



Statement for the Record

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American Public Works Association

U.S. House of Representatives Transportation and Infrastructure Committee
Subcommittee on Water Resources and Environment

Hearing on:

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

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The American Public Works Association (APWA) is pleased to provide the following statement to the House Transportation and Infrastructure Committee's Subcommittee on Water Resources and Environment hearing focused on integrated planning.

Integrated Planning and Permitting – A Needed Option for Local Governments

Good morning, and thank you, Chairman Graves and Ranking Member Napolitano for holding this important hearing and inviting me to participate. My name is Bill Spearman and I am a water resources engineer from Saluda, South Carolina, which is located in Congressman Jeff Duncan's District. I have over 40-years of experience in stormwater and watershed management. I also currently serve on the Board of Directors for the American Public Works Association as the Director-At-Large for Environmental Management. APWA is an organization dedicated to providing public works infrastructure and services to millions of people in small, large, rural, and urban communities across our country. Working in the public interest, APWA's nearly 30,000 members plan, design, build, operate and maintain our nation's vast infrastructure assets, which are essential to our nation's economy and quality of life we all enjoy. Incidentally, next week, May 21-27, APWA will mark its 57th year of commemorating National Public Works Week.

APWA members, and the local governments and utilities they serve, understand that clean water is important for the economic, social and environmental health of their communities. It is necessary for all manner of human activities: agriculture, manufacturing, and simple subsistence. As such, we must protect this vital resource for public health, and our quality of life. Water supplies must meet our present needs while ensuring the ability of future generations to meet their needs. Protecting the world's surface water and groundwater is essential. Sustainable usage of water requires protection of all natural resources from activities detrimental to water quality. While the Clean Water Act (CWA) has made tremendous progress improving water quality in the United States, we continue to face many challenges caused by population growth, urbanization, industrial and commercial activities, agricultural practices, and other aspects of modern life.

However, these local communities also recognize that protecting water quality is only one of the issues competing for their limited financial resources. These other issues include police and fire protection, streets and roads, parks and public spaces, and many other local concerns and needs. APWA and its members share the mission of protecting their water resources while meeting the other needs of their citizens and providing the greatest value to their constituents. This includes maintaining and adequately funding the beneficial uses of their water resources.

Integrated Planning and Permitting

APWA, and its members, recognize the need for flexibility in the planning and permitting process to address the differences in communities' local water quality problems, goals, and financial capabilities. One size does not fit everyone and there must be numerous tools for local communities to use. Integrated planning and permitting should be one of those tools.

However, there are issues that must be addressed in the current integrated planning and permitting processes and procedures to ensure that they include the flexibility needed by the individual communities. The original integrated process was championed by local governments and utilities primarily focused on alternative paths to address water quality issues associated with wastewater discharges and combined sewer overflows, or CSOs. In fact, many of the initial listening sessions held by the Environmental Protection Agency (EPA) on integrated permitting included no representation from entities that held only National Pollutant Discharge Elimination Systems, NPDES, MS4 (municipal separate storm sewer system) permits.

Until now, the use of integrated planning and permitting has been predominately driven by administrative orders or consent decrees instead of requirements in NPDES permits. The flexibility permits allow are better able to address the needs of individual communities as opposed to consent decrees which may result in penalties and fines when a community is unable to meet stipulations outlined within a consent decree in a specified time period. Hopefully, this needed change will be included in any future policy or guidance.

There are substantial differences in NPDES permit requirements for wastewater treatment systems and municipal MS4 permits. Most wastewater system permits include water quality based effluent limits (WQBELs) and the MS4 permits are based on the "maximum extent practicable" (MEP) approach. Integrated permits must recognize these differences and provide options for local communities and utilities to use in addressing these distinctions. Potential options could be the use of other processes found in EPA's 2006 Guidance for Assessment, Listing, and Reporting Requirements such as the Category 5R option (in lieu of a Total Maximum Daily Load (TMDL) for waters with an identified impairment listed on the 303(d) list. This framework should include an iterative process that meets the MEP standard used in traditional MS4 permits for stormwater discharges and not be held to a specific time table for improvement.

In all cases, local government agencies, businesses and residents in the affected watershed should participate in setting regional environmental priorities, aiming for the highest practicable degrees of water quality improvement. It goes without saying that the inclusion of all concerned parties in a successful integrated program requires comprehensive public education on protecting and enhancing watersheds.

However, there are elements in EPA's guidance, and legislation introduced in Congress that should be reviewed to reduce inefficient or unnecessary uses of the communities' resources:

- The strength and benefit of the integrated planning and permitting process should be in its flexibility – demonstrating receiving water quality benefits while improving the

reasonableness of all water infrastructure planning and permitting (including stormwater, wastewater, and water supply and delivery), necessary to protect people and the environment.

- Under the integrated permitting approach, the ultimate goal should not be the delisting of impaired stream segments through WQBELs, but rather delisting through monitoring, modeling, and implementation of adaptive management techniques that are in line with the MEP standard. So long as positive results are being attained within a reasonable time frame, flexibility must be paramount, with local communities driving the process and making their own choices on the best way to achieve water quality improvement goals.
- It is extremely important that any use of an integrated permitting approach does not become burdensome to public administrators to implement and/or monitor.

Financial Capabilities

The Financial Capability Assessment Framework issued by EPA in November 2014 recognizes the ever increasing financial burden on regulated communities for CWA compliance. While previous financial capability assessments focused on combined sewer system, the new guidance recognizes the cost of other municipal programs, such as sanitary sewer overflows, on-going asset management or system rehabilitation programs, separate stormwater collection systems and other CWA obligations required by state or other regulators.

APWA supports the consideration of costs for all CWA obligations during the permitting or enforcement process, including the development of a definitive affordability model or regional affordability indexes.

Also, APWA supports a priority setting process that allows governments and watershed managers enhanced flexibility in scheduling and standard-setting within the context of economic, technical and social capabilities. A priority setting framework must support water quality managers using appropriate data and tools, promoting inclusive resource protection, conducting economic and risk analyses, considering cross-media impacts and accounting for regional growth. Water quality priorities and solutions must be established regionally to best address water quality impairment from local and outside sources. The engineers, scientists and other experts should collaborate in priority setting with the general public and stakeholders to ensure long-term support for and implementation of water quality programs. Established priorities should take into consideration the need for inclusion of water recycling and expansion of protection for natural resources. Plainly, priority setting would allow communities to focus their resources on where the greatest need is, allowing for improvements in water quality where it is most needed.

I would like to close out my testimony by sharing a current case study of the Reedy River Nutrient TMDL in Greenville County, South Carolina

Greenville County is located in the upper piedmont area of South Carolina. It encompasses 795 square miles and has an estimated population of over 490,000 residents. Three major rivers have

their headwaters in Greenville County – the Saluda, the Reedy and the Enoree. The Reedy River actually flows through the City of Greenville and is the focal point for the re-development of the downtown area. Greenville was also the center of the textile industry for many years and many of the textile mills were located on or adjacent to the Reedy River.

The South Carolina Department of Health and Environmental Control (SCDHEC) completed the process of promulgating numeric nutrient criteria for its waters with the adoption of numeric nutrient criteria for lakes of forty acres or more in the 2001 triennial review of the water quality standards regulation--South Carolina Regulation 61-68, Water Classifications and Standards (R.61-68). These criteria created a “one size fits all” scenario without regard to the assimilative capacity of the waterbody or its designated use. SCDHEC also scaled back its monitoring program in 2008 due to budget cuts which further impacted their programs.

One lake affected was Boyd Mill Pond located on the Reedy River. Based on periodic monitoring data and emphasis following an algal bloom in the Reedy River Arm of Lake Greenwood, the SCDHEC began the process of developing a phosphorous TMDL for Boyd Mill Pond. With very limited data and many assumptions, SCDHEC released the draft TMDL. During this period, the three NPDES permit holders affected by the TMDL – Greenville County, City of Greenville and Renewable Water Resources (ReWa) immediately questioned the results of the modeling effort and the waste load reduction requirements.

The three permittees were willing to go to court to challenge the requirements but they understood the importance of water quality to their citizens and customers and decided to pursue the Category 5R option (in lieu of a TMDL) for waters with an identified impairment and invest the funds that they would have spent on litigation, on developing an integrated planning process to achieve the water quality goals in lieu of the requirements of a TMDL. Currently, several committees and outreach groups are working towards those goals through a coalition under the umbrella of the Reedy River Water Quality Group (<http://cleanreedy.org>).

This 5R effort should be a success story that other communities will want to study to see how they can implement a similar process to address their water quality issues. This is a great example of a group of affected permittees working together to solve a water quality issue.

In Conclusion

In closing, local governments and utilities need flexibility in meeting their water quality issues in a reasonable and financially prudent manner. We need a better balance, and recognition that water quality issues are not the only issues that affect the public health and safety in our communities. Public Works professionals are up to the challenge of satisfying community needs with limited resources. We encourage the Committee to continue to work on the integrated planning and permitting effort to ensure scarce taxpayer funds are well-spent and communities’ water resources are protected. APWA and its members stand ready to be a resource to you and to assist with this process. Thank you.