



## **Testimony**

### **“Building a 21<sup>st</sup> Century Infrastructure for America: Improving Water Quality through Integrated Planning”**

**Subcommittee on Water Resources & Environment  
House Transportation & Infrastructure Committee**

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**by**

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and  
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## **Main Points**

1. Communities are facing growing challenges to meeting federal Clean Water Act (CWA) water quality compliance requirements, including wastewater and storm water management obligations. Tools like integrated planning provide needed flexibility for communities and regulators to address complex environmental problems together. Regulators at all levels should support states, cities, and communities by encouraging the use of tools that provide the ability to tackle the most pressing compliance issues first. Such prioritization ensures communities can take into account the promotion of public health and the environment in their compliance strategies.
2. Recommitting to and investing in our county’s infrastructure is currently a national, bipartisan focus. States and the U.S. Environmental Protection Agency (U.S. EPA) are working to identify how best to invest funds that may become available. Integrated Planning gives communities a tool to understand their needs, assess capabilities, and plan strategically will help those investments go further.
3. Integrated planning has been successfully piloted across the country. Despite successes and a 2012 U.S. EPA Integrated Municipal Storm Water and Wastewater Planning Approach Framework document that encourages its use as a tool, integrated planning has yet to be fully embraced. Uncertainty about consistent application has slowed its integration into planning processes. U.S. EPA guidance and examples are a good start, but additional legislative clarity would make integrated planning a more attractive and less risky option. Legislation formalizing integrated planning within the CWA would eliminate the uncertainty for communities that wish to consider it.

Chairman Graves, Ranking Member Napolitano, and Members of the Subcommittee, good morning. My name is Craig Butler, and I am Director of the Ohio Environmental Protection Agency. I appreciate the opportunity to testify today as the Water Committee Chair and an Executive Committee Member of the Environmental Council of the States (ECOS), a national, nonpartisan organization whose members are the leaders of the state and territorial environmental protection agencies across America. ECOS members include the leaders of your states' environmental agencies, the Louisiana Department of Environmental Quality and the California Environmental Protection Agency.

State agencies are at the front lines of environmental protection and are engaged daily with communities to assist them with balancing competing financial and regulatory priorities. Notably, communities large and small across the country are working hard to provide a wide array of municipal services, including delivering clean, safe drinking water, and managing and cleaning municipal wastewater and storm water, as required by federal, state, and local law and regulation.

Historically, wastewater management requirements under the CWA have been approached in silos, with communities directed or required to plan and expend resources on wastewater and storm water obligations independently. It has been clear for a long time that this segmented approach fails to consider how to strategically assess, and pace, the total compliance investment a community is making on water and storm water – sometimes resulting in unrealistic commitments and compromising other community health and environmental investment needs. Looking at these costs cumulatively allows communities to determine their best collective path

forward, with integrated consideration of household economic health, community borrowing potential, and public health and environmental protection goals.

**Communities Need the Ability to Prioritize to Maximize Constrained Resources.** According to a report by the Association of Metropolitan Water Agencies and the National Association of Clean Water Agencies, “today, local taxpayers pay for 95 percent of water and sewer infrastructure development, rehabilitation, and operating costs.”<sup>1</sup> This creates a large burden on communities, as it often becomes cost-prohibitive to address all water infrastructure and compliance needs simultaneously. As a testament to how communities continue to struggle to meet their compliance obligations under the CWA, in addition to all other necessary municipal services, let me share with you some Ohio data. In Ohio we have documented clean waste water needs that exceed \$14.5 billion over the next 20 years, including some communities that have multi-billion dollar consent orders to correct their combined sewer overflows. In addition to the big cities, we have communities ranging from medium to very small in size that have financial obligations to fix staggering problems with failing wastewater infrastructure. Coinciding with these increasing obligations, the proportion of household income dedicated to water and sewer bills is growing at a rate that outpaces inflation as measured by the consumer price index. These communities need help financially, and they need to have the ability to prioritize their problems and address them with flexibility.

Attention to infrastructure funding needs is also apparent at the state and federal levels. ECOS recently formed an infrastructure workgroup of state environmental commissioners to evaluate administrative and legislative proposals pertaining to infrastructure. In late March, an ECOS

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1 National Association of Clean Water Agencies and Association of Metropolitan Water Agencies. "The Impacts of Altering Tax-Exempt Municipal Bond Financing on Public Drinking Water & Wastewater Systems." 13 July 2013. Web. <[https://www.amwa.net/sites/default/files/AMWA-NACWA\\_MuniBondAnalysis\\_July13.pdf](https://www.amwa.net/sites/default/files/AMWA-NACWA_MuniBondAnalysis_July13.pdf)>.

inventory found that the top 20 water and wastewater projects per state “ready to go” in 2017, when combined, present a total infrastructure funding opportunity of over \$14 billion.<sup>2</sup> Given this great national need, ECOS supports integrated planning as an important implementation tool to make the most of those investments, and help communities leverage available resources strategically.

Given the pressure of limited funding at the national, state, and community levels, there is a pressing need to develop and provide financial and planning tools to help communities balance their obligations and meet environmental and public health objectives with constrained resources. ECOS Resolution 04-3: Small Community Challenges, “requests that U.S. EPA and Congress work with states and local governments to develop innovative strategies to address current and future small community drinking water and wastewater requirements.” Integrated planning is one such strategy.

**What is Integrated Planning?** An integrated planning approach offers a voluntary opportunity for a municipality to propose to meet multiple CWA requirements by identifying efficiencies from separate wastewater and storm water programs and sequencing investments so the highest priority projects come first. This approach can also lead to more sustainable and comprehensive solutions, such as green infrastructure,<sup>3</sup> that improve water quality and provide benefits to enhance community vitality. The integrated planning approach is not about changing existing regulatory or permitting standards or delaying necessary improvements. Rather, it is an option to

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<sup>2</sup> “ECOS Inventory of States’ 2017 “Ready to Go” Water and Wastewater Projects.” *The Environmental Council of States*. 22 Mar. 2017. <<https://www.ecos.org/documents/ecos-inventory-of-states-2017-ready-to-go-water-and-wastewater-projects/>>

<sup>3</sup> “Green Infrastructure.” U.S. Environmental Protection Agency, 10 May 2017. <<https://www.epa.gov/green-infrastructure>>.

help municipalities meet their CWA obligations while optimizing their infrastructure investments through the appropriate sequencing of work.<sup>4</sup>

**States are Demonstrating the Desire for Integrated Planning Progress.** Communities in Ohio and others across the country are voluntarily working on integrated planning. We are even seeing legislation at the state level, like in California where state legislators are working on a bill to amend the Porter Cologne Water Quality Control Act, which authorizes the California State Water Resources Control Board to implement federal and state water quality regulations, to include U.S. EPA's Guidance for Financial Assessment policy. This policy establishes a process to determine a community's capability to implement integrated water plans. This, among other examples, is indicative of the clear need and growing interest in this tool.

Even with broad acceptance of the use of integrated planning among regulators and communities, we have an opportunity to make it better and more accessible. The quickest and best opportunity to do that is to clearly define in the CWA that integrated planning can be used and is encouraged. While U.S. EPA has taken a good first step by developing a policy on Integrated Planning (2012 U.S. EPA Integrated Municipal Storm Water and Wastewater Planning Approach Framework), this policy is not consistently applied from state to state, or among U.S. EPA Regions – nor does policy have the effect of law.

Embarking on an integrated planning process requires a meaningful investment of time and energy for a community already balancing environmental and public health obligations. Nothing can be more discouraging than uncertainty over whether the plan will be accepted by regulators

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<sup>4</sup> "Integrated Planning for Municipal Stormwater and Wastewater." U.S. Environmental Protection Agency, 01 Nov. 2016. <<https://www.epa.gov/npdes/integrated-planning-municipal-stormwater-and-wastewater>>.

as an opening point for a dialogue. Clarity in the CWA and certainty of support from U.S. EPA would lessen the risk for communities wanting to invest time and resources in the process. While integrated planning has been an established tool, U.S. EPA has supported pilot projects and offered a framework for community use in 2012, limiting uncertainty through additional legislation would help communities more proactively bring integrated planning programs forward.

To minimize the uncertainty to communities, but still allowing the integrated planning approach to be used, Ohio prefers using a phased approach to addressing CWA requirements by utilizing NPDES permits, rather than judicial consent decrees, to implement CWA projects. NPDES permits, which are typically renewed every five years, can easily be modified to respond to changed economic conditions or project priorities. In addition, the NPDES process encourages collaboration rather than the conflict inherent in enforcement actions. Ohio has the lead on 72 of its 89 CSO communities. Ninety percent of these have Long-Term Control Plans implemented through NPDES permits, many of which embrace integrated planning to various degrees. The other 17 communities have or are negotiating federal consent decrees.

Two excellent Ohio examples include first, Springfield, Ohio, where we used a phased approach plan and implement critical wastewater upgrades through their NPDES permit. To avoid enforcement and litigation delays, the compliance schedule was incorporated into the NPDES permit where we jointly prioritized their projects to achieve a large amount of CSO reduction in a short period of time, and they had options to re-evaluate the plan at a later date.

Columbus, Ohio, is another clear and important example of integrated planning because they addressed CSO, SSO, and MS4 storm water needs in a phased approach, incorporated green

infrastructure and changed direction after the plan was approved. The changes were implemented through a permit modification.

**Providing Flexible Tools for Communities is Critical.** ECOS has always been a strong proponent of flexibility in state planning and implementation of delegated federal environmental programs and initiatives, and this flexibility should be extended to communities as well. Needs differ across communities and this is a tool for communities and regulators to approach complex challenges holistically. In addition to relieving stress on communities through the timing flexibility that integrated planning can provide, one of the great strengths of this tool for communities is the option to have additional compliance flexibility through permits, rather than being subject to consent decrees or other enforcement actions.

**Collaborative Planning Minimizes Challenges.** ECOS members attest to the importance of federal and state collaboration to respond supportively to the challenges that communities face in complying with the CWA. Regulators should work together to create opportunities for communities to plan collaboratively. Integrated planning encourages both discussions at the community level about effective solutions. Communities are often the best suited to assess these needs and shape their own priorities, and integrated planning equips them to go through that process. The process promotes conversations with U.S. EPA and regulators about challenges and options for overcoming them, and such early conversations can prevent litigation costs as a result.

**States' Role in Integrated Planning Legislation.** While this testimony does not address specific legislation on integrated planning, ECOS is happy to review any legislation and provide input from states. ECOS appreciates that members of both the House and the Senate are bringing this issue forward. I appreciate the work of my fellow Ohioans on this issue. Senator Portman is

a sponsor on Senator Fischer's S. 692, the Water Infrastructure Flexibility Act, and Representative Latta, is the cosponsor on the House version of that bill, H.R. 1971, introduced by Representative Smucker. A third bill, H.R.465 Water Quality Improvement Act of 2017 introduced by Representative Gibbs, also addresses integrated planning.

It's encouraging to see several Members of Congress looking at ways to make integrated planning more accessible and certain for communities. While many are cautious of making any amendments to the CWA, in this case a specific and focused amendment could add much needed clarity to benefit communities. Greater specificity in legislation regarding integrated planning will ultimately create more certainty, and encourage the use of this flexible and collaborative tool. We look forward to continuing to work with the Subcommittee, and commenting on the various bills as they proceed.

**Conclusion.** Mr. Chairman, Ms. Ranking Member, and Members of the Subcommittee, I thank you for the opportunity to discuss state support for integrated planning on behalf of ECOS with you today. I am happy to answer any questions.