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Testimony
(for the record)

Of

Charlie Nylander
Chairman, Water Infrastructure Financing Subcommittee,
Legislative Committee
Western Coalition of Arid States (WESTCAS)

For

The House Committee on Transportation and Infrastructure
Subcommittee on Water Resources and the Environment

Hearing On

“The Need for Renewed Investment in Clean Water Infrastructure”

January 19, 2007

The Voice of Water Quality in the Arid West

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Madam Chair and Members of Subcommittee, the Western Coalition of Arid States (WESTCAS) is submitting this testimony for the record to the House Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment hearing on January 19, 2007 regarding “The Need for Renewed Investment in Clean Water Infrastructure”. My name is Charlie Nylander, and I represent the interests of WESTCAS and serve as Chairman of the Water Infrastructure Financing Subcommittee of the WESTCAS Legislative Committee.

WESTCAS is a coalition of approximately 125 water and wastewater districts, cities, towns, and professional organizations focused on water quality and water quantity issues in the eight States of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, and Texas. Our mission is to work with federal, state, and regional water quality and quantity agencies to promote scientifically sound laws, regulations, appropriations, and policies that protect public health and the environment in the arid West.

Financing water infrastructure projects is of particular concern to our member’s, all of whom are located in the arid regions of the Western United States. Over the past decade, the population of the Western states has grown approximately 20 percent—greater than any other region of the United States. The demand for both water and water infrastructure has increased just as dramatically. The aging of existing water infrastructure, increasing environmental mandates, serious forest fires, and prolonged drought conditions have magnified and increased this demand, threatening the very communities and economies established throughout the Arid West.

Regarding water infrastructure, WESTCAS avidly supports the development of a new Clean Water Funding Bill, early action by your Subcommittee to complete hearings, and stress the need for an increased authorization level for the Clean Water State Revolving Fund and the consideration of concepts for a Clean Water Trust Fund. This is the time for renewed investment in Clean Water Infrastructure, and the following testimony attests to the import and timeliness of the much needed Congressional action to address the burgeoning Clean Water Infrastructure financing needs.

A number of important factors applicable to the Arid West should be considered regarding the financing of water infrastructure projects, as follows:

- The rapid population growth in the Arid West is challenging local governments, including: county, municipal, Native American, and special districts to provide quality utility services for water and wastewater due to the growing number of existing and new customers, their increasing water demands, and the volumes of wastewater requiring treatment.
- Existing utility infrastructure is typically: aged, and in need of upgrade or replacement, overloaded, undersized, and constructed of materials that have not proven to have the life expectancy anticipated at the time of original installation or construction.
- Environmental regulations and standards are continuing to become more stringent over time regarding both water supply and wastewater treatment, requiring more sophisticated and expensive treatment processes prior to water supply distribution and consumption, or wastewater discharge into the waters of the United States.

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- Homeland security concerns have increased the costs associated with utility system surveillance, security protection, and response/mitigation planning for acts of terrorism and sabotage.
- The population growth in the Arid West has a significant demographic proportion of retired and aged citizens who are on a fixed and/or limited incomes, and who cannot afford the escalating utility costs that water utilities must attempt to distribute to the local customer base.
- Funding mechanisms for water infrastructure are constrained to a handful, and although local utilities understand that customers in the utility service area should bear the burden of full cost pricing, increasing utility rates alone cannot generate the capital required to maintain, replace, or construct badly needed water infrastructure.
- To-date annual appropriations for the U.S. Environmental Protection Agency's state revolving loan funds for drinking water and wastewater infrastructure have been inadequate to meet the growing national infrastructure demands. Federal funding has been steadily decreased, especially over the past three years.
- The needs of municipalities, cities, counties, and towns have outgrown the funding levels of the Clean Water State Revolving Fund (CWSRF). The CWSRF program has been decreased since 2004, plummeting from \$1.35 billion in 2004 to less than \$700 million proposed for 2007.

According to recent information from the Government Accountability Office (GAO), drinking water and wastewater infrastructure costs over the next 20 years may range from \$492 billion to \$820 billion. A recent EPA report, called the Gap Analysis Report, contains similar infrastructure cost ranges from \$499 billion to \$929 billion. The Water Infrastructure Network (WIN), a coalition of industry, engineering, professional, and various environmental organizations gathered data for a high-end estimate of \$806 billion. Sorting through the GAO, EPA, and WIN report estimates finds the funding gap for just Clean Water Infrastructure Financing is estimated to be between \$300 billion and \$500 billion between what is needed and what is actually spent on Clean Water Infrastructure.

It is interesting to note that the above-mentioned figures for the infrastructure needs may indeed not be accurate, and in fact could be significantly underestimated. WESTCAS members technically understand that the processes employed to collect the infrastructure financial need were based on a mixture of municipal planning predictions, based on disparate planning periods, e.g. 5-year, 10-year, and 20-year planning for capital improvement planning. In any case, the GAO, EPA, and WIN Coalition figures are more than accurate in making their point on the ever widening gap in water infrastructure needs.

The WESTCAS members are troubled by the burgeoning population growth they are experiencing in their western communities, and the increased water and wastewater utility demands on their infrastructure systems. In consideration of the bulleted information that I have highlighted above, our members believe that the federal government must play a more significant role in the financing for water infrastructure, not a lesser role as implied by the recent decreases in EPA's state revolving fund appropriations. However, when confronted with the task at hand, i.e. finding the right solution to water infrastructure financing, WESTCAS members believe that any solution that is being sought should be comprehensive and equitably structured to address all of the national needs. WESTCAS members believe that the federal government approach should be "multi-disciplinary" and capable of

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being utilized as a portfolio of additive mechanisms that collectively solve the Nation's water infrastructure financing problems. A dedicated source of federal funding must be identified to assure adequate and continued financial assistance to those entities that are striving to meet, and must meet the goals of the Clean Water Act.

To this end, WESTCAS members believe that this Committee should consider a spectrum of mechanisms including such suggestions as have been made to-date (or are yet to be proposed) such as: tax deductions for water and wastewater utility fees; appropriate regulation of the quality of wastewater effluent discharges that is more dependent on site-specific conditions versus a "one size fits all regulatory approach"; the water infrastructure trust fund; improved EPA revolving loan funds; and other clever scientific, legal, and financial approaches that collectively narrow the gap on water infrastructure financing. In particular, regarding the creation of a water infrastructure trust fund, WESTCAS recommends the direction to an "appropriate body" to expeditiously examine the potential funding mechanisms for a Clean Water Trust and make recommendations to this Subcommittee by no later than December 31, 2007 on the most appropriate mechanisms to use to generate sufficient revenues to carry out the goals of a Clean Water Trust Fund. Such an examination should solicit input through an inclusive, but expeditious process, from a broad spectrum of knowledgeable sources, including WESTCAS and other organizations intimately involved in Clean Water Infrastructure construction, operation, and maintenance.

It is important to ensure that any legislation devoted to Clean Water Infrastructure financing contain a title regarding water research. In this regard, please note that EPA regulatory programs, developed pursuant to the Clean Water Act, are the most significant driver for the growing needs for wastewater infrastructure financing. That is why seeking a financial solution must be coupled with developing regulatory solutions simultaneously. Wastewater treatment requirements are largely based on national water quality criteria that are based on aquatic species and flow regimes not necessarily representative of low flowing rivers, ephemeral rivers, and effluent-dominated rivers typical of the Arid West. To properly consider regional differences in aquatic species and hydrology, methodologies and criteria must be developed through sound, scientific research studies that can support site-specific water quality standards. WESTCAS has historically served as a dominant supporter of such research, and was successful in supporting the establishment of the Arid West Water Quality Research Project (AWWQRP) in 1995 that resulted in a \$5 million federal appropriation (Public Law 103-327).

In the development of a program for Clean Water Infrastructure financing, specific authorizations and allocations should be considered for the conduct of water research in the broadest terms. Research regarding: water quality criteria and standards; wastewater collection and treatment technologies; and wastewater reuse and recycling technologies; represent just a partial listing of the scientific and technical research needed to address fundamental questions and support fundamental decision-making needed in Clean Water regulation, Clean Water Infrastructure financing. Clean Water Infrastructure financing needs must be derived from appropriate Clean Water laws, regulations, and standards. In order to support Clean Water programs, the nation must have sound, scientific research at the foundation.

During the subcommittees' hearing deliberations on "The Need for Renewed Investment in Clean Water Infrastructure Financing" significant consideration will undoubtedly be given to the growing

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national infrastructure needs, and to particular regional issues that should be addressed. Following the hearing, any forthcoming legislative initiatives should definitely consider special regional needs, titles and programs that will complement the goals of the Clean Water Act, such as improved watershed management programs, non-point source programs, and programs aimed at improving the aquatic health of the waters of the United States.

The broad subject of this hearing is indeed an opportunity to improve the nation's implementation of the goals and objectives of the Clean Water Act. Since infrastructure financing is the focal point of the hearing, care should be taken to ensure the equitable distribution of any ensuing financial programs. Funding for rehabilitation, repair, and replacement of existing Clean Water Infrastructure is paramount, yet in several regions of the United States, significant population growth and water infrastructure demand should not be left "ill-funded" simply because of the added issue of "new development". The population demographics of this nation are in constant flux, and any renewed investment in Clean Water Infrastructure should appreciate and assist those areas of the nation, like the Arid West, where population growth is creating unquenchable demands for water and Clean Water Infrastructure.

There are several WESTCAS comments to consider in this vein. First, "new growth" limitations unduly penalize the Western states and the burgeoning population growth they are experiencing, much of said growth occurring due to the influx of retirement aged persons on limited or fixed incomes. Our WESTCAS member's perspective is that the demand for new communities, subdivisions, and extended urban areas is in fact what is straining the present utility systems and the financing ability of local government.

Secondly, the extension of loan repayment periods is a valuable attribute in any draft legislation, in that it provides financial flexibility for the local governments responsible for constructing and maintaining the water infrastructure. Along this same vein, legislative provisions for set-aside grant funding for small communities with a population of 10,000 or fewer individuals is necessary to accommodate the typical growth patterns in most of our western states.

Lastly, the taxable source for the creation of a national trust fund for water infrastructure will likely be the most challenging aspect of the trust fund mechanism, as previously mentioned. No specific industry will voluntarily desire to be taxed to provide the basis for a water infrastructure trust fund. Early legislative concepts regarding the taxation of the beverage industry provoked heated discussion. However, this subcommittee must not be persuaded to give up on a trust fund mechanism because it is too hard to find the appropriate tax base. Aside from the previous suggestion regarding the need to have an appropriate body examine and make specific recommendations for the most appropriate course to take, WESTCAS recommends that consideration be given to taxing a base made up of entities that actually contribute influent to the Nation's wastewater treatment facilities; and who also create the most demand on our Nation's water treatment and supply systems.

Some common contributions to wastewater influent include paper products e.g. toilet tissue; cooking oils and grease contributed by household kitchen and restaurant use; soaps and detergents; dyes and other chemical products contributed both by household and commercial enterprises; and the newest category of concern, i.e. pharmaceuticals. In terms of wastewater treatment issues, oil and grease often

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create a difficult treatment issue. Pharmaceuticals are now rapidly becoming a significant concern in that they apparently pass through the treatment plants and are discharged into the Nation's rivers and lakes where they are capable of adversely affecting aquatic life, and/or becoming a public health concern regarding their impact on downstream public water supply diversions. In effect, the Committee may be prudent to consider broadening the group of industries targeted for taxation, so as to spread the impact of the taxation process.

On behalf of WESTCAS, I thank the subcommittee for this opportunity to provide testimony.

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