

Written Testimony
by

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before the

House Subcommittee on Water Resources and Environment

addressing

“Opportunities and Challenges in the Creation of a Clean Water Trust Fund”

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Chairman Johnson, Ranking Member Boozman, the National Utility Contractors Association (NUCA), appreciates the opportunity to testify before the subcommittee today on the many opportunities and challenges to be considered when assessing the creation of a clean water trust fund.

NUCA is oldest and largest national trade association working solely for the utility construction industry, consisting of a nationwide network of chapters and member companies that provide the workforce and materials to advance the water, sewer, gas, electric, telecommunications and construction site development industries across the country. NUCA also serves as the managing member of the Clean Water Council (CWC), a coalition of 35 national organizations representing underground construction contractors, design professionals, manufacturers and suppliers, labor representatives and others committed to ensuring a high quality of life through sound environmental infrastructure. These industries work collectively to improve critical underground systems that unquestionably enhance America's quality of life.

NUCA commends the past efforts of this subcommittee to advance legislation that would increase federal investment in wastewater infrastructure, and we look forward to working with you on several water infrastructure initiatives, including the possible establishment of a clean water trust fund. NUCA believes a long-term, dedicated source of revenue is needed to meet the skyrocketing national needs facing our water and wastewater infrastructure and is eager to participate in the discussion as the issues and challenges are vetted, debated and resolved.

A NEW APPROACH IS NEEDED TO ADDRESS A STRUCTURAL "NEEDS" GAP

NUCA is often asked to testify before this subcommittee and others on the overwhelming needs facing America's wastewater infrastructure. While that is not the focus of this hearing, it is important to first understand why a dedicated source of funding for the refurbishing of that infrastructure is so sorely needed.

The needs estimates by the U.S. Environmental Protection Agency (EPA) are nothing short of staggering. EPA's 2002 *Clean Water and Drinking Water Infrastructure Gap Analysis* forecasted a \$534 billion gap between current investment and projected needs over 20 years for water and wastewater infrastructure if federal funding was not increased. Two years later, the EPA's 2004 *Clean Watersheds Needs Survey* documented existing nationwide wastewater infrastructure needs at \$202.5 billion. Considering the fact that since the 2004 estimates were released, annual federal funding for this infrastructure has been virtually cut in half (not increased), it is clear that much needs to be done to even begin to address this dilemma.

Additionally, the American Society of Civil Engineers (ASCE), an active member of the CWC, evaluates the nation's infrastructure and reports on the status of it every few years. For the past several years, America's wastewater infrastructure has been graded a "D minus" in the ASCE's *Report Card for America's Infrastructure*. There is a clear consensus among both government and industry professionals that the state of this infrastructure is quickly going from bad to worse.

In essence, the wastewater infrastructure "Gap" has become pernicious or structural. The documented needs outpace financing capacity year after year, decade after decade, despite the continued albeit reduced capitalization of the Clean Water SRF Program, investment from other federal programs such as the RUS Water and Waste Disposal Grant and Loan Program as well as significant state and local efforts, including the call for "full cost pricing."

A host of factors have exacerbated the situation. Market forces, such as steadily increasing costs for labor and materials, reduce the purchasing power of public works dollars and diminish the number of completed projects. Cuts in federal funding for many years have also played a role. Lastly, the current economic recession has hammered the housing market and local budgets dependent on property taxes.

A new approach based upon a dependable and dedicated source of revenue is needed to meet this financing gap.

THE GAP HAMPERS SHORT-TERM AND LONG-TERM ECONOMIC GROWTH

Although water and wastewater projects are generally recognized for their effectiveness in enhancing public health and environmental protection, the *economic* benefits that result from this work are often overlooked. Those benefits are real and can now be demonstrated. A new report by the Clean Water Council does just that.

The CWC recently released the findings of an economic impact study on the job creation and other financial benefits that accompany funding for water and wastewater infrastructure projects. The study, *Sudden Impact: Assessment of Short-Term Economic Impacts of Water and Wastewater Projects in the United States* demonstrates that the construction of these facilities creates significant, immediate economic benefits in terms of job creation, increased demand for goods and services, rise in personal income and the generation of state and local tax revenue.

The findings of the study are based on data collected from 116 water and wastewater construction projects in five demographically diverse states, including 73 different counties. Completed in 2006 and 2007, the projects also encompass a broad range of project types, sizes, materials, construction methods and labor markets. Specifically, the study shows that a \$1 billion investment in water and wastewater infrastructure results in the creation of up to some 27,000 new jobs (with average annual earnings for the construction portion of the jobs at more than \$50,000), total national output (i.e., demand for products and services in all industries) of between \$2.87 and \$3.46 billion, and generation of personal or household income of between \$1.01 and \$1.06 billion. Importantly, each \$1 billion invested also generates approximately \$82.4 million in state and local tax revenue.

The study also underscores the “ripple effect,” that is, how this investment impacts industry sectors outside of construction. Each \$1 billion invested in water and sewer projects generates measurable national employment in 325 other standard industry classifications. In fact, a \$1 billion investment results in the hiring of at least 100 workers in 25 industry segments outside of construction, including retail markets, wholesale trade, real estate, insurance carriers, health care, food services, and accounting, just to name a few. Notably, all of these economic benefits occur during the time period of construction only.

In addition, a 1990 CWC study entitled *America’s Environmental Infrastructure*, demonstrates the long-term economic benefits of investment including increased labor productivity, increases in private profitability, increases in private investment in facilities and equipment and an enhanced tax base.

Elimination of the gap will unleash tremendous economic growth. Failure to manage the gap diminishes the economy and our quality of life.

GAO ASSESSES ISSUES TO CONSIDER WHEN DESIGNING A CLEAN WATER TRUST FUND

The General Accountability Office (GAO) recently released its report on issues that would need to be addressed as Congress moves to establish a dedicated source of revenue for our environmental infrastructure. The report, *Clean Water Infrastructure: A Variety of Issues Need to be Considered When*

Designing a Clean Water Trust Fund, identifies three such issues: 1) how a trust fund should be administered and used; 2) what type(s) of financial assistance would have to be provided; and 3) what activities should be eligible to receive funding from a trust fund. Of course, how such a trust fund would be financed is the underlying question and will undoubtedly be the toughest issue to tackle.

The findings of the report are based on the results of a GAO questionnaire sent to 28 stakeholder groups (including NUCA) that represent the wastewater and drinking water industries, state and local governments, engineers and environmental groups. NUCA believes the findings in the report support the need for a trust fund, and that it should be administered through a partnership with EPA and the states. However, the issue of how to fund it will surely be the crux of the debate. After noting that “several obstacles will have to be overcome in implementing these options,” not the least of which is the difficulty of generating “\$10 billion from any one option by itself,” the GAO evaluated the following funding sources for a clean water trust fund: a variety of excise taxes on several products (certain beverages, fertilizers and pesticides, flushable products, pharmaceuticals, water appliances and plumbing fixtures); a corporate income tax; and a water use tax. In this regard, the report touches on the EPA’s “Four Pillars” initiative, which “calls for water and wastewater utilities to charge rates for the service they provide that are high enough to enable them to fund future capital needs in addition to their routine operations and maintenance.”

In its report, the GAO also discusses increased funding for the existing EPA State Revolving Fund (SRF) programs. Unfortunately, these programs, which are dependent on federal appropriations, have fallen victim to major cuts in annual funding over the past recent years—despite a proven track record of success. NUCA is a strong supporter of the SRF programs and has strongly advocated for increased SRF appropriations, as well as robust reauthorization of the programs. We thank the subcommittee for its work toward House passage of the Water Quality Investment Act (HR 1262), which would authorize approximately \$14 billion for the Clean Water SRF over five years. NUCA is currently pushing for Senate passage of the Water Infrastructure Financing Act (S 1005), which would authorize \$20 billion for the Clean Water SRF and \$15 billion for the Drinking Water SRF programs over five years. And, NUCA supports “full cost pricing” by water and sewer utilities, as well as effective asset management to ensure the biggest bang for taxpayer bucks.

However, as important as these measures are they will not by themselves provide the resources required to meet our water and wastewater needs. Constant and consistent funding is needed to rebuild this critical infrastructure and keep the construction industry working and contributing to the health of the American economy. America needs a dedicated source of revenue through the establishment a long-term, self-sustaining clean water trust fund. Obstacles facing such an endeavor include determining how a clean water trust fund would be administered, what activities should be eligible to receive support from trust fund revenues, and of course, the most effective and equitable way to pay for it.

NUCA PERSPECTIVES

Administration

NUCA supports the idea of a clean water trust fund administered through a partnership between EPA and the states, not unlike the current SRF partnership. While we recognize concerns with the SRF approach in terms of providing resources to areas with the largest need, fairness issues with regard to providing adequate resources to both urban and rural areas, and the need for more operational consistency, the SRF model would give both federal and state governments a role to play. Flexibility will be needed for states to address their unique infrastructure needs, but a consistent federal application of the rules is also needed to ensure an equitable program. Additionally, the fiscally-sound “revolving” nature of SRF loans, which

are credited for providing four times the purchasing power of direct grants, would lend credibility to efforts to establish a new federal funding program for this infrastructure.

NUCA also supports the distribution of trust fund resources through a combination of loans and grants. Despite the fact that in general loans promote fiscal responsibility on the part of borrowers, it is clear that some low-income localities simply do not have the capacity to repay loans with even very little interest attached. Therefore the entity(ies) overseeing the trust fund should establish a funding system that provides resources through a combination of the two, adapted to meet the needs and wherewithal of the applicant.

Eligibility

Resources from a clean water trust fund should be used exclusively to serve its purpose—to repair and rebuild the infrastructure that is fundamental to providing clean water. Capital costs should be the highest priority and addressing infrastructure needs, as well as the most severe environmental problems, should be the main focus. Eligible capital costs should include: replacement, rehabilitation or expansion of wastewater collection or treatment facilities; construction of new wastewater facilities; projects related to secondary and advanced wastewater treatment; and projects to reduce combined sewer and sanitary sewer overflow.

If the goal of establishing a trust fund is to improve infrastructure, investment of its resources should center on those improvements. Because planning and design are integral parts of water and/or wastewater infrastructure rehabilitation, design/engineering activities should also be eligible. Routine operations and maintenance costs incurred by local utilities should not be eligible for trust fund resources. These costs should be paid through appropriate rates charged by the utility.

Funding Options

GAO makes it very clear that determining the most effective and equitable funding option(s) for a clean water trust fund will not be easy. The report states that “although a variety of options have been proposed in the past to generate revenue for a clean water trust fund, generating \$10 billion from any one of these alone may be difficult. In addition, each funding option poses various implementation challenges, including defining the products or activities to be taxed, establishing a collection and enforcement framework, and obtaining stakeholder support.”

We agree. Although we do not necessarily oppose any of the funding options evaluated by GAO, it is apparent that no single option will serve as the “silver bullet” in terms of serving as the sole source of funding for wastewater infrastructure improvements. Indeed, the most equitable and politically palatable resolution will most likely be a broad-based combination of existing and new funding sources.

The excise taxes investigated in the GAO report offer an interesting approach to help pay for the trust fund. According to the report, products that “contribute to the wastewater stream could be used to generate revenue for a clean water trust fund.” The products considered in the GAO report are beverages, fertilizers and pesticides, “flushable” products, over-the-counter prescription drugs, water appliances and plumbing fixtures. The amount of revenue that would be generated would depend on the tax rate levied on each product. While these products may contribute to the wastewater stream in terms of effluent content, the impact that each product actually has on our wastewater infrastructure is unclear at best. Furthermore, federal tax law requires that when applying excise taxes, precise and apparent definitions of the taxable products must be provided. This presents formidable challenges since these definitions help determine if taxes will be levied on the manufacturer or consumer and how much tax will be owed. The GAO also

notes problems with determining exemptions, as well as challenges in revising forms and other paperwork difficulties that would come with establishing new excise taxes.

Another often-discussed funding option is implementing a new and wide-ranging corporate income tax. GAO estimates that an increase in the current corporate income tax by 0.1 percent could annually generate approximately \$1.4 billion. Some advocates for a corporate tax point to the fact that American businesses need reliable water and wastewater systems to remain viable and benefit from sound environmental infrastructure. While this is absolutely true, could not the same be said for all American households?

One concept addressed in the GAO report, but opposed by a majority of the groups that responded to their questionnaire, was that of implementation of a water use tax and/or a flat fee on the wastewater bills of the vast majority of American households. This option would no doubt require several considerations—the structure of such a tax, its impact on local tax bases and the difficulties of establishing a national collection system.

That said, NUCA believes there are several concepts that need to be evaluated. Implementing an additional water and/or sewer charge on all Americans could be a relatively inexpensive and far more equitable means of financing a trust fund that will benefit everyone. Groups pushing a water trust fund commonly point to the Highway Trust Fund, which is paid for by *all* highway users who purchase gasoline or diesel fuel in order to use the roads. Looking at equitable financing, shouldn't *all* those who benefit from the infrastructure that ensures their quality of life pay their share for the repair and rebuilding of it? Consistent with a long-held principle regarding the “user-fee,” a trust fund should ensure that the amount paid by each customer is related to the burden placed on the system by that customer/user.

According to GAO, a mere 0.01 cent per-gallon tax on water use by domestic, commercial and industrial users would generate \$1.3 billion annually. Alternatively, a flat fee of \$30 annually (or \$2.50 a month) on the 86 million American households that receive wastewater service from utilities would raise an impressive \$2.6 billion a year.

Establishing a national water use and/or wastewater fee presents challenges of its own—many of which are similar to those that would come with the levy of new excise taxes. Structuring a new comprehensive user-fee while adjusting the existing billing systems for 50,000 community water systems that would be affected are among them. And, especially if this option were considered combined with *additional* corporate taxes, the relationship among household, commercial and industrial tax rates would be controversial. Despite these challenges, NUCA believes that a broad-based user-fee should be studied.

Finally, another factor to consider is that of water conservation. A main goal echoed in the water infrastructure debate is what will promote the conservation of our water resources. NUCA believes the GAO report begs the question of which of the funding sources evaluated really promotes the *conservation* of water? We suggest a user-fee on the use of the resource itself will discourage its waste.

OTHER CONSIDERATIONS

Although not fully addressed in terms of costs, benefits and challenges, the GAO did briefly refer to other funding options in its report. Regardless of what needs estimates you read, it seems that there is ample room for any and all viable funding options to be included in the long-term solution. We need hundreds of billions of dollars just to scratch the surface of this problem. Other options NUCA believes should be on the table include:

- Establishing a *National Infrastructure Bank* to finance a variety of infrastructure projects, including wastewater infrastructure projects. Such a bank would independently evaluate projects and determine the most effective means (loans, grants, etc.) to finance them.
- Enhancing opportunities for *Public-Private Partnerships* (PPPs), which allow for private investment and participation in water and wastewater infrastructure projects. PPPs allow private entities to participate in several areas of a public works project, such as design, construction or operation of an infrastructure project. In recent years, these partnerships have become common in the transportation sector.
- Lifting the volume cap on *Private Activity Bonds* (PABs) is a relatively easy way to inject considerable capital into the water infrastructure market with no significant cost to the federal government. Private activity bonds are tax-exempt bonds issued by state or local governments for qualified projects that are exempt from federal taxes, and thus subject to lower interest rates. However, the amount of private activity bonds that states can issue annually are limited, and projects that bring a higher profile generally win out in the bidding process. Removing the cap would inevitably increase the financing available for wastewater projects.

CONCLUSION

Madame Chairman, NUCA fully supports efforts to establish a dedicated source of revenue to rebuild America's underground environmental infrastructure. The GAO report effectively addresses the issues needed that need to be considered as these discussions progress. You, as well as Chairman Oberstar, Rep. Blumenauer, and likeminded others in Congress are commended for helping to bring us to where we are today. Without your dedication and foresight, the neglect of this infrastructure would continue—a neglect that only contributes to a problem that has become a ticking time bomb. NUCA members see the results of deteriorating water and wastewater infrastructure in their everyday work, and the view from the trenches has gone from ugly to deplorable.

The progress made this year with the environmental infrastructure provisions included in the *American Recovery and Reinvestment Act*, proposed funding increases contained in budget resolutions and current FY2010 appropriations measures, and in efforts to reauthorize the existing SRF programs, should be supported and heralded. This subcommittee is to be commended in leading the charge in a number of these efforts. However, let's keep our eye on the prize. The fight to ensure sound underground infrastructure for America is going to be a marathon, not a sprint. We will need long-term contributions from all facets of government—from the White House to the U.S. Congress to state and local government entities to make it work.

Finally, underlying NUCA's position on a clean water trust fund is a concern for fairness. The association therefore strongly suggests that any proposed trust fund legislation should not inadvertently encourage local and municipal government organizations to do less than their part in investing in the nation's fundamental environmental infrastructure. Additionally, we suggest that a modest water/sewer user fee (paid by all beneficiaries of the infrastructure) should be a significant source of funding for any water infrastructure trust fund. While this option might present a variety of administrative and political challenges, it would seem the most equitable approach.

I thank you for the opportunity to testify before the subcommittee today, and I look forward to answering any questions you might have.