

Statement of

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Mayor, Hattiesburg, Mississippi

On behalf of the National League of Cities

Before the House Transportation and Infrastructure Committee,
Subcommittee on Water Resources and Environment

*“Building 21st Century Infrastructure for America: Improving Water Quality
through Integrated Planning”*

May 18, 2017

Good morning, Chairman Graves, Ranking Member Napolitano and Members of the Subcommittee. I am Johnny DuPree, Mayor of Hattiesburg, Mississippi. I am here today on behalf of the National League of Cities (NLC), the oldest and largest organization representing cities and towns across America. NLC represents 19,000 cities and towns of all sizes across the country. I appreciate the opportunity to be with you during Infrastructure Week to highlight the importance of investing in our nation’s infrastructure and also to share our perspective and lend our support to two key policy frameworks that can provide local governments needed flexibility to make smart investments to protect water quality.

We applaud the U.S. Environmental Protection Agency (EPA) for partnering with NLC, the National Association of Counties and the U.S. Conference of Mayors in 2011-2012 to develop the *Integrated Municipal Stormwater and Wastewater Planning Approach* framework (“Integrated Planning Framework”). Building on that framework, we thank the Agency for partnering with our three organizations in 2012-2014 to develop the *Financial Capability Assessment Framework for Municipal Clean Water Act Requirements* (“Financial Capability Framework”).

Taken together, these two policy frameworks demonstrate an awareness of the challenges local governments face in meeting Clean Water Act (CWA) requirements, as well as the conflicts they face in balancing environmental protection with economic feasibility. With regard to affordability, flexibility, and the use of the permitting process within the integrated planning framework, we can minimize these conflicts and pursue the best solutions for the environment and our nation’s communities, residents and businesses. Additionally, with the consideration of information, such as socio-economic factors, in determining the financial capability of a community when developing compliance schedules for municipal projects necessary to meet

CWA obligations, communities have the opportunity to address the particularly high financial burden that water rates have on low- and fixed-income residents.

While the Integrated Planning Framework and the Financial Capability Framework have been positive steps by EPA to address the high costs of meeting CWA regulatory requirements, there is more work to be done to ensure that these policy frameworks are useful tools for our communities and are implementable in communities across the country. I will discuss some ways of improving both frameworks within the context of the challenges and opportunities that we are facing in Hattiesburg in meeting CWA requirements, upgrading our aging infrastructure and protecting our water resources.

As you will hear from me today, cities have come a long way in tackling environmental issues, but we have also been burdened by unfunded mandates associated with these actions and others. As city budgets struggle to recover from the Great Recession, many of us are making tough choices about the services and maintenance that we can afford and in some instances taking actions to borrow and finance funds to addresses critical needs. Moreover, proposed federal budget cuts to critical programs would further reduce our ability to meet the everyday needs of our community, as well as add to the burden that unfunded mandates have on our city. This is not a sustainable situation and we urge Congress to reject the proposed cuts put forth by the Trump Administration.

Economic Benefits of Investing in Water Infrastructure

We as city leaders know that if we do not take care of our water resources, we will undermine the economic underpinnings of our cities, states and nation. The availability of clean water is the backbone of a modern society and a livable community, and the nation's water infrastructure systems are assets that support this by protecting public health, as well as the nation's precious water resources. To the extent that America's water infrastructure is properly maintained and can adequately meet the needs of our communities, it will help ensure the long-term vitality of our communities.

Despite the economic competitive advantage that the network of infrastructure in America's cities provides, our nation's investments have not kept pace with the needs of our communities in replacing and maintaining infrastructure that in some cases was built more than a century ago. America can no longer afford the cost of inaction.

This year, a study by the American Society of Civil Engineers (ASCE) estimates that there is a \$2 trillion infrastructure needs gap in the U.S. This infrastructure deficit costs the average American family \$3,400 annually. Specifically, ASCE estimates that the needed investments for water infrastructure are \$82 billion per year over the next 10 years to meet projected capital needs.¹

Make no mistake – cities are already paying their fair share of infrastructure investment. Local governments invest \$1.7 trillion dollars annually on services such as transportation, public safety

¹ American Society of Civil Engineers, *2017 Infrastructure Report Card*, available at: <http://www.infrastructurereportcard.org/>

and education. In 2014, local governments invested over \$115 billion in water and sewer infrastructure,² representing over 95 percent of all water and wastewater infrastructure investments.

Closing the infrastructure gap will provide a great economic benefit to our country and our communities. A recent study by the Value of Water Campaign found that closing the water infrastructure investment gap would result in over \$220 billion in total annual economic activity to the country and would generate and sustain approximately 1.3 million jobs over the 10 year period.³

Hattiesburg: Affordability of Meeting Clean Water Act Requirements

Background: Water Infrastructure Challenges

The City of Hattiesburg was incorporated in 1884 with a population of 400 people. As a center of the lumber and railroad industries, we derived the nickname “The Hub City.” In the 1950’s and 1960’s, with a growing economy, the city saw a large increase in population and industry. Companies like Hercules, which produced rosins, paper chemicals and agricultural insecticides, were at their productive peak. During the company’s heyday, the plant was one of the city’s biggest employers with over 1,400 workers. The housing market was quickly expanding, and as a result, public infrastructure was extended to meet the growing demands. Today, we are a city of approximately 48,000 residents, but on an average business day, we provide services for an estimated 120,000 people.

Positioned at the fork of the Leaf and Bouie Rivers and located within two different watersheds, the City of Hattiesburg is facing a number of water infrastructure and water quality challenges that must be addressed to ensure that our citizens have safe drinking water and a safe environment. This includes addressing sanitary sewer overflows, upgrading our wastewater treatment facility and modernizing our drinking water system, which I discuss below.

First, the City of Hattiesburg operates more than 300 miles of public sewers that convey about 13 million gallons per day of flow from residences and businesses to the city’s two wastewater treatment plants. In evaluating the condition of the system, it is estimated that the construction projects to upgrade the wastewater collection system and reduce sanitary sewer overflows will cost in excess of \$46 million. Moreover, adopting a Capacity, Management, Operation and Maintenance program could cost an additional \$1 million per year. The city has begun implementation of some of these programs such as development of a Sanitary Sewer Mapping Program, Sewer Overflow Reporting Program, Fats, Oil and Grease Program, Gravity Sewer Inspection Program and Flow Monitoring Program, but we are likely facing a consent decree on our sanitary sewer overflow issues, which will come with additional costs.

² U.S. Census Bureau, *2014 Annual Surveys of State and Local Government Finances*, available at: <http://www.census.gov/govs/local/>

³ Value of Water Campaign, *Economic Benefits of Investing in Water Infrastructure*, available at: http://thevalueofwater.org/sites/default/files/Economic%20Impact%20of%20Investing%20in%20Water%20Infrastructure_VOW_FINAL_pages.pdf

Second, large-scale improvements are also needed at our waste collection and treatment system. The City of Hattiesburg is currently in a 3rd amended agreed order with EPA and the Mississippi Department of Environmental Quality to ensure compliance with wastewater permits at the treatment facility known as the South Lagoon. The South Lagoon facility is a 400 acre, aerated lagoon facility that has been in operation since 1963. Initially, the agreed order required the city to construct an alternative treatment system. Thus far, the South Lagoon has been able to meet or exceed the required permit limits of the latest National Pollutant Discharge Elimination System (NPDES) permit. However, future tightening of these permit limits will make the South Lagoon system obsolete and will require the construction of a new treatment facility, which could cost taxpayers over \$150 million.

The city is currently in negotiations to adopt a new project schedule which would extend the deadline for having a new wastewater treatment system. A new project schedule would provide our city and our residents more time to plan and save for the expenditures that will eventually be needed to address Hattiesburg's long-term wastewater treatment needs.

Finally, as with our wastewater collection system, a majority of the city's water treatment and distribution system is aging. The water treatment plants, which supply the city's drinking water, are in need of modernization. These upgrades are under design and are estimated to cost over \$9 million. Additionally, the city has approximately 28 miles of undersized (less than 4 inches in diameter) water mains; water mains that require a fire hydrant must have a diameter of at least 6 inches. Moreover, the city has 25 miles of water mains that are constructed of asbestos cement piping that was part of a rural utility that was annexed by the City of Hattiesburg in the 1990s. The estimated cost for these water main replacements is approximately \$50 million.

Affordability

In the past 5 years, the city has spent over \$40 million in bond funds to improve the wastewater collection system and water treatment and distribution system to meet our requirements under the Clean Water Act and Safe Drinking Water Act. We are projected to spend an additional approximately \$30 million in the coming 5 years, but this will still not be enough to meet all of our needs and requirements. Additionally, over the past 10 years, the city implemented a series of rate increases, the highest of which was a 20 percent increase last year. This raised the average bill from \$43 to \$51 per month, with future rate increases on the horizon. With approximately 37 percent of the citizens of Hattiesburg living at or below the poverty level, these dramatic increases in rates are unaffordable to over one-third of our residents. Without alternate funding sources and additional flexibility, these regulatory requirements combined with the deterioration of our system will require our citizens to bear additional financial burdens.

Hattiesburg is committed to investing in our water resources where the science, impacts, and benefits justify. We struggle, however, with the reality that each federal regulatory program and federal mandate is assessed on communities independent from other program requirements. These costs are all paid by the same people, our taxpayers, and it is an unfair burden.

Fortunately, we've recently been able to provide our citizens with some relief. Part of the large rate increase was to fund the purchase of land and the construction of a new land application wastewater treatment system. Last month a decision was made to abandon the land application

concept, therefore anticipated construction costs of a new system and the associated rate increases have been delayed, for now.

It is important to note that the capacity of city government to respond to federal demands is limited. Cities in Mississippi must seek legislative approval to reap the benefits of local option sales taxes, local motor vehicles fees, and public-private partnerships to help pay for its infrastructure needs. Most cities have access to only one or two streams of revenue. Moreover, states or voters in many areas have imposed caps on the revenues cities are able to raise, often by limiting increases in the property tax. NLC's annual *City Fiscal Conditions*⁴ survey research shows that city government revenues have not fully recovered from the Great Recession. The recovery of city finances has been protracted—10 years out, general fund revenues are still below pre-Recession levels. Cities have responded by making tough decisions to reduce services and lay off employees. As of this month, local government payrolls are still 58,600 jobs below their pre-Recession high.

Green Infrastructure as a Solution

Last October, Hattiesburg was announced as one of five cities in the nation selected for a green infrastructure pilot program through EPA. With technical assistance from EPA, we will develop a long-term stormwater plan to improve water quality as we revitalize a portion of our city known as Midtown. Little Gordon's Creek cuts through the center of Midtown and is a tributary to Gordon Creek, which discharges to the Leaf River that is impaired due to fecal coliform and nutrient pollution. This plan will extend the life of our infrastructure, save the city and taxpayers money, and will hopefully serve as an economic development tool in attracting businesses. The City of Hattiesburg is proud to be one of the cities selected for this pilot program and to serve as a model for other cities developing an integrated stormwater plan.

With the pilot program announcement, EPA released a draft guide, *Community Solutions for Stormwater Management: A Guide for Voluntary Long-Term Planning*. The document describes “how to develop a comprehensive long-term community stormwater plan that integrates stormwater management with communities' broader plans for economic development, infrastructure investment and environmental compliance. Through this approach, communities can prioritize actions related to stormwater management as part of capital improvement plans, integrated plans, master plans or other planning efforts.”

Mr. Chairman, this is exactly what cities and local governments have been seeking under the Integrated Planning Framework and the Financial Capability Framework that we developed with EPA several years ago—the ability to work with our state and EPA to prioritize investment in wet weather overflows and flooding collectively, rather than individually; the ability to comprehensively deal with wastewater and stormwater investments as well as unfunded mandates; the ability to address complex problems through innovative solutions.

Overview: Integrated Planning and Financial Capability

⁴ National League of Cities, “City Fiscal Conditions 2016,” October 16, 2016. Available at: <http://www.nlc.org/resource/city-fiscal-conditions-2016>

The Integrated Planning Framework provides communities with the ability to develop compliance schedules and prioritize funding for the projects that have the greatest positive impact on water quality to meet the goals of the CWA at a given time. By using an integrated approach, a community can produce a viable plan that selects from among several options to afford the greatest environmental benefit and address regulatory requirements, while reducing their financial impacts.

The Integrated Planning Framework makes a long-term plan of integrated stormwater and wastewater projects aimed at meeting the numerous CWA requirements more feasible. By allowing cities to prioritize all projects by first funding those that will provide the greatest overall benefit, we will be able to stretch our limited financial capacity.

Recognizing that a local government's integrated plan is intrinsically tied to its rate-payer base, local governments entered into an affordability dialogue with EPA. The dialogue stemmed from the growing concern that costly water and wastewater mandates were dramatically impacting low- and fixed-income residents. The consensus of local officials is that the current reliance on two percent of median household income for wastewater and combined sewer overflows controls is a misleading indicator of a community's ability to pay, and often places a particularly high burden on residents at the lower end of the economic scale.

The Financial Capability Framework allows consideration of additional information that may be relevant in negotiating schedules for permits or consent decrees. This includes residential indicators such as income distribution, poverty rates and trends, and sewer and water usage, as well as community indicators, such as population trends, unemployment data, and dedicated revenue streams or limitations.

However, the Financial Capability Framework maintains reliance on EPA's "Combined Sewer Overflows—Guidance for Financial Capability Assessment and Schedule Development" (EPA 832-B-97-004), dated February 1997, and two percent of median household income as the threshold for determining the affordability of rate or tax increases required to meet a regulatory requirement. This figure, however, often does not provide an accurate indicator of what all citizens across the economic spectrum of a community can afford.

Therefore, we recommend that the guidance be revised to eliminate reliance on median household income as the critical metric for determining investment level consistent with the Agency's 2014 Financial Capability Framework.

Flexibility through Permits

A flexible approach to integrated planning will allow communities to prioritize among all the needs and financial commitments of the community. EPA and the states can and should allow flexibility through the use of permits with regard to time, implementing best management practices, and coordinating and prioritizing projects between different regulatory programs.

With regard to permits, implementation of the integrated planning framework can most efficiently and effectively be achieved through the permitting process, rather than through the use of consent decrees. The states have the authority to implement long-term compliance

schedules through the NPDES permit program, and therefore judicial consent decrees and EPA administrative orders are unnecessary. We reiterate this concern because the integrated planning framework leaves the door open to consent decrees as a means of implementation.

We recommend and request the ability to extend permit cycles to longer timeframes to align with realistic and achievable goals of water quality improvements, which would allow longer term and lower rate impact to fund regulatory improvements. Expanding permit cycles would give cities time to make the right decisions, time to implement solutions, time to see the results, and if necessary, time to adjust implementation if we are not seeing the results we desire or if there is a better way of reaching our goal. And as cities' fiscal recovery continues to lag, we need time to restore our local economies. Explicit provisions within the integrated planning framework that allow for more time to implement related regulatory projects under several separate but potentially related permits would also provide needed flexibility.

Related to this is the time and flexibility to implement best management practices, which may require a longer planning and implementation horizon, but may ultimately be more robust, effective, sustainable and affordable for our residents. For example, we know today that one of the most effective and recommended means for preventing stormwater pollution from entering our waterbodies is to construct and retrofit traditional "curb and gutter" with local drainage swales that can both filter water and reduce flooding. Yet, most of the entire country spent the last 50 years installing curb and gutter systems. It will take decades for communities to plan and install this more effective control in coordination with other street improvements. This kind of flexibility in allowing communities the time to study, plan, fund, and implement the best solutions, including structural and non-structural solutions, for the environment and water quality is essential to effective implementation and success of the Integrated Planning Framework. Additionally, we encourage EPA to proactively publish and share integrated planning best management practices from across the country with all communities who are or are interested in pursuing an integrated planning approach.

Moving Forward – Improving the Frameworks

To help achieve the goals of the Integrated Planning Framework, we ask you to codify the EPA framework, including calling for a reassessment of the 1997 Financial Capability Guidance, as an affordable, flexible program that all communities, both large and small and urban and rural, have an equal opportunity to take advantage of and be successful in implementing. Additionally, to be effective, there must be consistency, guidance, and assistance from the various EPA regions for all communities pursuing this opportunity.

We are pleased that members in both the House and the Senate have introduced legislation to this end. The *Water Quality Improvement Act* (H.R. 465), sponsored by Representatives Bob Gibbs (R-OH) and Steve Chabot (R-OH) and the *Water Infrastructure Flexibility Act* (S. 692, H.R. 1971, H.R. 2355), sponsored by Senators Deb Fischer (R-NE), Sherrod Brown (D-OH) and Benjamin Cardin (D-MD), and Representatives Lloyd Smucker (R-PA), Bob Latta (R-OH), David Joyce (R-OH), Grace Napolitano (D-CA), Cheri Bustos (D-IL), and Marcia Fudge (D-OH) would address one of the biggest missed opportunities of the Integrated Planning Framework—that few communities nationwide have developed, approved and implemented an

integrated plan. NLC thanks each of you for your leadership on this issue. We support these bills and urge Congress to quickly approve them.

While all of these bills are steps in the right direction, there are certain provisions that we believe give cities greater confidence and assurances as they move forward with an integrated plan. Specifically, we urge Congress to support provisions that stipulate that the effluent limitations within a compliance schedule in an integrated permit must be technically feasible and economically affordable. We also urge you to include a provision that will clearly define the threshold at which financial impacts on ratepayers trigger a consideration of flexibility to address those impacts. We believe these provisions are essential to ensuring that the limited financial resources of our citizens and our cities are put to the best possible use. Without these provisions, there is less specificity for EPA and less certainty for communities that they will not continue to be burdened by federal requirements that might be technological feasible, but economically unaffordable.

Water rate and tax increases placed upon our residents to fund regulatory mandates should be reasonably affordable, and affordability within a community should be assessed based on impacts to the lowest economic level. Regulatory programs and permits with financial implications should only be imposed after taking into account a community's potential or existing financial needs and commitments. In our view, increasing fees to accommodate regulatory requirements that do not provide the overall benefits desired are difficult to justify to financially strapped residents; that is precisely when government loses credibility.

Finally, with regard to regulatory program coordination, we believe the Integrated Planning Framework administration should include pending drinking water treatment requirements under the Safe Drinking Water Act, in addition to sewer and stormwater treatment under the CWA. Cities would benefit from a national policy framework that allows for a similar integrated and coordinated approach.

Additional Challenges: Funding for Water Infrastructure

Addressing the policy challenges is just one part of the equation to addressing our nation's water-related challenges. Addressing our water quality needs is important, and while substantial in its own right, it is merely part of a myriad of funding priorities that all communities are struggling to meet. The lack of quality water infrastructure threatens local and regional economies, the environment, and public health and safety. Like other communities, much of Hattiesburg's water infrastructure is beyond its expected design life and is in need of substantial funding to address our existing system needs. Therefore, as the Administration and Congress work to develop an infrastructure proposal, we call on you to support existing mechanisms for financing water infrastructure projects, as well as direct funding to local governments.

Within the context of an infrastructure proposal, we ask the Administration and Congress to support the following local government principles:

- America's cities are paying their fair share: over two-thirds of all public infrastructure projects in the United States are locally financed by municipal bonds.

- While the demands on America’s infrastructure grow each year, federal funding has fallen to historically low levels, placing the economic and physical well-being of our cities and towns in jeopardy.
- City leaders are best positioned to identify where infrastructure needs are greatest, and should be given a stronger voice in how limited federal dollars are spent.

Specifically, we ask Congress to support an infrastructure package that:

- Protects the tax exemption for municipal bonds;
- Includes direct funding for local governments and uses existing mechanisms and programs for funding and financing;
- Includes transportation, water and broadband;
- Is forward looking and makes investments that are built for the 21st century;
- Is accessible for small and large cities; and
- Includes workforce development.

Finally, specifically as it relates to water infrastructure, NLC calls on Congress to pass legislation that will:

- Reauthorize and provide federal funding for water infrastructure improvements through the Clean Water and Drinking Water State Revolving Loan Fund (SRF) programs;
- Provide full appropriation to the Water Infrastructure Finance and Innovation Act (WIFIA) and permanently establish the program beyond a pilot program;
- Remove the federal volume cap on tax-exempt bonds for water and wastewater infrastructure projects;
- Establish a comprehensive and flexible integrated planning and permitting process for local water, wastewater and stormwater management; and
- Clarify that rebates provided by local water utilities to homeowners for water conservation and water efficiency are not subject to a federal income tax.

I want to thank Transportation and Infrastructure Ranking Member Peter DeFazio (D-OR) and Water Resources and Environment Subcommittee Ranking Member Grace Napolitano for introducing the *Water Quality Protection and Job Creation Act*, which addresses the aging water infrastructure in communities nationwide and helps communities make investments in projects that support our nation’s clean water. We are please to support this bill that would reauthorize and increase the authorization level for the Clean Water State Revolving Loan Fund to \$20 billion over five years. Additionally, we support provisions that authorize appropriations for sewer overflow control grants for municipalities to aid in pollution control and help protect our nation’s water resources

In closing, on behalf of the National League of Cities and the City of Hattiesburg, I thank you for the opportunity to submit this testimony on a most timely issue. I look forward to your questions.