

Testimony
(for the record)

of

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

Hearing on Financing Water Infrastructure Projects

July 15, 2005

The Western Coalition of Arid States (WESTCAS) is submitting this testimony to the Subcommittee on Water Resources and Environment regarding their hearing on Financing Water Infrastructure Projects. My name is Charlie Nylander, and I represent the interests of WESTCAS and serve as Chairman of the Legislative/Budget 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 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

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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 states, all of which are located in the Western United States. Over the past decade, the population of the Western states has grown 19.7 percent—greater than any other region of the United States. The demand for water has increased just as dramatically. Aging infrastructure, increasing environmental mandates, serious forest fires, and prolonged drought conditions have added to this demand, threatening the very communities and economies established throughout the West.

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 the districts and municipalities to provide quality utility services for water and wastewater due to the sheer number of potential customers, their water demands, and the volumes of wastewater produced requiring treatment.
- Existing utility infrastructure is often: aged, in need of upgrade or replacement, over-loaded, 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.
- 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 component of retired and aged citizens who are on a fixed and/or limited financial budget, and who cannot afford the escalating utility costs being distributed to the local customer base.
- Funding mechanisms for water infrastructure are constrained to a handful, and although local financing for the utility service area should bear the brunt of the required costs, utility rate increases alone cannot generate the capital required to maintain, replace, or construct new utility infrastructures.
- To-date funding for the U.S. Environmental Protection Agency's revolving loan funds for drinking water and wastewater projects have been inadequate to meet the growing national infrastructure demands. Federal funding has been steadily decreased in recent years; and yet appear to be viewed by EPA as "sufficient" federal "seed money" contribution to water infrastructure needs that EPA believes are a local government responsibility.

On February 16, 2005 Mr. Benjamin H. Grumbles, Assistant Administrator for Water, U.S. Environmental Protection Agency provided a statement before the Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment,

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U.S. House of Representatives that is illustrative of the last bullet above. Regarding water infrastructure, Mr. Grumbles stated:

“This Committee knows the value of water infrastructure and the size of the challenge—and so does EPA. To support sustainable wastewater infrastructure, EPA will continue to provide annual capitalization grants to the Clean Water State Revolving Funds (CWSRF). The budget provides \$730 million for CWSRF. This investment will allow EPA to meet the Administration’s federal capitalization target of \$6.8 billion for 2004 through 2011 and enable the CWSRF to revolve over time at a level of \$3.4 billion a year.”

“This continued federal investment, with other traditional sources of financing, will result in significant progress in addressing the Nation’s wastewater treatment needs. It will also significantly contribute to the long-term environmental goal of increasing the number of watersheds attaining designated water quality uses. The President’s budget also maintains the federal commitment to the Drinking Water SRF, providing \$850 million, and seeks a one-year extension of the authority for States to transfer funds between two SRFs to maximize flexibility in meeting State and local needs.”

“Mr. Chairman, a cornerstone of our water budget is its focus on the “four pillars” of sustainable infrastructure. We must provide the tools that help water managers achieve sustainable infrastructure. The four pillars that are essential for sustainable infrastructure are: better management, full-cost pricing, water conservation, and restoration through the watershed approach.”

The funding cuts proposed in the President’s budget decrease the Nation’s ability to cope with the widening water infrastructure gap, rather than demonstrate “significant progress” in addressing the Nation’s wastewater treatment needs as stated by Mr. Grumbles. According to the Congressional Budget Office, drinking water and wastewater infrastructure costs over the next 20 years may range from \$492 billion to \$820 billion. The EPA recent report, called the Gap Analysis Report, contains similar infrastructure cost ranges from \$499 billion to \$929 billion. While the Water Infrastructure Network, a coalition of industry, engineering, professional, and environmental groups, gathered data for a high-end estimate of \$806 billion. With such large predicted cost for the water infrastructure needs, surely EPA cannot feel comfortable in their optimistic statements regarding “achieving sustainable infrastructure”, especially when they reflect on their own gap analysis figures. Additionally, Mr. Grumble’s philosophical testimony regarding the “four pillars” does not say anything that is truly helpful for addressing the widening gap in funding required for 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 understand that the processes employed to collect the infrastructure financial needs 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

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planning. In any case, the Congressional Budget Office, EPA, and WIN Coalition figures suffice to make the point on the 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 EPA. 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 not be “singular”, as in a “silver bullet” type of approach. Rather, WESTCAS members believe that the federal government approach should be “multi-disciplinary” and capable of being utilized as a menu of additive mechanisms that collectively solve the Nation’s water infrastructure financing problem.

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.

It is important to note that EPA’s regulatory programs, developed pursuant to the Clean Water Act and Safe Drinking Water Act, are the most significant driver for the growing needs for water 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 were 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. In order 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) and the establishment of an Assistance Agreement between EPA and Pima County, Arizona. The establishment of the Agreement provided significant opportunity for Pima County, EPA Region 9 and others throughout the arid West to work cooperatively to conduct scientific research necessary to develop appropriate water quality criteria and standards for the region and improve the scientific basis for regulating wastewater and stormwater in the arid and semi-arid West.

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This research has been progressing since 1995, but at present there is no continuing funding beyond FY 06. In the development of a program for water infrastructure financing, specific authorization and allocation should be considered for the conduct of water research in the broadest terms. Research regarding water quality criteria and standards, drinking water standards, water and wastewater treatment technologies, and water reuse and recycling technologies represent just a partial listing of the scientific and technical needs to address fundamental questions and support fundamental decision-making needed in water regulation, water infrastructure planning, development, and water resource management. Water infrastructure financing needs must be required by appropriate laws, regulations, and standards. In order to support their promulgation and amendment, the nation must have sound, scientific research at the foundation.

In reviewing draft language in a document prepared by the WIN Coalition, titled the “Clean Water Trust Act of 2005”, WESTCAS has developed several comments regarding the concepts suggested. First, any forthcoming legislation should not contain limitations on funding assistance provided for growing communities and new development. Currently, the draft WIN Coalition states:

“(e) LIMITATION.---No assistance may be provided under this section if the project will provide substantial benefits to new communities, new subdivisions, or newly developed urban areas”...

Such 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. 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. 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.

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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 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.

One additional suggestion for the Subcommittee's consideration regarding source(s) of taxable base for a trust fund could include the industrial segments that actually contribute products and materials to the construction of water and wastewater infrastructure. Multiple industries contribute concrete, aggregate, reinforcement steel, plastic and metallic piping, pumps, motors, and of course electrical power to construct, maintain, and operate water and wastewater infrastructure. If such industries became part of the tax base for a water infrastructure trust fund, the industries would continue to see some degree of tax recovery simply due to the continuous growth in the demand for their materials and products.

Finally, a national trust fund for water infrastructure must be equitable to all of the United States. Special legislative language that focuses on specific regions of the country must not diminish the needs of those regions not mentioned specifically. WESTCAS believes that the western States must not be "short-changed" in the development of a national water infrastructure trust fund. Again, I direct your attention to the realities displayed in the bulleted information at the beginning of this testimony. Our western States are facing a plethora of regional challenges, from population growth to drought and wildfire. Water infrastructure funding processes and mechanisms must be equitable and realistic, and take into consideration the realities of the arid West.

At the time of submitting testimony, WESTCAS has become aware of a new piece of legislation introduced on July 14, 2005. The "Water Infrastructure Financing Act" introduced by Senate Environment and Public Works Committee Chairman, James Inhofe, ranking member Jim Jeffords, and Senators Lincoln Chafee and Hillary Rodham Clinton provides \$38 billion of additional federal funding into wastewater infrastructure improvements. The legislation includes appropriations for wastewater and drinking water infrastructure, water resources study, cost of service study, State revolving loan fund review process, agricultural pollution control technology grant program, and a demonstration grant program for water quality enhancement and management (including specific water technology research). WESTCAS recommends that this legislation be considered by the Subcommittee, along with any other pertinent legislation in the conduct of Subcommittee work and derivation of recommendations.

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