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Association of  
Metropolitan  
Sewerage Agencies

**TESTIMONY OF THE  
ASSOCIATION OF METROPOLITAN SEWERAGE AGENCIES  
(AMSA)**

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**Presented by**

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**Narragansett Bay Commission  
Providence, Rhode Island**

**Submitted to  
the  
SUBCOMMITTEE ON FISHERIES, WILDLIFE AND WATER  
SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE**

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Testimony of Paul Pinault  
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on behalf of the  
Association of Metropolitan Sewerage Agencies

**Introduction**

Good morning Chairman Graham, Senator Crapo and members of the Subcommittee, my name is Paul Pinault. I am Executive Director of the Narragansett Bay Commission in Providence, Rhode Island and Vice President of the Association of Metropolitan Sewerage Agencies (AMSA). AMSA represents more than 270 publicly owned treatment works (POTWs) across the country. AMSA's members treat more than 18 billion gallons of wastewater each day and service the majority of the U.S. sewered population.

On behalf of AMSA and the Narragansett Bay Commission, I thank you and your colleagues for introducing S. 1961, the Water Investment Act of 2002, and for holding this hearing. Like you, AMSA and its members are committed to one very serious and important goal – commemorating this year's 30<sup>th</sup> Anniversary of the Clean Water Act by passage of a meaningful funding bill for our nation's core water and wastewater infrastructure. This bill should:

- Focus on core infrastructure needs, including repair and replacement of aging pipes and facilities;
- Fully fund the documented water infrastructure funding needs at an authorized level of \$57 billion over five years through a combination of grant and loan funding options;
- Streamline state funding procedures; and
- Invest in clean and safe water technology and management innovation to reduce infrastructure costs, prolong the life of America's water and wastewater assets, and improve the productivity of utility enterprises.

The Senate during hearings last year laid the foundation necessary to introduce S. 1961 by reinforcing the need to reinstate a long-term financial partnership between the federal government, states, and communities, which is essential to achieve our nation's water quality goals. Water quality should be a

priority at every level of government, and America's municipalities should not be left alone to face the challenge of providing clean and safe water to every citizen. Existing and new regulatory requirements continue to strain local budgets, including the tremendous expenses needed to comply with total maximum daily loads (TMDLs), and combined sewer (CSO) and sanitary sewer (SSO) overflow programs and requirements. The events of September 11, 2001 added to these already tremendous operating costs by requiring expensive facility security upgrades. The reality is that without a significant fiscal partnership that includes long-term federal participation to meet these core infrastructure challenges, we will see a continued and devastating decline in both our national wastewater treatment and collection systems and the nation's public health and environmental well being.

S. 1961 addresses two essential issues at the heart of the water infrastructure matter – the vast dollars needed to ensure the continued viability of our water systems, and the efficiency of our wastewater treatment systems. However, many of the bill's provisions send a troubling message to all of us in the wastewater treatment community. They suggest that the federal government is not with us for the long haul, that Congress does not have confidence in our management skills and believes we are not charging Americans enough for their water, and that the states and the U.S. Environmental Protection Agency (EPA) need to micromanage our operations. The provisions of S. 1961 suggest that after this bill's infusion of federal funds, we will once again be left on our own. The reality, however, is that even with Congress' appropriation of federal infrastructure funds at the WIN recommended level of \$57 billion over five years, local water rates will continue to rise and local rate payers will still assume between 85 and 90 percent of infrastructure costs.

Accordingly, I now would like to provide the Subcommittee with AMSA's and my perspective on these issues as they are addressed in the bill.

## *Infrastructure Funding*

S. 1961 comes part way toward addressing the true, significant funding gap addressed by so many sources, including EPA, the General Accounting Office (GAO), and the Water Infrastructure Network (WIN). The bill authorizes \$20 billion over five years for the Clean Water SRF and \$15 billion over the same period of time for the Drinking Water SRF. This authorization is an important and significant step toward bridging the funding gap. However, S. 1961 falls short of the WIN-recommended \$57 billion over the next five years needed to truly address core infrastructure investments. We urge the Subcommittee to amend the bill to fully fund both SRFs at the WIN recommended levels. Our focus on core infrastructure funding leads us also to urge that the Subcommittee add to the bill's Section 2 "Purposes" the following additional issue – "to recognize the national, environmental and public health importance of maintaining our nation's water and wastewater infrastructure."

We also recommend that the Subcommittee add to S. 1961 a provision to make grant funding available to all communities. Only grant funding in significant amounts provides sufficient resources and incentives to gain local support for increasing utility rates to pay for new regulatory costs and the costs of replacing or rehabilitating aging infrastructure. If there is any doubt regarding whether water infrastructure grants are in fact an essential part of addressing the significant core infrastructure needs of our nation's communities, one need look no further than the fiscal year 2002 VA-HUD appropriations bill for EPA. In this bill, Congress approved direct grants for 337 core water infrastructure projects totaling nearly \$344 million to communities across the country. The fact is that grants are, and always have been, a necessary part of a real solution to our local infrastructure needs. Without a grant component specifically targeted to address core infrastructure concerns, S. 1961 will not succeed in addressing the most critical of our communities' investment needs.

### *SRF Payment Terms and Reservation of SRF Funds for Specific Purposes*

S. 1961 offers “disadvantaged communities,” as defined by their states, up to 30 years to fully amortize a SRF loan. AMSA encourages the Subcommittee to amend the bill to allow all communities to take advantage of a 30-year repayment schedule or to choose repayment “over the life of the project.” Longer repayment terms for all communities are an essential way to add flexibility to the SRF program, and an important way to achieve the bill’s stated purpose of “maximizing use of federal funds.”

S. 1961 also allows up to 15 percent of SRF funds to be used for additional subsidization for all communities so long as the funds are “directed through the user charge rate system to disadvantaged users within the residential user class of the community.” Title I, Sec. 103(c)(8)(A)-(B). Title I, Section 103(e)(2) further provides that states can direct up to 30 percent of SRF loans to:

- Fund the development of “technical, managerial, and financial capacity” and asset management plans (Sec. 103(c)(7)) in all communities; and
- “Provide additional subsidization (including forgiveness of principal) to a disadvantaged community, or to a community that the State expects to become a disadvantaged community as the result of a proposed project” (Sec. 103(c)(9)).

We address the bill’s asset management provisions in the next section. As to disadvantaged communities, we understand the Subcommittee’s desire to ensure that low-income and disadvantaged persons and localities are given a variety of flexible ways to afford water service and finance core infrastructure upgrades. In fact, many AMSA members have these systems in place. In addition, local support systems in the form of third parties such as churches, community service organizations, and other organizations provide direct assistance to water users. The reality is, however, that many local rate setting and billing methods do not give POTWs the ability to target subsidization to individual ratepayers as S. 1961 directs.

Further, we are concerned that the bill's allowance of a total of up to 45 percent of the already limited SRF dollars to be directed to low income users within communities, disadvantaged communities, and for the development of asset management plans will seriously jeopardize the availability of adequate funds for core critical infrastructure projects. We urge the Subcommittee to delete these requirements, and instead express the sense of Congress that SRF funds should be directed as much as possible to needy communities, and that Congress expects the states will carry out this responsibility as they review and prioritize SRF fund applications.

### *Efficiency and Stability of Wastewater Treatment Systems*

S. 1961 creates several new requirements for communities to receive SRF loans. AMSA is seriously concerned that these provisions will only slow down and hinder the SRF process, rather than streamline the fund as the bill's "Purposes" intend, and as many stakeholders have recommended over the years.

#### *Demonstration of Technical, Managerial, and Financial Capacity, Including Asset Management*

One new requirement in S. 1961 is that within three years, each POTW receiving "significant" SRF assistance – we note this is an undefined term – must demonstrate "adequate technical, managerial, and financial capacity, including the establishment and implementation of an asset management plan" to receive the funds. Title I, Sec. 103(i)(5). States are given three years to implement a detailed strategy to assist treatment works in attaining and maintaining such technical, managerial, operations, maintenance, and capital investments, and meeting and sustaining compliance with federal and state laws. Sec. 103(i)(2)(A)-(B). States with inadequate strategies would lose 20 percent of their SRF funds within one year, and significant future funding if the strategy remains unacceptable to EPA. Sec. 103(i)(3)-(4). States must submit annual reports to EPA on their progress improving the technical, managerial, and financial capacity of POTWs.

We are seriously concerned that this entire “hammer” approach, which would make states responsible for keeping the asset management ball rolling, combined with loss of SRF funding for both states and communities, will create an enormous disincentive to access the SRF at all. This is the complete opposite result contemplated in the bill’s stated “Purposes.” The bottom line is that without any federal requirements, the type of asset management S. 1961 contemplates is already happening. Asset management and long-term planning are an essential part of protecting our nation’s water infrastructure investments. AMSA and its member agency operators are working consistently to improve the efficiency of their operations. In fact, the AMSA Index has been reporting significant reductions in operations and maintenance costs since 1996. In addition, AMSA just released a comprehensive asset management handbook to POTWs across the country, and we are holding workshops throughout the year – including later this week – to train hundreds of facility managers in asset management techniques. The asset management plan outlined in the bill, including the mandate to develop an asset inventory, useful life projection, and an optimal schedule of capital and maintenance expenditures to sustain performance objectives, are precisely the techniques advanced in AMSA’s handbook and workshops. In addition to knowing that asset management is the right way to manage a facility and its infrastructure assets, the legal requirements of Government Accounting Standards Board Statement 34 (GASB 34) are requiring cities across the country to document and discuss in detail the condition of their major infrastructure assets.

Let us not be lulled into believing that good management can repair the aging infrastructure of the past. Although extremely important, good management does not provide the bricks, mortar, concrete, and pipe to build and maintain a sewer system. And this is where S. 1961 must focus – on giving communities the funds they need to make their core infrastructure investments. We recommend that the Subcommittee remove these asset management requirements, and instead, revise the Congressional statement of policy in the bill to express the sense of Congress that asset management is essential and strongly encouraged. We urge the Subcommittee to recognize that making asset management a prerequisite for SRF funds will have the effect of denying communities the very funds they need to fix their core infrastructure.

### *Coordination with Local Land Use and Transportation Planning*

Another new requirement in S. 1961 is that states must ensure that SRF applicants consult and coordinate with local land use plans, regional transportation improvement and long-range transportation plans, and watershed plans. Title I, Sec. 103(e)(2). This type of coordination is already occurring across the nation, and in fact, already is required by many SRFs, making this provision of the bill duplicative and potentially confusing. In fact, the state and regional clearing house process long-implemented under the Demonstration Cities and Metropolitan Development Act of 1968 and OMB Circular A-102 already provides sufficient local coordination in the areas contemplated in S. 1961. For these reasons, we recommend that the Subcommittee remove this requirement from the bill.

### *Consolidation of Management Functions; Rates Reflecting "Actual Cost of Service"*

A third new requirement in S. 1961 is that communities may only receive SRF funding if they have considered "consolidating management functions or ownership with another facility; [and] forming public-private partnerships or other cooperative partnerships." Title I, Sec. 103(j)(1). A fourth new requirement is that the community must have in effect "a plan to achieve, within a reasonable period of time, a rate structure that to the maximum extent practicable . . . reflects the actual cost of service provided by the recipient" as well as an asset management plan. Sec. 103(j)(2). These provisions would introduce an inappropriate level of federal and state oversight into the setting of local wastewater rates and the management of local utilities – areas in which they do not have sufficient expertise – and will deter communities from applying for the very SRF funds the bill intends them to receive more easily and directly. The subjective nature of the wording in these provisions only causes us greater concern. As a result, we strongly recommend they be deleted.

Let me be clear – AMSA members are committed to supporting our operations and capital needs through our rates. In fact, most AMSA members operate as an authority or division of government with tight

enterprise accounting procedures, and already recover full costs of service, including a payment to the underlying government for “services rendered” or “in lieu of taxes.” AMSA’s own triennial financial survey of our industry, which we have provided to this Subcommittee, supports this statement. Most AMSA members’ rates also address capital replacement funds to the extent they are identified. While some replacement costs and future regulatory requirements may not be typically captured in the traditional capital replacement programs, POTWs are working to fine tune their projections every day. In addition, we regularly explore new ways of doing business, including consolidating management functions or ownership with another facility, and forming public-private partnerships or other cooperative partnerships. Where these partnerships and business structures make sense for a locality, they are pursued. However, these decisions should be made at the local level, and not be legislated by the federal government as a requirement for a community to receive SRF funds.

### ***Innovative Technology/Demonstration Projects***

For many years, AMSA and WIN have supported the addition of provisions that will promote investment in clean and safe water technology and management innovation to reduce infrastructure costs, prolong the life of America’s water and wastewater assets, and improve the productivity of utility enterprises. Title III, Section 302 of the bill establishes a demonstration program for water quality enhancement and management. We urge the Subcommittee to increase the \$100,000,000 authorized for this important initiative, and to expand the types of projects that would be eligible for the program.

### ***NAS Rate, Affordability, and Disadvantaged Communities Study***

We also recommend removal of S. 1961's provision at Title III, Section 303 for a National Academy of Sciences (NAS) study of public drinking and wastewater treatment system rates, affordability, and disadvantaged communities. The study would, among other things:

- Assess whether rates adequately address the cost of service and infrastructure replacement needs;
- Recommend best practices to establish rate structures addressing the “true cost of service” and the needs of disadvantaged communities and individuals;
- Evaluate existing standards of affordability;
- Describe how a “disadvantaged” community is determined in various parts of the country; and
- Assess how various factors affect whether a community is considered “disadvantaged.”

AMSA believes the answers to many of these questions already exist and render the study unnecessary. We also are concerned that S. 1961 requires POTWs to make rate structure assurances, and the states to define “disadvantaged” through notice and comment rulemaking, well before this NAS study would be complete and its results examined. AMSA also does not believe it is the best use of the NAS' expertise to study topics that not only have been studied by academics and social scientists across the nation for many years, but also that are as locally driven and diverse as these issues.

### ***Summary of AMSA's Key Recommendations***

AMSA is pleased to provide the following summary of our recommended revisions to S. 1961:

- Fully fund the documented water infrastructure funding needs at an authorized level of \$57 billion over five years using a combination of grants and loans, consistent with the WIN Report;
- Focus on core infrastructure needs;
- Recognize the national, environmental and public health importance of maintaining our nation's water and wastewater infrastructure;

- Allow all communities to take advantage of a 30-year or “life of the project” repayment schedule;
- Remove provisions allowing up to 45 percent of SRF dollars to be directed toward assistance to disadvantaged communities, low-income individuals, and asset management work. Instead, express the sense of Congress that SRF funds should be directed to needy communities and individuals in the states’ discretion as they review and prioritize SRF fund applications, and that municipal asset management is an essential activity for which SRF funds may be used;
- Add provisions to truly streamline state funding procedures consistent with the bill’s stated purposes, and to ensure the swiftest possible fund allocations for local infrastructure needs;
- Remove provisions making asset management a prerequisite for SRF funds and instead, include in the Congressional statement of policy that asset management is encouraged;
- Remove provisions that introduce an inappropriate federal and state role in the setting of local wastewater rates, utility partnerships, and land use planning;
- Increase the \$100,000,000 authorization for the demonstration program for water quality enhancement and management, and expand the types of projects eligible for this program; and
- Remove the provision for a National Academy of Sciences study on public drinking and wastewater treatment system rates and factors creating disadvantaged communities.

### *Conclusion*

The Water Investment Act of 2002 is an important first step toward reaching the \$57 billion over five years needed to address core water infrastructure projects. The needs of communities across the nation are not being met by EPA's current SRF program. AMSA believes that S. 1961 should be amended to streamline SRF requirements and to direct funds to support the core needs of our industry – infrastructure repair and replacement, and compliance with new and forthcoming regulatory requirements.

Wastewater agency executives like myself face our environmental challenges each day. Wastewater treatment plants operate 24/7 to provide secure systems, upgrade and replace our treatment plants and pipes, control sewer overflows and stormwater, protect wetlands, manage coastal areas, and meet a host of other water quality responsibilities. Simply stated, a lasting, long-term fiscal partnership with the federal government and the states is the answer to our call for assistance with this tremendous responsibility.

Chairman Graham, we look forward to working with you to modify S. 1961 to reflect our suggestions and those of other stakeholders in the coming weeks. Thank you for the opportunity to present AMSA's perspective on the bill. At this time, I will be happy to answer any questions.