

Oral Testimony for Mayor David Berger, City of Lima, OH
Water Resources Subcommittee - House Transportation and Infrastructure
Committee
July 25, 2012

Good morning. My thanks to Chairman Gibbs and this committee for inviting me. I am Dave Berger and I serve as the Mayor of Lima, Ohio. Though I am a life-long Democrat, my office is non-partisan and I have worked with elected officials of all stripes throughout my 23 years of service. It is in that same spirit that I am testifying on behalf of the U.S. Conference of Mayors. Lima is currently engaged in negotiations with EPA over a Long-Term Control Plan for sewer overflows, so I also have personal experience.

As a member of the Mayors Water Council, I have participated in the over two years of discussions that led to EPA's Integrated Planning Memorandum. We began these discussions in 2009 because cities were continuing to face threats of EPA enforcement and demands that cities adopt plans with astronomical costs far beyond our financial ability.

After our discussions, EPA unveiled integrated planning to address sewer overflow and storm water issues in a coordinated way. EPA acknowledges that its Framework does not address all the issues brought to them by the Mayors and have told us that they are constrained by the Clean Water Act from providing some of those flexibilities.

First, I want to thank EPA for their engagement and for issuing the Framework. The Conference recognizes that EPA put forth a major good faith effort to respond positively to the cities' requests for flexibility. My written testimony highlights the

positive aspects of the framework, but I would like to call your attention to four aspects of the framework:

- It recognizes the need for flexibility and embraces both green infrastructure and adaptive management.
- It recognizes that cities have limited resources and uses priority setting to provide partial relief.
- It recognizes that there will be disproportionate burdens on low income households, and allows consideration of those burdens.
- It acknowledges that in some cases integrated plans can be implemented in permits.

However, the Framework does not go far enough.

- The only substantive relief clearly provided by the Framework is scheduling. It allows cities to prioritize cost-effective actions but low priority, low benefit actions appear to still be mandated at a later date.
- The Framework limits the use of permits for implementation, with the result that, in most cases, EPA will continue to use enforcement tools that treat cities as criminals.

- The Framework does not provide for consideration of safe drinking water regulations when setting priorities.
- The fundamental problem of affordability of controls is not addressed.

On the affordability issue, let me tell you how this works in Lima, OH.

Lima, is a proud community of modest financial means. We have shrunk from roughly 52,000 to 38,000, as more affluent households have moved to the suburbs.

Our annual household median income is \$26,943. Nearly one-third of Lima citizens live under the poverty threshold. Additionally, our demographic profile includes aging baby-boomers that comprise a substantial and growing class of fixed income seniors. Our low, moderate and fixed income households are particularly vulnerable to increasing costs of basic services.

Implementation of the proposed CSO/SSO Long-Term Control Plan will raise the average annual sewer bill in Lima to \$871.62. While this increase may have little impact on our high income households, its impact on our poor households would be enormous.

- Some 47% of households would experience rate increases above 4% of household income.
- Almost 26% of households would experience rate increases to their annual sewer bills between 2% and 3% of household income.

If you add water and sewer costs together, the lowest income household category would be required to spend over 10% of their household income for water and sewer services. Indeed, a 73% of households in Lima would be paying over 2% of their income for water and sewer.

These citizens need substantive relief that the current Framework does not provide. According to EPA, the Clean Water Act ties their hands from providing more substantive relief.

So we need Congress to act. The financial resources of our citizens, resident businesses and cities are limited, so the Clean Water Act and Safe Drinking Water Act must be crafted in a way that explicitly acknowledges and addresses the reality of those limited local resources. The Conference has five points to make about this:

- Congress must impose a cost cap on federal clean and safe drinking water mandates.
- It should provide federal financial assistance at levels much greater than current State Revolving Fund loan programs and in the form of grants.
- It must provide a shield for cities from third party lawsuits for cities that are working toward long term compliance under a permit.
- Congress should direct EPA to halt enforcement campaigns against local governments in favor of EPA programs for integrated planning, watershed planning, and water quality permitting.
- Congress must act to prohibit EPA from exacting fines and penalties against local governments that are engaged in good faith efforts, and are investing capital, to comply with water/wastewater regulations under permits.

Cities are not criminals or enterprises tempted to “pollute more” to make more profit and should not be treated as such. Cities are stewards of the public trust, a responsibility that we share with the state and federal governments and should be accorded the respect of a shared stewardship of our environment.

We need Congress to provide relief. We need Congress to provide oversight and to remember that EPA has its authority because of the way the Clean Water Act was written and enacted by the Congress. We need Congress to act.

Thank you again for this opportunity to address you.