

**American Rivers \* Clean Water Action \* Coalition for Alternative  
Wastewater Treatment \* Food and Water Watch \*  
Natural Resources Defense Council**

The Honorable John J. Duncan, Jr.  
Chair, Water Resources and Environment Subcommittee  
House Committee on Transportation and Infrastructure  
B-376 Rayburn House Office Building  
Washington, DC 20515

February 10, 2006

RE – Clean Water Trust Act

Dear Chairman Duncan,

We are writing to applaud you for introducing HR 4560, the Clean Water Trust Act. We appreciate the effort that you and your staff have expended to craft and introduce this important legislation. As you know, we are supportive of a dedicated source of substantially increased federal funding for clean water. Regrettably, while water infrastructure needs have grown, funding for clean water, particularly the Clean Water State Revolving Fund (CWSRF), has been declining. We believe that the CWSRF must be restored, enhanced, and better targeted to address the most important existing water quality needs. A dedicated trust fund is an important step to ensuring adequate funding for clean water in the future.

The National Association of Clean Water Agencies (NACWA), working with a diverse group of stakeholders, known as the Water Infrastructure Network or WIN, has persistently pursued this issue, and in September 2005, produced a draft consensus bill, the Clean Water Trust Act of 2005 (see attached). While HR 4560 reflects many of the programs set forth in the WIN draft, there remain several important environmental and public health and public participation and accountability principles that were agreed upon but which were not included in HR 4560. There are several such essential components of the WIN draft bill that we would like to see restored to strengthen the bill and enable all of the undersigned groups to endorse its passage.

Specifically, we are concerned that HR 4560 includes 1) language to ensure that funds are used to address existing needs, not sewer line extensions and additional capacity that would fuel sprawl development; 2) inadequate funds directed to distributed, non-structural storm water and wastewater approaches, 3) weak public participation provisions, and 4) an unintentional incentive for privatization of waste water utilities.

We would like to work with you and your staff to find a way to make the following changes:

1. *Strengthen the No Subsidy for Growth Language* – The provision prohibiting assistance to new communities from the WIN bill has been omitted and replaced by weaker language recycled from previous SRF reauthorization bills requiring that communities are “existing” and that the funds will address an “adverse environmental condition” (HR 4560 §201), which present major loopholes that would allow funds to be used for sprawl development.. The language from the WIN bill is more effective and should be reinstated. It would place an additional limitations on assistance (WIN §205(d))(33 U.S.C. 1382(b)):

“(12) the State will not provide financial assistance under this section if the project for which the assistance is provided will provide substantial direct benefits to new communities, new subdivisions, or newly developed urban areas.”

2. *Increase funding for and encourage distributed and non-structural stormwater and wastewater* – In HR 4560, the only reference to low impact development (LID) appears as one type of eligible watershed pilot project (§104). This is in contrast to WIN’s draft where the importance of non-structural approaches was emphasized throughout the bill in a number of programs and processes. We believe that it is important to restore WIN’s provisions to increase the use of non-structural approaches and to guarantee the federal government’s role as a leader in research and innovation in the areas of non-structural and distributed stormwater and wastewater. The consensus language from the WIN bill was integrated in the following areas:

- Inclusion in activities eligible for assistance (WIN §202)(33 U.S.C. 1383) – “(6) implementation of measures to control, treat, capture, or re-use municipal stormwater, including measures that provide treatment for or that minimize sewage or stormwater discharges using decentralized or distributed storm water controls, decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration;”
- Funding subsidy (WIN §205)(33 U.S.C. 1383) – because stormwater projects are not associated with a revenue stream, this provision is important to make such projects feasible– “(i) Principal Subsidy – (1) In General – A state may provide additional subsidization to selected loan recipients (including forgiveness of principal) to implement alternative processes, materials, and techniques (including non-structural protection of surface waters, new or improved methods of waste treatment, and pollutant trading) that may result in a cost savings or increased environmental benefit when compared to standard processes, materials and techniques.”
- Creation of Grant Set Aside within Newly Established Clean Water Technology Development Program (WIN §301) – “(2) Set-Aside for

Green Technology – No less than \$50,000,000 of the amount made available under this section shall be for projects that primarily utilize one or more of the following approaches: decentralized or distributed stormwater controls, enhanced decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration.”

3. *Improve Public Participation Requirements* – WIN’s bill enhanced public participation through creation of review committees to evaluate the state priority process and projects, while HR 4560 deemphasizes public participation. WIN’s agreed upon language was (WIN §204):

“(3) Public Participation – (A) Review Committee – Each state shall establish a review committee for the purpose of providing a review of the list of projects, the system for assigning priorities, and the funding schedule. The membership of the committee shall be fairly balanced in terms of the points of view represented and be representative of interests affected by the plan (including tribal, private, public, governmental, and nonprofit interests.”

4. *Remove Incentives for Privatization* – HR 4560 includes language that requires funding recipients to evaluate “public-private partnerships” in the context of cost effectiveness (§302), which creates an unnecessary pressure to privatize. While cost effectiveness is desirable, it should not be at the expense of well-managed public utilities. WINs bill had no such comparable provision, and we urge you to remove this language from the bill.

Again, we strongly back a long-term funding source for clean water and thus support the basic outlines of HR 4560. However, to create an environmentally sound bill, we hope to work with you to restore the agreed-upon environmental and public integrity components from WIN bill into the Clean Water Trust Act.

We look forward to working with you and your staff to refine this important legislation to bring it more closely in line with WIN’s original proposal.

Sincerely,

Nancy Stoner, Director, Clean Water Project  
Natural Resources Defense Council

Paul Schwartz, National Water Policy Coordinator  
Clean Water Action

Katherine Baer, Director, River Advocacy  
American Rivers

Maj Fiil-Flynn, Coordinator, Water for All  
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Valerie Nelson, Director  
Coalition for Alternative Wastewater Treatment

Cc: House Transportation and Infrastructure Committee Members

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Attachment: WIN Clean Water Trust Act of 2005