Statement of the
National Association of Water Companies

Before the

House Committee on Transportation and Infrastructure

Regarding Financing Infrastructure Investments

June 10, 2008

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The National Association of Water Companies (NAWC) represents all aspects of the private water service industry. The range of our members' business includes ownership of regulated drinking water and wastewater utilities and the many forms of public-private partnerships and management contract arrangements. NAWC membership is comprised of over 200 members in 39 States; providing safe, reliable, water and wastewater to more than 30 million Americans everyday.

Private water companies, like all other municipal water and wastewater systems, are regulated on the federal level by the Environmental Protection Agency (EPA) and on the state level by the various state health and environmental agencies. However, unlike municipally owned utilities, privately owned utilities are also regulated by the various State Public Utility Commissions, (PUC), which approve capital investments and set the rates our members charge.

THE INFRASTRUCTURE REPLACEMENT CHALLENGE

NAWC commends this Committee for tackling the complex issue of infrastructure replacement and financing. The NAWC strongly supports the willingness of the Transportation and Infrastructure Committee to look beyond traditional methods of infrastructure financing to consider innovative and effective ways of funding much needed improvements in our nation's infrastructure. How Congress responds to this challenge will not only set the parameters for the water and wastewater industry's response to infrastructure replacement, but also send important signals to the industry, which will guide it for years to come.

The water and wastewater industry as a whole is struggling with the challenge of closing the clean water and drinking water infrastructure financing "gap" as reported by the EPA in 2002.

However, in this same EPA report, EPA found that the projected $500-$800 billion funding gap for water and wastewater infrastructure replacement "largely disappears if municipalities increase clean water and drinking water spending at a real rate of growth of 3% per year (over twenty years).[1] This strongly suggests that the infrastructure challenge, while serious, is ultimately manageable through good management and creative financing solutions.

The NAWC welcomes the opportunity to work with this Committee to develop avenues for responsible federal leadership and assistance. We support federal policies that encourage infrastructure financing solutions that involve creative debt finance, good asset management, full cost-of-service pricing, consolidation, and public-private partnerships.

CREATIVE DEBT FINANCE AND USER FEES

At a time of soaring national debt, Congress should consider ways in which it can ease this burden while continuing to help fulfill public expectations. If properly priced, infrastructure projects can attract private capital and obtain loans based on dedicated user fees and forecasted revenue streams. Water and wastewater utilities currently have the cost structure in place to support debt financing and loan repayment and should therefore not be wholly subsidized through grants. NAWC is supportive of financing mechanisms that encourage the water and wastewater industry to be self-sustaining and economically viable over the long-term.

NAWC supports providing tax-exempt financing for capital associated with water and wastewater infrastructure improvement. By effectively lowering the interest earned on debt, Congress can reduce the cost of infrastructure projects to the public and help to finance certain infrastructure investments. Similarly, NAWC supports low-interest public loans which can and should be repaid to the government issuer.

Private Activity Bonds

One important tool for utilities meeting the infrastructure replacement challenge can come from Congress enacting H.R. 6194; a bill sponsored by Rep. Bill Pascrell that would remove the state volume cap on private activity bonds for water and wastewater infrastructure projects. While we understand this change in the tax code is not the jurisdiction of this Committee, it is important to note that NAWC actively supports this vital reform and hopes to see it enacted this Congress.

Amending the tax code to bring water projects out from under the cap will make capital both easier to obtain and less expensive for partnerships wherein a municipality works along with a private entity to receive tax-exempt financing. Safe guards already in place in the tax code will assure that these tax-exempt bonds will only flow to projects that meet specific requirements and are in the interest of the general public.

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[1] U.S. Environmental Protection Agency, Office of Water, *The Clean Water and Drinking Water Infrastructure Gap Analysis,* September 2002.

The change to the tax code would cost the federal government very little money: $34 million over five years, $214 million over 10 years. Yet, according to the Environmental Protection Agency, as much as $6 billion annually in private capital could be leveraged to address the infrastructure financing challenge.

This would be yet another 'tool' in the 'tool box' available to localities.

National Infrastructure Development Act H.R. 3896

An innovative idea for national infrastructure investments that this Committee should help to enact is Rep. DeLauro's National Infrastructure Development Act (NIDA) H.R. 3896. This national level revolving fund would facilitate and streamline the financing of infrastructure projects. By removing certain infrastructure financing decisions from the political process, infrastructure could be built efficiently and as-needed.

NIDA would allow the National Infrastructure Development Corporation to create infrastructure financing packages for project applicants in the form of loans through the purchase of debt and equity securities. To reduce the costs incurred on the capital market and the substantial risks associated with major projects NIDA creates a new form of federally-backed, tax-exempt financing called "public benefit bonds."

The National Infrastructure Development Corporation would supplement traditional forms of infrastructure finance and provide an additional avenue for fiscally responsible localities to pursue loans for infrastructure improvement.

DRINKING WATER AND CLEAN WATER STATE REVOLVING LOAN FUNDS

Low-interest State Revolving Fund loans (SRFs) are another important 'tool' that localities must have available in their 'tool box.' Our industry has historically been supportive of the SRFs: by providing primarily a modest subsidy on interest, it does not breed dependence on grants.

SRF History and Legislative Principles

NAWC was very encouraged by H.R. 3930 which was introduced and passed by this Subcommittee during the 107th Congress, garnering 97 bipartisan cosponsors. This piece of legislation was a good model for water infrastructure financing legislation, and with a few modifications we hope this subcommittee returns to this approach. Similarly, in the 108th Congress, NAWC supported H.R. 1560, which also passed out of this subcommittee with bi-partisan support. We viewed this bill as a positive step forward in the process.

Both H.R. 3930 and H.R. 1560 would have brought many innovations to the Clean Water State Revolving Fund (CW-SRF), which could have moved the water industry toward efficient use of resources and self-sustainability. The provisions in the bill, which encouraged the use of public-private partnerships, regionalization, and consolidation to address viability problems and infrastructure replacement challenges, are of great importance and are to be commended. Similarly, provisions encouraging full cost of service rates and sound asset management are essential if the industry is to meet the challenge and become self-sustaining.

If utilities are to receive assistance from the federal government, it is not unreasonable for the federal government to expect that utilities receiving such assistance will do everything they can to manage their utilities in the most efficient and effective way possible, drawing from the vast array of management options available to them.

Private Utility Access to the Clean Water State Revolving Fund (CW-SRF)

We have been disappointed that the bills considered by this committee in recent years – including H.R. 720 in this Congress – would not have allowed access to the CW-SRF by privately owned utilities, thereby extending the benefits of the SRF to all water users. The Senate counterparts to these bills in past three Congresses – S. 1961, S. 2550 and S. 1400 – would have allowed access to the CW-SRF. Private utilities have had access to the Drinking Water SRF (DW-SRF) since its inception. It has worked very well, and this innovation is long overdue in the CW-SRF.

When Congress authorized the DW-SRF it correctly concluded that the benefits of private access would flow to the customers of private utilities in the form of rate relief, not to their owners or shareholders in the form of increased profits. To allay concerns of "corporate welfare", the National Association of Regulatory Utility Commissioners (NARUC) – the association of the regulators which oversee and set our members' rates - went on record in a 2006 resolution assuring that neither shareholders nor owners of investor owned utilities are profiting from taxpayer investments when DW-SRF loans are used. NARUC further endorsed allowing private utilities access to the CW-SRF because NARUC members are in the position of assuring that the benefits of the CW-SRF would flow to customers, not utilities or share-holders.

Since the benefits of the SRF loans will flow to our customers and your constituents, why shouldn't the customers of privately owned utilities enjoy the same rate subsidies provided through the SRF as do those of municipally owned utilities? After all, customers of all systems, as taxpayers and constituents, are contributing to the SRFs. Unless subsidies are targeted to low-income individuals, Congress should not pick and chose which Americans to subsidize.

The provision granting private access to the DW-SRF has created opportunities for privately owned utilities to work with states and municipalities in assisting failing systems and/or under-served areas. It would be a shame and a mistake to continue to foreclose these potential success stories in the wastewater industry, especially in light of the many infrastructure challenges we face.

REJECT A RETURN TO OUTDATED GRANT PROGRAM

To address the infrastructure financing challenge there are calls from some to re-establish a federal grant program – similar to the EPA construction grants program of the 1970s. This grant program would be financed through a new trust fund and presumably some sort of new tax. With all of the financing options available to this Committee, the idea for a large, inefficient grant program should be disregarded.

Significant subsidies to all customers, like those that would be provided by grants, are not provided by the federal government to other essential utility services like energy and telecommunication, so why should water be water and sanitation services be treated any differently? As it is with other utility services, self-sustainability of utilities and the industry should be the goal and grants work directly against this. Grants to utilities should only be made in rare circumstances when all other options have been exhausted.

Grants send the wrong economic and conservation signals to consumers. Grants:

- Breed dependence on large federal subsidies,
- Encourage – even reward – bad management practices,
- Discourage innovation, public private partnerships, consolidation, and other creative business models,
- Because of overhead costs and inefficiencies, grants can cost the public more than other creative solutions would,
- Disguise the true value of water and wastewater service thereby encouraging overuse of this scarce resource.

ROLE OF THE PRIVATE SECTOR

The private sector has long played a vital role in our nation's water infrastructure and stands ready to do much more. Privately owned utilities have successfully provided service to the public since the early 1800s. It is a proven model. Another viable option is contract operations, wherein the municipality retains ownership of the asset; in this case a water utility and its infrastructure, but the management and operations of the facility are contracted out to a private company.

History has shown that the private sector can and does provide clean water services to customers efficiently while focusing on long term sustainability through market-based solutions. The broad range of public-private partnership models can be adapted to the unique needs of individual communities. All of this is done while maintaining accountability to the public and complying with all federal and state regulatory requirements. Studies by the National Association of Water Companies and others have shown that creative public-private partnerships and other arrangements can increase environmental compliance and simultaneously reduce operating costs by 10 to 40%.
It is obvious that with such cost savings, the need to look to the federal government for assistance is greatly reduced.

Privately owned utilities are on the cutting edge of technical innovation and research. Furthermore, in this time of climate uncertainty, the private sector's ability to attract experts to the industry with singular knowledge and experience in green practices and conservation is essential.

CONCLUSION

We appreciate the leadership role that this Committee has taken to address new solutions to age-old infrastructure problems. These are long-term challenges, and we look forward to working with the Committee to achieve long-term solutions that will allow the water and wastewater industries to meet their present and future infrastructure investment needs.