

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Jessica Garrison
Sent: Tue 7/18/2017 4:45:12 PM
Subject: Discussion Draft - Priorities for Water Infrastructure (7-18-17).docx
[Discussion Draft - Priorities for Water Infrastructure \(7-18-17\).docx.pdf](#)
[ATT00001.htm](#)

Hi Ryan. I'm emailing you the time and location of the meeting I mentioned to you. Also attached is the latest discussion draft. Do you think lee can attend? .4:00. Here is the address:
Earth & Water Group, 1455 Pennsylvania Ave., NW, Suite 400.

Jessica Medeiros Garrison

Ex. 6 - Personal Privacy

Sent from my iPhone

Draft Discussion Document
Version 2 – July 18, 2017

Recommendations for Water Infrastructure

Public health, a clean environment, jobs and vibrant local economies are dependent upon resilient and sustainable water and wastewater infrastructure (collectively referred to herein as “water infrastructure” or “water services”). Billions in federal outlays in the form of capitalization grants during the 1970s and 1980s, and low-interest federal loans since the 1990s (which cannot be used for operation and maintenance), have encouraged the build-out of our nation’s water infrastructure, but not provide for the maintenance and rehabilitation of those aging systems.

As a result, due to underpricing, significant fragmentation in the water sector, and increased federal regulatory mandates with no commensurate federal financial support, the condition of the nation’s water infrastructure has been in steady decline.

Changing demographics, the challenge for many communities to deploy full-cost pricing, and deferred maintenance and replacement of water assets is creating a national water crisis of sorts - or many localized crises such as that in Flint, Michigan.

Over \$1 trillion is needed over the next 20 years to slow this steady decline and begin to rebuild and rehabilitate water systems. This continuing crisis cannot and will not be averted simply by providing more federal funding. Rather, it requires a fundamental shift away from the “business as usual” approach, through a combination of new sources of funding, changed behavior through incentives and more accountability – more regulatory “carrots and sticks” – and improved governance. The following are recommendations that, if enacted, will lead to more innovative and sustainable water systems.

Although the policy issues below are not set forth in any particular order, all have important linkages to a lesser or greater degree and, thus, cannot be selected and advanced *a la carte* due to certain political, historical and practical realities and different

perspectives involving publicly- and privately-owned systems, rural and urban communities, and drinking and wastewater systems. These differences cut across an array of complex socio-economic, cultural, and governance issues including, for example, different attitudes toward the role and extent of federal subsidies to support local water systems, unfunded federal mandates and the economic impact on small and rural communities, the role of private sector participation, market competition and accountability, the appropriate role of federal, state, and local governments in setting standards affecting operation and procurement, and competition for increasingly limited federal resources at a time when needs are growing and resources are shrinking.

For example, while full-cost pricing and effective utility management are laudable goals that virtually all can agree upon, it tied directly to affordability as many small and financially distressed communities simply cannot bear the full cost of water provision or do not have the technical capacity to implement.

Similarly, if full-cost pricing proves untenable for some, good management nevertheless includes an understanding the full cost of providing water. A requirement for full cost accounting might thus prove appropriate as an interim reform, but even, then, smaller or distressed utilities might need assistance in preparing such an analysis. Therefore, support for full-cost pricing or accounting (item 3.c) is contingent upon additional federal assistance (item 2) and financial support for economically stressed and disadvantaged communities.

Conversely, for there to be broad support for more federal funding under the SRFs, there must be broad support for removing barriers to more private sector participation.

Furthermore, while there is broad recognition of the general value of private sector participation, allowing private entities greater access to the SRFs (item 1.c) would result in greater competition for already limited resources. Thus, broad support for item 1 would necessarily require more federal funding (item 2).

1) *Encourage more private sector participation and investment*

by eliminating barriers.

- a. **Remove tax-exempt water infrastructure private activity bonds from state volume caps.** In addition to federal dollars, another effective option for the federal government to provide long-term, capital-intensive infrastructure projects is the private activity bond (PAB). These bonds are a form of tax-exempt financing for state and municipal governments that want to collaborate with a private entity to meet a public need. This partnership approach makes infrastructure repair and construction more affordable for municipalities and ultimately for users or customers. This well-established program would provide significant benefit to water-sector investments were the state volume cap to be lifted.
- b. **Remove debt defeasance penalty.** A simple way to accelerate investment is the elimination of the need to “defease” public bonds alongside an asset purchase. This can be achieved through a simple IRS interpretation change, thereby allowing municipal system acquisitions to improve net proceeds the municipalities receive when their systems are purchased or consolidated at their option. The current rule inadvertently deters beneficial agreements, as its requirements are often cost-prohibitive, adding up to 15-20% of the total value of the transaction. Treasury could make this change through a rule-making.
- c. **Expand eligibility of SRF loans to private water providers.** EPA has long interpreted the Clean Water State Revolving Fund (SRF) to apply only to the publicly owned utilities due to the statute applying to “publicly owned treatment works” (POTW). Although EPA has long held that private water systems are eligible for Drinking Water SRF funds, a dozen states disallow such funds for private entities. This disparity prevents the private sector from leveraging federal investment to benefit the same communities (and rate payers)

otherwise eligible for federal funds.

2) *Provide more federal funding through WIFIA, SRF, and Technical Assistance.*

- a. **Increase WIFIA funding from its currently level of \$20M to its authorized level of \$45M.** WIFIA funds 49% of a project's cost, and the balance must come from a non-federal share. Because of extremely low default rates, WIFIA will leverage funding at a ratio of at least 50:1. Fully authorized, the WIFIA program would fund \$3B in infrastructure investment.
- b. **Increase funding to the state SRFs.** The recommended levels: DWSRF at \$1.8 billion and CWSRF at \$2.8 billion).
- c. **Provide more technical assistance to small and rural systems.** In some cases, systems are so small or geographically isolated there is no viable partnership or consolidation option. In such cases, more technical assistance, in the form of peer-to-peer assistance provided by neighboring utilities or third parties, such as that being offered by DC Water (Blue Drop), can help those systems better manage their assets and procurement decisions.

3) *Modernize and streamline the SRFs.*

- a. **Provide greater flexibility for states to use unliquidated obligation balances.** States should be encouraged to spend past years' grant funds estimated at more than \$1B nationally, and maintain lower levels of ULO in future years.
- b. **Streamline procedures.** Eliminate federal/state redundancies in cross-cutters and streamline the application process and paperwork to make it easier for smaller systems to seek assistance.
- c. **Require full-cost pricing (or full-cost accounting at a minimum) and other Effective Utility Management**

best practices.

If additional federal funding is provided for the SRFs, encourage and, in some cases, consider making future SRF funding eligibility contingent upon full-cost pricing to improve performance and reduce the demand on federal outlays. Full-cost pricing should be combined with some form of low-income assistance support.

4) *Incentivize the consolidation of failing water and wastewater systems.*

a. **Reduce the number of utilities that lack operational, technical and financial capacity to meet federal and state water quality standards.** Many failing systems serve small to midsize communities (less than 100,000 population) and lack the capacity to maintain compliant and resilient water and wastewater systems. Thousands of such systems are in significant non-compliance (SNC) and unable to meet minimal performance and health-based standards. These systems should be incentivized and, in cases where public health is seriously compromised or in long-standing SNC status, compelled, to partner with or seek a new owner/operator that can adequately provide water services.

b. **Provide more financial incentives and “safe harbor” protections for “Good Samaritans”.** To encourage financially sound and well-managed water systems (public or private) to partner with or take over distressed systems, the government must reduce the significant financial and legal liabilities posed to the acquirer or “Good Samaritan”. Provide set asides and expand SRF funding exclusively to fund consolidation. For example, California currently provides up to \$5M for systems that wish to explore and implement consolidation.

5) *Accelerate the adoption of innovative technologies.*

a. **Establish the National Water Test Bed Network.**

There are countless innovative technologies waiting to come to market that could improve efficiency and drive down costs of water services. However, due to the risk

averse nature of municipalities and market barriers, such innovations are not being deployed quickly enough. To accelerate the deployment of these technologies will require a new approach to evaluate, demonstrate and approve innovative technologies.

- b. Establish a Web-Based Portal for Collaboration and Sharing of Best Practices.** A web-based portal and network would enable urban and rural utilities, regardless of size, to share best practices, develop joint partnerships with public and private utilities, engage private sector expertise and technology and access private capital markets and funding. In addition, this network would provide small and distressed water systems with the technical capacity to comply with regulations and to undertake projects to improve or expand services.

Although Congress should hold communities accountable for results, they should encourage federal agencies to defer to local communities and their engineers of record in the means employed. For too long Washington has imposed unfunded, one-size-fits-all mandates that have increased burdens and costs on local utilities without regard to the diverse water and wastewater infrastructure needs of local communities, who must evaluate numerous factors when considering the proper design and materials for their community and water projects. Encouraging and supporting local governance allows those closest to the problem to determine the best solutions, which stimulates innovation and saves money as local communities can hold those in their community more accountable.

Lastly, in addition to legislative and administrative options, the President should consider issuing a Presidential Policy Directive outlining a vision for the development of integrated, efficient and effective water infrastructure strategy to (1) elevate water infrastructure modernization, improvement, and security as a national priority; (2) establishing inter-agency coordination and oversight mechanisms, resources, and staffing to align U.S.

government agencies' priorities, actions and budgets, and improve collaboration, coordination, and efficiency across federal agencies; (3) encourage local co-finance, full-cost and life-cycle accounting, and information sharing for federal assistance; (5) promoting economic growth, development, and exports of U.S. technologies, products and services; and (6) advance national security and international cooperation over water.

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