



# CALIFORNIA ASSOCIATION of SANITATION AGENCIES

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February 7, 2019

The Honorable Peter DeFazio  
Chairman  
Committee on Transportation & Infrastructure  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Sam Graves  
Ranking Member  
Committee on Transportation & Infrastructure  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Grace P. Napolitano  
Chairwoman  
Subcommittee on Water Resources and Environment  
Transportation & Infrastructure  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Bruce Westerman  
Ranking Member  
Subcommittee on Water Resources and Committee on  
Environment  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairs and Ranking Members:

The California Association of Sanitation Agencies (CASA), provides the following statement as you conduct your February 7, 2019 hearing on “The Cost of Doing Nothing: Why Investing in Our Nation’s Infrastructure Cannot Wait”. We request that this statement be made a part of the formal record of the committee proceedings.

CASA strongly supports your priority to advance infrastructure legislation without delay. For too many years, our nation’s wastewater infrastructure needs have gone unaddressed and have reached levels that urgently demand a robust federal commitment to support local community needs. The U.S. Environmental Protection Agency’s (USEPA) 2012 Clean Water Survey of Needs revealed a \$26 billion investment gap in California alone for federally eligible projects. From a national perspective, the American Society of Civil Engineers’ infrastructure report card gave wastewater infrastructure a D+ grade. The report noted that over the next two decades more than 56 million additional users will be making demands on this aging and under-capacity infrastructure. USEPA, by its own analysis, has concluded that \$271 billion in wastewater investments will be required to address future demands and construct required water quality infrastructure. This data illustrates the absolute necessity of incorporating wastewater infrastructure in any federal infrastructure initiative. Without such commitment, the ability to protect public health and improve our ecosystems will be seriously compromised. CASA believes that any infrastructure package should include, at a minimum, the following elements:

First, we ask Congress to recommit robust levels of federal funding for the existing wastewater infrastructure funding programs. CASA strongly supports the Clean Water State Revolving Fund (SRF) Loan Program, Water Infrastructure Financing and Innovation Act (WIFIA) Program and other programs to provide federal funds for clean water infrastructure projects. The Clean Water SRF should be authorized at \$6 billion annually. This level would represent a nearly six-fold increase in the annual spending levels of recent years. However, this increased amount is absolutely vital for states and localities to begin addressing the significant needs that exist today, ranging from traditional treatment requirements to those challenges created by climate change, including drought, severe storm events and sea level rise.

Second, we request that the National Pollutant Discharge Elimination System (NPDES) permit terms be extended from five to up to ten years. In addition to the need for financial assistance, there are other ways to stretch limited public dollars while protecting the public's health. Extending the length of NPDES permit terms up to 10 years is one important mechanism for ensuring that our limited dollars are spent wisely. This change would significantly benefit local public agencies by allowing for enhanced planning and efficient permitting of facilities and give agencies the time needed to comply with existing regulatory requirements before the imposition of new mandates. This would also better reflect the technological and administrative realities of the modern era. USEPA and delegated states would retain their existing authority to reopen permits to address changed circumstances.

Third, we request that Congress avoid inclusion of consolidation or reorganization of local wastewater agencies as a criterion for federal funding assistance or ranking projects for funding. The impetus for consolidation and reorganization of local agencies is fact and site specific and must consider the purpose for which the agencies were formed and the roles they serve in the community. CASA believes that decisions to consolidate are best left to the communities that will be impacted and local governance processes designed to drive and guide such changes. In California, a comprehensive process to consider consolidation already exists, and we believe that this structure could be jeopardized by a top down approach that would determine eligibility for federal assistance.

Fourth, we ask that Congress to consider updating the allocation formula that USEPA relies upon to provide states with capitalization grants for their Clean Water SRFs in order to better reflect today's realities. The formula has not been updated since 1987 and has not kept pace with demographic shifts in the United States towards the West and South. While California currently receives 7.2% of federal SRF capitalization grants, the state is home to 12% of the nation's population. According to a USEPA report, California would be entitled to between 15 and 24 percent of appropriated assistance if the formula were to be updated to address population and needs. The Committee received USEPA's Report to Congress: Review of the Allotment of the Clean Water State Revolving Fund (May 2016), documenting the challenges created by the antiquated formula used to allocate SRF resources to states. The opportunity to update this formula to reflect current population and water quality needs of a state would ensure the delivery of federal resources to those areas most in need.

Fifth, CASA urges the committee to resist creating new set-asides within the SRF program. If a compelling need exists, such as support for disadvantaged communities, a program should be created to address such needs through alternative mechanisms and avoid reducing the purchasing power of the Clean Water SRF that is already oversubscribed.

### **Water and Wastewater Infrastructure Assistance: Adequate and Reliable Federal Funding is Essential**

CASA supports a robust infrastructure funding partnership between the federal government and local communities to protect the integrity of our receiving waters, deliver safe and reliable drinking water and enhance our ecosystems. We recognize and thank the Committee for its decades of support of the SRF Program. From its inception, the SRF program has proven to be an effective and efficient means to help meet the significant needs of local communities.

In California, the SRF programs provide vital support for a variety of water infrastructure needs. We have used the programs to support core water quality treatment functions, develop recycled water capacity, build resilient water supplies and capture sustainable energy from treatment processes. During the most recent stretch of extraordinary drought conditions, the SRF served as a lifeline to construct water recycling facilities and other critical infrastructure. Without these funds, the impact of the already devastating drought would have been significantly more severe.

California, along with much of the nation, faces deteriorating infrastructure, increased regulatory compliance costs, unpredictable weather conditions and general population growth. At the same time, financial support has declined

for the key federal partnership offering direct assistance through the SRF programs, which CASA agencies have relied on for decades. As noted above, in California alone, estimates show a \$26 billion need for new wastewater infrastructure over the next twenty years. This figure is in addition to the funding required to continue operation and maintenance of existing facilities and programs.

CASA believes that the SRF program should continue to serve as the backbone of water and wastewater infrastructure financing at the state level and calls upon Congress to provide the programs with increased funding. The loan program provides the most important and effective infrastructure financing tool available today and should be viewed as an investment in the nation's health and its economy. Loan payments create the revolving aspect of the programs, meaning that outgoing monies come back to the states to be loaned again for additional projects. The SRF program is the engine that allows CASA member agencies to continue their mission of protecting human health and the environment.

CASA also appreciates the continued development and implementation of the WIFIA Program. Several of our members have submitted to USEPA full applications for qualifying projects and are eager to utilize this new water infrastructure financing tool. With its focus on large projects, WIFIA complements the SRF program, particularly as USEPA implements the new state finance authority focused WIFIA program. CASA looks forward to working with the committee to ensure that this new program is leveraged under any new infrastructure policy.

We also see an important role for direct grant assistance. In many cases, smaller communities or segments of a service area lack the resources necessary to secure loans. In these circumstances, we strongly encourage Congress to authorize grants for such communities and service areas to serve as a catalyst for long-term water quality improvements. The financial commitment through grant assistance is a significant component of maintaining public investment to improve public health and the environment.

### **The Clean Water SRF Allocation Formula, Unchanged Since 1987, Should be Updated**

The Clean Water Act allocation formula determines the amount of SRF capitalization grant assistance provided to each state. The formula, which is based on a variety of factors including census population and capital needs, has not been updated since 1987. Meanwhile, the population in California and throughout the nation has dramatically changed. Additionally, water infrastructure needs have grown substantially beyond the levels identified in 1987.

As part of the Water Resources Reform and Development Act (WRRDA) of 2014, Congress directed the USEPA to conduct a study to examine the allocation formula and identify options to more accurately address current needs. In a May 2016 report (copy attached) "Review of the Allotment of the Clean Water State Revolving Fund (CWSRF): Report to Congress", the USEPA concluded, "most States do not currently receive appropriated funds in proportion to their reported needs or population, which demonstrates the inadequacy of the current allotment."

The Committee is commended for seeking the report, as it provides a data-driven analysis of the current formula's impacts on states, particularly how it disadvantages states where needs have grown since 1987. The report documents that the current 30-year-old allocation formula fails to equitably address the clean water infrastructure needs of today in an equitable state-by-state basis. Specifically, the current allocation formula fails to provide adequate funding assistance to the states based upon current water quality needs or population. For example, the report illustrated that SRF allocations to California should be significantly higher if they were based on a 2012 water quality needs survey. Alternatively, if 2010 population data was used, California's equitable share should also be significantly increased.

The report presented three options to more accurately gauge needs and set allotments for the states in the future. In each instance, California would gain significant allotment, increasing anywhere between 14.7% to 24.9%, all well over its current 7.3% allotment. These percentage changes were based on the 2012 needs survey and 2010 census data, while applying constraints on the maximum increase or decrease to states. CASA requests that Congress update the Clean Water SRF allocation formula to reflect the findings of the USEPA's May 2016 Report.

### **Expanded Private Sector Access to the SRF Program Would be Counterproductive**

In the past, proposals have been made to allow for private sector use of Clean Water SRF resources. CASA strongly opposes any initiative to open access to the SRF programs to the private sector for several reasons. First, a source of tax-exempt financing for private sector needs already exists in the form of private activity bonds (PABs). Moreover, diluting the purchasing power of already oversubscribed programs designed for the delivery of “public works” is counterproductive. Public entities that rely on traditional public financing for water infrastructure cannot afford the diversion of limited resources to privatize systems that were constructed with public monies.

### **Extension of NPDES Permit Terms**

The extension of NPDES permit terms from five to ten years is our top priority for any non-funding related infrastructure response. Congress has an opportunity to modernize the Clean Water Act permitting process to reflect the realities of today by making a straightforward change to this important environmental statute.

The Clean Water Act requires publicly owned treatment works to secure a new permit to discharge highly treated wastewater every five years. These relatively short permit terms were predicated on the priority for agencies to upgrade treatment facilities to secondary standards and conformed to technology lifecycles and infrastructure expectations of the era. More than 40 years later, water quality needs are increasingly complex and require new methods and technologies to support innovation in making water quality improvements.

The existing five-year renewal cycle results in unnecessary financial and technical burdens on local agencies and the state permitting authorities that must prepare and issue the permits. NPDES permits are becoming increasingly complex and restrictive, and the treatment technologies necessary to meet permit limits have become more expensive and time intensive to implement. As a result, many local public agencies have not completed the upgrades necessary to comply with their prior permit when they are faced with negotiating new terms and requirements. The five-year term, established in 1972, does not reflect the realities of addressing today's clean water challenges and restricts state and local flexibility to address the highest clean water priorities. Additionally, the short permit term does not encourage long-term thinking that is essential to implement innovative solutions that produce the greatest benefits.

Examples of the policy disconnect between the realities of today's water treatment needs and an antiquated five-year permitting cycle abound. Project construction timelines can extend more than a decade, as public agencies seek to implement very large clean water infrastructure projects that must meet extensive environmental, tribal, historical and antiquities reviews, not to mention considerations for labor agreements, project design, scheduling and technology acquisition. This means local agencies must expend time and money to prepare for permit renewals even as they try to comply with existing permit requirements. At the same time, state and federal permitting agencies devote an overwhelming amount of resources to the administrative reviews and approvals necessitated by a constant treadmill of permit applications. The work diverts limited resources away from more pressing issues, such as non-point sources and other water quality improvement programs. Further, the workload can create a permit backlog, leading to administrative extensions that are discouraged by the USEPA and lack certainty for the permitted entity and public alike.

Authority to provide up to ten-year permit terms would facilitate the effective use of limited water quality resources, allowing local agencies and permitting authorities to focus on and address today's water quality needs, which have moved beyond the traditional point sources that were the focus in 1972. This change would benefit local public agencies, states and the public. Local water and wastewater agencies would be afforded adequate time to comply with existing regulatory requirements before the imposition of new ones and could better plan and more efficiently construct new facilities using the latest technology. States could direct more resources to non-point sources and watershed-based solutions. Further, existing permit reopener provisions currently provided for by law would allow new conditions to be addressed in NPDES permits during the 10-year term, if necessary, to protect water quality.

In closing, CASA strongly endorses the Committee's commitment to develop a national infrastructure policy that will propel the nation to sustained economic growth and improved public health. We look forward to working with the Committee in the coming months on this important matter.

Sincerely yours,

A handwritten signature in black ink, reading "Roberta L. Larson". The signature is written in a cursive, flowing style.

Roberta L. Larson  
Executive Director