



**THE UNITED STATES CONFERENCE OF MAYORS**

**Written Testimony**

**Mayor David Berger, City of Lima, OH**

**Water Resources Subcommittee –  
House Transportation and Infrastructure Committee**

**July 25, 2012**

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

Good morning. I thank Chairman Gibbs and this committee for inviting me to participate in this Hearing. I am Dave Berger and I serve as the Mayor of the City of Lima, Ohio, an office to which I was originally elected in 1989. Though I am a life-long registered 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 (USCM). The Conference of Mayors is the official national non-partisan organization representing cities with populations of 30,000 or more through their chief elected official, the Mayor. The Conference of Mayors was created in 1932 as a result of the Great Depression. A time that is markedly similar to today – times with high unemployment and tough economic conditions.

At the Conference of Mayors, I serve as an active member of the Mayors Water Council and have been part of more than two years of discussions that led to US EPA's Integrated Planning Memorandum. As Mayor of Lima, I have been engaged with the Ohio EPA and the US EPA Region 5 office negotiating a long term control plan to address sewer overflows for the last decade. This experience affords me a unique perspective to comment on the matter before this subcommittee today.

My colleague and fellow Mayor, Jim Suttle of Omaha, Nebraska, testified before this subcommittee in December of 2011 about why the Mayors of this nation are concerned about Combined and Sanitary Sewer Overflow (CSO/SSO) solutions and other unfunded water related mandates. He identified what we all hoped US EPA's Integrated Planning Policy Framework (IP Framework) would address, as well as some suggestions concerning Congressional involvement. My comments are supportive of those provided by Mayor Suttle, and they represent the collective views of mayors in connection with actions taken by EPA on the IP Framework in the period since this Subcommittee last held its hearing (December 2011).

Broadly speaking, the IP Framework does deliver some of the flexibility sought by local governments in regulatory implementation of the Clean Water Act (CWA). The US Conference of Mayors recognizes that US EPA has put forth a major good faith effort to respond positively to the cities' requests for flexibility. However, the IP Framework provides some of the flexibility requested by cities but falls short in certain critical areas that we think are the specific areas of the Clean Water Act that require deliberate legislative action by the Congress for both clarification purposes and new policy setting. Beyond this, there is a much needed role for Congress to provide oversight on how US EPA implements the IP Framework in its 10 Regions and in our local communities.

The USCM continues to emphasize support for US EPA's unprecedented actions to mature their rule-by-silo/command-and-control approach to an integrated planning format, (see USCM Press Statement, June 19, 2012 Appendix A). The USCM also continues to emphasize that the

successful implementation of this policy approach requires local, state and federal government offices and officials to develop a shared stewardship approach to make it happen.

## **Positive Progress on the Integrated Planning Framework**

### **US EPA Delivered on its Promise to Create a More Flexible Regulatory**

#### **Approach:**

The mere fact that US EPA developed and disseminated the Integrated Policy Framework (IP3) to its Regional Offices is encouraging because of its radical departure from the 40 year pattern of rule-by-silo/command-and-control regulatory strategy. Mayors are encouraged by US EPA's willingness to rekindle its former "Intergovernmental Partnership" to work together with cities to achieve clean water goals.

Of particular noteworthiness for cities, the US EPA clearly states in the June 5, 2012 *Integrated Municipal Stormwater and Wastewater Planning Approach Framework* that the Agency officially embraces integrated planning, is committed to work with states and communities to implement and utilize these approaches, and recognizes the importance of prioritizing capital investments. Other important elements in the Framework document include the fact that using the integrated planning approach is voluntary on the part of a community, and the relative importance of investments tied to local environmental priorities can play an important role in both permits and compliance schedules.

The potential level of flexibility suggested by the Framework document is seen by Mayors as an intended paradigm shift in the regulatory attitude of US EPA, and this is welcome and encouraging to the nation's Mayors.

### **Regional US EPA and State Regulator Training in Implementing the IP**

#### **Framework:**

On June 7, 2012 US EPA Deputy Director Robert Perciasepe and several US EPA Assistant Administrators held a conference call with members of the Conference of Mayors, including myself, to discuss the roll-out of the IP Framework. In particular, US EPA officials indicated that US EPA Headquarters had begun a program of education with the US EPA's Regional Offices to discuss how to implement the IP Framework. Mayors are encouraged that US EPA Headquarters is playing and promises to actively play a role in explaining the principles and the elements of the IP Framework to Regional staff and to State water regulators involved with water issues and permits for municipalities.

### **Promoting New and Alternative Technology, and Green Infrastructure:**

A commendable aspect of the IP Framework is that it allows communities to petition US EPA/States to reopen existing consent agreements to reconsider new, alternative and green infrastructure. This is a welcome change of attitude. The IP Framework places the burden of

taking the initiative on the permittee (community), and this approach is acceptable because not all cities want to reopen or alter their existing agreements.

It is noted here that the IP Framework text promoting green infrastructure as an integral part of a long term control plan (LTCP) to comply with the CWA should be seen in conjunction with US EPA's Memorandum to the Regional Offices that promotes incorporation of green infrastructure in permits and consent agreements. More than any other provision in the IP Framework, the new, alternative and green infrastructure flexibility has the potential to lower overall compliance costs for cities.

## **Critical Concerns**

### **Affordability:**

Affordability continues to stand out as the single more important issue for local governments, our citizens and our businesses. While the IP Framework provides opportunities to evaluate and revise priorities in planning for compliance with CSO/SSO and other CWA obligations, it does not appear to address the fundamental question: what can our citizens reasonably afford to invest? That is an issue on which you, the Congress, can and should provide direction. We, as a society, are either at, or rapidly approaching, the limits of affordability in the public water and wastewater sectors. Merely extending compliance timeframes does not remedy the affordability problem that cities face. It eases some of the investment carrying cost over an extended period, but does nothing to cap or limit current and cumulative future cost of mandates.

#### Lima, Ohio: An Illustration of Affordability

The CSO/SSO situation in my community, Lima, Ohio, helps illustrate the affordability problem. Our local experience is not unique. From the perspective of USCM it is commonplace.

The US EPA's CSO Policy relies on consent decrees and/or administrative orders (and sometimes NPDES Permits) that establish legally enforceable LTCPs designed to achieve compliance with water quality standards. Significant capital investments and substantial, annually recurring operating and maintenance (O&M) investments are necessary to implement the plans. The current benchmark to measure affordability is comprised of a two-tiered test involving two metrics: the Residential Indicator (RI) which considers household affordability and centers on 2% of Median Household Income (MHI); and the Financial Capability Index (FCI) which considers a suite of 6 factors that characterize some economic aspects of a city's economic health and the ability of a city wastewater utility to finance additions, upgrades, etc. to comply with the LTCP requirements.

The Residential Indicator (RI) is the preliminary screener for affordability. If the LTCP cost is less than 1% of MHI, then the CSO Control Policy suggests a low economic impact. If the cost impact is above 1% and below 2% of MHI it is considered a mid-range economic impact. A cost impact of greater than 2% of MHI is considered a large impact. Mid-range and large impact cases trigger the secondary screening metric, the FCI metric analysis. State and US EPA regulators have the authority to determine from the outcome of these analyses if further LTCP

controls are affordable. Such decisions, however, are not fully transparent to the city involved with the consent agreement proceedings.

Mayors do not question the need to apply a cost impact assessment algorithm, or the use of certain reasonable benchmarks for characterizing cost impacts. The 2% of MHI benchmark, on the other hand, suffers from several flaws. First, there is serious confusion about the origins of the 2% of MHI as a 'standard' benchmark for measuring household affordability. US EPA has not provided a clear and convincing case that it is appropriate for this specific purpose. Indeed, perhaps ironically, its history is related to assessing affordability involving the agency's construction grants program and rural assistance in the early 1970s. In the 1980s US EPA considered that the cost of complying with new Safe Drinking Water regulations would be unaffordable if they reached 2.5% of MHI. The US EPA's CSO Control Policy, however, adopted the 2% MHI in relation to the cost of CSO/SSO long term control plans. Thus, the winding path of the 2% of MHI benchmark to assess affordability appears to be based on a patch-work of previous policies, all considered within the silos of their regulatory purposes and impacts and without regard to one another.

A second related fault of the CSO 2% MHI benchmark is that it assumes that an additional 2% of MHI devoted to the LTCP is an acceptable financial burden. This application of the 2% MHI benchmark ignores both the cumulative cost impact of all CWA federal mandates, and the needed investments cities will be required to make to sustain existing wastewater systems. In connection with the cumulative cost impact concern, US EPA has not conducted a thorough review of the costs associated with this mandate in addition to other federal mandates. OMB's ***MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES***, March 20, 2012, calls for the Agency to conduct a review of the "Cumulative Effects of Regulations". Given the extremely costly controls anticipated by the CSO/SSO consent agreements, indeed the unprecedented costs involved, the US EPA should halt enforcement efforts related to CSO/SSO compliance and complete a cumulative effects analysis before they force cities into unaffordable LTCPs.

The CSO 2% MHI affordability benchmark should be demonstrated by EPA to be cost-effective and affordable in the context of cumulative costs for federal mandates. The EPA can be requested by Congress to conduct such an analysis. Consider, for example, what the potential implications of a series of 5 or more CWA regulations would be on various household income categories. Each of the regulations will have a financial impact, some of them may be as great as 2% of MHI. Assume the CSO requirements exact a 2% impact and the four other regulations each have a 1% impact, then the cumulative impact amounts to 6% of MHI, not counting rate increases required to operate, maintain and rehabilitate the sewer system, nor does it account for inflation. Such application of the 2% of MHI benchmark would support US EPA requiring households to pay up to 10% or more of the household income of the lowest income category in any city.

A third and major fault with the application of the 2% of MHI affordability benchmark is that it imposes a disproportionate and regressive burden on households that are least able to afford it, low, moderate and fixed income households. This outcome is a clear environmental injustice to the poor. This is because the 2% MHI benchmark essentially applies an economic indicator keyed to a household income class that enjoys an income that is much higher than the lowest household income categories in any given community.

I turn to my community, Lima, a proud community of modest financial means to illustrate this point. We are a city that has shrunk from roughly 52,000 to 38,000, as more affluent households have moved to the suburbs. Our annual median household income is roughly \$26,943, as reported by the Bureau of Census (See Appendix B for figures and references). Nearly one-third (30.3 percent) of Lima citizens are living under the poverty threshold of \$22,313 for a family of four. 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.

Since the passage of the Clean Water Act, the city has spent \$58 million on capital improvements, with \$25 million of that amount coming from the federal government as a grant. As a result we have substantially improved the water quality in the Ottawa River which cuts through the middle of the city; an improvement in which now 65% of the river is in full attainment of water quality standards and 34% in partial attainment. We are proud of what we have accomplished. But we are urgently concerned about what is now being demanded of us by US EPA and the costs which those demands will impose.

When the 2% of MHI (\$538.86) for the proposed LTCP is added to current average annual sewer bills (\$332.76), it raises the average annual sewer bill to \$871.62. That amount would have little impact on our high income households<sup>1</sup>, but its impact on our poor households would be enormous.

The financial impact for the households in Lima is exhibited in Appendix B – Table B.

- Some 47% of households would experience rate increases above 4% of household income.
  - Nearly 16% of households (those with MHI of \$10,000 or less) would carry an 8.72% burden, up from the already high current 3.3% of household income without the additional 2% of city-wide MHI.
  - Another 12% of households would experience rate increases that would cost 6.97% of their household income.
  - Nineteen percent of the households would experience rate increases that would cost 4.36% of their income.
- Almost 26% of households would experience rate increases bringing their annual bills to between 2% and 3% of household income.
- The high income households, 26% of my community, would feel no great financial impact from the rate increases since the additional burden would bring them up to from 0.44% to 1.39% of household income.

The USCM has continuously asserted to the US EPA that affordability of LTCPs should consider all water and sewer costs to an individual household before decisions are made concerning the extent and cost of those LTCPs. Combined average annual water and sewer bills in Lima are

---

<sup>1</sup> The U.S. Office of Personnel Management (OPM) Salary Table No. 2012-EX lists rates of basic pay for the executive schedule: Level V \$145,700 to Level I \$199,700. The financial impact on these households would range from 0.598% for Level V and 0.436 for Level I.

\$490.08, (Appendix B-Table A). Adding the 2% of MHI (\$538.86) to the \$490.08 average annual combined bill results in a new combined average annual bill of \$1,028.94.

The new combined average annual water and sewer bill explicitly establishes a set of dramatically regressive and disproportionately burdensome financial impacts on the low, moderate and fixed income households in Lima. The lowest income household category would be required to spend 10.29% of their household income for water and sewer. Indeed, over 73% of households in Lima would be paying over 2% of their income for water and sewer.

The 2% of MHI benchmark is a poor indicator of affordability unless it is compared to household income categories. And when it is compared to household income categories other questions arise as to affordability of LTCPs more generally. For example, if the lowest income households are paying 6 to 10 percent of their household income on water and sewer, including an LTCP, then how affordable will any additional federal mandates be under authority of the CWA and/or SDWA? Does US EPA take the position that additional cost burdens on the lower income households related to increased rates to pay for improvements, repair and replacement (with inflation) should not be considered in their affordability analyses for LTCPs? Why aren't public expenditures for other social programs (not necessarily water related, but especially those programs intended to aid the poor) considered when determining affordability for LTCPs? For example, what impacts do increased sewer rates have for cities that must absorb the cost in their public housing programs for the low and moderate income households?

Another fault with the 2% of MHI affordability benchmark is that there is no clear definition of what constitutes "widespread economic and social impact" which is the basis for US EPA to determine if further controls are warranted and affordable. Federal Agency decisions on affordability using the CSO Control Policy method may be "arbitrary" by default if the RI and FCI benchmarks, once exceeded, provide no clear guidance on decisions concerning the cost of LTCPs. Defining impact that is not affordable is important but remains vague. Congress has an opportunity to define this more precisely.

In the American economy federal and state income taxes are based on a progressive taxation principle; purchasing water and sewer services at the local level is not. Local utilities like water and sewer are based on a user fee system, not on an ability to pay basis. Indeed, many state laws require that public water rates be fair and equitable, thus, local government strives to fairly allocate the cost of building, operating, and maintaining systems that serve their intended public benefit purpose and comply with state and federal law. That is one reason why local governments work hard to keep costs down. Mayors and city councils take as given that all citizens in their communities should have access to clean, safe and affordable water and sewer, and that is why the federal government should respect the principle of affordability. If the US EPA feels that their hands are tied by existing law, then Congress, with this knowledge of disproportionate impacts, can act to untie their hands.

### **Consideration of Combined Water and Wastewater Mandates:**

The IP Framework does not formally incorporate flexibility for mandates related to the Safe Drinking Water Act (SDWA). The USCM has urged and continues to urge US EPA to formally incorporate both CWA and SDWA regulatory costs in the IP Framework. The Lima illustration

on financial impact across household income categories demonstrates that the impact on household budgets is serious, and therefore, the combined cost of water and sewer should be taken into account when LTCPs are developed. As US EPA continues to develop new CWA/SDWA mandates the cumulative financial impacts on low, moderate and fixed income households will continue to increase. The limits of affordability, in this respect, argues in favor of identifying priorities that make the most sense to guide investment of limited financial resources. If US EPA does not incorporate both CWA and SDWA into the Framework, Congress can act to direct them to do so.

### **US EPA Regional Implementation of the IP Framework:**

US EPA's commitment to link Headquarters staff and leadership with their Regional offices on how to implement the IP Framework is encouraging but remains, at this point, a promise, not a reality. Most of the cities working with the USCM on the issue of CSO/SSO enforcement and consent agreement negotiations have experienced considerable difficulty dealing with US EPA Regional officials because that is where the responsibility lies with developing LTCPs. Given the history of US EPA Region's activities and behaviors in this regard, the USCM encourages both US EPA Headquarters and Congress to exercise due diligence in monitoring the Regions as they implement the IP Framework.

### **Achieving Water Quality Goals is better Accomplished Through the Permitting Process Rather than Enforcement via Consent Decrees:**

The USCM stated the preference for accomplishing CSO/SSO compliance via the permitting process last year when Mayor Suttle provided testimony before this Committee. The USCM holds firm on this request, and there is little in the IP Framework that changes our belief concerning the permitting approach as the better approach.

The IP Framework states that US EPA anticipates that achieving compliance with CSO/SSO requirements can be accomplished via a permit, and administrative order and/or a consent decree. However, enforcement via the consent decree appears to be the method of choice for the US EPA as demonstrated by the enforcement strategy unfolding in the US EPA Regional Offices.

The US EPA has stated repeatedly in its series of five-city workshops held earlier this year on the IP Framework that current law (CWA) does not allow permittees protection from third party suits for non compliance unless they are protected by the legally binding terms of a consent decree. IF that is truly the case, Congress has the ability to modify the CWA on this point by specifying that permittees fully engaged in a plan to comply with the CWA should be protected from third party law suits. If Congress were to make such a change, then the US EPA would no longer need to use enforcement tools to protect cities and utilities from citizen suits.<sup>2</sup>

---

<sup>2</sup> The USCM adopted policy at its Annual Meeting in June of 2012 entitled "**SUPPORTING US EPA'S INTEGRATED PLANNING AND PERMITTING POLICY**", (see Appendix D).



## What Congress Can Do

Throughout this testimony I have highlighted specific actions that Congress can and must take to assist cities and our constituents. In 2011, the USCM unanimously adopted a resolution calling for CSO relief. That resolution asked Congress to either give cities at least 50% of the funding necessary to meet the federal CWA mandates as being interpreted by USEPA or give us relief, (see Appendix E: Resolution 43). Relief that would be specific in measurable ways:

The USCM urges Congress to address these issues directly with legislation amending both the Clean Water Act and the Safe Drinking Water Act. The premise we base this request on is simple: since the financial resources of our citizens, resident businesses and cities are limited, the CWA/SDWA must be crafted in a way that explicitly acknowledges and addresses the reality of those limited local resources.

- Congress can and must impose a cost cap on federal mandates.
- It can and should provide federal financial assistance at levels much greater than current State Revolving Fund loan programs and in the form of grants to local communities.
- It can and must provide a permit shield for cities from third party suits, and aggressive enforcement actions by state and federal regulators, for not complying with certain provisions of the water laws (for example, elimination of all SSOs even though some may have a negligible impact on water quality, and are therefore less of an investment priority) as long as the cities are working toward long term compliance under a permit.
- Congress can and should direct US EPA to halt enforcement campaigns against local governments in favor of US EPA programs for watershed planning and water quality permitting.
- Congress can and must act to prohibit US 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 criminal enterprises, 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 US EPA has its authority because of the way the Clean Water Act was written and enacted by the Congress. We need a paradigm shift where local, state, and the federal officials exercise practical leadership and work together to determine what our environmental and spending priorities should be.

Thank you again for this opportunity to address you.

**Appendix A:**

**The United States Conference of Mayors  
Press Statement Regarding the USEPA  
Integrated Planning Framework**



## The United States Conference of Mayors

1620 Eye Street, N.W. • Washington, D.C. 20004  
 Phone (202) 293-7330 • Fax (202) 293-2352  
 E-mail: [Info@usmayors.org](mailto:Info@usmayors.org) URL: [usmayors.org](http://usmayors.org)

FOR IMMEDIATE RELEASE  
 June 19, 2012

Contact:  
 Elena Temple- Webb  
 202-286-1100 ([etemple@usmayors.org](mailto:etemple@usmayors.org))  
 Lina Garcia  
 202-341-6113 ([lgarcia@usmayors.org](mailto:lgarcia@usmayors.org))  
 Karen Hinton  
 703-798-3109 ([Karen@hintoncommunications.com](mailto:Karen@hintoncommunications.com))

### The U. S. Conference of Mayors Praises EPA's Newly Released Integrated Planning Framework

#### Framework Marks Major New Milestone Modernizing EPA's Implementation of the Clean Water Act

Washington, D.C. - The U.S. Conference of Mayors welcomes the release of EPA's Integrated Planning Framework for implementing the Clean Water Act (CWA). The Framework, (also known as IP3), is designed to promote greater flexibility for cities struggling to finance and maintain existing wastewater infrastructure and services and respond to new federal regulations that expand city responsibilities, such as costly control of stormwater and sewer overflows.

The Framework outlines several key principles to guide how EPA will work with cities and utilities "...to implement an integrated approach to meet their wastewater and stormwater program obligations under the CWA." The Framework contains a description of the elements that should be included in an integrated plan. EPA states that cities can ask the Agency to work with them and state regulators on integrated plans whether or not they are in a consent decree agreement, or are developing one.

Tom Cochran, CEO and Executive Director of the Conference stated, "We are delighted to receive the Integrated Planning Framework from the U.S. Environmental Protection Agency, and look forward to working closely with the Agency in our cities and regions to move forward on clean water goals that are affordable and sustainable."

Cochran added, "The Framework provides a way for the federal, state, and local government, as well as the citizens in our cities, to rebuild a partnership to solve water quality issues. It establishes a formal recognition by EPA that unfunded mandates should consider a city's limited resources, and that they can work together to direct local investments that address our most pressing water quality, public health and environmental issues."

The Conference will continue to work with its member cities and the EPA to implement this important new approach to making progress on clean water goals and determine how to deal with critical issues such as: affordability and fiscal impact on our most vulnerable households (low, moderate and fixed income households); moving away from enforcement driven consent decree actions to planning and partnering with EPA; and how to merge consideration of drinking water mandates simultaneously with CWA obligations.

"The EPA has, with the issuance of this policy, opened the door to cooperation. It signals a modernization of the regulatory approach, and provides a foundation from which adversarial relations can now morph back into the intergovernmental partnership that cities value so much," concluded Cochran.

###

The U.S. Conference of Mayors is the official nonpartisan organization of cities with populations of 30,000 or more. There are 1,210 such cities in the country today, and each city is represented in the Conference by its chief elected official, the mayor. Find us at [usmayors.org](http://usmayors.org), on [facebook.com/usmayors](https://www.facebook.com/usmayors), or follow us on Twitter at [twitter.com/usmayors](https://twitter.com/usmayors).

## Appendix B:

### Affordability of CSO Compliance Fiscal Impact Illustration Lima, Ohio

#### July 25 House Testimony Lima: Illustration Worksheet

Population 2010, Census ACS = 38,771

Median Household Income \$26,943<sup>3</sup>

2 % of MHI = \$26,943 x 0.02 = \$538.86

**Table A: Water Related Utility Bills in 2012**

City of Lima Household Utility Bill	Monthly	Annual	Additional 2% of MHI
Sewer	27.73	332.76	\$871.62
Water	13.11	157.32	na
Combined	40.84	490 .08	\$1,028.94

<sup>3</sup>[http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_3YR\\_S1901&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_3YR_S1901&prodType=table)

INCOME IN THE PAST 12 MONTHS (IN 2010 INFLATION-ADJUSTED DOLLARS)  
2008-2010 American Community Survey 3-Year Estimates, US Census Bureau

**Table B: Household Cost Allocation -  
Adding 2% MHI to Current Average Bills**

<b>City of Lima<sup>4</sup> Household Income</b>	<b>Households<sup>5</sup> %</b>	<b>Household Income<sup>6</sup></b>	<b>Current Annual Sewer Bill \$332.76 as % of Household Income</b>	<b>Annual Sewer Bill with Additional 2% MHI \$871.62 as % of Household Income</b>
<b>Less than \$10,000</b>	<b>15.8</b>	<b>10,000</b>	<b>3.33</b>	<b>8.72</b>
<b>\$10,000 to \$14,999</b>	<b>12.1</b>	<b>12,500</b>	<b>2.66</b>	<b>6.97</b>
<b>\$15,000 to \$24,999</b>	<b>19.1</b>	<b>20,000</b>	<b>1.66</b>	<b>4.36</b>
<b>\$25,000 to \$34,999</b>	<b>13.2</b>	<b>30,000</b>	<b>1.11</b>	<b>2.91</b>
<b>\$35,000 to \$49,999</b>	<b>12.7</b>	<b>42,500</b>	<b>0.78</b>	<b>2.05</b>
<b>\$50,000 to \$74,999</b>	<b>16.7</b>	<b>62,500</b>	<b>0.53</b>	<b>1.39</b>
<b>\$75,000 to \$99,999</b>	<b>5.8</b>	<b>87,500</b>	<b>0.38</b>	<b>1.00</b>
<b>\$100,000 to \$149,999</b>	<b>3.8</b>	<b>125,000</b>	<b>0.27</b>	<b>0.70</b>
<b>\$150,000 to \$199,999</b>	<b>0.6</b>	<b>175,000</b>	<b>0.19</b>	<b>0.50</b>
<b>\$200,000 or more</b>	<b>0.1</b>	<b>200,000</b>	<b>0.17</b>	<b>0.44</b>

<sup>4</sup> Same as above

<sup>5</sup> Same as above

<sup>6</sup> mid-point of income category used over \$10,000, and up to \$199,999

**Table C: Household Cost Allocation of Adding 2% MHI to  
Current Average Combined Water and Sewer Bills**

<b>City of Lima Household Income</b>	<b>Households %</b>	<b>Household Income</b>	<b>Current Annual Combined Bill \$490.08 as % of Household Income</b>	<b>Annual Bill with Additional 2% MHI \$1,028.94 as % of Household Income</b>
<b>Less than \$10,000</b>	<b>15.8</b>	<b>10,000</b>	<b>4.90</b>	<b>10.29</b>
<b>\$10,000 to \$14,999</b>	<b>12.1</b>	<b>12,500</b>	<b>3.92</b>	<b>8.23</b>
<b>\$15,000 to \$24,999</b>	<b>19.1</b>	<b>20,000</b>	<b>2.45</b>	<b>5.14</b>
<b>\$25,000 to \$34,999</b>	<b>13.2</b>	<b>30,000</b>	<b>1.63</b>	<b>3.43</b>
<b>\$35,000 to \$49,999</b>	<b>12.7</b>	<b>42,500</b>	<b>1.15</b>	<b>2.42</b>
<b>\$50,000 to \$74,999</b>	<b>16.7</b>	<b>62,500</b>	<b>0.78</b>	<b>1.65</b>
<b>\$75,000 to \$99,999</b>	<b>5.8</b>	<b>87,500</b>	<b>0.56</b>	<b>1.18</b>
<b>\$100,000 to \$149,999</b>	<b>3.8</b>	<b>125,000</b>	<b>0.39</b>	<b>0.82</b>
<b>\$150,000 to \$199,999</b>	<b>0.6</b>	<b>175,000</b>	<b>0.28</b>	<b>0.59</b>
<b>\$200,000 or more</b>	<b>0.1</b>	<b>200,000</b>	<b>0.25</b>	<b>0.51</b>

## Appendix C: City Water Investment Policy



### THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST  
 WASHINGTON, D.C. 20006  
 TELEPHONE (202) 293-7330  
 FAX (202) 293-2352  
 TDD (202) 293-9445  
 URL: [www.usmayors.org/uscm](http://www.usmayors.org/uscm)

**Adopted June, 2012**  
**Orlando, Florida**  
**80<sup>th</sup> Annual Meeting**

#### **CITY INVESTMENT PRIORITIES FOR WATER AND WASTEWATER INFRASTRUCTURE AND SERVICES**

**WHEREAS**, local government investments in community water and wastewater systems have continually increased over the last 6 decades; and

**WHEREAS**, continual improvement in water quality has been achieved, such that the fires on the Cuyahoga River are a sad memory and no longer a current event; and

**WHEREAS**, the level and type of drinking water treatment has advanced to the point that waterborne infectious diseases have been dramatically reduced for several decades; and

**WHEREAS**, actuarial tables reflect progress in extending the lifetime of our citizens and this progress is partially due to improvements in water quality: females born in 1960 have a life expectancy of 73 years, and females born in 2008 have a life expectancy of 80 years; males born in 1960 have a life expectancy of 66 years, and males born in 2008 have a life expectancy of 75 years; and

**WHEREAS**, given the reality that over 90 percent of all spending on community water and wastewater systems, including compliance with Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) federal unfunded mandates, is made by local governments; and

**WHEREAS**, Congress and the Administration has aggressively retreated from shared financial responsibility for achieving clean water goals; and

**WHEREAS**, the Administration has dramatically increased regulatory mandates that are implemented in a stove-pipe fashion with little or no regard for the cost burden to comply that is placed on local governments and ratepayers; and

**WHEREAS**, local government spending on community water and wastewater infrastructure and services faces unprecedented levels amounting to \$103 billion in 2009, and local government has no alternative but to finance capital investment in water and wastewater with long-term debt that now crowds the ability of local government to finance other worthy public projects; and

**WHEREAS**, local government long-term debt has grown from \$886 billion in 2000 to \$1.61 trillion in 2009, and cities and their respective ratepayers are ill prepared to afford additional unfunded water mandates,

**NOW, THEREFORE, BE IT RESOLVED** that the United States Conference of Mayors urges all city governments to establish as their highest priority the continued investment to sustain the currently operating community water and wastewater systems serving the public because it provides public benefits that sustain our quality of life, including: protecting public health; providing for support of local and metro economies, and protecting aquatic habitats; and,

**BE IT FURTHER RESOLVED**, that the imposition of new water and wastewater regulations divert resources from this higher priority and by so doing increase the likelihood that adequate reinvestment to maintain and sustain current water and wastewater systems is in jeopardy, and that system decay, service disruptions and the re-emergence of parasitic waterborne diseases must weigh heavily in any decision to impose new and additional water and/or wastewater unfunded mandates; and,

**BE IT FURTHER RESOLVED**, that the second most important priority of local government is to secure the future water supply by: protecting source water, including groundwater, groundwater recharge and sole source aquifers; and the water quality of estuaries, lakes, and rivers; eliminating water loss from failing pipes; reducing water use through conservation efforts; and increasing water supply via recycling, reuse, reclamation and desalination according to appropriate 'fit for use' strategies.



## Appendix D:

# Supporting EPA's Integrated Planning Policy



### THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST  
WASHINGTON, D.C. 20006  
TELEPHONE (202) 293-7330  
FAX (202) 293-2352  
TDD (202) 293-9445  
URL: [www.usmayors.org/uscm](http://www.usmayors.org/uscm)

Adopted June, 2012  
Orlando, Florida  
80<sup>th</sup> Annual Meeting

#### SUPPORTING EPA'S INTEGRATED PLANNING AND PERMITTING POLICY

**WHEREAS**, local governments provide the water and wastewater infrastructure that supplies clean and safe water; and

**WHEREAS**, in 2009 alone, local governments invested \$103 billion in water and wastewater infrastructure; and

**WHEREAS**, these infrastructure investments are the reason Americans enjoy some of the safest, cleanest, most affordable water in the world; and

**WHEREAS**, local governments do not have the financial capability to continue maintaining existing infrastructure that provides a high level of public health and environmental benefits, if they are forced at the same time to increase investments in new infrastructure that would provide fewer public health and environmental benefits; and

**WHEREAS**, even if a local government could obtain financing to invest in new infrastructure, the debt service will cause utility rates to rise beyond what is affordable for local citizens and rate-payers with a disproportionate impact on the poor and middle-class families; and

**WHEREAS**, U.S. EPA has recently recognized the financial capability limitations on local governments and families and has offered to work with local governments to make infrastructure investments more effective and affordable; and

**WHEREAS**, the Clean Water Act provides tools that can make local governments' substantial investments in environmental protection more effective and affordable, including use attainability analyses, variances, compliance schedules, and site-specific standards; and

**WHEREAS**, U.S. EPA agrees that it has the flexibility to utilize these tools to reduce regulatory burdens on local governments, but rarely employs them; and

**WHEREAS**, the ability to integrate planning and permitting of multiple water-related regulatory obligations, including obligations under the Clean Water Act and the Safe Drinking Water Act, would allow local governments to focus limited resources on actions that will provide the greatest environmental and public health benefits and may reduce the need to take future actions and incur future costs; and

**WHEREAS**, U.S. EPA agrees that it has the flexibility, when taking an enforcement action against a local government, to allow the local government to employ integrated planning to prioritize investment in Clean Water Act regulatory obligations that provide the greatest public health and environmental benefits; and

**WHEREAS**, U.S. EPA historically has taken the position that it does not have the flexibility to allow local governments to more effectively and affordably prioritize

investment in Clean Water Act regulatory obligations related to compliance with pre-1977 water quality standards except through initiation of administrative or judicial enforcement actions against those local governments; and

**WHEREAS**, Mayors do not believe that they should be subject to costly and inefficient enforcement actions before they can engage in integrated planning or prioritize investment in regulatory obligations that would result in greater human health and environmental benefits, notwithstanding the date a water quality standard was promulgated; and

**WHEREAS**, Mayors believe that the Clean Water Act specifically grants U.S. EPA the flexibility to allow local governments to more effectively and affordably prioritize investment in regulatory obligations related to compliance with pre-1977 water quality standards without initiation of administrative or judicial enforcement actions; and

**WHEREAS**, integrated planning and prioritizing investments with more substantial human health and environmental benefits is better supported through focusing local governments' limited resources on planning rather than on costly and inefficient enforcement proceedings,

**NOW, THEREFORE, BE IT RESOLVED** that The U.S. Conference of Mayors urges U.S. EPA to employ Clean Water Act tools to the fullest extent authorized to provide regulatory flexibility to local governments, urges EPA to reconsider its historic interpretation limiting its authority to allow integrated planning outside the enforcement context, and urges EPA to reconsider its position that integrated planning can only include Clean Water Act obligations and include Safe Drinking Water Act obligations as well; and

**BE IT FURTHER RESOLVED** that The U.S. Conference of Mayors urges U.S. EPA to cease treating local governments as polluters, and instead work with local governments as partners in

environmental and public health stewardship; and, only include Clean Water Act obligations and include Safe Drinking Water Act obligations as well; and

**BE IT FURTHER RESOLVED** The U.S. Conference of Mayors urges Congress to support the utilization of regulatory flexibility in lieu of the enforcement of unachievable standards by reappropriating or reprogramming funds from U.S. EPA's enforcement account to U.S. EPA's environmental programs and management account, for the purpose of carrying out use attainability analyses, and helping states develop variances, compliance schedules, and site-specific standards; and

**BE IT FURTHER RESOLVED** that The U.S. Conference of Mayors urges Congress to support integrated planning by reappropriating or reprogramming funds from U.S. EPA's enforcement account to U.S. EPA's state and tribal assistance grants account, for the purpose of reducing enforcement actions against local governments and increasing the capacity of state and local governments to support integrated planning through water quality plans developed under section 208 of the Clean Water Act; and

**BE IT FURTHER RESOLVED** that if the U.S. EPA continues to interpret the Clean Water Act to limit the use of integrated planning outside the enforcement context, then The U.S. Conference of Mayors urges Congress to enact a narrow amendment to the Clean Water Act to address this barrier by making it clear that, when integrated plans are utilized, water quality standards can be met over time, regardless of their promulgation date; and

**BE IT FURTHER RESOLVED** that if the U.S. EPA continues to interpret the law to preclude consideration of regulatory obligations under the Safe Drinking Water Act when developing an integrated plan that includes Clean Water Act obligations, then The U.S. Conference of Mayors urges Congress to enact a narrow amendment to the Clean Water Act and the Safe Drinking Water Act to address this barrier.

## Appendix E: Resolution 43

### REFORMING THE CLEAN WATER ACT SEWER OVERFLOW POLICY TO ACHIEVE SUSTAINABLE LONG-TERM GOALS



#### THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST  
WASHINGTON, D.C. 20006  
TELEPHONE (202) 293-7330  
FAX (202) 293-2352  
TDD (202) 293-9445  
URL: [www.usmayors.org/uscm](http://www.usmayors.org/uscm)

#### REFORMING THE CLEAN WATER ACT SEWER OVERFLOW POLICY TO ACHIEVE SUSTAINABLE LONG-TERM GOALS

**WHEREAS**, approximately 772 cities in the United States will be required to establish legally binding Long-term Control Plans (LTCPs) to comply with the Federal Clean Water Act regulations involving Combined Sewer Overflows and Sanitary Sewer Overflows (CSO/SSO) over the current and next decade; and,

**WHEREAS**, city LTCPs will involve the establishment of new infrastructure to reduce the discharge of untreated sewage and/or untreated storm water into local receiving waters; and the new infrastructure options available for this purpose involve major capital investments and recurring increases in user charges (increased rates) for the construction of new treatment facilities or additional treatment capacity at existing facilities, new separate and/or combined sewer lines to convey wet weather overflows to the new treatment facilities, underground storage facilities, additional monitoring, reporting, and compliance costs, additional operations and maintenance costs to municipalities; and,

**WHEREAS**, local government involved in CSO/SSO enforcement actions to establish LTCPs, or those who enter into voluntary negotiations with the US EPA and state regulators have demonstrated that the US EPA is reluctant to exercise the flexibility they adopted in the US EPA CSO Control Policy concerning affordability, compliance schedules, volume and frequency of annual overflows necessary to comply with Clean Water Act water quality standards, and inclusion of green infrastructure as part of a city's LTCP; and,

**WHEREAS**, the capital cost cities bear to comply with CSO/SSO policy are among the single-most costly public works projects in their history, often a single CSO/SSO LTCP is equal to or greater than all combined long-term debt incurred for public expenditures in a single period of time; and,

**WHEREAS**, the latest available Bureau of the Census report for 2008 states that local government annual revenues were \$1.53 trillion, local government annual expenditures were \$1.59 trillion, and outstanding long-term debt of local government in 2008 exceeds \$1.51 trillion it is clear that current spending for public purposes and long-term debt are twice the amount of annual revenues, and additional unfunded federal mandates that are not absolutely necessary or are not associated with an emergency situation are ill-advised and clearly not sustainable; and,

**WHEREAS**, the environmental benefits associated with U.S. EPA's interpretation of requirements under the CSO/SSO Control Policy are often vague and not discernible, and arguably do not balance with local economic goals, and in many cases create a cost-disincentive for commerce and industry, thus adversely impacting jobs, local income, and the local tax revenues and income of ratepayers to support the investments required to finance the LTCPs,

**NOW, THEREFORE, BE IT RESOLVED**, that The U.S. Conference of Mayors urges Congress to amend the Clean Water Act to: create a true Federal/Local Partnership whereby the Federal government provides at least 50 percent of the cost of compliance with all regulations established under the Clean Water Act; and

**BE IT FURTHER RESOLVED**, that if Congress does not provide at least 50 percent of the costs, the Conference of Mayors urges Congress, the Environmental Protection Agency, and the Department of Justice to provide the following relief to communities as it relates to CSO/SSO LTCPs:

- Compliance schedules related to CSO/SSO LTCPs be no less than 30 years (unless a city voluntarily chooses to comply in less than 30 years) and up to 50 years so that local government can finance investments to achieve compliance without diverting financing for other public priorities, to avoid forcing local governments into unreasonable levels of long-term public debt and to prevent the levying of unaffordable rates upon poor and middle class households;
- Local government should be allowed to incorporate green infrastructure solutions in their LTCPs, and the EPA should encourage incorporation of green infrastructure in LTCPs in tangible ways that allow experimentation and flexibility on control criteria and should provide a clearinghouse of green infrastructure options for cities to choose from; further, cities should be encouraged to amend their LTCPs to adjust the mix of green and gray infrastructure when the opportunity arises to increase energy efficiency and permeability;
- EPA should not stipulate an arbitrary number of overflows, but rather focus on the objective of achieving real improvements to water quality that are affordable and sustainable. Thus, local governments should not be restricted to four or less wet weather overflow events per year if that is not required to meet water quality standards under the Clean Water Act;
- When determining the affordability of the LTCP solution that a city is required to implement, EPA and DOJ should use the two percent of Median Household Income as the total cost of sewer operation's ceiling, not the floor, and other factors such as the cost/benefit analysis and carbon footprint impacts;
- Cities should only be held responsible for complying with water quality standards based on a reasonable assessment of the proportion of degradation they actually contribute to water bodies.

**Adopted June 2011  
Baltimore, Maryland**