural States across the Nation and definitely are in need of funding.

The Clean Water Act already authorizes the SRF programs to utilize 10 percent of the funding for additional subsidization. And with a maximum of 30 percent, the additional in the appropriations bill is generally duplicative, but States already have the authority to do that. And it is a State issue, and States understand the affordability challenges within their States and know where to direct those fundings to.

One thing I will say about small, rural communities is that they are resilient. But their priorities are different than the larger communities. While larger communities have processes in place for fiscal sustainability, small communities are trying to maintain compliance and not raise their rates for their households within their communities. And so, it is a challenge for those communities.

But increasing grant programs through the SRF program, while it is great for the recipients of those grants, it increases the cost to small or disadvantaged communities that didn't get a grant by having to raise our interest rates because of the lack of loans coming back into the program because it is going out as grant funding.

Mr. WESTERMAN. Thank you. And one of the suggestions you made for streamlining compliance really caught my attention. I just want to read this. It is your first bullet point in your testimony on suggestions. It says to, "Modernize the contract threshold and index the threshold to inflation: Davis-Bacon applies to water infrastructure projects that cost more than $2,000, a threshold that hasn't been updated since the law was enacted in 1931." You said, "For context, the average cost of a water infrastructure project in a small community (fewer than 10,000 people) was $1.8 million in 2022."

I first learned about this by working with the folks at the Corps of Engineers on the MKARNS, and I was shocked when I found out that to change the tires on a backhoe, you had to put out a formal bid. And something that would cost maybe $2,500, you end up lit-

erally spending $15,000, and most of that is paperwork. The cost for the tires on the backhoe is the same that it would be if you just went and got new tires on your backhoe.

So, in further investigation on this, between 2018 and 2020, just in the Little Rock and Tulsa Districts, had this threshold been adjusted for inflation, which it was $2,031, I think it would have been $36,000 at that point and $40,000 or more now—it would have saved $18 million over a 2-year period.

Can you speak to that more, and talk about how—and the reason—I tried to put this in WRDA last time, and it got rejected because people thought it was going to affect Davis-Bacon. This has nothing to do with the wage rates. It has to do with raising the limit that you can purchase without having to go through a formal bidding process.

Ms. JOHNSON. Yes, there is definitely a need for modernizing the compliance procedures for not only Davis-Bacon, but other Federal requirements. Like you said, it's not about the wages. It's about compliance of these requirements.

In Oklahoma, we had a community that had to turn back Federal funding because, literally, the project covered two different wage rate areas. So, while they were working on one side of the street, they had to be in compliance with one wage rate, and while on the other side of the street, they had to be in compliance with a separate wage rate. So, this is a mid-sized community that had sophisticated processes for compliance and still wasn't able to get it right.

So, as we have mentioned several times today, it really needs to be streamlined and modernized.

Mr. WESTERMAN. Thank you, and I yield back.

Mr. ROUZER. Mr. Garamendi.

Mr. GARAMENDI. Thank you, Mr. Chairman. This is a rather important hearing, considering where the appropriation process is going. We ought to be pretty much aware that this is likely to be "pie in the sky/dream on" if the appropriations that are proposed by my colleagues on the Republican side actually happen. So, let's dream on for a few moments. We have got some dreams that we would like to put forward.

This question is for you, Mr. Proctor. This past January, I reintroduced my bipartisan Clean Water State Revolving Fund Parity Act with Congressman Bost of Illinois. This would expand eligibility for the U.S. EPA Clean Water State Revolving Fund program to privately owned wastewater treatment systems, but only to that portion of money that we would hope would be allocated in the future over and above the present $1.63 billion fund.

So, Mr. Proctor, do you agree—I hope—that Congress should also provide low-cost Federal financing loans that would be repaid with interest to help modernize the wastewater treatment systems for those millions of Americans that rely upon privately owned systems?

Mr. PROCTOR. I do. I think there are somewhere around 35,000 water systems across the country, 85 percent of which serve fewer than 10,000 people. And they simply lack the resources to be able to take care of all the needs for their customers.

And one of the things that could alleviate that concern would be allowing public-private partnerships, allowing private entities to come in and access some of that funding to provide additional resources.

And not only that, regionalization, which I think is sort of related to what your bill addresses, is a way to increase scale that would provide and bring more resources to solve the problem, as well.

One other thing that I would mention is, of those 10,000—or of those smaller utilities that are out there, many of them are in noncompliance because they do lack the expertise and resources. But there is a poison pill out there that prevents the private sector from coming in to provide assistance, and that is that if a private-sector entity, or, for that matter, a public-sector entity, comes in and takes over or assists with the operation of that utility, they could incur whatever past liabilities, penalties, whatever may have accrued from past sins.

Mr. GARAMENDI. [Inaudible.]

Mr. PROCTOR. So, providing some form of safe harbor for larger utilities that come in in a Good Samaritan role to help these smaller utilities would eliminate that as an obstacle.

Mr. GARAMENDI. Additional work to be done, for sure, and we will pick that up.

The bill that we are proposing, we would hope it would be included in the markup from this House's WRDA bill so that we can then negotiate with the Senate, which is always a good idea.

This next question goes to you, Ms. Johnson. The Council of Infrastructure Financing Authorities has yet to chime in on this brilliant piece of legislation that Mr. Bost and I are putting forward. Would you like to opine today on your position in support of, hopefully, this legislation?

Yes, indeed, I am trying to set up a system in which this might be included in a bill that we might take up in markup.

Ms. JOHNSON. Yes, CIFA does not oppose the expansion of the Clean Water SRF-eligible entities, to include private. Ultimately, States will have to make the decisions on if they fund to public or private entities.

Mr. GARAMENDI. Yes, if they have the opportunity.

Ms. JOHNSON. Yes.

Mr. GARAMENDI. And once again, this would be money over and above the present level of appropriations. So, it would be the additional money which we would hope would be included. But right now, it appears as though we are going in the opposite direction.

This next question goes to—well, I will put the question out there, and Mr. Swingle, good luck answering.

The annual appropriation has remained stagnant for the last 30 years. This was the opening statements that all of you made. We cannot solve this problem if we don't have additional money. And if we are going backwards and reducing the appropriations, it is going to get a whole lot dirtier out there.

Would you agree with that, Mr. Swingle?

Mr. SWINGLE. Yes, we support increasing investment in clean water. It is absolutely critical to our communities.

Mr. GARAMENDI. And I heard you opine earlier that going the opposite direction would create a significant issue of contamination.

Thank you very much. I yield back.

Mr. ROUZER. Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman. Thank you, panelists.

In my district occurred almost 5 years ago was something called the Camp Fire, which destroyed the town of Paradise, about 150,000 acres, 20,000 buildings, caused the evacuation of about 50,000 people, and, most tragically, 85 deaths. So, we are working hard to help that town rebuild and recover, and actually eventually be stronger than it was. So, they need to be equipped in the future to do so.

So, just to set the scene, Paradise is a town on a ridge above the larger town of Chico in Butte County, California. Chico, being larger, has a college, more resources, et cetera. So, after Paradise endured what was called the Camp Fire, the priority became connecting their wastewater system to a centralized wastewater solution down in Chico. The two towns are cooperating on a regional system that will benefit both in that setup. So, a pipeline would be needed to run from Paradise up on the ridge southwest, approximately about 18 linear-miles to the city of Chico for their plant.

So, for the town of Paradise, the lack of a sewer system has hampered their economy actually for decades, and especially post-fire. And post-fire, it has helped stall the recovery efforts that they are seeking. So, they are trying to build affordable housing, but without the system of sewers to do so, it is really hard to do high density.

And as you know from replacing septic with a system like this, it has a better potential to improve groundwater or not have groundwater be harmed, as sometimes septic can do.

So, there have been multiple funding sources that have come for this project from Federal and State government. We are seeking the Federal funds through the connection payment, just under $15 million through the Clean Water State Revolving Fund. Unfortunately, the connection was ineligible for funds, as it was not seen as an upgrade to the system.

So, there is a push and a trend towards increasing regionalization like we are talking about with these two towns and consolidation of wastewater treatment facilities. So, regionalization would save considerable money, have economies of scale, and improve the overall operation. It seems like a good trend where it fits the folks involved.

So, in this case they both agree it is best for this locality. And what we are finding, though, is that the revolving fund was not set up to incentivize this particular instance. So, I have heard of other instances where certain projects are ineligible because they are not explicitly upgrading the system, as I mentioned.

So, the bottom line, have any of you on the panel heard of these situations where a project would not be a benefit—where it would be a benefit but was not eligible for the funds? I am sorry. So, what were the reasons the projects would be ineligible? Have you heard of this sort of thing?

Do you want to start, Ms. Johnson, Mr. Swingle?

Ms. JOHNSON. In the Clean Water SRF programs, I know regionalization is a local decision. I am not aware what the particulars of that particular project to say whether or not——

Mr. LAMALFA [interrupting]. Well, other instances where regionalization or the ineligibility—that they aren't able to pull down the revolving funds. Have you heard of other instances like that?

Ms. JOHNSON. Of where regionalization is eligible?

Mr. LAMALFA. Yes.

Ms. JOHNSON. Yes. Yes, consolidation and regionalization, as far as I am aware, is an eligible activity.

Of course, these are State-run programs and have State requirements to follow, as well. So—and again, I am not aware of the particulars of this project. I can't say for certain on why they would——

Mr. LAMALFA [interrupting]. Yes. I am just wondering in general.

Ms. JOHNSON [continuing]. Determine it ineligible.

Mr. LAMALFA. Let me go to Mr. Swingle, please. Thank you.

Ms. JOHNSON. Yes.

Mr. LAMALFA. Have you—are you hearing of, because of regionalization, it doesn't meet the upgrade criteria?

Mr. SWINGLE. That is not something that I have the details on, whether there is—on specific eligibility for that type of activity.

Mr. LAMALFA. OK. Mr. Proctor.

Mr. PROCTOR. I don't have any details on that, as well.

The one thing I would note, though, is I think this, in part, is something that Mr. Garamendi's bill would address, is that your private utilities currently—because they are ineligible for Clean Water SRF funding, if they do decide to come in and partner with a public utility, any outstanding SRF loans have to be paid back immediately, and that is a substantial barrier to those sort of assistance efforts.

Mr. LAMALFA. OK, all right, I already burned through the time, so, thank you, panelists.

We shouldn't have this barrier because, even though regionalization is a plus, it should also be considered an upgrade to the overall system. Indeed, you are getting overall improvements and better water quality. So, we need to look at how we can improve that eligibility and help towns like that.

I yield back. Thank you, Mr. Chairman.

Mr. ROUZER. Mr. DeSaulnier.

Mr. DESAULNIER. Thank you, Mr. Chairman. Thank you, Ranking Member and panelists.

It is interesting, following two neighbors, northern Californians, Mr. Garamendi and Mr. LaMalfa, both who are good friends. And I have stories I can share, and they can have some for me, too, as well. But in the context of this hearing, Mr. Garamendi and I represent portions of the delta, both of us different times in our careers in redistricting.

So, Ms. Hammer, in the context of the State and local title of this hearing, in northern California and California in particular, we have been working on the challenges for climate change, and our economy, and our workforce, and our environment for a long time. Certainly in the delta, protecting our levees. We know that a lot

of them were engineered and built a long time ago. So, all of this—there is a synergy. Fortunately, we prepared. We have got the issue in southern California with the Colorado River and our partnerships.

But my question to you first is, because we have prepared—and not enough—we can spend this money, the $50 billion from the infrastructure bill. We are more prepared, we have got more oversight in many ways. Other parts of the country do, reflecting their constituency. And in the current budget request by the administration, we are increasing by $250–$270 million our infrastructure for clean water.

But if the appropriations bill, as currently constructed, there would be a 67-percent cut. So, in the context of your background, preparing for future generations, preparing for clean water in a complicated environment, we can't back away. Any kind of interruption has serious consequences.

And to the other conversation about workforce development—Mr. Proctor, maybe if we have time you can chime in on this—our experience with my local districts in the bay area is we have a workforce because of our Davis-Bacon and stronger provisions, and nonunion contractors can compete, as well, if they want to invest in apprenticeship programs. But we are going into high schools and recruiting people in the building trades, the operating engineers, a lot of disadvantaged kids. So, that is a challenge. But where we really have a challenge is on the professional side, where we are trying to get kids into engineering schools. We have partnerships with the University of California because we don't have enough.

So, that is a long-winded—first part is, how do we prepare for the environment we are in so that we can avoid the cost, as Mr. LaMalfa talked about, these catastrophic climate-induced challenges, whether it is Paradise or whether it is flooding throughout the country?

Ms. HAMMER. Of course, climate change is something that all communities need to be preparing for.

Speaking of wildfire, just the wildfires that just happened in Hawaii had significant impacts on water and wastewater systems in Maui. It is going to be very expensive to address.

One thing I haven't heard—we have been talking a lot about wet weather impacts of climate change. But one thing we haven't discussed as much today is drought. And there are a number of projects that could be eligible for Clean Water SRF funding to address drought, such as water reuse and recycling projects, which tend to be very cost intensive. So, we do need to keep the funding levels up enough to support these important projects that are going to help communities continue to be resilient into the future.

And then, in the past we have also supported proposals to have applicants consider climate impacts as they are planning and designing projects. If they are receiving Federal funds, that they could be required to take a look at how climate change might affect the design of the project that they are applying for funding for. That is something we would continue to support.

Mr. DESAULNIER. Mr. Proctor, I want to ask you something just that you triggered.

But first off, I just had a meeting with my BlueGreen Alliance folks, and it is working. Even without the regulation, we are making a business argument that we can transition, and a lot of this is on the air quality side.

Mr. Proctor, the question about—in California it used to be a north-south argument about water. Now it is more east-west. A lot of the stuff that we did in the legislature, the industrial agriculture industry is actually moving to be more efficient about reuse, and it is benefiting them from a financial standpoint. So, we still want to protect them and almond farmers like Mr. LaMalfa to a certain degree, but we also want to be ready for the change.

I wonder if you could opine on just the business model of reuse and more efficient use of water, particularly for the business community.

Mr. PROCTOR. Well, I can give you a concrete example of how industry can be creative on this point. We have a plant in New Jersey that has a complete stormwater capture system. It captures all the stormwater that falls on our plant site, it recirculates it, it treats it, and then uses that water in the manufacturing process so that we don't have to use potable water or other precious resources like that.

And so, there are a lot of opportunities out there to do just that. Water reuse generally, whether it is in industrial applications like I was talking about, or using gray water for other applications—flushing toilets, that sort of thing—are all important ways to try and conserve what we recognize is an increasingly scarce resource, clean water.

Mr. ROUZER. Well, thank you very much. I appreciate our panelists being here today.

Seeing no other Member that hasn't already had an opportunity to comment and ask questions, I ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing.

Without objection, so ordered.

I also ask unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

Without objection, so ordered.

The subcommittee stands adjourned.

[Whereupon, at 12:11 p.m., the subcommittee was adjourned.]

SUBMISSIONS FOR THE RECORD

Letter of October 4, 2023, to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, from Sean McGarvey, President, North America's Building Trades Unions, Submitted for the Record by Hon. Grace F. Napolitano

OCTOBER 4, 2023.

The Honorable SAM GRAVES,
Chairman,
Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington, DC 20515.

The Honorable RICK LARSEN,
Ranking Member,
Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington, DC 20515.

DEAR CHAIRMAN GRAVES AND RANKING MEMBER LARSEN:

During the September 28, 2023, hearing of the Subcommittee on Water Resources and the Environment titled, "Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments," the Council on Infrastructure Financing Authorities (CIFA) submitted testimony that reflects a fundamental misunderstanding of the Davis-Bacon Act—a law that enjoys broad bipartisan support among the Members of the Transportation and Infrastructure Committee, as well as the full House. On behalf of the over 3 million skilled craft professionals that comprise North America's Building Trades Unions (NABTU), I write to strongly oppose the misguided recommendations of CIFA which seek to dilute a framework that has, for over 90 years, protected the wages of construction workers and their families.

The Davis-Bacon Act (DBA) of 1931 protects the wages and benefits of construction workers by prohibiting contractors on federal projects from paying less than the locally going rate, known as the prevailing wage. Congress passed the DBA out of concern that aggressive bidding in federal procurement was producing a race to the bottom in local area wages and benefits. Since the enactment of the DBA, Congress has passed over 100 laws applying prevailing wage requirements to projects that receive various forms of federal assistance, including grants, loans, guarantees, insurance, bonds, and clean energy tax credits. For nearly a century, NABTU and its affiliates have advocated for prevailing wage protections because such laws help construction workers maintain a decent standard of living, and they ensure that contractors compete for contracts on the basis of merit, rather than on who can exploit the cheapest workforce.

To be effective, prevailing wages must reflect *actual* wages paid to workers in their communities, not mathematically contrived averages. For this reason, in determining the prevailing wage, the U.S. Department of Labor (DOL) has consistently given priority to the modal rate—that is, the wage rate that appears most frequently in a community for a given classification. CIFA's recommendation that DOL adopt wages published by the Bureau of Labor Statistics (BLS) when job classifications are missing from a wage determination is directly at odds with Congress's intent in enacting the DBA because BLS rates do not reflect actual wages paid to workers in their communities. For example, BLS does not collect fringe benefit data, nor does it collect data by county level or by construction type.

BLS therefore produces imprecise watered-down average rates paid to no one.

CIFA's criticism of DOL's conformance process is also misguided. Conformance is the method DOL uses to add missing classifications to wage determinations. Conformances are necessary where DOL wage surveys yield insufficient data to publish a prevailing wage for a classification. Under the current system, contractors are responsible for submitting to the contracting agency a form with the proposed classification and rate of pay to be added. The contracting agency then submits that form

to DOL for final approval. Contrary to CIFA's claim that the process is riddled with delays, DOL responds to most requests within 30 days. *See* U.S. DOL, Prevailing Wage Resource Book, Davis-Bacon Additional Classification Process (Conformances), at 4 (May 2015). What's more, the new DBA regulations which take effect this month further streamline the process by authorizing DOL to proactively add missing classifications to wage determinations, instead of relying exclusively on contractor requests. 29 C.F.R. §1.3(f)(as amended in 88 Fed. Reg. 57526).[1]

CIFA also argues that the "paperwork" associated with DBA enforcement is "prescriptive" and "burdensome," especially for contractors who operate in states with state prevailing wage laws. On all DBA-covered projects, contractors and subcontractors must submit weekly certified payroll reports (CPR) to the government to ensure compliance with prevailing wage requirements. Contrary to CIFA's claims, CPR reporting is a rather simple and straightforward process typically managed through payroll software. And the data collected in CPRs is not much different than the data responsible contractors already collect for their daily logs. CIFIA also argues that the reporting requirements under the DBA are duplicative. It is important to note here that state prevailing wage laws vary a great deal with respect to compliance monitoring and enforcement. Some state laws include periodic reporting requirements, while others do not. *See, e.g.*, Mont. Code §18–2–423; Tex. Gov't Code § 2258.024; Va. Code. §2.2–4321.3(H). The scope of coverage also varies from state to state and, contrary to CIFA's suggestion, state prevailing wage laws will not automatically apply to DBA-covered projects. For example, Maryland and Colorado's state prevailing wage laws do not apply to contracts for construction that receive federal funding or that are otherwise covered by the Davis-Bacon Act. *See, e.g.*, Colo. Rev. Stat. § 24–92–201 *et seq*.; MD Code State Fin. & Proc. § 17–202(b)(2).

The DBA's reporting requirements are critical to enforcement. CPR submissions are an important deterrent against dishonest contractors because CPRs can serve as the basis for federal prosecution. Section 3145(b) of the Act provides that falsification of a certified payroll may amount to a criminal violation under 18 U.S.C. §1001, that can result in a fine, up to 5 years in prison, or both. The falsification of payrolls can also be grounds for a lawsuit under the False Claims Act, 31 U.S.C. § 3730. Accordingly, reporting requirements protect construction workers on federal and federally assisted projects, as well as the taxpayer from instances of fraud and abuse.

The DBA's compliance monitoring framework, which relies primarily on CPR submissions, is particularly important given that the construction industry consistently ranks among the top three industries for noncompliance. U.S. DOL Website, WHD by the Numbers 2022, https://www.dol.gov/agencies/whd/data/charts/low-wage-high-violation-industries; *see also* GAO–21–13 at 17 (Dec. 2020).

In fact, just three days before CIFA submitted its testimony to the Committee, DOL announced that it had recovered $101,287 in back wages and benefits for 51 workers who were short-changed by contractors on various DBA-covered projects in California. One week earlier, DOL announced that it had recovered $947,000 in back wages from four contractors on DBA-covered projects in Oregon and Washington.

While the hearing did address many important questions, our members simply cannot allow misleading claims and attacks against a foundational standard to go unanswered. A strong, bipartisan majority of the Committee understand the importance of the Davis-Bacon Act to construction workers across the nation. NABTU looks forward to working with you and other strong supporters of Davis-Bacon on the Committee to ensure the consistent application of prevailing wage standards.

Sincerely,

SEAN MCGARVEY,
President, North America's Building Trades Unions.

[1] CIFA also recommends that DOL consider adopting prevailing wage rates established by state governments pursuant to their own prevailing wage laws. The new DBA regulations authorize DOL to do just that where the state's criteria for establishing the prevailing wage is "substantially similar" to DOL's. 29 C.F.R. §1.3(g)–(i) (as amended in 88 Fed. Reg. 57526)

Letter to Hon. Sam Graves, Chairman, and Hon. Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure, and Hon. David Rouzer, Chairman, and Hon. Grace F. Napolitano, Ranking Member, Subcommittee on Water Resources and Environment, from Mark McManus, General President, United Association of Union Plumbers and Pipefitters, Submitted for the Record by Hon. Grace F. Napolitano

GENERAL OFFICE FILE REFERENCE: GP.

The Honorable SAM GRAVES,
1135 Longworth HOB,
Washington, DC 20515.

The Honorable RICK LARSEN,
2163 Rayburn HOB,
Washington, DC 20515.

The Honorable DAVID ROUZER,
2333 Rayburn HOB,
Washington, DC 20515.

The Honorable GRACE NAPOLITANO,
1610 Longworth HOB,
Washington, DC 20515.

DEAR CHAIRMAN GRAVES, CHAIRMAN ROUZER, RANKING MEMBER LARSEN, AND RANKING MEMBER NAPOLITANO,

The more than 370,000 hardworking men and women of the United Association of Union Plumbers and Pipefitters (UA) are incredibly proud to go to work every day to deliver clean and safe water to all communities across our great nation. For generations, Davis-Bacon prevailing wage provisions have protected the ability of working families to earn fair wages.

The Clean Water State Revolving Funds (SRFs) are an essential component to our shared mission of protecting the health of the nation. Your leadership on this issue has meant the United States continues to be a world leader on water infrastructure, and a model for the world to follow. Unfortunately, in recent testimony submitted to the subcommittee, the important role Davis-Bacon provisions play to protect working families came under baseless attacks from the Council of Infrastructure Financing Authorities (CIFA), who claimed that Davis-Bacon requirements on Clean Water SRFs are onerous on state agencies and businesses, and that compliance with Davis-Bacon requirements are "not an issue" given the tight labor market.

This testimony misses the mark and is nothing more than an attempt to undercut fair wages and ensure unscrupulous contractors can continue to profit off the backs of the hardworking men and women who protect our water infrastructure. Davis-Bacon is an essential tool to protect fair wages and to crack down on wage theft. In fact, the U.S. Department of Labor's Wage and Hour Division continues to enforce these provisions and collect millions in back wages for workers who were cheated out of their hard-earned fair wages.

Simply put, CIFA's proposed changes to SRF funding would not only hurt American workers; it would weaken our standing on the world stage as a leader in clean water infrastructure and put our communities at risk. I applaud the strong bipartisan majorities on this Committee and Subcommittee who understand and support the tremendous value Davis-Bacon provides, and our continued partnership to ensure that the Plumber always protects the health of the nation.

Sincerely yours,

MARK MCMANUS,
General President, United Association of Union Plumbers and Pipefitters.

Statement of Patricia Sinicropi, Executive Director, WateReuse Association, Submitted for the Record by Hon. Grace F. Napolitano

Thank you for providing the opportunity to submit written testimony on Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments. I submit this testimony today on behalf of the WateReuse Association and its members to highlight the importance of financing water reuse and recycling to build resiliency and strengthen America's infrastructure.

WateReuse is a not-for-profit trade association for water utilities, businesses, industrial and commercial enterprises, non-profit organizations, and research entities that advocate for water recycling. WateReuse and its state and regional sections represent nearly 250 water utilities serving over 60 million customers, and over 200

businesses and organizations across the country. The WateReuse Association's mission is to engage its members in a movement for safe and sustainable water supplies, to promote acceptance and support of recycled water, and to advocate for policies and funding that increase water reuse.

Water reuse, also known as water recycling, is the process of intentionally capturing wastewater, stormwater, saltwater or graywater and cleaning it as needed for a designated beneficial freshwater purpose, such as drinking, industrial processes, irrigation, groundwater replenishment, and watershed restoration. The fundamental principle of water reuse is using the right water for the right purpose, everywhere and all the time. By advancing water reuse, we protect public health and the environment while supporting strong and growing local economies.

Across the country, water, wastewater, and stormwater managers have shown that water recycling is often a central feature in innovative, integrated approaches to solving water management challenges. In the West and South, the integration of water recycling has often been driven by water supply challenges and the need for drought-resilient supplies. Elsewhere in the country, water recycling has been used to help manage stormwater, address water quality challenges, and relieve overburdened combined sewer-stormwater management systems. Water reuse is helping communities along our coasts manage sea level rise and saltwater intrusion by replenishing depleted coastal aquifers. It is also increasingly used as an economic development tool, attracting businesses and growing jobs by providing a stable water supply and a pathway to protect local groundwater and surface water.

To help communities achieve these goals, Congress reauthorized the *Pilot Program for Alternative Water Source Grants (33 U.S.C. 1300)* as part of the Infrastructure Investment and Jobs Act (IIJA) of 2021. Through the program, EPA will make competitive grants to state, interstate, and intrastate water resource development agencies to engineer, design, construct, and test alternative water source systems, including water reuse and stormwater management systems. The House FY 2024 Interior-Environment Appropriations bill includes start-up funding of $3 million for the program, whereas the Senate companion includes none. We urge this Committee to work with appropriators to ensure that the final FY 2024 appropriations package makes this important investment in water recycling.

In addition to funding the Pilot Program for Alternative Water Source Grants, we urge you to work with the Appropriations Committee to fully fund the *Clean Water and Drinking Water State Revolving Fund (SRF) Programs* in final FY 2024 appropriations legislation. The cuts proposed in the House Interior-Environment Appropriations bill would severely limit communities' ability to access financing for water recycling and other water infrastructure projects. Moreover, we ask that Congress fund Clean Water and Drinking Water earmarks on top of and in addition to *rather than from within* funding for SRF capitalization grants. The current approach of funding earmarks from within the SRF capitalization grants budget is undermining states' ability to operate and maintain viable revolving loan programs.

Investments in water reuse build communities that are modern, sustainable and stable—ready for families to flourish and businesses to grow. We urge Congress to act swiftly to provide communities the tools and resources they need to modernize their infrastructure, build resilience, and protect the environment and public health.

Thank you for considering our testimony. Please do not hesitate to reach out to the WateReuse Association's Policy Director, Greg Fogel, with any questions.

APPENDIX

QUESTIONS TO LORI JOHNSON, ASSISTANT CHIEF, FINANCIAL ASSISTANCE DIVISION, OKLAHOMA WATER RESOURCES BOARD, ON BEHALF OF THE COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES, FROM HON. DAVID ROUZER

Question 1. In her written testimony, fellow hearing witness Ms. Hammer stated that, "Under the Green Project Reserve (GPR) requirement, states do not have strong incentives to educate potential applicants about the benefits of green projects and the availability of GPR funding, nor to assist them with their funding applications."[1] Does Oklahoma—and other states in general—need mandates to finance green projects?

ANSWER. The Clean Water State Revolving Funds (SRFs) are effective because states can customize their programs to meet the unique public health, environmental and affordability challenges of their communities. Allowing each state to prioritize projects is foundational to the success of the SRFs; flexibility under the broad federal framework ensures the SRFs can be responsive to the most important and ever-evolving needs of people and the environment in each state.

Congress doesn't provide additional funding for green projects. Instead, Congress mandates that a percentage of annual federal funding be used to fund green projects as defined by the U.S. Environmental Protection Agency (EPA). While well-intended, federal mandates to fund specific types of projects, whether grey or green, undermines this proven state prioritization process. Displacing state priority projects with federally mandated projects may jeopardize public health and environmental protection.

Moreover, the SRFs are subsidized loan programs. Unlike grant programs, loan programs depend on demand from borrowers, who also prioritize funding for projects that are most important, such as for compliance with rigorous water quality standards. In some cases, SRFs must use federal funding as grants or principal forgiveness, instead of subsidized loans, to incentivize green projects. Using federal funding for grants and principal forgiveness permanently eliminates a recurring source of revenue for water infrastructure projects in the future.

As you can see below, Oklahoma has invested 44% of cumulative federal funding since 2008 for green projects, well above the ten percent mandate in recent annual appropriations bills. In fact, every SRF has exceeded the ten percent mandate, largely due to growing demand from borrowers. Because not all water infrastructure projects report their green components, it's very likely that these percentages underrepresent the total actual investment in green projects.

New or "permanent" mandates are unnecessary. Perhaps more importantly, eliminating the federal mandate for green projects would have little, if any, impact, since many communities, today, routinely incorporate green strategies into their capital improvement plans and projects as a way to improve service, resiliency, outcomes and the bottom-line.

[1] *Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments, Hearing before the Water Resources and Environment Subcomm. of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (Sept. 28, 2023) (written testimony of Rebecca Hammer, Deputy Director, Federal Water Policy, Natural Resources Defense Council).

State	Federal Funding since 2008	Spending on Green Projects †	%
Alabama	$ 253,793,500	$ 44,288,913	17%
Alaska	$ 135,627,800	$ 27,246,401	20%
Arizona	$ 142,447,100	$ 40,476,351	28%
Arkansas	$ 137,939,900	$ 198,723,531	144%
California	$ 1,509,112,307	$ 2,051,670,442	136%
Colorado	$ 169,344,400	$ 46,288,996	27%
Connecticut	$ 258,521,800	$ 35,649,893	14%
Delaware	$ 103,252,400	$ 100,514,706	97%
Florida	$ 715,349,493	$ 236,163,068	33%
Georgia	$ 374,964,216	$ 311,458,609	83%
Hawaii	$ 163,088,800	$ 67,743,334	42%
Idaho	$ 103,252,400	$ 131,875,350	128%
Illinois	$ 954,463,933	$ 314,966,571	33%
Indiana	$ 508,606,048	$ 621,510,310	122%
Iowa	$ 294,674,200	$ 130,180,072	44%
Kansas	$ 190,453,500	$ 85,701,073	45%
Kentucky	$ 268,585,200	$ 62,622,640	23%
Louisiana	$ 239,430,500	$ 36,684,426	15%
Maine	$ 163,319,600	$ 80,690,046	49%
Maryland	$ 510,421,657	$ 216,489,252	42%
Massachusetts	$ 716,522,029	$ 140,677,580	20%
Michigan	$ 907,431,252	$ 233,160,195	26%
Minnesota	$ 398,426,165	$ 149,335,778	37%
Mississippi	$ 186,500,093	$ 19,981,710	11%
Missouri	$ 603,702,512	$ 236,607,038	39%
Montana	$ 103,252,400	$ 27,376,031	27%
Nebraska	$ 107,626,700	$ 52,857,503	49%
Nevada	$ 103,252,400	$ 44,900,863	43%
New Hampshire	$ 217,636,900	$ 69,498,053	32%
New Jersey	$ 1,053,501,973	$ 141,788,838	13%
New Mexico	$ 111,076,700	$ 42,979,820	39%
New York	$ 2,753,037,314	$ 397,612,493	14%
North Carolina	$ 352,199,248	$ 148,484,429	42%
North Dakota	$ 103,926,700	$ 85,773,132	83%
Ohio	$ 1,226,374,893	$ 295,019,116	24%
Oklahoma	$ 170,457,300	$ 74,155,749	44%
Oregon	$ 238,382,700	$ 43,945,073	18%
Pennsylvania	$ 835,963,728	$ 158,030,647	19%
Rhode Island	$ 141,607,900	$ 30,651,118	22%
South Carolina	$ 212,081,670	$ 42,909,865	20%
South Dakota	$ 103,252,400	$ 12,723,217	12%
Tennessee	$ 306,571,400	$ 119,457,472	39%
Texas	$ 923,051,700	$ 325,840,020	35%
Utah	$ 110,905,500	$ 22,452,523	20%
Vermont	$ 106,526,700	$ 38,792,107	36%
Virginia	$ 431,900,531	$ 192,568,905	45%
Washington	$ 367,033,331	$ 115,470,269	31%
West Virginia	$ 329,262,879	$ 45,098,026	14%
Wisconsin	$ 570,537,777	$ 387,221,250	68%
Wyoming	$ 103,252,400	$ 19,030,389	18%
Puerto Rico	$ 284,720,041	$ 51,553,042	18%
	$ 21,376,623,990	**$ 8,606,896,235**	**40%**

† Spending on green projects from 2008 to 2021.

Question 2. You noted that the Federal mandate requiring state revolving fund (SRF) loan applicants to demonstrate adherence to Federal prevailing wage laws is very prescriptive, and creates a significant compliance burden, without actually providing any additional financial benefit to workers.

However, a letter entered into the record during this hearing from the International Union of Operating Engineers suggests that Davis-Bacon compliance is an issue for workers.[2]

Question 2.a. How do you respond to the suggestion that "cheating on prevailing wages is rampant?"[3]

ANSWER. The Clean Water SRFs don't have knowledge of "rampant cheating" and the International Union of Operating Engineers didn't provide any empirical evidence of "rampant cheating" on water infrastructure projects funded by the Clean Water SRFs.

However, the SRFs acknowledge that the prescriptive nature of Davis Bacon can certainly lead to cases of unintentional non-compliance. In states with prevailing wage laws, it is understandable that state and federal requirements, which are different, may be confused. Even federal requirements that seem simple, such as paying weekly, can create the chance of non-compliance for businesses that pay on a different schedule for privately funded work. Lack of published wages for water workers in rural areas can also lead to unintentional noncompliance.

For example, as I mentioned in my testimony, one borrower whose project spanned two counties didn't change the wages when workers crossed the county line, which led to non-compliance. However, honest mistakes shouldn't be characterized as "rampant cheating."

Question 2.b. How may simplifying compliance procedures actually reduce noncompliance and ensure workers are compensated correctly?

ANSWER. Simplifying the compliance processes and procedures would provide the ability to differentiate between contractors who are intentionally underpaying workers from those who may be unintentionally non-compliant. If the processes and procedures are clear and easy to follow, it would be evident which contractors are intentionally breaking the law and not paying the mandated wages.

Question 3. Since 2021, the Build America, Buy America Act has required all Federally funded SRF projects to use iron, steel, construction materials, and manufactured products in the United States.[4] However, inconsistent guidance towards similar types of water infrastructure projects amongst Federal agencies, and even within Environmental Protection Agency (EPA) have caused uncertainty and extra regulatory headaches for important projects. How can the Federal Government streamline Build America, Buy America guidelines without raising the cost and extending the timeline for important projects?

ANSWER. Congress should require a uniform set of rules and requirements for compliance with domestic procurement requirements in the Build America, Buy America Act (BABAA) and should eliminate the duplicative mandate for American Iron and Steel (AIS), which adds more paperwork without more protection. Different rules and requirements for the same types of water infrastructure projects will lead to confusion across the water sector and increase the potential for unintentional non-compliance. Consistency will also provide clarity and reliability to manufacturers.

Congress should mandate a timeframe, such as 15 days, for EPA and the Office of Management and Budget Made in America Office (MAIO) to make decisions on waiver requests. Since both EPA and the MAIO must approve each and every BABAA waiver, implementing a deadline for expeditious review will ensure projects stay on time, on track and on budget.

Congress should also consider codifying exceptions or waivers for public health. Unlike other sectors, water infrastructure projects use complex water treatment technologies that are needed to meet rigorous federal water quality standards for safe drinking water and pollution prevention. Public health protections should not be weakened or delayed for compliance with procurement requirements.

Congress should implement the requirements in three phases—phase one for iron and steel, phase two for construction materials, and phase three for manufactured

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[2] Letter from James T. Callahan, General President, Int'l Union of Operating Engineers, to Sam Graves, Chairman, H. Comm. on Transp. and Infrastructure, David Rouzer, Chairman, Subcomm. on Water Resources and Environment, Rick Larsen, Ranking Member, H. Comm. on Transp. and Infrastructure, and Grace Napolitano, Ranking Member, Subcomm. on Water Resources and Environment (Sept. 28, 2023) (on file with Comm.).

[3] *Id.*

[4] Infrastructure Investment and Jobs Act, Pub. L. No. 117–58, 135 Stat. 429.

products. Because manufactured products in water infrastructure projects can be highly technical equipment, more time is needed to ensure implementation leads to the long-term success of BABAA.

Question 4. Following passage of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117–58), the EPA issued a memorandum outlining signage requirements for SRF projects receiving IIJA funding.[5]

Question 4.a. What requirements do this, and other similar memorandums, add to SRF projects and how do such requirements increase costs?

ANSWER. Although not required by law, The White House Office of Management and Budget (OMB) requires recipients of federal funding from the IIJA, even in the form of loans, to post signs at construction sites. EPA applies this mandate as a term and condition of receiving annual federal funding through the SRF capitalization grant.

"The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a "project funded by President Biden's Bipartisan Infrastructure Law" or "project funded by President Biden's Inflation Reduction Act" as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period."

Signs must display the "Building A Better America Emblem and must identify the project as a project funded by President Biden's Bipartisan Infrastructure Law."

Signage requirements apply to projects that are supported by appropriations in the IIJA:

- Construction projects identified as "equivalency projects" for general supplemental capitalization grants;
- Construction projects that receive additional subsidization (grants or forgivable loans) made available by general supplemental capitalization grants;
- All construction projects funded with emerging contaminants capitalization grants;
- All construction projects funded with lead service line replacement capitalization grants.

Signage mandates increase the cost of water infrastructure projects, especially if the signs need to be repaired or replaced multiple times during a lengthy construction period. Additionally, prescriptive signage requirements may not accurately or proportionally represent multiple sources of funding, including non-federal sources that exceed the federal contribution, for some projects. Perhaps most problematic is that these signs may lead communities to believe that these water infrastructure projects are funded with a federal grant, instead of a subsidized loan which must be repaid, with interest, by ratepayers.

In addition to increasing the cost of water infrastructure projects and potentially misleading the public about the nature of the federal financial assistance (loan vs. grant), the public may confuse these official government notices as campaign signs based on guidance in the brand guide. (See attached.)

ATTACHMENTS

"Investing in America Signage Guidelines"

-and-

"Project Funding Source Sign Assembly"

[Editor's note: "Investing in America Signage Guidelines," issued by the White House Office of Digital Strategy, is retained in committee files and is available online at https://www.whitehouse.gov/wp-content/uploads/2023/02/Investing-in-America-Brand-Guide.pdf. "Project Funding Source Sign Assembly" is an older version of the aforementioned guidelines and is retained in committee files.]

Question 4.b. Are such signage requirements also in place for projects that are receiving funding from sources aside from IIJA?

ANSWER. The EPA requires SRF loan recipients to post signs on construction sites of federally funded or equivalency projects. However, EPA allows other forms of notifications such as press releases, inserts in water bills, and online and social media postings, which provides a cost-effective alternative.

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[5] Memorandum from Raffael Stein, Director, Water Infrastructure Division, Office of Water, EPA, and Anita Maria Thompkins, Director, Drinking Water Infrastructure Development Division, Office of Water, EPA, to Water Division Directors, Regions I–X (Dec. 8, 2022), (on file with Comm.).

QUESTIONS TO TODD P. SWINGLE, P.E., CHIEF EXECUTIVE OFFICER AND EXECUTIVE DIRECTOR, TOHO WATER AUTHORITY, ON BEHALF OF THE NATIONAL ASSOCIATION OF CLEAN WATER AGENCIES, FROM HON. DAVID ROUZER

Question 1. Innovation is key to moving our clean water infrastructure into the 21st century.

Question 1.a. Please explain what new technologies and approaches such as integrated planning have the potential to do for the wastewater sector in terms of innovation and regulatory flexibility.

ANSWER. Integrated Planning (IP) and the use of new technologies go hand-in-hand. IP enables utilities and the communities that they serve to take a more proactive role in determining the manner and sequencing of how they will meet their Clean Water Act obligations. And by providing this flexibility, IP also allows utilities and their communities to investigate new technologies and approaches that may provide the same or better environmental performance for less cost. For instance, if a utility is seeking to reduce the amount of sewer overflows they are experiencing during wet weather events, the use of green infrastructure through an integrated plan instead of building more tunnels may allow for better environmental results at lower cost and improved affordability for communities.

Question 1.b. What is the latest status of EPA's rollout of integrated planning?

ANSWER. EPA Headquarters, from NACWA's perspective, has been very supportive of IP in both the permitting and enforcement context. Unfortunately, where we have seen some resistance from EPA to IP, especially in the permitting context, is from EPA regional offices. Some regional offices are very supportive, others are not. We have also seen that many states are also resistant to IP. This is unfortunate, because if a state is not willing to support a utility's IP efforts, there is very little the utility can do.

Question 1.c. What effects does innovation have on affordability for local wastewater utilities and ratepayers?

ANSWER. The more innovation the better from an affordability standpoint. Innovation allows utilities to meet their Clean Water Act goals in more affordable ways, which in turn places less stress on rates and can hopefully lead to smaller rate increases.

Question 2. In your written testimony, you mentioned concerns with the EPA's new financial capability guidelines. How do incomplete or incorrect financial capability guidelines affect water affordability for treatment facilities and homeowners?

ANSWER. EPA's Financial Capability Assessment (FCA) Guidance is a critical tool designed to gauge the impacts of CWA mandates and how much a community can afford to pay to meet those compliance requirements.

With the ever-increasing water affordability challenges communities are facing, it's imperative that any FCA guidance truly looks at the impacts of CWA mandates and related bill increases on low-income households within a community.

Countless American households, both urban and rural, are struggling to pay their increasing water and sewer bills all while public utilities are seeing increased costs related to regulatory compliance, maintaining infrastructure, energy, supplies, etc.

NACWA and its utility members, who work directly on the ground with low-income households, partnered with other water sector and municipal groups over the past several years to advocate for a new EPA affordability approach that looks at the impacts of new CWA mandates and related bill increases on actual low-income households within an impacted community, as opposed to more broad-brush comparisons of community and national level metrics that often mask the actual impact on individual households. This was done collaboratively and productively with both the Obama and Trump Administrations.

Unfortunately, the new EPA FCA Guidance fails to take this household level approach, meaning that the true impacts on these households may not be fully considered and leaving them to continue paying a disproportionately higher amount of their income on clean water bills. It is critical that Congress continue strict oversight of how EPA is implementing its new FCA Guidance and the ways in which it is harming low-income households the most.

Question 3. A National Association of Clean Water Agencies (NACWA) member testified before this Subcommittee earlier this year about the importance of regulatory certainty, especially for local water utilities. How can targeted reforms to the Clean Water Act allow localities to more effectively and affordably plan their wastewater infrastructure projects and operations?

ANSWER. Codification of EPA's longstanding permit shield policy would ensure that permittees are provided the finality granted by Congress and upheld by the Supreme Court by clarifying the proper scope of CWA Section 402(k). This action would help protect due process and the regulatory certainty necessary to make appropriate infrastructure investments and address affordability challenges for municipalities nationwide.

Similarly, removing boilerplate language and requiring clear NPDES permit terms would force federal and state permit writers to do their jobs in a manner that permittees can rely on; limit opportunities for unwarranted posthoc permitting requirements; protect permit holders that are following their duly issued NPDES permits; and shield public utility ratepayers and consumers from shouldering the potentially significant costs mandated by unanticipated permitting requirements.

These are both critical as public clean water utilities try to affordably plan and invest in their long-term infrastructure needs and meet their compliance obligation under the CWA.

Making EPA recommended water quality criteria subject to APA notice and comment rulemaking requirements would also ensure a more transparent process. This is important because these criteria often lead to the imposition of incredibly stringent and costly permitting requirements on both the public and private sectors.

QUESTIONS TO JAMES M. PROCTOR II, SENIOR VICE PRESIDENT, LEGAL AND EXTERNAL AFFAIRS, MCWANE, INC., ON BEHALF OF THE U.S. CHAMBER OF COMMERCE, FROM HON. DAVID ROUZER

Question 1. In your written testimony you stated that, "wastewater is often viewed as a source of pollution but should be promoted as a resource to provide sustainable nutrients and energy."[1] What are some examples of recycled wastewater applications?

ANSWER. There are several ways that wastewater can be used to generate energy.

Biogas production: Wastewater treatment plants often produce biogas as a byproduct of the treatment process. Biogas is a mixture of methane, carbon dioxide, and other gases that can be burned to generate electricity.

Anaerobic digestion: In anaerobic digestion, microorganisms break down organic matter in wastewater to produce biogas. This process can be used to generate either electricity or heat.

Fuel cells: Some wastewater treatment plants are using fuel cells to generate electricity. Fuel cells use an electrochemical reaction to convert the chemical energy in a fuel (such as biogas) into electricity.

In addition, the most commonly discussed application is the use of nutrient-rich biosolids, a byproduct of the wastewater treatment process. Biosolids can be applied to agricultural lands as a nutrient-rich fertilizer, providing essential elements like nitrogen, phosphorus, and organic matter to improve soil fertility. Some utilities have even made this type of fertilizer commercially available for everyday garden fertilizing (e.g., Milorganite fertilizer produced from treated sewage sludge from Milwaukee MSD). Other applications include groundwater recharge, wetland restoration, and certain industrial processes.

Question 2. You expressed concerns about the slow commencement of projects in your testimony.

Question 2.a. What are some ways Congress can help streamline permitting processes to move Clean Water SRF-funded projects forward?

ANSWER. Our nation cannot improve the state of water and wastewater infrastructure especially in our most vulnerable communities without permitting reform. The U.S. Chamber of Commerce launched the Permit America to Build campaign to urge federal policymakers to streamline permitting across the board, including wastewater projects under the SRF and other Clean Water Act authorities.

Incremental efforts such as timebound reviews and simplifying approval procedures for issues like the Section 401 certification and Section 404 dredge and fill permits would be useful.

NEPA is by far the biggest obstacle to SRF-funded projects, such as the installation of linear collection and distribution systems, construction of new reservoirs, and

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[1] *Clean Water Infrastructure Financing: State and Local Perspectives and Recent Developments, Hearing before the Water Resources and Environment Subcomm. of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (Sept. 28, 2023) (written testimony of Mr. James M. Proctor, II, Senior VP, Legal and External Affairs, and General Counsel, McWane Inc., *on behalf of* United States Chamber of Commerce).

siting new treatment plants. Climate-resilient projects, such as floodplain management and flood mitigation projects, have also been delayed by the NEPA review process. Among other things, Congress should streamline the NEPA review process by imposing deadlines for agency review, limiting page limits, establishing a statute of limitation on the litigation process, and increasing agency staff needed to review NEPA documentation.

In 2015, Congress passed the Fixing American's Surface Transportation (FAST) Act which has proven successful with fast-tracking many infrastructure projects. The Permitting Institute chronicles many of those successes.[2] We would encourage Congress to consider replicating many of the streamlining provisions of the FAST Act.

Question 2.b. How important are critical minerals for moving projects forward, and how can we increase critical mineral supply in the United States?

ANSWER. A domestic supply of critical minerals and associated processing is essential to meet our ambitious climate and infrastructure goals and is integral to the nation's energy transition and manufacturing sector. The U.S. Chamber held a critical minerals summit to highlight the need to elevate critical minerals as a national priority and to promote the importance of permitting reform to advancing key projects. Here is a link to a blog summarizing the outcomes from the event.

A recent report by ConservAmerica offered the following recommendations:

Minerals for Clean Energy—The clean energy future relies on minerals that must be extracted and refined in processing facilities. American minerals—just like American energy—are more cleanly and safely produced than in many other countries. To demonstrate that superior environmental and labor performance, industry should work with other stakeholders to evaluate voluntary programs that disclose, certify, and promote the use of minerals produced under these higher standards.[3]

Resources for Resources—The federal government must properly fund and administer the various minerals programs that it has launched and that have been authorized. For example, Congress and the public should monitor and demand compliance with the mandated establishment of new battery facilities, federal lending mechanisms, and mineral data collection. Congress should also consider developing renewable-style tax credits for minerals, as well as expedited permitting. Lastly, the federal government must partner with our Canadian and Australian allies, who also enjoy vast natural resources.

Strengthening Supply Chains—Partnering with our Canadian and Australian allies, who also share the commitment to sound environmental practices, must be a top priority. The United States should also accelerate its domestic mapping program, consider a new civilian stockpile for critical minerals, and continue to build relationships with other mineral-rich partners.

Question 3. If private entities were able to access Clean Water SRF funding, what would the effects be on clean water infrastructure?

ANSWER. The 15 largest U.S. private water companies invest $5 billion annually to improve community drinking water systems.

Providing access to CWSRF by private entities would offer additional funding flexibility to communities and result in the acceleration of rebuilding our nation's aging wastewater systems, including financially distressed and disadvantaged communities. In 2020, Congress provided additional subsidy authority to the states under the DWSRF. Although private entities are not currently eligible for CWSRF funding, the Safe Drinking Water Act and Clean Water Act allow states to transfer funds between the CWSRF to the DWSRF to address their most pressing water needs. Under this flexibility, the State of Delaware was able to provide funding to the Artesian Water Company for the benefit of the Town of Frankford, a financially distressed community. The funding was used for replacing regional water mains, constructing a new regional water plant, and expanding its main renewal program to incorporate Frankford while spending about $1 million on renewal projects. The project was so successful that Artesian was awarded U.S. EPA's AQUARIUS Excellence in Community Engagement Award. Changing the eligibility criteria under the CWSRF would result in more projects such as this effort.

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[2] Success stories available at: https://www.permittinginstitute.org/success-stories.

[3] See ConservAmerica report titled *Strengthening America's Mineral Security: Net Import Dependence, Supply Chain Vulnerability, and the Case for Critical Minerals*, March 2022, available at: https://static1.squarespace.com/static/5d0c9cc5b4fb470001e12e6d/t/622a1d250cc6526f5950b16e/1646927142692/CA__critical__minerals__wp__04.pdf

Question 3.a. What would the impact on the Clean Water SRF program be?

ANSWER. Although the impact on the CWSRF program is currently unknown, it is likely to be insignificant, as many private entities will continue to pursue other forms of market and tax-exempt financing, e.g., private activity bonds. From 2010–2020, only 2 percent of DWSRF funds went to for-profit utilities.[4] In addition, state SRFs have the authority and discretion to decide what entities receive funding. Toward this end, although the Federal Safe Drinking Water Act authorizes assistance to privately owned community water systems, some states have laws or policies that preclude privately owned utilities from receiving DWSRF assistance.[5]

Question 3.b. Are there lessons to be learned from the Drinking Water SRF?

ANSWER. Yes, the fact that the DWSRF program has not been adversely impacted by expanding eligibility to private entities should alleviate any concerns that opening CWSRF funding to such entities would impact funding levels. Once again, each state has the authority and discretion under both the CWSRF and DWSRF to determine which communities and infrastructure projects are most pressing and worthy of funding.

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[4] See Government Accountability Office, Report GAO–21–291, Private Water Utilities: Actions Needed to Enhance Ownership Data, March 2021, available at: https://www.gao.gov/assets/gao-21-291.pdf

[5] See Congressional Research Service, Drinking Water State Revolving Fund: Overview, Issues and Legislation, Oct. 2, 2018, p. 2, available at: https://crsreports.congress.gov/product/pdf/R/R45304