Senate Hearing

Before the Committee on Appropriations

Environmental Protection Agency Fiscal Year 1982 Supplemental Wastewater Construction Grants

97th CONGRESS, SECOND SESSION

SPECIAL HEARING

CONGRESSIONAL WITNESSES
ENVIRONMENTAL PROTECTION AGENCY

FISCAL YEAR 1982 SUPPLEMENTAL EPA WASTEWATER CONSTRUCTION GRANTS

HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

SPECIAL HEARING

Congressional Witnesses

Environmental Protection Agency

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WEDNESDAY, FEBRUARY 10, 1982

U.S. SENATE,
SUBCOMMITTEE ON HUD AND CERTAIN INDEPENDENT AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9 a.m. in room 1224, Everett McKinley Dirksen Senate Office Building, Hon. Jake Garn (chairman) presiding.

Present: Senators Garn, Huddleston, and Leahy; also present: Senator Chafee.

CONGRESSIONAL WITNESSES

STATEMENT OF HON. JOHN CHAFEE, U.S. SENATOR FROM RHODE ISLAND

INTRODUCTION OF SENATOR CHAFEE

Senator GARN. The subcommittee will come to order.

At this point, before we get to the witnesses from the Environmental Protection Agency (EPA), I would like to ask my distinguished colleague from Rhode Island, Senator Chafee, to present his testimony.

Senator Chafee, it is an honor to have you before the subcommittee today. I have enjoyed working with you on a variety of environmental issues, including superfund and the construction grants program in the past.

I look forward to your knowledge and advice on the subject of EPA's funding requirements. We would be happy to hear from you at this time.

PREPARED STATEMENT

Senator CHAFEE. Thank you very much Mr. Chairman, and I want to express my appreciation to you and to the subcommittee for permitting me to appear today in connection with the request for the supplemental appropriation for the construction grants program.

Mr. Chairman, I have a statement here of about four pages. With your permission, I would submit it for the record and just briefly summarize it.

[The statement follows:]

STATEMENT OF SENATOR JOHN H. CHAFEE

Mr. Chairman, I am pleased to appear before the subcommittee to endorse the need for an urgent supplemental appropriation for the construction grants program. Both the administration and this subcommittee are to be commended for considering full funding of $2.4 billion for this program in such an expeditious manner.

As chairman of the Subcommittee on Environmental Pollution, I had the opportunity last year to examine the municipal construction grants program at very close range. As each member of the committee knows, the program has been the target of a significant amount of criticism. Just last May, as the subcommittee was preparing to begin hearings on the program, the Washington Post ran a five-part series documenting the failure of the program to live up to the expectations of its sponsors.

The Pollution Subcommittee was in the process of responding to these criticisms even as they were publicly documented. As part of the budget reconciliation, we cut out funding for the program for fiscal year 1982 and rescinded funds from the States to which they had already been alloted. The President also sent to Congress program reforms which he asked us to review before he would entertain any consideration of funds for the construction grants program. Considering the criticism that was being leveled at the program, I think that the course of action which he chose was appropriate and necessary.

The Environmental Pollution Subcommittee worked long and hard to enact those reforms last year. Many hearings were held on the program, and eventually many conferences were held with the House. The product of these efforts, Public Law 97-117, was signed into law by the President on December 29.

Significant and widesweeping reforms were made in the program to make it more responsible to environmental and fiscal realities. Working in cooperation with the administration, a long-term commitment was made to a more environmentally oriented program as opposed to the previous public works oriented program. While some criticism of the program was valid, much was not. It is an important and necessary program. Much of the reason for the criticism has been cut away by Public Law 97-117.

As the chairman knows, however, the need for funding for this program now is critical. More than 30 States are completely out of construction grant funds. Other States are holding back on the release of funds until they are able to determine when they will receive funding for the current fiscal year. It is important that we move quickly to get these funds to the States. It would be unfortunate indeed if construction of ongoing projects were halted. The Government spends significantly more in the long term to fund a construction grants program which is punctuated by stops and starts.

Also included in this appropriations request is funding for the State management programs. These funds represent an important step in the process in which States develop the capability to manage programs at the closest level to the citizens who are affected. One of the great dangers I see is that without these funds, States may have to dismiss people, causing significant damage to the program. Without these people in each State capitol, Congress will never have as effective a construction grants program as it wants.

Last, Mr. Chairman, I wish to draw the subcommittee's attention to changes initiated during consideration of the Clean Water Act in 1980. These changes allow States to proceed with construction of needed facilities in advance of Federal funding. I understand that there are some at the Office of Management and Budget who look unfavorably upon the notion of States proceeding with the construction of plants without Federal funding. I can certainly appreciate their concern. If all States went ahead with their projects, pressure on the Congress to reimburse all the affected parties would be tremendous. The change to the 1980 law, which I sponsored, gives the administrator greater control over advance construction and prevents construction from going ahead without his or her concurrence. The local sponsor not only could move ahead without this concurrence, but he would also assume the risk of future reimbursement.

Mr. Chairman, many State and local governments have passed bond issues, but are unable to utilize the funds because of the prohibition that has been placed on the use of this part of the law, section 206, in previous Appropriation Acts. I won't belabor the point today, but I think States and local governments which have taken the responsibility to pass bond issues should not have these funds penalized with 16 percent an-

nual inflation in the construction industry while they wait in line on a priority list to receive funding. I would respectfully urge the subcommittee to give this matter some attention.

In closing, I want to thank the chairman for his cooperation in securing funding for this program and commend the subcommittee for considering the President's request as expeditiously as it has.

BUDGET REQUEST

Senator CHAFEE. I know that you are familiar with the wastewater treatment construction grants program, and we have been discussing this throughout the reconciliation and the whole budgetary process.

As you recall, in 1981 we appropriated $3.6 billion for the program. That was cut back in the reconciliation process for 1981 to $2.6 billion. The administration then came forward with some suggested reforms in the program and there was a delay in getting those enacted. That is why we are here at this late date for the 1982 appropriation.

The request for the 1982 appropriation is for $2.4 billion. We have, as I am sure you know, made substantial changes in the program, some of it not taking place immediately and not perhaps affecting fiscal year 1982 appropriations but for the out-years. The President approved those reforms and signed Public Law 97–117 at the end of December.

The Federal share has been cut from 75 percent to 55 percent starting in 1985. The total Federal exposure has been reduced from $100 billion to about $32 billion. So we think we have got this program under control. I think it is a major step forward. I have always believed, and I would be interested in your attitude toward this, based on your own experience in Utah, that any Federal program that provides more than 50 percent of the funds is a program that the local communities or the States don't pay attention to, to the extent they should. The Federal dollars are so attractive in these kinds of programs, that local officials just reach out and grab the funds without carefully considering whether it is in the community's best interest to participate in these programs. As you know, the construction grants program has been 75 percent Federal funding. However, I think a reduction to 55 percent is just right.

I commend the administration. We worked closely with Dr. Hernandez, who, of course, is here today. I think we came out with a good program and we are on the right track.

Senator GARN. I would agree with you, Senator. I don't think there is any doubt that what you say is correct. My experience with local governments is that they simply go after programs because the money is there. For instance, when I was a mayor, I know of instances where communities got involved in LEAA programs simply because the grant programs were there. However, they often ended up with more walkie-talkies than policemen. So I would agree with you, I think the changes that have been made are for the good.

I tried to have a provision included in the First Continuing Resolution for Fiscal Year 1982 which would have provided the $2.4 billion as soon as the reform package was signed into law. Unfortunately, in conference, the House did not accept this provision. However, now that the reform package has been signed into law, I think we should act as expeditiously as possible to pass this supplemental.

Senator CHAFEE. I want to thank you, Mr. Chairman, for your part in this because, as you know, some 30 States have run out of money. Others are holding back since they do not know what is going to happen.

SENATE PROVISIONS IN H.R. 4503

Senator GARN. Let me just ask you one question. I know that your conference on H.R. 4503 was a long 5 days and difficult one. Like any conference, the resulting bill incorporated a number of compromises. If you had your way, what Senate provisions would you have liked to see included in the final version of the bill?

Senator CHAFEE. Mr. Chairman, as you know, any conference is a compromise. You give up certain things that you like. If I could have prevailed all the way in the conference, I would have hoped that we could have moved more swiftly with the reduction of the Federal share and with the changes in the eligible categories. We have grandfathered some eligible categories, which, in effect, subsidizes growth rather than addressing an existing pollution situation. But in saying that, Mr. Chairman, I don't want to give the impression that I am complaining about the compromise that was struck.

As you noted, we met and we had hard bargaining for several days. The House felt strongly about its position. Without saying who won or lost, clearly the program that passed the Senate was basically the program that prevailed, with some adjustments in time. I think it was a fair deal for all concerned.

Senator GARN. Senator Huddleston, do you have any questions of Senator Chafee?

Senator HUDDLESTON. No question, Mr. Chairman.

Senator GARN. John, thank you very much.

Senator CHAFEE. Thank you, Mr. Chairman.

MUNICIPAL WASTEWATER TREATMENT CONSTRUCTION GRANT AMENDMENTS

Senator GARN. Dr. Hernandez, would you and your associates please come forward to the table.

On December 29, 1981, the President signed into law H.R. 4503, the Municipal Wastewater Treatment Construction Grant Amendments of 1981. At that signing the President stated that:

> The agreement reached by the Congress achieves the administration's fundamental objectives while insuring minimum dislocation to the program—for all these reasons, I am pleased to sign H.R. 4503.

From both a National and State perspective, I was also pleased to see this piece of legislation with its significant reforms set in place. As you may recall, the conference report accompanying the First Continuing Resolution for fiscal year 1982 contained a strong endorsement for expeditious passage of reform legislation and funding. This language, which I proposed, recognized the additional costs that would be incurred if there was a funding hiatus. In this regard, I was ably supported by the ranking member of the subcommittee, Mr. Huddleston.

I don't, however, want to leave you with too rosey a picture about what we will be able to buy with the $2.4 billion. From a national

standpoint we have some 5,000 projects in various stages of construction and 7,000 more in the planning phase. When completed, these projects would cost around $25 billion. Obviously, we will not be able to address all of these projects as expeditiously as we would like.

UTAH PRIORITIES

The anticipated funding levels for Utah under a level $2.4 billion program is only sufficient to allow funding of about one-half of the requirements in the State's present 5-year plan. Furthermore, the State's allocation will not sustain the construction activity now begun on the two large high-priority projects for central and south Salt Lake Valley.

Dr. Hernandez, it is a pleasure to have you here today in your first appearance before this subcommittee. At this time, I would like to turn to Senator Huddleston for any opening remarks he would like to make.

STATEMENT OF SENATOR HUDDLESTON

Senator HUDDLESTON. Thank you, Mr. Chairman.

I am pleased that you are holding these hearings in such a timely fashion. I am even more impressed that you started on time with a Senate witness.

Senator GARN. If you were on the Banking Committee, you would find out that I have started all of our hearings on time. During my first hearing as chairman of the Banking Committee, I announced to everyone that henceforth and forever, the Banking Committee would start on time even if I was the only member present. Often, I have been the only member present, but I have never failed to start a hearing on time. We will try to follow the same procedure in this subcommittee.

Senator HUDDLESTON. As you indicated, it is very important to resume this program as quickly as we can. We tried, in this subcommittee, to provide funding late last year in advance of the authorization so the funds would be ready immediately upon enactment of the new bill. We run into very serious problems when projects of this nature are operated on a stop-and-go basis. I have traveled in my State, to so many small communities, and there is just no way that many of them would ever be able to develop the kind of systems that they need, even to meet the minimum requirements, without some assistance of this nature. While funds that we are talking about won't come close to meeting the total need, at least they do put the program back into operation.

We will be interested today to learn more of the details of just what is planned, both in terms of regulations, and of how promptly the funds can be allocated.

Thank you, Mr. Chairman.

PREPARED STATEMENT

Senator GARN. Thank you, Senator. Your prepared statement will be inserted in the record at this point.

[The statement follows:]

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STATEMENT OF SENATOR WALTER D. HUDDLESTON

I commend the chairman for calling this hearing. As we all know, an increasing number of States have obligated all their wastewater construction grant money, and a new appropriation is needed if we are to move ahead with the program and to meet our Nation's water quality goals.

This is a massive program. Since 1972, some $37 billion has been appropriated for wastewater construction projects. Some 4,000 facilities have been completed and another 11,000 are underway. Many others are in the pipeline.

Municipal wastes are a prime source of water contamination and cleaning up our Nation's water is a long-term job. We need to get on with it.

I hope we can move this appropriation quickly and that the administrative requirements associated with allocating and obligating these funds can be met promptly.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF JOHN HERNANDEZ, DEPUTY ADMINISTRATOR

ACCOMPANIED BY:

BRUCE R. BARRETT, ACTING ASSISTANT ADMINISTRATOR FOR WATER
HENRY L. LONGEST, DIRECTOR, OFFICE OF WATER PROGRAM OPERATIONS
MORGAN KINGHORN, COMPTROLLER

INTRODUCTION OF WITNESS

Senator GARN. Dr. Hernandez, as we spoke just before the hearing started, you said you would summarize your statement. I thought I might as well say for the record what I told you privately. Chairman Volcker came before the Banking Committee last fall and requested permission to summarize his statement. After he had finished summarizing his remarks, I told him in the future I would ask him to read his entire statement so that we could save time. It took him 1 hour and 10 minutes to summarize a statement he could have read in full in 20 minutes.

With that in mind, I give you permission to summarize your statement. We will put your entire statement in the record.

Dr. HERNANDEZ. Thank you, Senator Garn, for those good opening words.

INTRODUCTION OF ASSOCIATES

I would first like to introduce the people here with me today. Morgan Kinghorn is our Comptroller and knows everything about EPA's budget and is a long-term EPA staffer and one who is very candid about where our money is and where we spend it.

Bruce Barrett is the Acting Administrator for the Water Programs. Bruce comes to EPA from Commerce after many years in the Federal Government there and previous to that was with EPA. He certainly knows our water legislation quite well. On my right is Henry Longest who has a fine reputation in the Federal Government for his operation of the construction grants program.

FUTURE CONSTRUCTION GRANTS PROGRAM

My testimony talks about the components of the act and how we believe we will have a much better construction grants program in the future. I think that would not have taken place had it not been for Senator Chafee and his strong leadership. I think it was totally appropriate and I want to thank him for coming here today and supporting this program by his presence.

I think that is the kind of symbol you have to have when you have somebody in the Senate committee, somebody who has carried the bill through the Congress. So we will only echo his request that the money be provided for the continuation of this program.

Just one or two quick comments from Senator Huddleston's point of view. During the time I testified on this act both in the House and the Senate, I stressed the need to send to the cities and towns of America a clearcut signal as to the Federal intentions for the next 10 years so that people would know what we are going to do so we won't go through that stop/start sort of thing, and I am extremely pleased we have ended up with a 4-year authorization.

That was a Senate concept. That authorization not only indicates the level of Federal funding which, while we cannot guarantee what will happen because that is a congressional prerogative, at least this is the kind of thing that would be appropriate. It also provides money for the States, 4 percent per year of the appropriations to operate these programs in 205(g). I believe that is the kind of thing needed, so when we can tell those people in the States here is what we intend to do over a period of time.

ASSISTANCE TO SMALL COMMUNITIES

I think there are some things in the act that not only help focus more clearly on water pollution, but also help make it easier for small rural communities to meet the definition of the regulation. That is a second component.

I believe we are going to help smaller communities. Even where we do have those large projects that take up a large part of the State's budget or would totally dominate the State's budget for a couple of years, we hope to carry on with the smaller projects by having more simplified designs, ones that do work and do work well for the people in the smaller communities.

Senator Garn, we are pleased to answer any questions you have.

[The statement follows:]

PREPARED STATEMENT OF DR. JOHN W. HERNANDEZ, JR.

DEPUTY ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY

Good afternoon Mr. Chairman and Members of the Subcommittee. I am John W. Hernandez, Deputy Administrator of the Environmental Protection Agency. With me this afternoon are Bruce Barrett, Acting Assistant Administrator for Water; and Henry Longest, Director of the Office of Water Program Operations. It is a pleasure to be here today to discuss our request for $2.4 billion in funding for the Construction Grants Program in 1982.

The initial EPA budget for fiscal year 1982 did not include funding for this program. This was because when the Administration first took office, the construction grants program was facing a number of problems which needed resolution before a complete evaluation of budget needs could take place. The program required essential reforms to refocus it on important water quality objectives, to bring the long term Federal commitment in line with available funds, and to provide more flexibility to States and localities.

In April of 1981, the Agency proposed legislative reforms to Congress to accomplish these three objectives. Following an intensive period of hearings, consultation, and cooperation, Congress passed major legislative reforms on December 17, 1981, and they were signed by the President on December 29. As the President noted when he signed this major piece of environmental legislation into law, the reforms it contains reflect a major redirection of the construction grants program and a rededication to environmental goals.

The Municipal Wastewater Treatment Construction Grant Amendments of 1981 achieve the objective of both the Administration and Congress by reducing the long term Federal commitment of $90 billion by 60% to approximately $36 billion. These Amend-

ments do this by focusing Federal funds on treatment related needs and limiting existing eligibility categories. For local priorities that are not addressed by these categories, States are provided flexibility in the use of their annual allotment to fund sewer needs and combined sewer overflows (CSO). Reserve capacity which is presently eligible for Federal funding would be limited to existing needs by 1984. The Federal share would be reduced from 75 percent to 55 percent by 1984.

By focusing Federal funds on treatment-related needs, and giving the States a high degree of flexibility to address local priorities, this legislation assures that the most significant water quality problems will be addressed. In addition, it allows for a three year phase-in of these major reforms. In this way there should be very little disruption in ongoing construction and States and localities will have ample time to plan rationally for their enlarged role in planning for improved water quality.

This past summer, I appeared before Congress to discuss the Administration's legislative reforms. At that time I also noted that while one part of the Agency was working with Congress to implement needed legislative reforms, another group was working within the Agency to accomplish as much as possible through administrative reforms. A Construction Grants Regulatory Reform Group was established within EPA, and they were given three fundamental objectives: first, simplify the regulations to specify outputs instead of procedures; second, identify which procedural requirements should be eliminated and which should be republished as guidance; and third, reduce the overall volume of regulations. This effort was aggressively pursued through the last summer and fall, and a vastly simplified regulatory program has been developed and proposed for comment.

The proposed regulatory revisions to the Construction Grants Program are free of detailed procedures. They include only those minimum requirements that EPA considers essential to implement the basic statutory mandate of the program and to ensure effective State program management. EPA's guidance documents to

implement the regulation will not be regulations in disguise. They will be issued periodically as needed in a consolidated package and will not apply retroactively. They will contain information to help States and grantees manage and carry out the program and will provide discretion to these constituents to adopt other appropriate procedures which are sufficient to meet the intent of the regulation.

These regulations have been developed on an expedited schedule in close cooperation with the States and other interested organizations. Our overall intent is to provide maximum flexibility to the States in implementing the program to ensure cost-effective and environmentally sound Federal, State and local sewage treatment investments, and to prevent waste, fraud and abuse in the use of grant dollars. Also, we are currently drafting a regulation to implement the 1981 amendments which carry forward this regulatory philosophy.

With passage of the legislative reforms and the substantial progress that has been made in deregulating and streamlining the program, the problems we faced last spring have been addressed. The Agency is now in a position to ensure that any funds appropriated by Congress will be used in the most cost effective, productive manner possible.

Consistent with the intention we expressed to the Congress last year, we are now requesting an appropriation of $2.4 billion for fiscal year 1982. This level of funding is necessary to carry on the construction grants program and assure a continuation of funding support to several projects which are already underway and have been halted due to the curtailment of Federal funds.

The supplemental appropriation will be distributed to the States on the basis of the legislatively mandated allotment formula.

The reform legislation provides that each State may reserve four percent or $400,000 of its share of the construction grants authorization for administration of the program, and up to one percent or $100,000 for water quality management planning whichever

is greater. Of the $2.4 billion request, we estimate that $85 million will be obligated for State management assistance grants and up to $24,400,000 could be obligated for water quality activities. It should be noted that this latter provision which is now mandated in section 205(j) of the Clean Water Act was not contained in the Administration's proposed legislation and was not supported during the development of the final bill. States are counting on these resources provided in section 205(j) to implement changes to water quality standards. We support the provisions of that section which are aimed at real-world implementation. We are, however, concerned over the dilution of these limited funds that would occur in any pass through to areawide planning agencies as occurred in the 208 program. We, therefore, hope there is a way to provide the funds as authorized but limit their use to implementation efforts.

In summary, the combination of recently enacted legislative reforms together with the progress made in deregulating and simplifying the program has put the Agency in a strong position to realize the full potential of the appropriations authorized under P.L. 97-117. An appropriation of $2.4 billion is therefore requested to assure that the program can move forward now to carry out the legislative mandate and regulatory initiatives of the past year.

This concludes my testimony. I would be happy to answer any questions you may have.

APPROPRIATED VERSUS OBLIGATED FUNDS

Senator GARN. Thank you, very much.

As you know, in the past, there has been a very large gap between the amount authorized for this program and the amount that has been requested. In fact, over the last 3 years, $15 billion was authorized while only $12 billion was requested. Furthermore, the amount made available is only $9.2 billion or approximately 61 percent of the authorized level. Many States have complained that this descrepancy has caused considerable problems in the planning of wastewater construction plants and has been generally disruptive to the entire national effort.

Do you agree with that assessment?

Dr. HERNANDEZ. I think, to a certain degree, that is the case. During part of this process we were trying desperately hard to set up a mechanism where you could intelligently allocate those sums of money that were available. The sums were so vast. Some were not allocated. There were reallocations amongst the States. There is one time it did happen. I can see when people were not spending the money that was available why there were stops and starts in the amount that was requested.

Mr. Longest was here during that period. I might ask him to comment on some of those details, too.

Mr. LONGEST. The basic difference between that which was appropriated and actually made available, approximately $3 billion, is made up of two items: One is, the $1.7 billion that was rescinded during that past year and the second is the approximately $1 billion that is actually appropriated and allocated to the States but has not yet been obligated by the States.

These are the two key items that affect the distinction between what was appropriated and what was actually obligated to date.

FUNDING COMMITMENT

Senator GARN. To what extent do you have a commitment that the administration will follow through on the $2.4 billion?

As I am aware, OMB first opposed the request. However, Mrs. Gorsuch sent a letter back appealing OMB's decision.

Are we going to have more trouble in the future from the administration on this $2.4 billion level?

Dr. HERNANDEZ. We are requesting that money in 1982 and in 1983. I think that is clearcut. I think there are some issues that we will consider as we go into discussion of the New Federalism because it is proposed for one of the 43 programs that might be included in the block State grant.

I think what happens there will be a matter of congressional debate over the coming time. I think the intent is clearcut.

FEDERAL COURT ORDER COMPLIANCE

Senator GARN. Currently, there are about 25 communities under Federal court order to achieve compliance with affluent guidelines by specific dates. Given the fact the amount requested, $2.4 billion, is significantly less than $3.8 billion requested in 1980 and the $3.7 billion requested in 1981, what if anything does EPA intend to do in order to allocate funds in such a manner as to maximize the likelihood of meeting these court order compliance dates?

Dr. HERNANDEZ. They are not just the Federal court orders of which you note 25. There are probably as many or more State orders out. However, in terms of the total number of projects we will have in any one year, that is not a very large number. Many of these Federal court orders are on larger projects.

For example, Detroit. They are working on those gradually as you go along. Because they are so massive, they would take up an entire State's allocation for a couple of years, and we do have other problems.

I believe most of this work is accomplished through liaison between our regional offices and the State offices on how they work with the States in attacking those plants that seem to have the greatest problems and ones that are under Federal Court orders, the ones we helped them seek.

While I don't believe EPA wants to get into the individual State process for prioritizing their projects—that is, telling them which ones to fund—I think through State-EPA agreements that we do encourage them to put projects under court order on high priority. The same with the State court suits.

EFFECT OF SECTION 26 ON CONSENT DECREES

Senator GARN. What effect, if any, do you think section 26 will have on the consent decrees?

Dr. HERNANDEZ. Section 26 has something to do with the law and judges. I am going to pass on that because I am not a lawyer.

Henry, do you understand that?

Mr. LONGEST. Section 26——

Senator GARN. I am not an attorney either.

Dr. HERNANDEZ. In that case, I may give the answer.

Mr. LONGEST. Section 26 encourages courts to take into consideration existing consent decrees in light of the reduced funding level. That is basically what it says. The consent decrees that have been entered into over time have taken into consideration the funding level.

I don't know that the courts, if they are faced with that case, will necessarily take that into consideration. EPA has taken that into consideration in terms of negotiating timing of what will be constructed and the funding available to the States.

COST SAVINGS

Senator GARN. In your opening statement, you note that Public Law 97–117 is expected to reduce the long-term Federal commitment by 60 percent or approximately $54 billion.

Could you detail the specific amount that you estimate will be saved under each of the reform provisions contained in the 1981 construction grants bill?

Dr. HERNANDEZ. Yes, sir, we have that available.

As you recall, we have these things categorized; that is, 1, 2, and 4(b).

Senator GARN. Rather than providing the information now, I would ask that you submit it for the record

Dr. HERNANDEZ. Yes, sir. I think Senator Chafee's estimate was that we were down to about $32 million total Federal exposure. We estimate about $36 million. But I think those are certainly within the ball park, given the errors that are inherent in the way you compute and estimate these numbers.

[The information follows:]

PROVISIONS FOR REDUCING FEDERAL WASTEWATER TREATMENT COSTS

The reforms enacted under Public Law 97–117 contained a number of provisions that will reduce the Federal cost of wastewater treatment from approximately $90 billion to $36 billion. These provisions include limitation on eligible categories, reduced Federal share and limited reserve capacity beginning October 1, 1984. A revised definition of secondary treatment and a demonstration of water quality benefits for combined sewer overflow correction projects will also result in reduced costs. Because of the combined effect of these provisions, it is not possible to estimate a dollar savings for each specific provision. However, cost savings for eligible categories as a whole can be estimated based on the 1980 needs survey.

Comparison of eligible costs and Federal share for categories of need[1] *under Clean Water Act of 1977 and Public Law 97–117*

[In billions of dollars]

	Public Law 97–117		1977 Act	
	Eligible costs	Federal costs	Eligible costs	Federal costs
Categories 1, 2, 4B backlog	$28.9	$17.2	$30.6	$22.9
Categories 1, 2, 4B reserve	13.0	8.1	25.2	18.9
Category 3A	2.5	1.4	2.5	1.9
Categories 3B and 4A	11.6	6.6	24.4	18.3
Category 5	5.0	3.0	37.2	27.9
Total	61.0	36.3	119.9	89.9

[1] Definition of categories: 1, secondary; 2, more stringent than secondary; 3A, infiltration/inflow; 4A, new collectors; 4B, interceptors; 5, combined sewer overflow.

ALLOCATION OF FUNDS

Senator GARN. Senator Huddleston?

Senator HUDDLESTON. Thank you, Mr. Chairman.

We are already now well into fiscal year 1982. If this supplemental is enacted within the next week or so, how soon do you think you can get the funds out to the States?

Dr. HERNANDEZ. I think we are very optimistic that it could happen quickly. I would guess something in the order of a month.

Senator HUDDLESTON. After the enactment?

Dr. HERNANDEZ. Yes, sir.

IMPLEMENTATION OF SET-ASIDE PROGRAM

Senator HUDDLESTON. How fast do you think you can implement the set-aside program for planning purposes?

Dr. HERNANDEZ. The 205(j) money?

Senator HUDDLESTON. Yes.

Dr. HERNANDEZ. We already have some guidance in draft form that is currently being reviewed by the States, and I think we could move that very quickly.

Senator HUDDLESTON. Does this involve new regulations, do you know?

Dr. HERNANDEZ. To some extent because 205(j) is new language in terms of the intent of the Congress on how that money is to be spent. So I would think we would be able to come up with something very quickly since we already have it out for review.

Senator HUDDLESTON. That would go out as rapidly as the other funds or even sooner?

Dr. HERNANDEZ. No. I think the first time we can get the final regulations into effect is about July 1. Now, we could have the interim regulations available about May 15.

PASS-THROUGH TO AREAWIDE PLANNING AGENCIES

Senator HUDDLESTON. On page 5 of your testimony, you express concern over "the dilution of these limited funds that would occur in any passthrough to areawide planning agencies." Will you specifically try to restrict or preclude a State from passing through?

Dr. HERNANDEZ. No; I think our concern is whether they would be able to contribute to water quality planning, which is the purpose of those funds.

I think when you take a look at a number of the States—while the minimum allocation is $100,000, very few States are impacted there—that will receive allocations in the order of $120,000 to $150,000, and when you consider how many people that will fund which, when you look at some travel and secretarial help, is probably about $150,000 for 3 to 4 work-years of effort.

We believe the problem of coming back and reviewing the States' water quality standards, planning for their revision, holding hearings out in the areas on each of those stream segments, and doing this in a 3-year period, is going to be a very difficult job for the States to do, particularly if part of those funds go to some place that is not clearly focused to that effort.

Senator HUDDLESTON. But you won't have any specific prohibitions?

Dr. HERNANDEZ. No, sir.

STEP 1/STEP 2 PLANNING IMPLEMENTATION

Senator HUDDLESTON. How do you plan to implement the provisions in the 1982 amendments that prevent advance funding of steps 1 and 2 of wastewater treatment facilities?

Dr. HERNANDEZ. These are the allowances that communities would be eligible for when they come forward with a grant request for the construction of a facility. We would provide language for an appropriate allowance to the community based on their estimate of the cost of the treatment facilities.

Senator HUDDLESTON. And you will have new regulations to cover that?

Dr. HERNANDEZ. Yes, sir.

Senator HUDDLESTON. What about projects that are now waiting to be funded?

Dr. HERNANDEZ. Those already started and where some planning of the design has gone on, I believe we will have to have some kind of interim process for a community which is already in step 2.

GRANDFATHERING

Senator HUDDLESTON. Do you have some kind of a cutoff period or specified period from which projects can be grandfathered in?

Dr. HERNANDEZ. No. The date of the signing of the act, December 29, 1981, would be the date at which you sever that.

STATE CERTIFICATION OF PROJECTS

Senator HUDDLESTON. The 1982 amendments allow States to certify that projects meet the requirements of the law, rather than have EPA conduct a detailed review of the grant application. Will this procedure go into effect immediately?

Dr. HERNANDEZ. I believe we wrote some interim rules, and I am going to have to ask Mr. Longest whether that was one of them or not. We did have some changes that had to be made right away and the States were given some direction. I am not sure what direction we gave them on that specifically.

Mr. LONGEST. That will speed up the process. States that have been delegated the program to date under section 205(g) certify projects to EPA now and we do not re-review those projects. The key thing on certification is that there are some areas that EPA has to continue to be involved in. For example, a NEPA decision, National Environmental Policy Act. EPA has to make a decision. Grant payments, EPA has to make a decision.

Senator HUDDLESTON. You can't delegate that?

Mr. LONGEST. That is right. The basic answer to your question is, Yes, the State will be certifying projects and we will accept their certification under the delegation agreements.

Senator HUDDLESTON. Are there still new rules, regulations or guidelines to go out to the States on that?

Mr. LONGEST. Basically that is in effect now. There are 45 signed delegation agreements with States, but they are in various stages of picking up the program. There are actually about 12 States today that are totally delegated and we, in effect, accept their certification without rereviewing the project.

Our projection in 1983 is there will be approximately 25 States that will be totally delegated, and we will be in effect accepting their certification.

FUNDING COMMITMENT

Senator HUDDLESTON. The chairman mentioned the $2.4 billion that is requested in 1982, and raised the issue of longer term funding and what we might expect as far as requests. You mentioned that this program might be folded into the block grant programs and returned to the State. Even considering that, do you have an estimate of what the level of funding will be? Can we expect that it will, regardless of which method is used, at least remain at the level we are talking about for this year?

Dr. HERNANDEZ. I think you have to look at the intent of Congress. This is a 4-year bill at this intended level plus funds that may be provided for combined storm sewer overflows. The President signed this

piece of legislation with those aspects in there. It is impossible, though, to predict what will happen, as you well know. I think our intentions for 1982 and 1983 have been made available.

EFFECT OF INFLATION NEEDS

Senator HUDDLESTON. Your last survey of needs in 1980 shows more than $119 billion in existing 1 through 5 categories; even by eliminating several of the categories, as we do in 1984, there is still a tremendous need out there.

Have you analyzed the effect of inflation on the needs that are out there, the fact that the longer these projects have been held up, generally, the higher the cost?

Dr. HERNANDEZ. That is certainly true. Even if we are most optimistic about anticipating that inflation will be dropped to 7 or 8 percent, and lowered over the years, it will still have the cumulative impact of increasing that. I think what we have to do is just look at it as we go down the line and evaluate those needs surveys.

There are many people who believe they were inflated and, faced with a much more limited budget and particularly only 55 percent Federal matching money, that those needs assessments will come down.

Senator HUDDLESTON. You are saying the need may not be so great if the locals have to pick up more of the tab?

Dr. HERNANDEZ. I think that certainly will be true, particularly when you look at combined storm sewer overflow treatment and separation of sanitary from combined sewers. I think in some of these areas communities will decide they are doing just fine.

COMBINATION STEP 1/STEP 2 GRANTS

Senator HUDDLESTON. We do know the construction process is generally a long one, are you working on any initiatives or proposals that will expedite this process of getting the projects completed?

Dr. HERNANDEZ. We think that the funding of step 1 and step 2 as an allowance when people come forward with their plans, will expedite the process and will bring a greater degree of realism of just what the costs of a particular project are going to be because they will have the plans in hand when they come to us.

They can go ahead and start that process anytime they want. We think that will help a great deal.

1982 NEEDS SURVEY

Senator HUDDLESTON. Incidentally, you are to conduct another needs survey under the 1982 amendments. Has that begun?

Dr. HERNANDEZ. Yes, we have met with the States on a couple of occasions, and we have a process that I believe everyone knows about and is happy with.

One thing I would like to call your attention to in the act is section 6, which is a capital financing planning aspect. One of the problems over the years is that States have gotten so used to receiving Federal funding for wastewater treatment facilities that they have stopped long-

term planning for those needs themselves, and we hope to provide a process that will help them put these things on a sound financial basis. We believe that the terms under section 6 of the act will help us direct some of those energies toward planning for the future.

Senator HUDDLESTON. Will the factors and procedures in your survey this year be similar to those in the last survey, or are you changing it?

Dr. HERNANDEZ. I think they are going to be virtually the same because people understand that computer systems are established. So I think the process will be the same.

Senator HUDDLESTON. Do you have some comment?

Mr. LONGEST. I was just going to say, the only basic change, the Congress specifically asked for the impact of the new legislation. So while we will have a total need, we will also have to address the issues of reduced Federal share from 75 to 55 percent funding and also the reduction in eligibility for reserve capacities.

So those will be the key changes in the 1982 needs survey.

SECTION 206 FUNDING

Senator HUDDLESTON. The House version of H.J. Res. 390 does not fund section 206 of the Federal Water Pollution Control Act. Since cities are not eligible for reimbursement of local funds, this, of course, is of some obvious concern to the National League of Cities. What is your position on funding 206?

Dr. HERNANDEZ. We always felt reimbursement was one of the hardest processes to do with any kind of equity at all. In the past, the Congress has clearly felt that way because they have made limited funds available for reimbursement even when it was in the law. We believe occasionally there is something that falls through the cracks; the Congress has to provide for that. I think there is one in this act, Bath Township in Michigan, but, by and large, I think the processes do work. You just cannot go back and pick up the pieces for something that happened back 8 ot 10 years ago.

SPECIFIC PROJECT REIMBURSEMENT

Mr. LONGEST. There is one other issue. Dr. Hernandez is speaking to specific project reimbursement. As I am sure you are aware, there has been $2.4 billion appropriated for reimbursement of projects going back prior to 1973. To date, all but about $35 million of that reimbursement has been paid out. The reason the remaining $35 million has not been paid out is because in some projects we are into appeals from cities on what should be eligible. So we are really down to wrapping up existing reimbursement provisions for all projects prior to 1973.

Senator HUDDLESTON. And that is the cutoff date?

Mr. LONGEST. Yes, sir.

Senator HUDDLESTON. Do you see any substantial impact in not funding this in the future?

Dr. HERNANDEZ. No, I don't. I think the provisions we have now for an allowance on step 1's and 2's are going to be a very clean process and we won't have those kinds of things happening in the future.

1982 OUTLAYS

Senator HUDDLESTON. Mr. Chairman, thank you.

Senator GARN. Thank you very much, Senator Huddleston.

What do you expect the fiscal year 1982 outlays to be from the $2.4 billion?

Dr. HERNANDEZ. I am going to ask Mr. Longest to answer.

Mr. LONGEST. There are two issues. In obligations, we would intend to obligate substantially all of the $2.4 billion. If we don't get an appropriation by April 1, for example, there may not be any actual outlays, in other words, moneys paid out in 1982.

Senator GARN. I understand, you would like to obligate the entire amount. However, I was trying to find out what would be actually spent. I think the budget estimates $15 million.

Mr. LONGEST. We wouldn't argue with that. That is in the ball park.

Dr. HERNANDEZ. We will spend the 205(g) money clearly because States are doing other things. They are drawing on their other accounts right now. I think the real question would be how much would we spend of the other. It would not be a large number.

TALMADGE-NUNN FUNDS

Senator GARN. As you know, I opposed the administration's fiscal year 1981 proposal to rescind the remaining Talmadge-Nunn funds. In fact, over $40 million of those funds were not rescinded. What is the current status of the Talmadge-Nunn funds?

Mr. LONGEST. There was $64 million actually rescinded. That left $46 million of Talmadge-Nunn available, and currently there are approximately $12 million of the $46 million that have not been obligated. When the remaining $12 million is obligated, there will no longer be any Talmadge-Nunn funds.

Senator GARN. I understand that Kansas lost $4 million of Talmadge-Nunn funds through an EPA clerical error. Evidently region VII charged some obligations to the other appropriations when they should have been charged to Talmadge-Nunn. The result of this error is that on paper, Kansas had more Talmadge-Nunn funds to rescind than should have been the case. Could you explain to the subcommittee how this error was made and what recourse the State of Kansas has, if any?

Mr. LONGEST. That is correct; there was an error made. When you obligate money to a particular project, you have to put the number, which appropriation that project funding comes from. What evidently happened was, where the State had intended to fund a particular project and identify the appropriation for Talmadge-Nunn, they inadvertently identified the appropriation for fiscal year 1981 funds which meant the Talmadge-Nunn funds remained in the State allotment and, therefore, were there when they were rescinded. So the history, as we understand it, is correct, there was an error in documentation.

In terms of recourse, the money has been rescinded by law. There is no way we could go back and take that money that has been rescinded and give it back to the State of Kansas because the money does not exist any longer.

FUNDING RESTRICTIONS

Senator GARN. As you know, the full committee in the House completed markup on the supplemental bill last Thursday, February 4. Does the administration object to any of the provisions of the House bill?

Dr. HERNANDEZ. I don't believe we have any objections, sir.

RESTRICTIONS ON 201(m)

Senator GARN. What about the restrictions of 201(m), Eureka, San Diego, and San Francisco, Calif.?

Dr. HERNANDEZ. On 201(m), I think there are three projects involved in that one, two of which the new law says EPA shall fund. I believe those are Eureka and San Diego, Calif. Another one that says EPA is authorized to fund it if there are funds available.

I believe the House markup eliminates 1982 funds for that purpose, but that 1981 funds are available; they could be used to fund those three projects.

STATUS OF 205(k)

Senator GARN. What about 205(k), the New York Convention Center?

Dr. HERNANDEZ. 205(k) was not funded. This is one where there is a public health problem. It is an issue of a State putting on high priority, putting at the top of their list, a relatively small project to be funded. The Congress, noting that had not been done, put the New York project in the act for funding, and the House Appropriations Committee was not choosing to make those funds available.

STATUS OF 206

Senator GARN. What about 206, reimbursement and advanced construction?

Dr. HERNANDEZ. I am going to let Henry answer that.

Mr. LONGEST. I know 206 advance construction. I am not sure what specifically you are referring to.

Senator GARN. I am referring to the House restrictions in the supplemental bill. The question is really directed at, do you agree or disagree with the restrictions placed in the bill by the House for necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m), 205(k), 206, 208 and 209.

Mr. LONGEST. I think I understand what you are saying. The issue is the general reimbursement fund. Historically, the reimbursement provision has not been supported by previous administrations or the Appropriations Committees, which have not added additional funding for reimbursement beyond other than the original $2.4 billion.

Senator GARN. So you don't disagree with what the House has done?

Mr. LONGEST. I think that is correct.

STATUS OF 208 AND 209

Senator GARN. The same question about section 208, areawide waste treatment management, and 209, water basin planning.

Dr. HERNANDEZ. As you know, the administration did not recommend 208 for continuation. I think there was a lot of debate during the process of the Construction Grants Act on 208 feeling that it had not been effective, that planning had already been accomplished, and we should move someplace more focused. That is what section 205(j) was intended to do. So we concur on that one.

On 209 water basin planning, as I understand it, EPA has never asked for funds for 209 specifically. There has been some 209 money spent by the Water Resources Council. There have been some activities that EPA participated under that general rubric, but not under that particular piece.

SECTION 201(m) FUNDING

Senator GARN. Section 5 of 97-117 amends Section 201(m) of the Federal Water Pollution Control Act by authorizing $200 million per year for combined sewer overflow.

Why have you not requested any funds for this purpose during fiscal year 1983?

Dr. HERNANDEZ. I think that we committed $2.4 billion for the entire program. We have asked for that much money.

Mr. BARRETT. Combined sewer overflow is eligible up through 1983 in the regular appropriation.

Senator GARN. So we go through 1983 but not beyond.

Mr. BARRETT. That is correct.

Mr. LONGEST. Beyond October 1984, there is a provision for up to 20 percent of a State's allotment to be used at the Governor's discretion. That doesn't specifically say for any category, but all categories will be eligible.

Dr. HERNANDEZ. It could still fall into the 20 percent figure where States can allocate moneys for that purpose.

Senator GARN. What major projects would be eligible for funding under section 201(n)(2) and what is the cost of each of these projects?

Dr. HERNANDEZ. Could we provide that for the record?

Senator GARN. Yes. I don't want to take the time to go through all those individual projects.

[The information follows:]

COMBINED SEWER OVERFLOW (CSO) PROJECTS

As a part of the 1982 Needs Survey, the Environmental Protection Agency Administrator will produce a national list of combined sewer overflow (CSO) control projects which may qualify for section 201(n) funding. EPA intends to review each application submitted under section 201(n) to insure, as a prerequisite for funding that, the project would result in attainment of shellfishing and recreation uses.

Based on limited available data, the following preliminary list of CSO control projects may be considered for funding under the section 201(n) authority:

[In millions of 1980 dollars]

Major authority	*Total cost estimate*
Bridgeport, Conn	$75
District of Columbia	553
New Haven, Conn	107
New York, N.Y	325
Philadelphia, Pa	710
Providence, R.I	155
Richmond, Va	144
Seattle, Wash	32
Total	2,101

REGULATION DEVELOPMENT

Senator GARN. Over the past several years, the Congress has been concerned about the changes that EPA has mandated in construction projects that were already underway. These changes have caused considerable delay in many of these projects and have increased costs to Federal and local government. I note in your opening statement that EPA will issue guidance documents to implement the new regulations on a periodic basis. You further note that these guidance documents will not be applied retroactively.

Could you please expand on the meaning of this and could you also indicate what EPA intends to do to minimize the number of change orders that are required during the construction period?

Dr. HERNANDEZ. I think part of it has to do with the whole EPA stand on the construction grants projects, whether or not we work with the States. We say, "We have delegated the program to you. It is your program to run, much has happened in the pre-1970 days." They review the plans in detail and run those projects.

Our oversight has resulted in lack of ability to settle many of these issues where there were disagreements.

That kind of cost in overview and second guessing on what State program people did and the communities' engineers suggested, resulted not only in a cost increase but a good deal of dissension. When something didn't work, the cities pointed at us and said, "You told us to do this; you are the ones who said we must do this." We didn't have a lot of recourse on those issues. We went back and said, "Oh, my gosh, look what you guys did." It turned out to be one of those finger pointing things.

I think when you place the responsibility on the local communities' engineers to design a facility and the city selects that facility that they design and the States approve the design, then we should be able to demand that it work right, that it perform. I think in the past, so much of our guidance has not really been guidance. It has been regulations in disguise. Now we say these really are good ideas that we think you should follow, they are not requirements in the absolute sense. I think that that will change the attitude of State water pollution people and also community engineers and, in the end result, things will work better, get done faster and will result in fewer changes because we are not trying to second-guess people all the time.

RETROACTIVITY

Mr. LONGEST. May I add to that? The first issue on retroactivity, we have made the commitment not to apply new requirements or policy established by EPA retroactively to projects, but we also have to recognize sometimes there are requirements, such as legislative requirements in the advanced treatment projects review required by the Appropriations Committee for any project with an increase for advanced treatment over $3 million. We have to specifically review that.

Any time you have to implement something like that, you are going to have to go back into past history and may require some retroactivity.

Another point is, as you mentioned, the change order. We have never had specific guidance on how to manage change orders. We will have in our guidance document coming out this year guidance on how to manage change orders. The principal problem, I feel, on change orders is that in the urgency to continue construction and keep it moving, decisions are made on the spot, which have to be made, to alter construction, but then the process is not documented.

That is, they do not immediately sit down and estimate what the cost of that change is and negotiate with the contractor what the cost is going to be. Many times it is delayed until the project is completed. Then you don't have that historical record of what took place and who promised whom what.

Then you end up in disputes and sometimes end up in the court. The key to the change order, we feel, is that the communities and their consultant manage the process early on, make the decisions and keep the project moving.

Senator GARN. Senator Leahy, do you have any questions you would like to ask?

PREPARED STATEMENT

Senator LEAHY. Thank you, Mr. Chairman. I do have a couple. I should state first off, and I would ask consent to put a statement in the record.

[The statement follows:]

STATEMENT OF SENATOR PATRICK J. LEAHY

The subject of this hearing this morning is the wastewater treatment construction grant program. I have specific concerns about that program to which I will turn shortly.

First, however, I must speak briefly with you, the Deputy Administrator of this Agency, about my deep disappointment in the 1983 budget for the Agency.

Just as drunk drivers threaten our lives, illegal dumping of toxic wastes and poisons in the air and water threaten our health and our land. Each year as many Americans are killed by environmental pollution as by automobile accidents. Without effective Federal environmental law enforcement, in the next decade the average citizen's exposure to toxic chemicals will double. The amount of sulfur in the air, which causes acid rain, will increase by 50 percent.

In the face of this doubling of environmental health threats, the Reagan administration is proposing cutting the Federal Government's environmental law enforcement agency—the Environmental Protection Agency—by almost 40 percent in just 2 years.

If the number of cars on the Nation's roads were doubling in the next 10 years, no governor would propose cutting the State police force in half. Yet, this is just what will happen to the Environmental Protection Agency's budget this year. If these budget cuts are approved, EPA will be an endangered species.

Cutting EPA's budget by 40 percent means more "midnight dumpers" illegally dumping dangerous cargoes of chemicals.

Under the new budget, only two and one-half full-time workers will oversee the system designed to keep track of millions of shipments of hazardous chemicals each year.

These massive budget cuts mean increases in air pollution—and acid rain—because air pollution enforcement will be cut in half.

EPA will begin to regulate only 3 of the 37 hazardous chemical pollutants, even though over 3 billion pounds of these chemicals are released into the atmosphere each year.

EPA will wind down its research on the health effects of pollution from diesel engines, even though the use of diesel cars has tripled since 1978.

As a former prosecutor, I know any law enforcement agency—especially an agency like the Environmental Protection Agency, which must enforce very complex laws—must have the resources to do the job.

As a member of the Senate Appropriations Committee, I began the efforts which were successful in partially restoring EPA's 1982 budget.

I will work to insure that EPA has the environmental law enforcement resources it needs to do the job in 1983. I am confident we will be successful.

SENATOR LEAHY'S OPENING STATEMENT

Senator LEAHY. I am concerned about the 1983 budget for the Agency. I am quite concerned about it. I was up in Vermont recently and speaking about drunk drivers and how much they threaten our lives. And I also am concerned about the illegal dumping of toxic wastes, poisons in the air, the water. These threaten our health, our land, in some cases even threaten our lives.

Every year as many Americans are killed by environmental pollution as by automobile accidents. If we don't have an effective environmental law enforcement, in the next decade the average citizen's exposure to toxic chemicals will double. Yet, I notice the administration is proposing to cut the Federal Government's environmental law enforcement agency by almost 40 percent in just 2 years.

I think if we were doubling the number of cars on our highways no governor would talk about cutting State police in half. Yet that is what is going to happen here. I think EPA is about to become an endangered species. If you cut that budget by almost 40 percent, we are going to have that many more midnight dumpers in my State and a lot of other States. We are going to have only two and one-half full-time workers to oversee the system designed to keep track of millions of shipments of hazardous chemicals each year.

As a former prosecutor, I know any agency which has to enforce laws, especially the very complex laws you do, has to have the resources to do the job. What is being said to us here in the Congress, I am afraid, is that the administration knows it can't repeal the good environmental laws that have been passed in the past decade because they do have the support of the vast majority of Americans, Republicans and Democrats and Independents. Instead, they have decided they simply won't enforce them.

It is almost like someone saying we are in favor of good laws against armed robbery, but we just can't provide any police, however, to enforce those laws. That tends to say something to the robbers. If you say we are not going to enforce the environmental laws you say something to the polluters. I know I have yet to find anybody in Vermont, Re-

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publican, Democrat, Independent—I should say when I speak of anybody in Vermont, that we should keep in mind this is one of the most conservative and certainly the most Republican States in the Union—I find nobody up there who looks with any kind of equanimity——

Senator GARN. I have to challenge that. The most Republican State in the Union is Utah, which voted 73 percent for Ronald Reagan. We have no Democrats in our delegation.

Senator LEAHY. Utah has provided far more Republicans—Vermont has provided far less Democrats to the Congress than Utah has Republicans to the Congress. Be that as it may, I don't think anybody would consider Vermont anything but an extraordinarily Republican State.

The point is, however, I find nobody, nobody at all in the State who would defend what EPA is doing. What it looks like to Vermonters, and I am one of them—is that what you are saying really is go ahead and pollute, we don't give a hoot. That is just about what it amounts to. I just think it is outrageous. I really think it is outrageous.

SEWAGE TREATMENT PLANT INVESTMENTS

Let me ask a couple of questions on this. We have invested so far as a nation how much in sewage treatment plants?

Dr. HERNANDEZ. It is on the order of $33 billion.

Senator LEAHY. So far?

Dr. HERNANDEZ. Yes, sir.

Senator LEAHY. And we plan how much more in the future? Approximately?

Dr. HERNANDEZ. We estimate that the Federal exposure is around $36 billion.

Senator LEAHY. Additional?

Dr. HERNANDEZ. Over the next 10-year period or so, yes, sir.

SEWAGE TREATMENT PLANT OPERATOR TRAINING

Senator LEAHY. According to a GAO report I have read, the lack of operator training is one of the two principal reasons for failure of treatment plants to meet effluent limits. You haven't requested any funds for operator training, though, have you?

Dr. HERNANDEZ. Not specifically. We do have some money available in 1982 and I think it is on the order of $2.5 million. Let me give you some of my personal background in that area because I have run the State training program over the years.

Our State university has had an active operator training program, short school operations since 1955 or so. I think I have taken part in virtually every one of those years that I have been in New Mexico. Most of the States do have some kind of operator training process. Forty-four States have mandatory certification programs which requires operators take and pass some kind of examination. Many of those States have a reexamination clause periodically. That is, you are not there for life; that you have to every 3 years, every 6 years come back for reexamination again.

Over half of the States, as part of that recertification process, have training as one of the components. You have to go to short school, take a correspondence course, some aspect of that nature. So there are things that are being done right now through the States that are effective in maintaining that operator training.

We found that the greatest need for training was at on-the-job training that you have to get. Down at that lower level, these people don't get out to short schools because you have to travel. So the most effective short schools are the ones that are run at the plant site or at a metropolitan area where you go only a short distance.

Those are best run by groups like the associations who certify people or by State agencies putting in relatively little amounts of money to have people coordinate that sort of program rather than a lot of money put in by EPA.

STATE TRAINING REQUIREMENTS PREREQUISITE TO FUNDING

Senator LEAHY. Are the States required to have any kind of training program in order to get funds?

Dr. HERNANDEZ. No, they are not specifically. We have required that after a sewage treatment plant is constructed under the new law that the engineer who designed it will remain in charge for a 1-year period of time in supervision of the plant to make sure it does function. Part of that function will be not only to develop the training manuals and operating manuals but to see that the plant people are well informed and that manufacturers come back to review the operation of their equipment.

Senator LEAHY. That is for 1 year. My experience has been in rural areas, you are getting a turnover of about 30 percent a year. After 3 years, everybody is gone, yet you just said we have something like $30 billion already invested, another $37 billion to go.

With about $70 billion invested and GAO saying that the lack of operator training is one of two principal reasons for the failure of these plants to meet the limits they are supposed to, shouldn't we have some kind of carrot or stick or something out there to keep training? I hate to think this much of the taxpayer's money is going out and things might not be run right.

We have a group in Vermont called SEVCA. They are running out of funds to train people. We know we don't have the people there to operate these plants and yet we pour all this money in there. The local communities, I understand, oftentimes don't have the money to pay mileage for people to go to the nearby classes.

What we are doing is putting a whole lot of money into public works because it looks good and refusing to accept responsibility for whether it works or not.

Dr. HERNANDEZ. Many of the things you said have been in speeches I have given over the years just fighting the need for training. I have a marvelous set of slides that show this is cost effective. They are going to save money by doing this.

TRAINING EFFECTIVENESS

Senator LEAHY. I know we are in agreement on your speeches. I know on a slow day if they cannot find anybody else to do anything in the Senate, I give my speech to save the world on any one of 100 different subjects.

I feel very good after giving that speech. The world doesn't get saved and many of the proposals I make are not carried out.

Dr. HERNANDEZ. I think the question is, How can we do it most effectively?

Senator LEAHY. How can we do it, period.

Dr. HERNANDEZ. One way that I know is by the State people taking the action of going out there and working with the plant operators.

When I was a young sanitary engineer, I spent many, many days—I am talking about all day long—standing there talking to operators with your foot up on one of the valves and explaining to them how this thing was supposed to work.

I learned a lot myself through that process.

Senator LEAHY. How do we get the States to do it if we have no regulations? There is no money. They are already strapped for cash. After the New Federalism, they are going to be even more strapped for cash.

How are they going to do? If they don't tell them how to do it or give them money as an incentive to do it, how are they going to do it?

Dr. HERNANDEZ. I think we have given money under 205(g) to do a lot of things at the State level under the construction grants program.

I believe there are funds there that can be targeted, particularly those visits to the treatment plant where you are the most effective working with these people rather than being a policeman who comes down there and beats up on them and inspects them in a sense. Go out and work with them and help them run those things.

It is surprisingly effective, particularly in the small communities.

GAO APPRAISAL OF PROBLEMS

Senator LEAHY. Is GAO right in their conclusions that this is one of the two biggest problems?

Dr. HERNANDEZ. I wouldn't contest that. I think one of the things you have to look at is the rate of turnover, as you mentioned. It is not quite 30 percent—in little communities, it may well be. On the national order, it is about 18 percent.

Senator LEAHY. Every 5 years we have a turnover.

Dr. HERNANDEZ. Sure. I think larger communities, because they pay larger salaries, have smaller turnovers. The smaller cities are giving up their best operators to someone else. I think it is one of those things when you look at how we used the money in the past—we, the National Government, we the Federal Government—we have printed materials by the ton. I just don't believe those are very effective. We have gone out and funded organizations to do these things.

Unless those people have the wherewithal to get State moneys and show their ability to serve the State and the community somehow, then clearly they fail.

You said you give that speech and you feel better. Well, I gave those speeches to State legislative committees and was always—well, I shouldn't say "always," sometimes I got beat up a little bit, but was a little fortunate in getting State moneys for that training program aimed at the operators.

SOLVING THE TRAINING PROBLEM

Senator LEAHY. Do you think that the programs, the plans you have and EPA has, are such you can come back here next year and tell Chairman Garn and myself you have got the training problem that GAO points to solved.

Dr. HERNANDEZ. I don't think it is one of those you will ever solve.

Senator LEAHY. It will make it a heck of a lot better. If we got $50, $60, $70 billion, we——

Dr. HERNANDEZ. We should spend more money on it and target it better. I think the best response, rather than putting money into particular groups is to make limited funds available to the States on a matching basis for them to use, target it not at more materials but at people doing on-the-job training at plants.

Senator LEAHY. Are you going to do that?

Dr. HERNANDEZ. We have not. We will have some money we will spend this year and we are in that kind of debating process—what is the most effective way of doing this. It is not a small sum, $2.6 million. When you think about that as a matching potential, it really does increase. That is not to say we don't have on-going training programs. We send people from the regions out to the States to work on this issue.

Senator LEAHY. Will you keep me posted on what you do?

Dr. HERNANDEZ. We will. I think it is one of those things we need to examine, be dynamic about, and try to solve. I have been before some of the subcommittees in Congress years back pleading for Federal funds and didn't get them. I went back and asked for State moneys, worked hard and showed we did a good job there.

Senator LEAHY. Keep me posted. I hate to see so much money go into construction and not have the plants work right. We are not going to do it out of a sense of voluntarism. We are going to have some incentive.

I am going to join Senator Huddleston in that same meeting. I suspect you are going to be at that same meeting before long in the Capitol, intelligence?

Senator GARN. Unfortunately, I have a Banking Committee meeting which I must attend.

CLOSING COMMENTS

Dr. HERNANDEZ. I would like to spend some personal time visiting with you and discussing the intentions of the administration and the Agency, how we are structuring our budget, and to assure you we have spent a lot of time working on our budget.

I am one of those people who have been working in this field for 30 years. I didn't come here to do it in, to dismember EPA. There are not 35,000 Americans being killed by toxic wastes every year, half the number killed by automobile accidents or anything like that.

I chaired something called the task force on heart and lung cancer where we had people from the National Cancer Institute, National Heart Institute, and so on.

We were talking about the environmental consequences on these various diseases. With the exception of workplace exposures, we cannot cite any specific ones that we know of that are present in the ambient environment that pose a significant threat to our lives.

Senator LEAHY. That information comes as some interesting news. In that regard I suppose we don't have to bother spending any more time or money on clean air. We can get rid of the act, we don't have to enforce it, do all those other things and we will feel safe.

FEAR OF TOXIC WASTES

Dr. HERNANDEZ. I didn't say that. I said that on those toxic chemicals, people have some kind of real fear in their lives, the unknowns in that sort of thing.

Certainly we don't want these moving into our water supplies, into our ground water systems. We have got to control them. We are working on that through Superfund to clean up past spills.

I want to assure you the kind of concern people have that somehow their lives are threatened daily from massive exposures, there just isn't concrete evidence that that is the case.

I am not talking about something I invented, but people who have been in this field for years who are professionals in that area talking about the environmental consequences of the chemicals, I am not talking about clean air.

Certainly, air pollution does have a health impact on us.

Senator LEAHY. I think it does. You are talking about Superfund cleaning up past mistakes.

ENFORCEMENT OF LAWS

What I am concerned about, quite frankly, is if we tell the environmental police in effect you don't have to enforce the law, sometime in the future my children or my grandchildren are going to have to pay the price because we did not enforce the law. A new Love Canal, or whatever it might be, can be in Utah or Vermont or any number of other places and will be there solely because nobody enforced the laws.

I am not willing to accept that everybody is going to follow good environmental practices simply out of the goodness of their heart and the feeling this might help the rest of society.

There are some who, for whatever reason—ignorance, profit motive, or whatever—may allow a little pollution to take place here and there.

Coming from a State with some of the strictest environmental laws in the Nation, I think it is good for our country. I think it is good for our people. I think it gives us something to pass on to our children.

I am not suggesting you feel any different in this. I also know that sometimes the best things in society are not done simply out of a sense of voluntarism or out of a sense of the goodness of somebody's heart. Sometimes they need a little bit of prodding.

Dr. HERNANDEZ. I think you are absolutely right, and my speeches included that EPA is a regulatory agency. Just like love and marriage, without enforcement, you don't go anywhere unless you have the enforcement side of regulations.

Senator LEAHY. I knew an old county sheriff back home who used to give a speech every Friday that he was against crime.

Then he would leave for the weekend and go to Montreal gambling and left the county unprotected each weekend. He would come back on Monday and say I cannot understand how crime takes place; don't they know I am against it, I gave a speech to the Rotary Club Friday against crime.

Dr. HERNANDEZ. I would like to sit down and visit with you. I am pleased with what we are doing and our direction. I would like to take that opportunity to visit with you.

Senator GARN. Dr. Hernandez, thank you.

SUBMITTED QUESTIONS

I will submit the remainder of my questions to you for response in the record.

[The following questions were not asked at the hearing but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR GARN

ADVANCED WASTEWATER TREATMENT PLANTS

Question: How do you intend to review advanced wastewater treatment applications under the new law?

Answer: An advanced treatment (AT) Task Force headed by Office of Water Program Operations (OWPO) is established to review AT projects with incremental AT costs over $3 million. In addition to OWPO personnel, the Offices of Water Regulations and Standards, General Counsel, Policy and Resource Management, Congressional Liaison and Water Enforcement are represented on the Task Force. Twenty-five people are involved in the AT reviews at Headquarters in 1982. Included in this total are 10 workyears specifically for AT reviews in OWPO. The AT Task Force also has contractor support to assist in the review; $480,000 has been committed to this contract for FY 1982. The EPA Regional Offices and delegated States review AT projects with incremental AT costs less than $3 million.

The following criteria are used for approval of AT projects:

- Scientific data, information and analyses must document the impairment of a designated use existing or resulting from a project.

- A reasonable relationship must have been scientifically established between the impairment of a designated use and pollutant loading.

- The additional reduction of pollutant loadings resulting from construction and proper operation of the AT facility will make a substantial contribution toward the restoration of the designated use.

- The costs of AT are not excessive in relation to benefits.

We will continue to stress the desirability of early submission of water quality analysis which support proposed AT projects. This will greatly expedite the final review and implementation of projects, particularly those which will be formally submitted to EPA for the first time when they are ready for construction.

During FY 1982, we will monitor the Regional/State AT reviews and issue a new policy statement on AT reviews and report preparation. Recommendations will include the suggested timing and procedures to provide a smooth and effective evaluation of all AT projects.

CAPITAL FINANCING PLANS

Section 6 of the bill adds a new provision (Section 201(o)) dealing with capital financing plans. The proviso directs the EPA Administrator to encourage and assist grant applicants to develop and submit a financing plan covering at least the next 10 years.

Question: What will you specifically do to assist jurisdictions in preparing their capital financing plans?

Answer: A policy statement on total financial capability of grantee communities will be issued. In addition, program guidance will be published together with new construction grant regulations in April of 1982 which will include a section on capital financing plans. These plans will also be discussed as part of a nationwide series of workshops for States and EPA Regional staff tentatively scheduled for April - May 1982.

Question: What resources are you prepared to commit to this effort?

Answer: The grant applicant will be encouraged to assess the community's total financing capability and prepare capital financing plans as an integral part of facility plans. The resources for the capital financing portion of the guidance and workshops discussed above will total about 10 work days.

We expect States to commit some resources to assist grant applicants and review capital financing plan elements of facility plans.

Question: What schedule have you established for the submission of these plans?

Answer: Capital financing plans are to be submitted as part of the applicant's Step 3 grant request.

COMBINED SEWER OVERFLOW

Section 5 of P.L. 97-117 amends Section 201(n) of the Federal Water Pollution Control Act by authorizing $200 million per year for Combined Sewer Overflow.

Question: What major projects would be eligible for funding under Section 201(n) and what is the cost of each of these projects?

Answer: As a part of the 1982 Needs Survey, the EPA Administrator will produce a national list of Combined Sewer Overflow (CSO) control projects which may qualify for Section 201(n) funding. EPA intends to review each application submitted under Section 201(n) to ensure, as a prerequisite for funding that, the project would result in attainment of shellfishing and recreation uses.

Based on limited available data, the following preliminary list of CSO control projects may be considered for funding under the Section 201(n) authority:

Major Authority	Total Cost Estimate (millions of 1980 dollars)
Bridgeport, CT	$75
District of Columbia	553
New Haven, CT	107
New York, NY	325
Philadelphia, PA	710
Providence, RI	155
Richmond, VA	144
Seattle, WA	32
TOTAL	$2,101

COST EFFECTIVENESS

Question: What new procedures do you intend to use in order to implement Section 218, which deals with approving grants only if the proposal is deemed to be "cost-effective"?

Answer: EPA's draft procedures to implement Section 218 of the Clean Water Act regarding cost effectiveness will include the following:

1. No Step 3 grant will be awarded unless the potential grant applicant's facilities plan includes cost effectiveness analysis of feasible conventional, innovative and alternative wastewater treatment works, processes and techniques capable of meeting the applicable Federal, State and local effluent and water quality requirements. A cost effectiveness analysis must include:

   (i) Evaluation of alternative flow reduction methods. (If the grantee demonstrates that the existing average daily base flow from the area is less than 70 gallons per capita per day or the current population is under 10,000, or if the Regional Administrator determines the area has an effective existing flow reduction program, additional flow reduction evaluation is not required);

   (ii) Description of the relationship between the size and capacity of alternatives, and the needs to be served, including capacity for future growth expected after the treatment works become operational;

   (iii) Evaluation of improved effluent quality attainable by upgrading the operation and maintenance and efficiency of existing facilities as an alternative or supplement to construction of new facilities;

   (iv) An evaluation of the alternative methods for the ultimate disposal of treated wastewater and sludge materials resulting from the treatment process;

(v) Consideration of systems with revenue generating applications;

(vi) Evaluation of opportunities to reduce use of, or recover energy;

(vii) Preliminary cost information on total capital costs, local financing, and annual or monthly operating and debt service costs, including estimated costs to domestic and industrial users.

2. Prior to Step 3 grant award the applicant shall conduct a value engineering review if the total estimated cost of building the treatment works is more than $10 million. The value engineering recommendations shall be implemented to the maximum extent determined feasible by the grantee. Rejection of any recommendation shall be on the basis of cost effectiveness, reliability, extent of project delays, and other factors that may be critical to the treatment processes and the environmental impact of the project.

COST SAVINGS

In your opening statement you note that P.L. 97-117 is expected to reduce the long term Federal commitment by 60% or $54 billion.

Question: Could you please detail the specific amount that you estimate will be saved under each of the reform provisions contained in the 1981 construction grants bill?

Answer: The reforms enacted under P.L. 97-117 contained a number of provisions that will reduce the Federal cost of wastewater treatment from approximately $90 billion to $36 billion. These provisions include limitation on eligible categories, reduced Federal share and limited reserve capacity beginning October 1, 1984. A revised definition of secondary treatment and a demonstration of water quality benefits for combined sewer overflow correction projects will also result in reduced costs. Because of the combined effect of these provisions, it is not possible to estimate a dollar savings for each specific provision. However, cost savings for eligible categories as a whole can be estimated based on the 1980 Needs Survey.

Comparison of Eligible Costs and
Federal Share for Categories of Need*
Under Clean Water Act of 1977 and P.L. 97-117

	P.L. 97-117 ($ in billions)		1977 Act ($ in billions)	
	Eligible Costs	Federal Costs	Eligible Costs	Federal Costs
Categories 1, 2, 4B Backlog	$28.9	$17.2	$30.6	$22.9
Categories 1, 2, 4B Reserve	13.0	8.1	25.2	18.9
Category 3A	2.5	1.4	2.5	1.9
Categories 3B & 4A	11.6	6.6	24.4	18.3
Category 5	5.0	3.0	37.2	27.9
Total	$61.0	$36.3	$119.9	$89.9

* Definition of Categories:

1 = secondary
2 = more stringent than secondary
3A = infiltration/inflow
4A = new collectors
4B = interceptors
5 = combined sewer overflow

EARMARKINGS

Various sections of the Act (Section 4, Section 16 and Section 27) earmark funds for specific State projects.

Question: Did the Administration originally support these earmarkings?

Answer: The Administration offered no support for project earmarking.

In one case the Act specifies that funds be allocated for the New York Convention Center above and beyond the amount made available to the State of New York under its regular allotment.

Question: How does EPA intend to implement this provision and how much will it cost to fully fund this project?

Answer: The funding for wastewater conveyance facilities for the New York Convention Center has been estimated at $3.1 million by the State and City of New York. EPA review of the detailed cost elements has determined a total cost of $2.8 million to be more appropriate. If permitted by the Appropriations Act, EPA

will fund this project from FY 1982 funds, as specified in the Amendments, at the $2.8 million level pending expected agreement with the State, City and EPA. This amount would be subtracted from the FY 1982 appropriation before the remainder of FY 1982 funds are allotted to the States.

GRANDFATHERING

Various sections of the 1981 amendments provide funding for projects that are currently in the works that would not otherwise be funded at these levels.

Question: Has EPA done an analysis to determine the cost of "Grandfathering" these projects as proposed in the authorizing legislation?

Answer: Under provisions of the authorizing legislation, capacity will be limited to existing residential and industrial flows beginning October 1, 1984. Also beginning that date, the Federal share of constuction costs will be reduced from 75 percent to 55 percent. "Grandfathering" provisions will allow projects that received a Step 3 construction grant for a portion of the needed facilities before October 1, 1984 to receive 75 percent Federal funding and full planned reserve capacity for remaining portions.

The Agency estimates that 75 percent funding of the segmented projects and full reserve capacity in the years beyond 1984 would cost $3.9 billion over the life of the program. If the "Grandfathering" provisions were not in force, the Federal cost of these projects would be $2.0 billion. Thus, the Agency estimates that the "Grandfathering" provisions would increase the Federal costs by approximately $1.9 billion over the life of the program. This estimate assumes continuance of previous State funding patterns. The Agency will continue to track the status of segmented projects.

GRANTS FOR PLANNING

Section 201 was amended by adding a new subsection (1) providing that up to 10 percent of a States' funds can be used as advanced funding to jurisdications to assist them in preparing plans and estimates for construction projects.

Question: Does EPA intend to issue regulations as to the eligible activities that can be funded with these "pass through" funds?

Answer: No. The allowance is not intended to reimburse the grantee for costs actually incurred. Rather, the allowance is intended to assist in defraying the cost of services and will be based on a percent of total construction cost determined from historical information.

Question: How much do you believe will be available to local jurisdications as a result of this "pass through" provision?

Answer: On the average, 7-10 percent of total construction costs will be available to local jurisdications.

Section 9 of the act amends Section 203(a) by doubling the amount (from $4 million to $8 million) available for combined Step 2 and 3 grants (planning and construction). These funds are available for communities with less than 25,000 population.

Question: What effect will this higher limit have on small communities -- what was the problem with the lower limit?

Answer: Small communities which were previously prohibited from taking advantage of the "combined grant" because of the dollar size of their project can now qualify for a Step 2 + Step 3 grant. Only these small communities which receive a "combined grant" are assured of "Step 3 funding" before they initiate design work.

While we have not developed a firm estimate, we believe the number of Step 2 + Step 3 grants may increase by about 20 percent. (A total of 1,020 Step 2 + Step 3 grants in the total amount of $953 million have been awarded since the passage of the 1977 Amendments which introduced the concept of "combined grants.")

The change in the limit was originated by the Senate in its version of the bill (S-1760). In proposing the change, the Senate recognized the rising cost of construction, but eliminated the higher threshold limits for "high cost States". As under the previous legislation, the "combined grant" is available only to small communities -- those with population of 25,000 or less.

INNOVATIVE AND ALTERNATIVE TECHNOLOGY

The 1981 Amendments extend the set-aside for innovative and (I/A) alternative technology and maintain the Federal share at 85% through FY 1985, after which time it will decrease to 75%.

Question: How much of the I/A set-aside has been used to date over the life of the program?

Answer: As of September 1981, about $160 million, or 82% of the total $195 million set-aside, has been obligated and only 7% of the funds will be reallotted. Only a few States and trust territories have had some difficulty in meeting the program objective.

Question: Has EPA attempted to determine the cost savings associated with the application of I/A technologies?

Answer: Some 1,000 I/A projects including about 100 projects reaching startup will provide cost savings and energy savings through recycling nutrients and water. The estimate of life cycle cost savings for the initial 3-year I/A program is about $900 million. These savings are realized through reductions in both capital costs and in operating costs. Reduced energy demands are a major factor in reducing operating costs.

Question: Would you expect the new provisions in the 1981 amendments to prevent the applications of such technologies?

Answer: There are no obvious aspects of the new provisions which would prevent application of I/A technologies. The I/A program is maturing and should continue to grow stronger under the provisions. Many States report an increasing number of projects planned for implementation.

MUNUCIPAL COMPLIANCE AND WATER QUALITY STANDARDS

Section 21 of P.L. 97-117 amends Section 301(i) of the Federal Water Pollution Control Act by extending the date for uniform secondary treatment from July 1, 1983 to July 1, 1988.

Question: How many municipalities are not now in compliance? Is it feasible to expect full compliance by 1988?

Answer: Our interpretation of the new Section 301(i) is that the extension to 1988 only applies to those municipalities which (1) have not already been granted a 301(i) extension or (2) are not presently under a schedule for completion pursuant to an administrative order or consent decree. The answer provided below responds to the question of how many treatment plants are expected to achieve secondary treatment or more stringent levels of treatment by 1988.

The 1980 Needs Survey indicated that 3,343 (22 percent) of the 15,250 existing municipal wastewater treatment plants were not designed to meet secondary or higher treatment levels.

Based on a Federal funding level of $2.4 billion annually for the construction grants program, it is estimated that 2,000 (13 percent) of the existing plants will not have secondary treatment facilities in place by 1988. If additional plants are constructed or upgraded with non-Federal funding, this number could be reduced. Implementation of the statutory changes to the secondary treatment definition, as well as additional changes to the secondary treatment regulation already underway in the Agency, will likely reduce this figure even further.

Furthermore, a number of plants which will have treatment facilities in place in 1988 may not be meeting their design standards because they are poorly operated and maintained or are excessively overloaded. Presently, approximately 30 percent of all municipal treatment plants do not meet their design standards for these types of reasons. We expect this figure to be dramatically reduced by 1988 based on present trends resulting from improved operation and maintenance programs.

The Act also requires the completion of a review, revision and adoption of new water quality standards in three years from the date of enactment or on December 29, 1984.

Question: How many jurisdictions now have revised plans and will the rest be able to meet the new deadline?

Answer: States have been required to continually review their Water Quality Standards (WQS) for any needed revision and, over the years, all States have made changes.

EPA is currently considering basic changes in the WQS program, including the review and revision by States of their WQS on a priority basis linked to advanced treatment decisions and expiration of major National Pollutant Discharge Elimination System permits. We expect that States will be able to make any necessary changes within these new deadlines.

PROGRAM REFORM

You mentioned in your opening statement that due to the reforms contained in the authorizing legislation and your efforts to streamline and de-regulate the administration of the program, the Agency can now "insure" that any funds appropriated by Congress will be used in the most cost-effective, productive manner possible.

Question: What specific administrative actions have you taken to streamline the program?

What goals, if any, have you established for reducing the length of EPA's review process and what impact would you expect this to ultimely have on construction costs?

Answer: The 1981 Amendments, which eliminate grants for Step 1 and 2, combined with the provision that requires EPA action within 45 days of receipt of any State certified application for a Step 3 grant from a delegated State, will reduce administrative processing time substantially. In conjunction with revising the regulation to implement the 1981 Amendments, we have eliminated all requirements that are not mandated specifically by the Clean Water Act, minimizing the burden placed on the applicants, and have given grantees much greater flexibility to choose the most cost-effective treatment methods to meet these effluent discharge requirements. Increased delegation of program implementation to States will also eliminate duplicative reviews and reduce processing time. These changes affect construction costs through shorter processing time which will reduce the impact of inflation on project costs.

STAFFING

In 1981, you had 952.9 FTE administering your Construction Grants Program. In FY 1982, there are 802 FTE. I noticed that your FY 1983 budget estimates a level of 661 FTE's.

Question: How do you expect to manage the new program with a smaller staff?

Answer: This 141 FTE decrease is made possible by increasing State delegation (25 States will be fully delegated in 1983, 14 States were fully delegated in 1982), simplified Federal requirements, and reduced Federal oversight.

The 1983 request continues to provide significant resource support to eliminate completion/closeout backlogs and to prevent waste, fraud, and abuse in the program.

STATE UNOBLIGATED BALANCES

Question: Two weeks ago you supplied the Subcommittee with a list showing the unobligated balances remaining for each State as of December 31, 1981. That list indicated that a total of $932,663,000 was unobligated. Do you have a January update of the list?

Answer: The preliminary end-of-January unobligated funds total $938,285,077. This increase in the unobligated balance is attributable to deobligated funds on completed projects. A State listing is being provided separately.

Question: How many State projects have come to a halt or been slowed down as a result of the FY 1981 rescissions and the delay in providing FY 1982 funds?

Answer: We do not have a precise number, but we estimate that as of September 1981 at least 460 segments of 250 projects were delayed following the rescission. These projects continue to be delayed until FY 1982 funding is available.

Question: Do you have an estimate of how much these delays have cost?

Answer: We have no specific estimate, but it is likely that the delays in funding such projects have cost well over $100 million in cost increases.

Question: What would be the effect of further funding delays -- How much would it cost us in inflation for every month we wait?

Answer: Obviously, further delays would make our projects more expensive. No detailed analyses of project costs due to delays or inflation have been made; however, recent cost increases have been in the range of 2/3 of 1 percent per month.

CONSTRUCTION GRANT UNOBLIGATED BALANCES

State or Territory	Total Authority	Total Obligations	Unobligated Authority
Connecticut	479,554,032	474,535,361	5,018,671
Maine	262,247,989	258,688,345	3,559,644
Massachusetts	996,329,279	989,881,139	6,448,140
New Hampshire	287,891,154	282,048,092	5,843,062
Rhode Island	171,204,910	159,249,911	11,954,999
Vermont	111,791,971	101,671,062	10,120,909
Region 01 Total	2,309,019,335	2,266,073,910	42,945,425
New Jersey	1,823,262,277	1,809,703,938	13,558,339
New York	3,607,446,695	3,540,098,875	67,347,820
Puerto Rico	337,397,067	297,060,406	40,336,661
Virgin Islands	21,338,529	20,358,196	980,333
Region 02 Total	5,789,444,568	5,667,221,415	122,223,153

State or Territory	Total Authority	Total Obligations	Unobligated Authority
Delaware	179,353,997	170,872,126	8,481,871
District of Columbia	210,450,371	166,963,323	43,487,048
Maryland	975,066,498	863,908,816	111,157,682
Pennsylvania	1,633,336,405	1,596,205,092	37,131,313
Virginia	800,360,353	794,279,989	6,080,364
West Virginia	400,927,342	359,952,550	40,974,792
Region 03 Total	4,199,494,966	3,952,181,896	247,313,070
Alabama	305,391,595	302,788,893	2,602,702
Florida	1,251,940,370	1,242,127,116	9,813,254
Georgia	564,769,080	561,224,850	3,544,230
Kentucky	418,917,060	410,666,894	8,250,166
Mississippi	229,200,085	227,099,875	2,100,210
North Carolina	542,493,957	539,439,105	3,054,852
South Carolina	352,083,144	347,041,957	5,041,187
Tennessee	449,436,350	440,779,514	8,656,836
Region 04 Total	4,114,231,641	4,071,168,204	43,063,437
Illinois	1,919,873,109	1,898,336,312	21,536,797
Indiana	873,430,975	823,271,663	50,159,312
Michigan	1,849,444,468	1,811,918,574	37,525,894
Minnesota	616,847,087	586,903,963	29,943,124
Ohio	1,869,143,416	1,691,361,795	177,781,621
Wisconsin	586,116,521	573,171,148	12,945,373
Region 05 Total	7,714,855,576	7,384,963,455	329,892,121
Arkansas	209,891,321	209,171,323	719,998
Louisiana	351,648,404	349,975,067	1,673,337
New Mexico	107,966,971	104,997,143	2,969,828
Oklahoma	288,691,320	279,764,788	8,926,532
Texas	1,141,983,680	1,130,440,383	11,543,297
Region 06 Total	2,100,181,696	2,074,348,704	25,832,992
Iowa	382,241,139	369,690,516	12,550,623
Kansas	256,083,629	251,265,478	4,818,151
Missouri	669,491,898	651,781,285	17,710,613
Nebraska	163,983,141	157,898,401	6,084,740
Region 07 Total	1,471,799,807	1,430,635,680	41,164,127
Colorado	226,194,393	223,629,700	2,564,693
Montana	95,559,672	86,431,298	9,128,374
North Dakota	79,496,272	67,201,040	12,295,232
South Dakota	91,390,916	88,241,390	3,149,526
Utah	125,119,050	124,768,994	350,056
Wyoming	74,711,272	74,316,626	394,646
Region 08 Total	692,471,575	664,589,048	27,882,527

State or Territory	Total Authority	Total Obligations	Unobligated Authority
Arizona	182,706,372	180,930,041	1,776,331
California	3,099,321,155	3,086,053,047	13,268,108
Hawaii	223,141,006	216,095,179	7,045,827
Nevada	137,418,334	127,568,494	9,849,840
American Samoa	10,577,373	10,453,784	123,589
Guam	24,420,858	23,040,223	1,380,635
Trust Territory	27,332,241	24,748,279	2,583,962
Northern Mariana Island	2,297,892	2,270,228	27,664
Region 09 Total	3,707,215,231	3,671,159,275	36,055,956
Alaska	124,991,772	115,176,743	9,815,029
Idaho	114,588,130	114,350,122	238,008
Oregon	350,524,242	342,901,301	7,622,941
Washington	496,018,461	491,782,170	4,236,291
Region 10 Total	1,086,122,605	1,064,210,336	21,912,269
Total	33,184,837,000	32,246,551,923	938,285,077

VALUE ENGINEERING

In a July 17 memorandum, Mr. Hernandez indicated the Agency's intent to eliminate all regulations not required by statute. One of the regulations identified for elimination in that memorandum was value engineering -- a procedure whereby a panel of engineers review the cost effectiveness of the engineering design proposed for various wastewater construction projects and recommend cost saving changes.

An analysis of the savings associated with EPA's use of value engineering shows a cost ratio of better than 11 to 1. Section 218 (c) of the 1981 amendments requires the use of value engineering for projects costing over $10 million.

Question: What was your motivation in recommending the elimination of value engineering in July?

Answer: As part of the Agency's regulation reform efforts initiated in 1981, all regulations which were not specifically based on existing EPA statutes are being converted to guidance information. Since value engineering was not required by the law at that time, an early draft did not include value engineering as a requirement (although voluntary value engineering would still have been grant eligible). As proposed in the Federal Register on November 6, 1981, however, the regulations would still require value engineering.

Question: What activities do you now intend to undertake to insure that this technique is being used to achieve the maximum benefits as envisioned in PL 97-117?

Answer: In accordance with the new amendments, the Agency's new regulations for the construction grants program will require value engineering for all projects with costs over $10 million.

WATER QUALITY MANAGEMENT

At the House Subcommitte markup last Tuesday there was considerable discussion about Section 205(j), which authorizes States to carry out water quality management planning. Subsection 3 of this section calls for the development, with local jurisdiction, of an implementation plan and provides for funding of comprehensive planning organizations.

I notice in your statement that you are concerned about the effectiveness of pass through funds to areawide planning agencies.

Question: Could you expand on your concerns and indicate what might be done to maximize the use of this potential $24.4 million?

Answer: For various reasons, previous Section 208 funding to areawide planning agencies was not always as closely coordinated with State programs as it could have been. Given current tight resources for water quality management activities, we want to encourage States in their administration of this program to ensure that areawide activities meaningfully contribute to decision making without duplicating related State water quality management initiatives.

States will be encouraged to target Section 205(j) funds to solve highpriority water quality problems including those related to advanced treatment decisions and National Pollutant Discharge Elimination System permit determinations beyond technology-based limits.

SUBMITTED PREPARED STATEMENTS

Senator GARN. I would ask unanimous consent that several statements from various individuals concerning the construction grants program be placed in the record at this point.

[The statements follow:]

PREPARED STATEMENT OF JOHN G. STROKA, P.E.

CHIEF ENGINEER

THE CAMDEN COUNTY MUNICIPAL UTILITIES AUTHORITY

In recent telephone conversation with Mr. Wallace Burger of your staff, he suggested that I commit to writing the position of Camden County Municipal Utilities Authority pertaining to a mechanism for the reimbursement of communities which proceed with construction of treatment works at their expense if the treatment works meet all the requirements of the Act.

The House - Senate conference substitute for Section 206 of the Federal Water Pollution Control Act is a good solid foundation in resolving the reimbursement to communities. It is suggested that this provision be enlarged to include agreements with individual States who desire to move their projects ahead at today's dollar cost and thereby providing savings not only to the federal goverment but also to individual States who provide grant funds and the local communities which must utilize its own funds in this program.

Therefore, the joint conferees recommendation for appropriation of funds to support implementation of Section 206 is supported by our Authority and I am sure by New Jersey Department of Environmental Protection.

It is requested that this correspondence be incorporated in the hearing record before your committee on February 10, 1982.

Thank you in advance for your consideration in this matter.

PREPARED STATEMENT OF EARL C. REYNOLDS, JR.

CHAIRMAN OF THE BOARD

CH2M HILL

Thanks to you and your colleagues for enacting the Construction Grants Amendments to the Clean Water Act before adjournment of the first Session. Now that President Reagan has signed it into law (PL 97-117), I urge your prompt support for funding it at the full $2.4 billion authorization for FY'82.

This compromise legislation authorizes a four year, scaled-down, and yet flexible Construction Grants Program embodying many of the Administration's reforms, provides significant overall reductions in Federal obligations, and yet reaffirms a commitment to help states and local communities complete vitally needed sewage treatment projects around the country.

At a time when states and local communities are more properly shouldering burdens formerly borne by the Federal government, many are staggering under the load. Promptly providing full funding for this Act will permit them to continue meeting their needs to maintain, protect, or enhance water quality in accordance with Federal requirements. It will also minimize disruptions and provide continuity in a complex and difficult program.

Since Utah and this nation have made great progress in cleaning up our waters and since we are now within reach of the enormous benefits from previous investments, maintaining continuity in cleaning up our waters is vital. Failure to do so could result in loss of earlier investments.

Further, it is not easy to start and stop a complex process involving the Federal government, states, communities, design professionals, and the construction industry.

Lastly, the nation is obviously in a recession. Many of the projects which would be funded under the reauthorized Construction Grants Program (PL 97-117) are ready to move in the Step 3 phase--construction. Providing full funding will provide many jobs in a very depressed construction industry and help complete clean-up of our environment.

We at CH2M HILL urge your support for full Construction Grants funding for FY'82.

PREPARED STATEMENT OF K. RAY HARRINGTON

PRESIDENT

ASSOCIATION OF METROPOLITAN SEWERAGE AGENCIES

AMSA urges this Committee to enact an emergency supplemental appropriation at the authorized level of $2.4 billion. As all of us know, last year the Administration committed itself to requesting $2.4 billion for this program in FY 1982, provided reforms were enacted into law. This has been requested. Failure to provide $2.4 billion will jeopardize the orderly implementation of the 1981 construction grants amendments and delay completion of on-going construction projects mandated by the Clean Water Act.

I would also stress the need for an appropriation separate from the Administration's FY 1982 supplemental recission and appropriation package. These much needed facilities have already experienced inordinate delays and cost increases due to inflation. An emergency supplemental would ensure against further delays by enabling construction to proceed during the Spring and Summer prime construction season. This would also have the effect of reducing inflationary impacts on these projects.

AMSA member agencies provide wastewater treatment for over 70 million citizens in 87 of the nation's major metropolitan areas. They are the ones who apply for and receive construction grants under Section 201. They are the agencies which are actually responsible for achieving the goals of the Act. The success of this program depends not only on Federal or State level bureaucracies. It also depends upon the local official's ability to make resources available to effectively control water pollution stream-by-stream and plant-by-plant. This ability is linked closely to the certainty of Federal assistance.

A recent AMSA survey illustrates this urgent need for funding. This survey revealed that 45 agencies needed federal money in fiscal 1982 for Step 3, or construction projects. The total federal share of money needed for these projects is roughly two-and-one-half billion dollars. These are projects in progress or ready to go, projects that can make immediate use of the full fiscal year 1982 allotment when it becomes available. And, these figures are for AMSA members only, and do not reflect the needs of the remaining 106 SMSAs which EPA estimates require at least $50 million each in funds for treatment facilities alone.

About one third of our member agencies reported that they are under court orders, consent agreements, administrative orders or other mandated schedules to meet permit conditions. Others risk enforcement action if they fall behind in projects which are now on schedule. Some agencies would be forced to abandon required projects. Other grant projects will be phased down as local agencies absorb the costs of a project into already fiscally strained budgets.

AMSA's members, who are the actual grant applicants and implementors of this program, have testified before the Congress on several occasions that they can meet the goals of the Act, only with Federal support. They have also pointed to treatment requirements which exceed necessity, and strongly advised that they were escalating the cost of the program.

AMSA believes that withdrawal of funding support without acting first on the requirements of the law would constitute a breach of faith. Any reductions in program funding as authorized will shift the burden of the full range of program requirements on to the backs of local governments, which have been able to accomplish the requirements only with federal assistance.

When the Administration requested zero funding for this program last fall, it promised that it would seek $2.4 billion once needed reforms were enacted. The reforms were passed by the Congress in good faith. They were signed by the President, and now the funding crucial to the success of these reforms must follow.

Even with a full appropriation for fiscal year 1982, AMSA member agencies will be unable to accumulate all the funds they need to complete necessary projects. However, anything less will create greater losses to inflation. Therefore we recommend that this Committee support the funding for the 1982 fiscal year at $2.4 billion. This sum is certainly justified in view of the stringent requirements of the law.

Both AMSA and EPA see a peak in funding needs over the next two to three year period. Speaking for the major metropolitan agencies, I can say that delay in meeting these needs will increase costs and force the states and local governments to pull back on their commitment to achieve the mandated water cleanup. AMSA urges this Committee to maintain this program's momentum and act affirmatively on an emergency supplemental appropriation for $2.4 billion.

PREPARED STATEMENT OF HON. ALAN CRANSTON

U.S. SENATOR FROM CALIFORNIA

Mr. Chairman, I appreciate this opportunity to comment on a provision in H.J. Res 390 restricting the use of the FY 1982 EPA construction grant appropriation to fund the City of San Francisco's wastewater treatment project in the southeast area of the city. It's my hope that upon reviewing my comments, the Senate Appropriations Committee will delete this restrictive provision from H. J. Res. 390.

By way of background, Mr. Chairman, the City of San Francisco proposed in the 1970's the very substantial expansion of its southeast treatment plant which is located in the Bayview/Hunter's

Point community, one of the most distressed in the entire metropolitan area. Despite severe handicaps, the residents of Bayview/Hunter's Point have not given up on their community, and are trying to eliminate blighted portions and have been successful in attracting HUD supported housing. The community, therefore, strongly opposed the sewage treatment expansion project on the grounds that it would result in renewed deterioration of the area. EPA itself had identified numerous adverse impacts from the project including odors, disruption due to construction, visual impacts, and ongoing traffic and noise during plant operation. Community opposition led to litigation and efforts to proceed with the needed plant expansion were halted.

The impasse was finally broken when San Francisco agreed to provide mitigation for the sewage treatment plant expansion and the California State Water Resources Control Board which administers the construction grants program for EPA in California made a favorable grant determination and a commitment to fund the mitigation on March 24, 1976. This commitment was entered into with the full knowledge of the Environmental Protection Agency. Subsequently construction of the plant expansion began, and today portions are partially operable.

However, in 1981 the new Administration at EPA asserted that there was no authority in the law for funding the mitigation project. Congress responded -- in view of the prior commitment and the renewed community protest which threatened completion of the San Francisco clean water program -- and Congress included a provision in the 1981 Clean Water Act Amendments to provide the authority to fund this mitigation work. The 1981 Clean Water Act Amendments did not direct EPA to award a grant to San Francisco and they did not waive the requirement for the local share. The 1981 Clean Water Act Amendments merely made it clear that the mitigation associated with San Francisco's southeast treatment project is grant eligible and could receive

grant monies out of California's share of construction grant funds. The decision on whether to fund the project was left with the state. As it happens, the San Francisco mitigation work is on the state's priority list for FY 1982 funding.

But now there is concern that the language in H.J. Res. 390 would prohibit California from funding the San Francisco project this year out of its FY 1982 allocation, in spite of the fact that the House Appropriations Committee report on the resolution states the Committee has no objection to the project receiving funding based on the state priority list ranking. It's my understanding that EPA's general counsel would interpret the bill language as prohibiting funding irrespective of any report language or floor colloquay to the contrary.

I fully appreciate the objection to Congress earmarking Clean Water Act monies for specific projects. However, the 1981 Clean Water Act Amendments do not earmark monies for San Francisco. The San Francisco mitigation, being eligible, should be permitted to compete for a portion of California's monies. I hope that you will agree and delete from H.J. Res 390 the restriction on the use of FY 1982 monies to fund the San Francisco project identified in subsection 201 (m)(1) of the Federal Water Pollution Control Act, as amended.

PREPARED STATEMENT OF ROBBI J. SAVAGE

EXECUTIVE DIRECTOR/SECRETARY TREASURER

Association of State and Interstate Water Pollution Control Administrators

As Executive Director and Secretary/Treasurer of the Association of State and Interstate Water Pollution Control Administrators, I wish to thank you for your very prompt attention to an urgent supplemental for the municipal waste water treatment program. The Association is an independent, nonpartisan organization of State administrators of the water quality program. ASIWPCA members represent the State organizations which, on a daily basis, implement the Clean Water Act. It is our intent to provide this Subcommittee with reaffirmation of the need for an emergency supplemental for Fiscal Year 1982 of $2.4 Billion and an overview of some of the key Clean Water Act issues which are of direct concern to this Committee.

The Clean Water Act Amendments of 1981 are an important milestone in the state, local and national efforts to achieve clean water. The States have supported the Administration and Congressional desire to reduce Federal exposure, focus on water quality, enhance State flexibility, and improve program management.

During my many appearances before this Subcommittee, I have said that States are prepared to manage environmental programs under the Federalistic approach. I assure you, this continues to be the case. Shifting back into the state management mode, however desirable, will not be easy and will not happen overnight. States must have sufficient lead time, with adequate fiscal and program stability to adjust their laws, budgets, and the many program requirements. This transition, as recognized by the Congress, is perhaps the greatest accomplishment in the 1981 Amendments. Now, states must be given latitude in making this transition. If their hands are bound by special interests, the objectives of these reforms and Federalism will be lost and the program an almost certain failure. Reductions in funding must be accompanied by economies through such avenues as program simplification and reduced requirements.

CONSTRUCTION GRANTS

The Construction Grants Program under Title II of the Clean Water Act provides financial assistance to local governments to construct sewage treatment facilities to comply with the National water quality program. This cost share program is only one part of the total water program, (See Attachment A), but it is indispensable to the achievement of the goals and objectives of the Act. Since its inception, the construction grants program has been the subject of intensive study and evaluation. This has led to many legislative and administrative improvements in which this Committee has played a major role. These concerted efforts of Congress, the States, local communities, and the Administration should be viewed as a normal shake-down or refinement process. In a program the size of the construction grants program, the Congress should expect and demand continued improvements. Past efforts demonstrate the interest and dedication of those involved to program objectives.

The States are very pleased with the outcome of the 1981 Amendments. Although we continue to have problems with some aspects of the program, by and large the Amendments were responsive to State concerns. We must now turn our attention to securing the funding necessary to make those reforms a reality. As you are aware, over 30 States have virtually no construction grants funding available for commitment to local communities. For this reason, the program has come to a halt in many States. This is creating enormous problems at the local level, (See Attachment B) which if unresolved will lead to:

- substantial loss of program credibility and momentum;
- abandonment of partially completed or inoperable facilities, i.e. white elephants;
- prolonged and sustained noncompliance with the Act;
- broken commitments by local government; and
- high inflationary costs of delay.

States urge the immediate consideration and appropriation of construction grants funding for Fiscal Year 1982 at the authorized level of $2.4 Billion. The high level of project need more than adequately justifies this level of funding. As the program has lost momentum due to the events of the past year, the number of projects "ready to go" has increased substantially as they move from planning to design, and construction. Funding at the authorized level of $2.4 Billion is fundamental in the transition phase as States begin to institute the reforms required under the 1981 Amendments.

I would like to make a few observations about phased and segmented projects, if I may. The practice has come under serious scrutiny recently. It has been an important program tool in the past for several reasons. Some projects are

simply too large or incremental to fund at once. It also is an effective mechanism to achieve maximum progress toward water quality improvement. In many States, such as New York, it is a very critical element of their fiscal plan. Putting all your eggs in one basket, so to speak, can make very little sense in terms of the priority list and getting the most clean up for the dollar over time.

FEDERALISM

With the support of 205(g) funding, States have vastly improved their capability to manage the Federal water programs under delegation. The benefits are readily apparent. Administration is cheaper; management is more efficient and effective; and better solutions result. The support under 205(g) provided in the 1981 Amendments is absolutely critical if we are to achieve full delegation. I caution that this goal is some distance away. Federal involvement, through US EPA and the CORPS, continues at a high level with States responsible for managing 49% of the construction grants program under delegation. States are willing to accept complete delegation, but many must improve their current capabilities to do so. This can only occur if stability and adequate funding is assured. According to State estimates, a funding level of approximately $100 Million (i.e. that provided under the Amendments) will be necessary for full delegation. It must be clearly understood that any diversion of 205(g) funds for other purposes will severely jeopardize delegation.

As States implement these Amendments, they have several concerns regarding our mutual goals of delegation and Federalism. As resources become constrained it is absolutely critical that States have broad flexibility to 1) focus on priority water problems and 2) administer their program in the most streamlined cost-effective manner possible. While the Amendments generally recognize this, provisions conflict with this need in some areas. States are distressed and concerned by this situation. Unless these problems are understood and addressed, States will be severely handicapped in their efforts to achieve the requirements of the Act. I am referring to the continued and increasing tendency to unnecessarily fragment this program through set-asides.

INNOVATIVE AND ALTERNATIVE TECHNOLOGY

The mandatory set-aside for Innovative and Alternative Technology, in particular, has not worked out as originally intended by Congress. While the concept that Innovative and Alternative Technology can be beneficial to local communities has merit, the situation has gotten out of hand. The tail is very much wagging the dog. The approach taken forces heavy emphasis on Innovative and Alternative Technology which diverts resources from the overall objective. In effect, somewhere between 20% and 30% of a State's annual allotment will be required to use the 4% set-aside. States fear that this fact has not been fully recognized by Congress.

For example, if Michigan were to use the full 7½% possible set-aside, they would in effect tie up 100% of their annual allotment. As it is, a 4% set-aside for I/A requires 30% of Michigan's allotment.[1] To expend that set-aside, other communities higher on the priority list, for which I/A is inappropriate would have to be bypassed. One such town is Caro which is violating water quality standards and needs a conventional plant up-grade, not I/A.

[1]There are many set-asides under the law or otherwise desirable for sound management. Cumulatively these set-asides alone can account for a major portion of the program:

205(g)	4%
205(j)	1%
I/A	4%
rural	4%
grant increases	5%
advance allotment	10%
TOTAL	28%

What rightfully began as a Congressional concern for more progressive application of wastewater treatment technology rapidly turned into another complex bureaucratic exercise. Full obligation of the set-aside requires resource intensive efforts. Innovative approaches are not always possible or appropriate due to such factors as land availability and soil conditions. In a program that is heavily criticised by the public and private sector for failure to perform, the risk is not an attractive gamble. Although innovative projects are "guaranteed" or protected through 100% reimbursement if they fail, such projects would still compete on the State priority list for the very limited funds available.

Administratively, there have been numerous problems. The cumbersome process can offset the fiscal incentives, primarily through inflation. To add to the chaos, the concept has never been clearly or consistently defined from one EPA Region to another. The results to date can be characterized as attempting to encourage applied R&D by turning loose a "technical street riot." Illinois, for example, recently evaluated US EPA information on innovative technologies funded through the first quarter of FY82 and found only 11 out of 49 projects or 22% they could accept as being truly innovative.

ASIWPCA believes these problems can be resolved. We recommend that Congress reconsider the Administration's proposal to eliminate the mandatory set-asides. The incentive approach and the advantages of the innovative or alternative technologies are sufficient to sell the program. We further suggest that a cirtical first step toward guiding the I&A program back to a more positive perspective involves a more comprehensive focus on the "operative meaning" of wastewater treatment technology. For example, why not focus our attention on the application of "appropriate technology?" By this approach, I mean developing improved correlation between specific wastewater treatment technologies and long-term, realistic community capabilities.

PLANNING

The recent addition of an additional set-aside under 205(j) for areawide planning again raises the issue of Federalism. Planning is fundamental to a cost effective pollution control program. There is a continuing need, despite the lack of 208 funding, and States are commited to continuing such activities. The Association is concerned that the Act give States the flexibility to focus planning where it is more needed in the program in the simplest manner possible. We have extensive provisions in Sections 201, 208, 303, and now 205. We need less bureaucratic planning requirements, not more. This approach takes the program away from the integration the Association believes desirable. The Association has taken the position that planning provisions should be consolidated by integrating Section 208 into Section 303 of the Act. It should be funded by 106 just as other water program activities.

Many forces are at work in financing the environmental and other governmental programs. For example:

- the need to reduce Federal spending;
- limited State ability to increase spending;
- increases in program costs each year at a rate faster than program simplification or efficiencies can be developed and implemented; and
- expanding the scope of the water program through increased Federal mandates. (See Attachment C)

To dismiss any one of these factors or to miminize their cumulative impact is unrealistic. If we fail to recognize the consequences (within the structure of the present law) of imposing management priorities, we will destroy the commitment to and credibility of the National water program.

We must strike a realistic balance between program aspirations, as reflected in the law, and fiscal and program realities. We must seek to accommodate those realities in a manner which minimizes their adverse effect. In that regard, the

basic 106 grant is the single most important mechanism we have to implement the goals of the Act. There simply is no satisfactory substitute. The Act envisions a State/Federal partnership. The 106 grant is used by States and Interstate agencies to administer the Federal programs dictated by the Act, including the NPDES permit program, enforcement, monitoring, and planning.

We believe the Federal government has gotten more for their investment under Section 106 than any funds provided under other provisions of the Act. Sustained 106 funding is absolutely critical to States continued willingness or ability to administer the Federal permit program under NPDES and otherwise comply with the Federal mandates. It is important to understand that this is in lieu of their own, individual State programs.

Historically, States have contributed, on the average, about twice the amount of Federal 106 funds to the program. This has somewhat relieved the stress of expanding additional Federal requirements and relatively constant Federal levels of appropriation. (See Attachment D) However, we are now in a situation where the mandates and the money do not match and the situation is deteriorating with budget cuts at both the State and Federal level. States could abandon certain provisions of the Act and reduce their commitment. However, this is a last resort as States feel they have a responsibility to administer the Federal program.

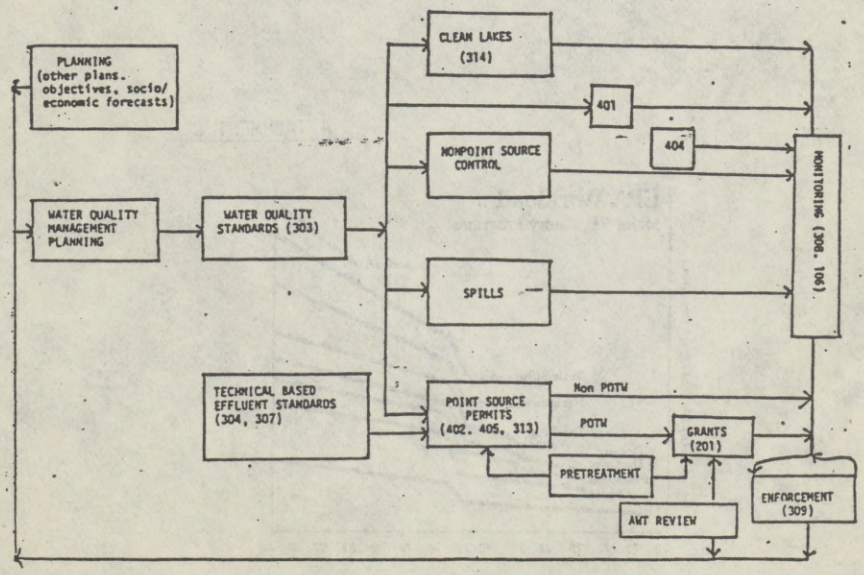
Maintenance of 106 funding is of paramount importance to the States. Section 106 gives the States the flexibility to allocate funding wherever appropriate in the water program without red tape or the burdens of a fragmented categorical or setaside approach. Unlike 205(j), it can be used for planning or administration, point or nonpoint sources, municipal or industrial problems at the State or local level. 106 is not complicated by dependency on construction grants appropriations as is 205(g). Resource intensive activities under 205(g) do not infringe upon the basic water program support consistently provided under 106.

In summary, the Association supports an emergency supplemental of $2.4 Billion for fiscal year 1982. We urge the Committee to give serious consideration to how the limited funding arrangements available can be most supportive of the goals and objectives of the Act.

FIGURE 2

ATTACHMENT A

NATIONAL WATER QUALITY PROGRAM



ATTACHMENT B

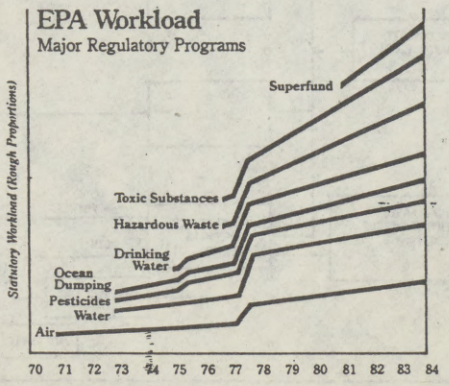
Michigan: A full appropriation is necessary to get beyond the backlog of grant amendments and overruns to the over 25 priority projects "ready to go". Battle Creek needs priority funding to complete their plant. Milan's antiquated facility, serving a hospital, will require funding to come into compliance with the Law in the very near future.

Minnesota: Virtually every community in the State, which has not completed the program, will be affected. These communities are past Step 1 grants. Of the 195 projects on last years priority list, 20 most key water quality related facility needs have survived on the list due to reduced appropriations. International Falls, for example, covers two jursdictions. One's outfall is above the other's drinking water intake and the situation requires prompt action in FY82.

Pennsylvania: The State is virtually out of construction grants funds. Every project on the priority list has significant environmental or public health problems. Segments of the Philadephia project will come to a halt without an FY82 appropriation.

New York: When the projects at EPA are approved, as expected very shortly, all available funds will have been exhausted. Over $3 Billion of Federal funding would be required to complete the plants now into planning and design or construction(at a 75% Federal share). New York can expect a maximum of $1 Billion in the next 5 years.

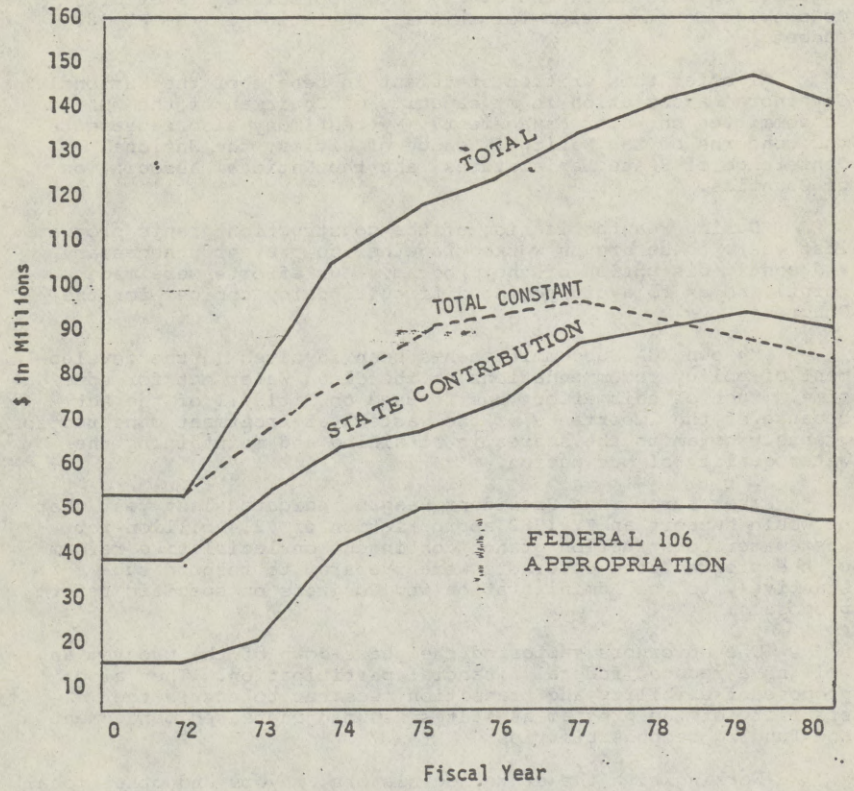
ATTACHMENT C



ATTACHMENT D

FIGURE 1

HISTORICAL CONTRIBUTION TO 106 FUNDED PROGRAMS



PREPARED STATEMENT OF HON. SCOTT M. MATHESON

GOVERNOR, STATE OF UTAH

I am pleased to have this opportunity to submit testimony in support of a fiscal year 1982 supplemental appropriation of $2.4 billion for the Wastewater Treatment Construction Grants Program. Chairman Garn and I have worked together on this issue and I very much appreciate his efforts to provide accommodation for this appropriation in the FY '82 budget.

I offer this written statement in behalf of the National Governors' Association in my capacity of Chairman of the NGA Subcommittee on Water Management. My testimony also represents the concerns of the National League of Cities, the National Conference of State Legislatures, and the National Association of Counties.

During reauthorization of the construction grants program last year, these groups worked together to prevent unnecessary and costly disruption of the program. Our efforts were made jointly so as to avoid posing difficult policy choices for the Congress.

My own NGA Subcommittee has been involved in the development of policy recommendations on the Clean Water Act for some time. Much of this effort has focused on Title II of the Act because of the importance of the wastewater treatment construction grants program to the states in attaining and maintaining the water quality of our nation.

Therefore, when President Reagan indicated last year that he would support an FY 1982 appropriation of $2.4 billion for wastewater construction grants contingent on legislative reform of the program, the Governors were prepared to respond substantively to the Administration and Congress on specific reform proposals.

The Governors supported the phase-down of the program as well as a reduced federal financial participation. They also proposed flexibility and transition measures to ensure the stability of the program as states assumed increased management and funding responsibilities.

Working with the state legislators, mayors and other local officials, Governors met with Members of Congress, Administration officials and the President to urge expeditious action and the incorporation of transition and flexibility proposals in a reform bill. I believe this united effort positively influenced the passage of legislative reforms and the annual authorization of $2.4 billion dollars.

The Governors very much appreciate the dedication and diligence of the members of the Committees of jurisdiction and members of the Conference Committee who worked tirelessly to pass a bill and to resolve the differences in the House and Senate versions.

The Clean Water Act Amendments of 1981 provide for a transitioned devolution and refinement of the program over the next four years. Stable funding throughout the transition period is essential to the success of the states' assumption of increased responsibilities. A stable transition period allows the States to develop alternative funding sources and to allocate funds efficiently.

When the President signed the legislation he lauded its reforms and made a commitment to the future of the program.

> This is the most significant piece of environmental protection legislation enacted by this Congress and represents the combined efforts of both the Congress and this Administration to ensure that the goals of our construction grants program will be the improvement of water quality, the enhancement of our environment, and a emphasis on effectiveness in Federally funded treatment works.... The agreement reached by the Congress achieves the Administration's fundamental objectives while ensuring minimum dislocation to the program.... For all these reasons, I am pleased to sign H.R. 4503.

As you know, state and local governments are already coping with reduced program funding. According to the Association of State and Interstate Water Pollution Control Administrators, thirty states are completely out of money and the absence of funding for FY 1982 will increase that number by at least 10.

The lag in program funding creates problems even if funds are restored. A one year deferral of a project can delay completion 1-4 years. Deferral also increases project costs due to inflation. In some cases these inflationary costs exceed the funding available.

In Utah, the need for constructing municipal wastewater treatment facilities exceeds the amount of funds projected to be available under previous administration funding plans. The Utah grant applications now being processed in EPA Region 8 will require all available and anticipated funds until FY 84. The anticipated funding levels are not sufficient to allow construction of more than one third of the projects in the present five year funding plan for the state. These are projects already in either the planning or design stage. Furthermore, this funding level will not sustain the construction activity now begun on the two large high priority projects for Central and South Salt Lake Valley. No funding for FY 1982 would exacarbate this situation.

In Michigan, already hit by severe economic dislocations, a major funding reduction in the construction grants program would result in the elimination of funding for projects outside major urban areas. Those funds remaining would be targeted to court ordered projects in Detroit. Several municipalities (including Kalamazoo and Battle Creek) would be unable to obtain funding for the final segments of ongoing projects which are partically constructed. These segments are crucial to the functioning of the facility.

In Massachusetts, the Executive Office of Environmental Affairs estimates that a zero appropriation in FY 1982 would halt 72 projects amounting to $62.2 million in federal assistance to Massachusetts municipalities. Such projects are vital for continuing the clean up of New England's rivers and streams.

Among these projects that will be able to begin construction once Florida has received its allocation of FY 82 funds are two in the St. Petersburg area: the Regional Sludge Dewatering Facility and the Albert Whitted Diversion System. The total federal share for these projects amounts of $4.8 million.

For Illinois, the zero funding projection for FY 82 leaves some 300 facilities plans in limbo. Through May 1981, there were 224 projects under construction or in the bidding stage leading to award of the construction contract. These projects will be seriously jeopardized by the funding uncertainty at the federal

level, and the state will have a difficult time developing alternate funding sources if no federal funds are forthcoming.

I could continue to cite numerous examples of the adverse impacts that will result from the termination of this program. But what I am really talking about is a commitment by this Administration and this Congress, which overwhelmingly endorsed the construction grants reform legislation.

This commitment is to the fifty states and thousands of communities that have planned for these projects, raised their local matching share, and have made their own commitments of time and energy under an assumption that this program will not be halted abruptly and that the rules of the game will not change overnight.

These communities must have the opportunity to adjust to the new reforms and to find alternatives to the existing system for the treatment of municipal wastewater and the attainment of the goals of the Clean Water Act.

A supplemental appropriation of the wastewater treatment construction grants program for FY 1982, as well as an appropriation for $2.4 billion for GY 1983, is necessary so this commitment does not become an empty promise.

PREPARED STATEMENT

WATER AND WASTEWATER EQUIPMENT MANUFACTURERS ASSOCIATION, INC.

Mr. Chairman and Members of the Subcommittee, the Water and Wastewater Equipment Manufacturers Association, Inc. would like to submit its position concerning appropriations for the fiscal 1982 Construction Grant Program. WWEMA, in 1978, was an association of more than 260 corporations that developed technology and manufactured or supplied equipment systems, materials, and services for water and wastewater treatment plants. Equipment manufacturers currently employ approximately 20 percent of the total dollars spent under the Clean Water Act's Municipal Construction Grant Program and provide an equal amount to equipment systems to industry.

The Clean Water Act of 1972 motivated WWEMA Members to commit more resources to the pollution abatement market. Traditional suppliers of wastewater equipment invested in larger and more efficient facilities. New and more cost-effective technology became available. In short, our industry responded in the best tradition of free enterprise to fulfill the law established

by Congress. Our wastewater equipment continues to help industry comply today. Similar equipment was also provided to cities on an uncertain schedule.

Since 1972, Congress has consistantly appropriated less than the authorized level of funding. The result has been a lack of continuity and predictability in the program. This has encouraged approximately 35 percent of the suppliers to redirect their resources. This results in a rapid turnover of equipment suppliers in the industry, reduced equipment quality, technical innovation, and available services for clean water progress.

Congressional leadership and funding continuity is nearly as important as the level of dollars appropriated. Yearly appropriation approval is often delayed to very late in the budget process. This contributes to program uncertainty and inadequate equipment manufacturer plans, and eventually results in higher costs and lower value.

Specifically, WWEMA recommends the following:

1. That Congress appropriate $2.4 billion for fiscal 1982, as requested by President Reagan, retroactive to October 1, 1981;

2. That a budget commitment be made for fiscal 1983, including an appropriation before September 30, 1982; and

3. That this committee recognize the excellent EPA progress in reducing the unobligated funds to a level of $955 million at the beginning of fiscal 1982, and that the committee commit to yearly appropriations of at least $2.4 billion, on a current value basis, through fiscal 1985.

The above commitments are the minimum if our industry is to maintain its current level of expertise and resources. The uncertainty in the past has contributed to erosion of incentives for investment in innovative technology. Changes and delays in funding levels result in excessive costs because of interruptions in manufacturing lines, employment and financing. Further,

local government will most certainly hestitate to begin necessary planning and design activities if the funding is not as authorized.

WWEMA would like to thank the subcommittee for their interest in a prompt appropriation.

PREPARED STATEMENT

NATIONAL ASSOCIATION OF REGIONAL COUNCILS

Mr. Chairman, the National Association of Regional Councils appreciates the opportunity to submit this statement on H.J. RES 390, Environmental Protection Agency Construction Grants urgent appropriation.

The National Association of Regional Councils (NARC) was initiated in 1967 to assist local government elected officials in organizing a rapidly growing number of regional councils. Regional councils are areawide organizations of general purpose local governments which encompass a total regional community. They exist in both metropolitan and rural areas. Prime purposes of regional councils are to increase cooperative decision-making and coordination among local and state governments; to review and comment on certain federal grant applications; to develop policies and programs to meet mutual problems; and guide orderly development.

More than 600 regional councils have been established to deal with areawide problems in rural and urban regions.

Many of our member regional councils have been designated by their Governors as areawide waste treatment management planning organizations under section 208 of the Clean Water Act. The initial plans have been completed and most have been approved by both the states and EPA. Unfortunately, local government participation in their implementation has been seriously curtailed because of the lack of any federal support.

Section 205(j) of the Clean Water Act Amendments of 1981 would assist in overcoming this problem. It sets aside 1% of each state's allotment for water quality management purposes. These activities include:

nonpoint measures to meet and attain water quality standards.

- obtaining state and local financial and regulatory commitments to implement water quality programs.
- determing the nature and extent and causes of water quality problems in various areas of the state and interstate regions and reporting on these annually.
- determing those publicly owned treatment works which should be constructed in which areas and in what sequence, taking into account the relative degree of effluent reductions attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction.

NARC strongly supports the Administration's request of $2.4 billion for the water construction grants program. This emergency request will enable states and local governments to continue vital water quality projects without disruption and expensive delays. H.J. RES 390 would provide the necessary support to states and areawide agencies to stimulate, coordinate and assist implementation at the local level. This is doubly important in view of the reductions in federal funds available to meet national clean water goals.

In testimony before the House, Administrator Gorsuch indicated that the focus of the 205(j) program will be on assisting states in implementing changes to water quality standards. NARC believes this activity can be achieved most effectively through state and local officials working cooperatively at the regional level as outlined under section 205(j). We intend to work closely with EPA and the states to successfully implement this provision of the law and assure that it contributes to real improvements in water quality.

NARC urges the subcommittee to approve the $2.4 billion appropriation for the construction grants program.

Thank you.

Prepared Statement of Daniel Weiss

Conservative Associate

Izaak Walton League of America

The Clean Water Act is a law that is vital to our nation's efforts to clean up our waters. The Izaak Walton League is a national conservation organization long committed to the principles embodied in the Clean Water Act, and the clean water legislation that preceded it. Clean water remains a high priority of the 50,000 conservationists who are members of the Izaak Walton League.

We'd like to commend the Chairman and members of this subcommittee for quickly holding this hearing on the 1982 funding of the municipal sewage treatment plant construction grants program of the Clean Water Act. The construction grants program provides federal funds to communities to build sewage treatment plants, and is one of the cornerstones of our nation's efforts to clean up and protect our precious waters.

The continued construction of municipal sewage treatment plants is crucial to maintain progress in cleaning up our waters. We strongly urge Congress to appropriate $2.4 billion for the program in 1982, and $2.6 billion for the program in 1983.

The construction grants program of the Clean Water Act (P.L. 92-500) was designed to comprehensively address our serious water pollution problems caused by the discharge of poorly treated or untreated municipal sewage into our waters. Congress committed the federal government to pay 75% of the costs of building municipal sewage treatment plants. Between 1973 and 1981, Congress authorized $39 billion for the construction of sewage treatment plants. During the past nine years, over $33 billion was appropriated for this construction, while $25 billion was actually spent. Between 1975 and 1980, the average annual appropriation was $3.4 billion. So far, of the 11,000 projects funded by the construction grants program, close to 3,800 are finished. Approximately 1,200 more are expected to be finished in 1982.

What has this vast expenditure of money meant for the quality of our waters? The President's Council of Environmental Quality (CEQ) reported in 1980 that:

> "Although the water quality in rivers and streams seems to have changed little nationwide, it has improved significantly in many local areas during the 1970's...The nation's surface water has not deteriorated despite a growing population and an increased gross national product."

CEQ found that the levels of pollutants from municipal sewage, particularly phosphorus and fecal coliform bacteria remain steady. With continued federal funding, our investment in sewage treatment plants should result in cleaner water during the next several years because thousands of plants currently under construction will be completed and begin to treat municipal wastes.

The many cities that built federally funded sewage treatment plants experienced an astounding improvement in their water quality. For instance, in 1972, only 16% of the river-miles in Massachusetts were fishable and swimable. By 1983, 60% of its river-miles will achieve this water quality goal, and by 1985, 70% will be fishable and swimable as a result of the federal construction grants program.

In the 1960's, Lake Erie was "aging" abnormally fast. Nitrogen and phosphorus pollution from municipal sewage discharged into the lake triggered the growth of algae that choked off its other life. With money from the federal construction grants program, treatment plants along the lake were upgraded, reducing the amount of phosphorus dumped into Lake Erie by nearly 46 million pounds. Fish returned to the lake, and many of its beaches reopened.

The Duluth, Minnesota, municipal treatment plant removes half of the pollution that was dumped into the environmentally fragile western edge of Lake Superior. Izaak Walton League members in Duluth tell us that the walleye pike fishing in the adjacent St. Louis River is now the best in Minnesota. There were no pike in the river a few years ago.

Success of the program has been greatly hindered by interruptions in funding, beginning with President Nixon's impoundment of funds through the current zero appropriation for this year. As Dr. John Hernandez, Deputy Administrator of the Environmental Protection Agency (EPA), told the U.S. Senate last summer:

> "Project development spans several years and requires stability. Program and project planning clearly are made more difficult by unpredictable funding levels. This directly affects projects which are now in the planning and designing phase, fostering delays and further contributing to increased inflationary losses."

The most recent cut-off in funding occurred this past October 1st. As of December 31, 1981, less than $970 million for construction grants was unobligated. Forty-five states have less than $15 million in unobligated funds. Utah has only $236,000 left to spend on treatment plant construction, less than .2 percent of its cumulative allotment. Kentucky and Connecticut have only $2.7 million and $5.1 million in unspent funds. For all intents and purposes, these states are out of money. Advancements in pollution clean up have stopped.

Nationwide, there are nearly 7,000 projects in some phase of construction, including many plants designed to alleviate severe pollution problems.

Although construction on a number of plants will continue using money already obligated, many other projects will halt or not get underway. Pennsylvania has only $40 million in unobligated funds, yet it has 93 projects in some state of construction. Minnesota will continue to fund the construction of 20 projects, but 170 will lay dormant. The planning and design of treatment plants has come to a complete halt in many states.

The longer states go without money in 1982, the longer and more costly the delays in designing and building these vital water quality projects. To avoid squandering our costly investment in water quality, we urge this subcommittee to quickly pass a special 1982 supplemental appropriation for $2.4 billion, and to endorse a full appropriation of $2.6 billion for 1983.

Last session, Congress made many reforms in the construction grants program that will more carefully focus federal dollars on existing water pollution problems. Congress increased incentives to build environmentally sound sewage treatment plants, and targeted these funds to get the most clean up for the money. The reform law, P.L. 97-117, included the following provisions which will improve the program:

- Four year funding reauthorization. The reauthorization of program funding for four years gives it much needed stability, and avoids the costly, disruptive, inflationary delays in the construction of plants when funding expires. Predictability and certainty of funding should improve program planning and administration by states and cities. We urge this subcommittee to end the current funding disruption and to avoid future delays by recommending the appropriation of $2.4 billion in 1982 and $2.6 billion in 1983.
- Reduced federal funding for reserve treatment capacity. Beginning in fiscal year 1985, cities will only receive federal funds for the construction of treatment capacity to treat existing waste loads. Communities must pay for all treatment capacity for future population. In an era of tight budgets and ballooning deficits, it makes sense to spend our scarce dollars on existing pollution problems where we can achieve an immediate improvement in water quality.

Cities will be forced to more realistically assess their future treatment needs to accommodate growth. If cities are forced to pay for this reserve treatment capacity, they have a much stronger financial incentive to use low-cost treatment systems that recycle water and wastes, repair leaky sewer pipes, and implement community-wide water conservation programs.

- Cost effectiveness and water conservation. P.L. 97-117 requires communities to use the most economical and cost-effective combination of treatment works when they design and build their federally funded treatment system. Community-wide water conservation must be considered along with other alternatives as part of a cost-effective system. These two provisions should cut the costs of expensive treatment systems.

Community water conservation programs could include the use of reduced flow plumbing fixtures, repairing leaks, metering water use, and revising water rates. The more water communities save, the less treatment capacity

they need. This would save money on lower plant construction and operation and maintenance costs. A recent study indicates that the states in the Great Lakes basin could save over $300 million in lower treatment plant construction costs if they reduced their water flow by only 10%. We urge this subcommittee to make sure that communities take full advantage of water conservation to lower construction costs.

- Infiltration/inflow (leaky pipes). In many cases, almost half of the water entering a sewage treatment plant is rain or groundwater that seeped into its pipes. Plants are built large enough to treat this additional unpolluted flow. This problem is called infiltration/inflow. (Excessive infiltration/inflow is also a major cause of treatment plant failure.) Congress decided to continue spending federal dollars on the correction of infiltration/inflow problems because this is an economical alternative to building oversized treatment plants.

- Increased incentives for innovative and alternative wastewater treatment technologies. Congress increased the financial incentives to use these efficient, low cost, treatment systems that recycle water and waste. The percentage bonus for using an innovative and alternative system will increase from 10% to 20% as the federal share of all projects drops from 75% to 55%. Each state is required to set aside 4 to 7 ½% of its allotment for this program.

EPA reports that the use of these technologies has led to a reduction in overall cost of treatment needs. These technologies are our best hope for attaining clean water at a reasonable price, and we must encourage states, communities, and engineers to employ these systems whenever possible.

- Value engineering. P.L. 97-117 requires a value engineering review of any project that costs more than $10 million. Value engineering is a systematic analysis of a project's design to determine the least cost alternatives for the treatment system. An Environmental Protection Agency (EPA) regulation required value engineering since 1977, and this regulation saved $156 million. The 1981 reforms put this value engineering requirement into law.

- Long term financial planning. Communities are encouraged to develop capital financing plans which estimate their future wastewater treatment needs, predict future expansion and repair work, and include the plans to pay for them. EPA should encourage and assist this long-term planning. If communities do long-term planning, they should be better able to adjust their needs and resources to get the most out of the federal investment in sewage treatment facilities. In addition, this planning will help address the question of how the next generation of sewage treatment plants will be built and paid for. This planning is not mandatory, but ought to be strongly encouraged.

- Water quality planning. A set-aside of 1%, or $100,000 (whichever is greater) from each state's allotment will be used to implement water quality plans that address non-point source pollution problems, and to revise state water quality standards. Some of the money from this set-aside will implement

the water quality plans developed under Section 208 of the Clean Water Act. These plans are vital to combat growing non-point source pollution, which is the missing piece of the clean water puzzle. The local planning agencies must have the necessary resources to complete the planning job and implement the plans. If we ignore cleaning up pollution from agricultural and urban run-off, water pollution will persist, despite our tremendous investment in sewage treatment plants. Implementing these water quality plans is but the first step in the long road to solving this persistent pollution problem.

All of these provisions were wisely included by Congress to stretch the pieces of the shrinking federal pie. However, these reforms are no substitute for the full funding of the program; they only compliment it. Unless they have enough money, states and cities will not be able to take advantage of these reforms and use more low cost, water and energy efficient treatment systems.

In 1982, $2.4 billion is the minimum amount required to meet these needs. Likewise, $2.6 billion should be appropriated in 1983. This level of funding is still about $1 billion lower than the average annual level of funding between 1975 and 1980. (This figure is not adjusted for inflation.)

We urge this subcommittee to oppose the special funding of individual projects by the Congress. The subcommittee should prohibit funding for Section 201(m) and Section 205(k). These Sections authorize and/or require funding for particular projects. Regardless of the merit of these projects, the Congress should not require construction grant funds to be spent on them. It is the states' responsibility to establish project priorities. If these, or any other, projects warrant special funding, the states should use money from their regular allotment of construction grants funds. We urge you to prohibit funding for Section 201(m) and 205(k) of P.L. 92-500.

There has been much talk about the "new federalism" and the appropriate role of the federal government. Last year, after long hours of deliberations and debate, Congress reaffirmed the federal government's role in assisting with the clean up of water pollution from municipal sewage. P.L. 97-117 is designed to provide a three year transition period to a program in which states and cities bear more of the financial responsibility for the construction of critical sewage treatment facilities. Congress created incentives and requirements that should enable them to bear that cost more easily than they could now. States will also have more flexibility in designing treatment systems and setting priorities. Despite the shift of some of the financial responsibilities, Congress deliberately maintained a strong federal commitment to meet $36 billion worth of existing sewage treatment needs.

One note of warning: draconian cuts in the EPA budget could derail the efforts to give more responsibility to states and cities by depriving them of the water quality research, technical assistance, and enforcement they need to bear this responsibility. A crippled, ineffectual EPA is a dangerous threat to our investment in clean water.

Clean water remains a top priority of the American people. Without the necessary financial resources, the federal commitment to clean water is nothing more than an empty promise. Lack of program funding would be a tragic blow to our slowly recovering waterways. Make no mistake about it; although the program has many successes, the clean up of our rivers, lakes, streams, bays, and estuaries is far from finished. Only a full appropriation of $2.4 billion in 1982 and $2.6 billion in 1983 for the construction grants program of the Clean Water Act will keep us on the path to clean water in the 1980's.

CONCLUDING REMARKS

Senator GARN. Do you have any other comments you would like to make before we close the hearing?

Dr. HERNANDEZ. It is a pleasure to be here today and I certainly have enjoyed the comments and the questions from the committee.

I really think the training issue is a good one, one that EPA needs to do some thinking about. It is well put.

Senator GARN. Thank you, very much.

CONCLUSION OF HEARING

The subcommittee will stand in recess subject to the call of the Chair.

[Whereupon, at 10:13 a.m., Wednesday, February 10, the hearing was concluded and the subcommittee was recessed, to reconvene at the call of the Chair.]

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