



**TESTIMONY OF**

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**ON BEHALF OF**

**CALIFORNIA ASSOCIATION OF SANITATION AGENCIES  
ASSOCIATION OF CALIFORNIA WATER AGENCIES**

**SUBMITTED TO**

**SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C.**

**HEARING ON BUILDING A 21<sup>st</sup> CENTURY INFRASTRUCTURE FOR  
AMERICA: WATER STAKEHOLDERS' PERSPECTIVES**

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## I. Introduction

Chairman Graves, Ranking Member Napolitano and Members of the Subcommittee on Water Resources and Environment:

On behalf of the California Association of Sanitation Agencies (CASA) and the Association of California Water Agencies (ACWA), I would like to thank you for the opportunity to testify today. We appreciate your leadership and the ongoing efforts of the Subcommittee to focus on the challenges associated with improving the nation's vital water resources infrastructure.

I am David Pedersen, General Manager of the Las Virgenes Municipal Water District (LVMWD) in Calabasas, California. In this role, I serve as the chief executive responsible for providing drinking water, recycled water and sanitation services to approximately 100,000 people in the westernmost portion of Los Angeles County. Previously, I served as the Executive Director of Operations for the Irvine Ranch Water District (IRWD) in Orange County, California, which serves about 300,000 people. In that role, I managed the operation and maintenance of IRWD's domestic water, recycled water, wastewater and natural treatment systems. I am a Professional Civil Engineer and received a Bachelor's Degree in Civil Engineering from the University of California, Irvine and a Master's Degree in Business Administration from the California State University, Long Beach. In addition to my professional responsibilities, I serve on the Scientific Advisory Board of the Association of Environmental Health and Sciences Foundation and the Board of Trustees for both the Southern California Water Committee and WateReuse California.

I appear before you today as a water/wastewater agency manager and a member of both CASA and ACWA. These two state associations collectively represent hundreds of local agencies in California on water quality and drinking water needs. Together, we serve 90% of the nearly 40 million people in California. Our core mission is the protection of public health and the environment through water distribution and effective wastewater collection, treatment and reuse. We provide safe and reliable water supplies to California's cities, farms, businesses and ecosystems. I would also note that LVMWD is a member of the National Association of Clean Water Agencies (NACWA).

By way of background, LVMWD is uniquely challenged with no local sources of water; all of its drinking water is imported by and purchased

from The Metropolitan Water District of Southern California. Fortunately, LVMWD was an early adopter of water recycling and initiated service to its first customer in 1972. Today, recycled water is used to meet 20% of the agency's overall demands, reducing its dependence on imported water. However, California's recent five-year, record-setting drought was a stark reminder that more needs to be done. LVMWD, together with its joint powers authority partner, Triunfo Sanitation District, is proposing an ambitious \$95 million project to purify its excess recycled water, currently released to the ocean, and produce a new source of drinking water. The *Pure Water Project Las Virgenes-Triunfo* would create up to 5,000 acre-feet of local, drought-resilient water supplies; reduce reliance on imported water sources; and nearly eliminate discharges to receiving waters.

In addition to demands for new infrastructure, agencies face significant problems associated with aging water infrastructure. These needs are mounting with each coming year and becoming increasingly expensive to address. Further, agencies in California and much of the nation face increasing costs for regulatory compliance, unpredictable weather conditions and general population growth. With these issues in mind, we appreciate your consideration of our recommendations to ensure continued progress on improving water quality, enhancing water supply and addressing the emerging challenge of resiliency. Please accept my testimony and the related documents as part of the formal record.

Today, I will outline four important issues for CASA and ACWA, as well as my own agency.

- First, we ask the Subcommittee and Congress to recommit robust levels of federal funding for water infrastructure. CASA and ACWA strongly support the State Revolving Fund (SRF) Loan Programs, Water Infrastructure Financing and Innovation Act (WIFIA) Program and other programs to provide federal funds for water infrastructure projects. Additionally, we ask that Congress update the allocation formula used to distribute Clean Water SRF Program funds to states.
- Second, we request that National Pollutant Discharge Elimination System (NPDES) permit terms be extended from five to ten years, while retaining existing U.S. Environmental Protection Agency (USEPA) and delegated state authority to reopen permit terms based on current law. This proposed change to the Clean Water Act would

provide significant benefits to states and local public water/wastewater agencies and would better reflect the technological and administrative realities of the modern era.

- Third, we recommend that Congress support integrated planning as an effective means for public agencies to address multiple Clean Water Act requirements. We believe integrated plans support more comprehensive water planning and lead to the implementation of water quality improvements to address the most serious threats, while stretching limited local resources.
- Fourth, we request that Congress avoid any potential inclusion of consolidation or reorganization of local water and wastewater agencies as a criterion for federal funding assistance or ranking projects for funding. Any consideration of consolidation or reorganization must recognize the purpose for which the agency was formed and the important role it serves in the community.

## **II. Water Infrastructure Assistance**

### **Adequate and Reliable Federal Funding is Essential**

CASA and ACWA support 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 Subcommittee for its decades of support of the State Revolving Fund programs. From inception, the SRF programs have 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 past several years of extraordinary drought conditions, the SRF programs served as a lifeline to construct water recycling facilities and other critical infrastructure. Without these funds, the impact of the 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 and ACWA agencies have relied on for decades. In California alone, estimates show a \$26 billion need for new wastewater infrastructure over the next twenty years; drinking water needs are estimated to exceed \$44 billion. These figures are in addition to the funding required to continue operation and maintenance of existing facilities and programs.

CASA and ACWA believe that the SRF programs should continue to serve as the backbone of water and wastewater infrastructure financing at the state level and call upon Congress to provide the programs with increased funding. The loan programs provide the most important and effective water infrastructure financing tools 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 programs are the engine that allows CASA and ACWA member agencies to continue their mission of protecting human health and the environment.

CASA and ACWA appreciate the Subcommittee's support to create the new WIFIA Program. Several of our members were recently invited by USEPA to submit full applications for qualifying projects and are eager to utilize this new water infrastructure financing tool. With its focus on large projects, we believe that WIFIA complements the SRF programs. CASA and ACWA look forward to working with Congress and the USEPA to ensure that this new program is successfully implemented.

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.

CASA and ACWA greatly appreciate your work on the Water Infrastructure Improvements for the Nation Act or WIIN. This new law includes provisions that will help ACWA member agencies work with the U.S. Army Corps of Engineers (Corps) to facilitate stormwater capture and groundwater

recharge projects. Additionally, it provides direction to the Corps to engage in environmental infrastructure projects, including water recycling, and directs the Corps to prioritize updating its water control manuals to better manage storage facilities, while recognizing increased variability in precipitation. We also look forward to working with the Congress and the Corps to ensure these new programs are successfully implemented.

We also urge continued and enhanced funding for the Corps Section 219 Environmental Infrastructure Program. This program, authorized through the Water Resources Development Act of 1992, helps communities construct needed water supply projects, wastewater treatment facilities and water recycling projects. It is an essential part of the solution needed to continue addressing our urgent water infrastructure issues.

Other federal programs also play an important role in helping water agencies finance infrastructure projects and compliment the goals and objectives of the SRF programs. For example, the U.S. Bureau of Reclamation's Water Recycling and Reuse Program and WaterSMART Program help western states stretch their limited water supplies. CASA and ACWA strongly support these programs and others to help water agencies continue to provide safe, reliable water to Californians. We need a diverse portfolio of solutions to addresses the full range of water and wastewater infrastructure challenges. A variety of financing tools, including a WIFIA-like program for other federal agencies, are needed to fund water projects.

### **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) entitled, *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 Subcommittee 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 18% higher if they were based on a 2012 water quality needs survey. Alternatively, if 2010 population data was used, California's equitable share should be 60% higher.

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 from 14.7% to 24.9% 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 and ACWA request 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 and ACWA strongly oppose 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. Recent infrastructure proposals circulated by the Administration have focused on privatization

and public private partnerships (P3s) as a means to spur investment. This approach could best be achieved by amending the tax code to allow for increased utilization of PABs, not through limiting the capacity of the SRF programs for essential public infrastructure by admittance of private entities.

### **III. 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.

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.

My agency, Las Virgenes Municipal Water District, serves as a prime example to illustrate the advantages of a ten-year permit term and the associated financial and environmental benefits. In July 2013, the USEPA established the *Malibu Creek and Lagoon TMDL for Sedimentation and Nutrients to Address Benthic Community Impairments*, creating some of the toughest nutrient standards in the nation for our discharges to Malibu Creek. Upgrades to our Tapia Water Reclamation Facility to meet the requirements were estimated to be up to \$160 million, only to continue releasing the very highly treated water to the creek. Rather than focusing on the short-term, we organized a stakeholder group in 2015 to evaluate the long-term options to address the challenge. Born from the process was the *Pure Water Project Las Virgenes-Triunfo*, a surface water augmentation

project that provides both a new source of drinking water and a regulatory compliance solution. The \$95 million project is estimated to take 13.5 years to complete and served as the key element of the NPDES Permit issued by the Los Angeles Regional Water Quality Control Board for the Tapia Water Reclamation Facility on June 1, 2017.

There are numerous other examples, including the Sacramento Regional County Sanitation District, which was required to spend more than \$1 billion to upgrade its treatment facilities and faced another permit renewal while in the middle of construction of the project required by the prior permit. These are individual examples to illustrate the need for 10-year permit terms, but there are hundreds of other agencies in California alone that could potentially benefit from this change in federal policy.

We urge the Subcommittee to amend the Clean Water Act, Section 402(b)(1)(B) to allow for 10-year permit terms.

#### **IV. Integrated Plans**

Another promising option to stretch limited water infrastructure resources and maximize the achievement of water quality benefits is the concept of integrated planning. These plans would enable agencies to work with the USEPA and states to develop strategic compliance approaches. The process creates efficiencies by allowing local agencies to take a holistic look at their clean water environmental priorities and obligations and prioritize investments in a way that makes the most sense. It is important to re-emphasize that such a process would be undertaken working in collaboration with both USEPA and state regulatory authorities, utilizing adaptive management approaches that can be re-evaluated to ensure the most efficient and beneficial water quality outcomes. Integrated planning provides a flexible framework for addressing local agency obligations, while best managing overall compliance costs.

CASA and ACWA are supportive of proposals recognizing the value of integrated plans, particularly those developed by our colleagues at NACWA in coordination with the USEPA. The Subcommittee is commended for its priority to support development of a consensus approach that would facilitate the use of integrated plans. We appreciate the Subcommittee's continued consideration of integrated planning as a valuable tool for CASA and ACWA members, and our equivalents, across the country.

## **V. Consolidation of Public Facilities**

Over the years, questions have been posed as to whether consolidation and reorganization of certain water systems could improve the delivery of water services. We are currently aware of proposals that would make review of consolidation options a condition of securing federal assistance. Consolidation might be appropriate to consider in certain limited instances. However, a broad-based, federally driven push for the consolidation of water systems runs counter to the decades of policy agreement that such decisions are best left to policy makers at the local level.

California may be unique in terms of the breadth of its special districts and the scope of their responsibilities, but we can provide some lessons as to the potential pitfalls of large-scale consolidation efforts, particularly those that do not originate at the local level. In California, we rely primarily on local agency formation commissions (LAFCOs) to review the role of special districts and evaluate needs for special district formation and/or consolidation. While not a perfect system, these LAFCOs represent the larger communities served and focus on local interests at the ground level. The established process takes into account local concerns with regional stakeholders and has the best interests of the communities served at its core. When consolidation is appropriate, the LAFCO process provides the best mechanism for evaluating and structuring the reorganization.

In addition, because of California's geographic and hydrological diversity, most water and wastewater systems, and the local districts that operate them, were created to address specific geographic and watershed-based needs. Efforts to pursue consolidation, particularly from the federal level, can be disruptive to local communities and the role of local water and wastewater agencies providing essential public health services. Most local agencies have invested tens or hundreds of millions of dollars in their infrastructure and communities. The value of any move toward consolidation depends entirely on the desired goals and outcomes of the effort, which must be clearly stated and understood. Before Congress or the Administration proceeds with specific initiatives related to consolidation, a study into the issue should be the first step to ensure informed decisions are made with goals and expectations that are adequately articulated.

## **VI. Conclusion**

I appreciate the opportunity to provide testimony on behalf of my agency, CASA, ACWA, and California's greater water and wastewater community.

In closing, we urge the Subcommittee to ensure that any water infrastructure policy preserves and enhances the federal commitment to provide financial assistance going forward. The SRF programs are central to achieving our mission of protecting human health and the environment, and a key component of our agencies' plans to enhance our clean water infrastructure. The importance of the SRF programs cannot be overstated, and we urge Congress to make a clear, dedicated commitment to fully funding the programs for years to come. These resources help fund essential projects in California, including badly needed infrastructure improvement, as well as recycled water production and distribution facilities. Additionally, the extension of NPDES permit terms from five to ten years would provide a significant opportunity for efficiency and modernization of our clean water regulatory approach, and we hope the Subcommittee, Congress and Administration will champion this change.

Thank you for the opportunity to testify. I would be pleased to answer any questions from Members of the Subcommittee.

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