STATEMENT OF

THE HONORABLE JOE REARDON
MAYOR/CEO, UNIFIED GOVERNMENT OF KANSAS CITY, KANSAS AND WYANDOTTE COUNTY

BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

DECEMBER 14, 2011
WASHINGTON, DC

Statement of

Joe Reardon
Mayor/CEO of the Unified Government of Kansas City, Kansas and Wyandotte County

On behalf of the National League of Cities

Before the House Transportation and Infrastructure Committee, Subcommittee on Water Resources and Environment

"Integrated Planning and Permitting: An Opportunity for EPA to Provide Communities with Flexibility to Make Smart Investments in Water Quality"

December 14, 2011

Good morning, Chairman Gibbs, Ranking Member Bishop and Members of the Committee. I am Joe Reardon, Mayor and CEO of the Unified Government of Kansas City, Kansas and Wyandotte County. I am here today on behalf of the National League of Cities (NLC), the oldest and largest organization representing cities and towns across America. I appreciate the opportunity to share our perspective on the important role of clean water infrastructure investment in our communities and how the U.S. Environmental Protection Agency (EPA) and Congress can partner more effectively with local governments to make smart investments in water quality.

The availability of clean water is the backbone of a modern society and a livable community, and the nation's water infrastructure systems are assets that help support the backbone by protecting public health, as well as the nation's precious water resources. To the extent that America's water infrastructure is properly maintained and can adequately meet the needs of our communities, it will help ensure the long-term vitality of our communities.

To help achieve this goal, cities need a modern policy framework and resources to invest in our nation's water infrastructure systems.

The Case for a New Policy Framework

The EPA integrated planning memorandum, "Achieving Water Quality Through Integrated Municipal Stormwater and Wastewater Plans," comes at a time when the nation's cities are still reeling from the effects of the economic recession on city finances. Indeed, the EPA memorandum recognizes this challenge: "[W]e must be mindful that many of our state and local government partners find themselves facing difficult financial conditions. Their ability to finance improvements by raising revenues or issuing bonds has been significantly impacted during the ongoing economic recovery."

According to NLC's 2011 *City Fiscal Conditions* report[1], general city revenues are continuing to fall, with a projected -2.3 percent decrease over 2010 by the end of 2011. This is the fifth straight year of declines in revenue with probable further declines in 2012. Cities are responding to these declines by cutting personnel (72 percent), delaying infrastructure projects (60 percent), increasing service fees (41 percent), and modifying employee health benefits (36 percent).

Cities also have been forced to contend with significant decreases in state aid, adding to the fiscal pressures. According to NLC's report, since 2009, cities report state cuts in general aid (50 percent), shared revenues (49 percent), and reductions in reimbursements and other transfers (32 percent). As states make these cuts to balance their budgets, it puts greater budgetary pressure on local governments that must balance their budgets as well.

There can be no doubt that in Kansas City and in cities around the country, city officials are making difficult decisions and are working hard to find innovative solutions to reenergize our communities. But, without more resources and more cooperation from the federal government, the outlook will continue to be challenging.

In my own city, we've responded to these challenges by cutting millions of dollars from our annual budgets; reducing our workforce by 15 percent, or more than 300 employees; and mandating that the remaining employees take three weeks of unpaid furlough time. In addition, the governing body has raised property taxes and sewer and water fees to avoid even deeper cuts to service and to meet increasing unfunded mandates.

However, at a time when financial resources are increasingly limited, the federal government continues to impose costly federal regulatory requirements to carry out the objectives of the Clean Water Act (CWA) without regard for the efficacy of the regulation or a prioritization scheme. Given the limited pool of financial resources, it is appropriate for local governments and our citizens to insist on a regulatory approach that prioritizes ratepayer and public investments in a way that will maximize water quality benefits and public health and safety protections.

I'm particularly concerned about this in light of the fact that my city is currently negotiating a consent decree with EPA and the U.S. Department of Justice (DOJ) to address combined sewer overflows. A crushing financial burden is not the price our citizens should have to pay for improved water quality.

Let me tell you a little about Kansas City, Kansas. Of the approximately 155,000 residents, 25 percent fall below the poverty line. Sixty-six percent of the residents living in the combined sewer overflow area are minorities, many living below the poverty line and many more struggling to make ends meet.

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[1] Hoene, Christopher W. and Michael A. Pagano, *City Fiscal Conditions in 201l*, National League of Cities, September 2011. (See addendum or http://www.nlc.org/find-city-solutions/research-innovation/finance/city-fiscal-conditions-in-2011)

So, when I consider the terms of the pending consent decree, I ask myself, "Are regulations which are so costly to comply with really reasonable? Are the economic hardships these forced regulations will create really in the best interest of the public?" I think the answer is, "No." Citizens expect and deserve their governments to work cooperatively to solve problems and reach our national goal of cleaner water. But, when the playing field is so uneven and one side ends up with an "agreement" that is unaffordable and will damage the economic viability of the community, no one benefits. Our citizens and our communities deserve a better policy approach.

In the past three years, the City of Kansas City has had to increase sewer fees by 40 percent. To meet the consent decree requirements that EPA and DOJ are proposing, sewer fees would have to increase 400 percent in the next five years. With all due respect, our citizens simply can't afford more.

To state it differently, the cost of meeting the combined sewer overflow mandate for our city is four times our annual municipal budget. We would spend more dollars fixing the combined sewer problem than we spend in four years on police and fire protection, the courts and jail, roads and bridges, parks and recreation, social service programs and every other function of municipal government. And, to finance this, we have to borrow more money and carry a level of public debt that would violate the laws of the State of Kansas and EPA's own guidelines.

EPA guidelines say the cost of fixing the combined sewer situation should be no more than two percent of median household income. Yet, the consent decree now being negotiated would cost 3.1 percent of median household income over the next 25 years. Sewer fees would have to increase from about $27 a month to nearly $104 a month. For a family of 4 living at the poverty level, which is approximately $1862 a month, $104 a month to repair sewers is just too much. While that family might agree having cleaner water is a worthwhile goal for the nation, they would likely think buying groceries to feed their children, paying the electric bill so they can heat their house, and paying their rent is more important. We shouldn't force our families to make these kinds of false choices. By partnering together, we can do better.

I offer up my city for a pilot study with the federal government to develop and implement a different approach—an approach in which the city and the federal government work together as partners, not as adversaries. An approach in which city, state and federal officials work together to meet the high standards of public service by crafting a solution that truly serves and benefits the people we all represent and serve. Let's create a new approach of cooperation and partnership with a goal of developing a solution that is cost effective and affordable, instead of a system and process based on adversarial and unfunded mandates that the citizens I, and you, represent cannot afford. Let's explore more diversified and alternative funding mechanisms than simply looking down at cities and our citizens to shoulder the entire cost burden.

I know I speak for city leaders across the country when I say we are encouraged by EPA's steps to establish a new policy framework whereby local governments can collaborate with their state and federal counterparts on an approach to regulatory prioritization based on principles of affordability and financial capability, while maximizing environmental benefit, to meet the requirements and objectives of the CWA. Such a policy framework can provide the flexibility local governments need to continue progress toward improving our nation's waterways, while

focusing the investment of limited dollars to address the most pressing health and welfare issues first. This new integrated planning approach will have a tremendous impact on the ability of local stormwater and wastewater systems to meet the requirements and objectives of the CWA in an efficient and cost effective manner.

In addition, in order to enhance the framework as a tool for achieving water quality through integrated municipal stormwater and wastewater plans, we recommend that the EPA framework include recognition that the primary implementation method or process for "integrated plans" are the National Pollutant Discharge Elimination System (NPDES) permits and not administrative or civil enforcement. The use of long-term compliance schedules to implement CWA requirements established under the NPDES permit program is critical to provide sufficient time for local governments to finance and build collection and treatment facilities to control combined sewer overflows and sanitary sewer overflows, and to build treatment facilities to attain water quality standards criteria for nutrients and other pollutants. Because only the states have the authority to provide long-term compliance schedules to implement state water quality standards enforceable in NPDES permits, federal judicial consent decrees or EPA administrative orders are unnecessary for those purposes.

Kansas City, Kansas, and cities across the country would benefit from a working relationship with EPA where there is a consideration of the cumulative effect of all regulatory mandates. In so doing, more holistic approaches to priority setting, affordability, and cost benefit analysis could occur. This would further our city's interest in making smart strategic decisions in the context of the other priorities in our overall city budget.

Moving Forward – Funding for Water Infrastructure

Addressing the policy challenges is just one part of the equation to addressing our nation's water quality challenges. Last summer, the National League of Cities sponsored *Building Cities, Building Futures*—a national tour that explored the impact infrastructure investment has on regional development and economic growth. Stops on the tour took place in Houston, Los Angeles, Charlotte, and Chicago.

While these events brought local stakeholders, which included public and private sector leaders, together to discuss regional issues, the key findings and commonalities that echoed across all of the regions included the need for infrastructure investment at the local, regional and national levels; the opportunities associated with such investment; and the solutions that can help cities and regions develop the infrastructure they need to grow sustainable economies for the years and decades to come.

A combination of population growth, variations in water availability, and aging water infrastructure are factors driving the need for significant investments in water infrastructure at the local, regional, and national levels. These factors also present a challenge in meeting current and future needs of our communities. The lack of quality infrastructure threatens local and regional economies, the environment and public health and safety. A key takeaway from the *Building Cities, Building Futures* infrastructure tour was that cities cannot continue to thrive as

appealing places to live, work and do business if they do not make sustainable infrastructure investments and development a priority.

For these reasons, NLC supports the purposes of the Water Quality Protection and Job Creation Act of 2011 (H.R. 3145), which include authorizing appropriations for state water pollution control revolving funds and establishing a new sewer overflow control grant for municipalities.

NLC is a long-time supporter of the EPA Clean Water State Revolving Loan Fund (SRF). The Clean Water SRF, along with the Drinking Water SRF, are integral tools used by our communities for providing clean, drinkable, and swimmable water to the American people. Additionally, a new grant program for municipalities to carry out projects to control municipal combined sewer overflows and sanitary sewer overflows will aid in pollution control and help protect our nation's water resources.

As you know, despite the fact that local governments fund 95 to 98 percent of all water and wastewater infrastructure investment, the needs in our communities continue to grow according to EPA surveys. The EPA's most recent Clean Watersheds Needs Survey indicates that the 20 year investment needed to upgrade our nation's total wastewater and stormwater management infrastructure to meet the water quality goals set in the CWA to be $298.1 billion. And, in our estimation, these investment levels are actually an underestimate given the advancing age of our infrastructure, the burden of unfunded federal regulatory mandates, and factors not yet known as a result of our changing climate.

Accordingly, local governments need a reliable, long-term source of substantial capital for municipal water infrastructure systems to help close the gap between current expenditures and anticipated needs to enhance and maintain critical water infrastructure in our communities. NLC supports water infrastructure funding through the SRF programs and other alternative mechanisms of financing water infrastructure improvements and investments, such as, for example, mechanisms that lower the cost of borrowing that will help leverage local funding, offer direct loans and loan guarantees from the federal government to cities, or remove the federal volume cap on tax-exempt bonds for water and wastewater infrastructure projects.

Conclusion

In closing, you should know that local governments remain committed to meeting the growing water infrastructure needs in our communities. We hope the federal government remains committed to being a full partner in this important endeavor. Because the nation's cities are working to improve aging infrastructure, meet federal regulatory requirements, create and retain jobs, and foster a climate of economic growth in our communities, a federal investment in our nation's infrastructure is essential. We look forward to working with you on a long-term solution to our nation's water infrastructure needs.

Thank you for the opportunity to speak on behalf of America's cities and towns. I look forward to your questions.