Testimony of Rebecca Hammer
Deputy Director of Federal Water Policy
Natural Resources Defense Council

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

Hearing Entitled:
"Clean Water Infrastructure Financing:
State and Local Perspectives and Recent Developments"
Thursday, September 28, 2023

Chairman Graves, Ranking Member Larsen, Subcommittee Chair Rouzer, Subcommittee Ranking Member Napolitano, and members of the Subcommittee:

Thank you for the opportunity to testify today about the importance of robust federal funding and support for our nation's clean water infrastructure. My name is Rebecca Hammer, and I am the deputy director of federal water policy for the Natural Resources Defense Council (NRDC). NRDC is an international, non-profit environmental organization working to protect the world's natural resources, improve public health, and ensure a safe and sustainable environment for all.

Summary of Testimony

The Infrastructure Investment and Jobs Act of 2021 (IIJA) was a historic bipartisan investment in our nation's infrastructure that will make progress toward our goals of providing every person in this country with clean waterways and safe sanitation, ensuring the long-term viability of our wastewater and stormwater systems in a changing environment, and lifting up families and communities who struggle to bear the burden of unaffordable water and sewer costs. In my testimony, I will focus on the importance of building upon the momentum of IIJA to continue closing the clean water infrastructure gap, ensuring that funds support underserved communities and sustainable projects, and providing transparency in spending decisions.

To achieve these goals, NRDC recommends:

- Funding the Clean Water State Revolving Fund (CWSRF) at the full IIJA-authorized level, at minimum, with any congressionally directed spending provided *in addition* to that funding.

- Raising the statutory limit on the amount of additional subsidization that states are allowed to provide.
- Providing resources for the Environmental Protection Agency (EPA) to provide technical assistance to state CWSRF managers on best practices for improving the accessibility and fairness of their programs.
- Establishing a permanent federal water and sewer assistance program, and providing additional funding for the existing temporary Low-Income Household Water Assistance Program (LIHWAP) as a bridge to the establishment of that permanent program.
- Making the Green Project Reserve a permanent feature of the CWSRF by codifying it in statute.
- Providing more resources for outreach and technical assistance to potential Green Project Reserve applicants.
- Requiring and supporting enhanced public transparency around IIJA-funded CWSRF projects and technical assistance efforts.

America's Wastewater and Stormwater Systems Face Challenges That Threaten Their Ability to Provide Clean Water, Thriving Communities, and a Healthy Environment

All people in America should have access to wastewater and stormwater infrastructure that works. No matter where they are located, these systems should provide communities with clean waterways, effective sanitation, and protection from urban flooding.

Yet in many areas, our nation's infrastructure is not up to the task of meeting those objectives. Pipes, septic tanks, and treatment facilities have exceeded their intended lifespans and are breaking down. As population growth puts stress on wastewater systems, fifteen percent of treatment plants have already reached or exceeded their design capacity.[1] Elsewhere, communities affected by depopulation and disinvestment struggle to update their infrastructure to meet existing demand.[2] Hundreds of cities and towns are still served by combined sewer systems that overflow into nearby rivers and lakes when it rains, and many flood control measures are not capable of handling the increasingly vast quantities of runoff generated by sprawling development.

As a result, sewage spills foul our waterways, polluted stormwater degrades once-productive ecosystems, and rainwater floods our streets and homes. The American Society of Civil Engineers rated the nation's wastewater infrastructure a D+, and its stormwater infrastructure a D, in its most recent infrastructure report card.[3]

---

[1] American Society of Civil Engineers, 2021 Report Card for America's Infrastructure: Wastewater, https://infrastructurereportcard.org/wp-content/uploads/2020/12/Wastewater-2021.pdf.

[2] See Rachel Butts and Stephen Gasteyer, "More Cost per Drop: Water Rates, Structural Inequality, and Race in the United States—The Case of Michigan," *Environmental Practice* 13, no. 4 (2011): 386–95, https://doi.org/10.1017/S1466046611000391.

[3] American Society of Civil Engineers, 2021 Report Card for America's Infrastructure, https://infrastructurereportcard.org/.

Some rural communities do not have access even to inadequate sewer infrastructure, as they lack functional wastewater treatment entirely.[4] According to the U.S. Census Bureau's American Housing Survey, 180,000 households use rudimentary sewage disposal approaches like outhouses and chemical toilets, and 35,000 households have no form of wastewater treatment at all.[5] Exposure to raw sewage can cause disease outbreaks and hookworm infections. The situation is especially dire in regions such as the Black Belt of Alabama, where homes have "straight pipes" discharging untreated waste into their yards; Hawaii, where cesspools are leaking 53 million gallons of untreated waste into streams, oceans, and drinking water every day; and indigenous communities in the Southwest and Alaska that lack plumbing and sanitation infrastructure, just to name a few examples.[6]

Climate change is adding further stress to our wastewater and stormwater systems, even those in good condition. Wastewater treatment plants are typically located at low elevations and along coastlines, which makes them particularly susceptible to floods and sea level rise. When tanks and pipes are inundated, these facilities can discharge raw sewage into nearby communities and waterways. In 2017, flooding from Hurricane Harvey caused 40 wastewater treatment facilities to become inoperable and led to the release of 23 million gallons of untreated wastewater.[7] Even smaller flooding events, if they occur more often, can impose significant costs, such as frequent pumping to keep parts dry and a reduced lifespan of components exposed to water. One study estimated that four million people in the U.S. could lose access to municipal wastewater services with 30 centimeters (around 1 foot) of sea level rise; this estimate rises to 31 million people if sea level rise reaches 180 centimeters (around 6 feet).[8]

As heavy precipitation events and extreme storms grow more frequent, increasingly disruptive flood events are occurring in communities across the country. Most stormwater systems are designed to handle the "10-year" or "100-year" storm, concepts that climate change has rendered obsolete. Urban flooding already results in $9 billion in damages each year, a figure that is

---

[4] EPA, "Closing America's Wastewater Access Gap Community Initiative," https://www.epa.gov/water-infrastructure/closing-americas-wastewater-access-gap-community-initiative.

[5] U.S. Environmental Protection Agency, Office of Water, *Report to Congress on the Prevalence Throughout the U.S. of Low- and Moderate-Income Households Without Access to a Treatment Works and the Use by States of Assistance Under Section 603(c)(12) of the Federal Water Pollution Control Act* (July 2021), p. 6, Table 2, https://www.epa.gov/system/files/documents/2022-01/low-mod-income-without-treatment_report-to-congress.pdf.

[6] See Dennis Pillion, "'This Is Unacceptable: EPA Chief Visits Failing Sewage Systems in Alabama Black Belt," AL.com, Mar. 5, 2022, https://www.al.com/news/2022/03/this-is-unacceptable-epa-chief-visits-failing-sewage-systems-in-alabama-black-belt.html; Hawaii Department of Health, Cesspools in Hawai'i, https://health.hawaii.gov/wastewater/home/cesspools/; Dig Deep & U.S. Water Alliance, *Closing the Water Access Gap in the United States* (2019), https://uswateralliance.org/sites/uswateralliance.org/files/publications/Closing%20the%20Water%20Access%20Gap%20in%20the%20United%20States_DIGITAL.pdf.

[7] Texas Commission on Environmental Quality, Sanitary Sewer Overflows from Hurricane Harvey, https://www.tceq.texas.gov/response/hurricanes/sanitary-sewer-overflows; Hurricane Harvey: Status Summary of Impacted Public Drinking Water and Wastewater Systems, https://www.tceq.texas.gov/assets/public/response/hurricanes/hurricane-harvey-tracking-summary.pdf.

[8] Michelle Hummel et al., "Sea Level Rise Impacts on Wastewater Treatment Systems Along the U.S. Coasts," Earth's Future (2018), https://agupubs.onlinelibrary.wiley.com/doi/10.1002/2017EF000805.

certain to grow unless we take swift action to adapt and modernize our infrastructure.[9] These storms also impact water quality: as more intense precipitation leads to increased runoff, more stormwater pollution is washed into our waterways, including sediments, nitrogen from agriculture, disease pathogens, pesticides, herbicides, and more. This pollution imposes steep costs on communities, including higher treatment costs for the two-thirds of America's drinking water that comes from rivers, streams, and lakes.

While infrastructure challenges are widespread, they affect certain communities more severely than others. Across the country, socioeconomically disadvantaged people face greater challenges in accessing properly functioning sanitation systems and flooding controls.[10] Conventional approaches to paying for infrastructure—which rely on local sources of revenue to fund investments—have deepened inequities along racial and economic lines. For example, in many cities, historically redlined neighborhoods are exposed to a higher risk of urban flooding than other areas.[11]

In light of these varied threats, federal support for wastewater and stormwater infrastructure is more important than ever. We must ensure that all communities have the resources they need to build, maintain, and operate systems that can serve their residents effectively and affordably, now and in the future.

The Infrastructure Investment and Jobs Act (IIJA) Provided Historic Funding to Communities, But More Is Needed

IIJA's appropriation of $11.7 billion in supplemental funding for the Clean Water State Revolving Fund (CWSRF), our nation's largest dedicated source of wastewater and stormwater financing, was a much-needed investment in American communities' clean water infrastructure. That funding—distributed over a five-year period—will support efforts across the country to clean up waterways and provide safe sanitation. States have already begun to award IIJA funds to projects that will fix broken sewer pipes and pumps, upgrade treatment plants to provide greater pollution reductions, extend service to areas that lack centralized wastewater treatment, restore wetlands and floodplains to prevent flooding, implement energy and water efficiency upgrades, and eliminate combined sewer overflows.

These funds are providing a lifeline for many communities that have been waiting for assistance, in some cases for years or even decades. Yet despite the progress this investment will make toward addressing our clean water infrastructure backlog, an enormous gap still exists.

IIJA's $11.7 billion in CWSRF funds represent a small fraction of the $271 billion *minimum* that communities are estimated to need in order to maintain and repair their wastewater and

[9] National Academies of Sciences, Engineering, and Medicine, Framing the Challenge of Urban Flooding in the United States (2019), https://www.nap.edu/catalog/25381/framing-the-challenge-of-urban-flooding-in-the-united-states.

[10] See Amy Vanderwarker, "Water and Environmental Justice," chapter 3 in Juliet Christian-Smith et al., *A Twenty-First Century U.S. Water Policy* (Oxford, U.K.: Oxford University Press, 2012), 52–89, https://pacinst.org/wp-content/uploads/2013/02/water_and_environmental_justice_ch3.pdf.

[11] Kriston Capps and Christopher Cannon, "Redlined, Now Flooding," Bloomberg CityLab, March 15, 2021, https://www.bloomberg.com/graphics/2021-flood-risk-redlining/.

stormwater infrastructure over the next twenty years.[12] In fact, the true need is certainly much higher, as that EPA dollar figure is now a decade out of date and is widely agreed to be a substantial underestimate—it does not account for inflation or include a reliable inventory of necessary nonpoint source projects. It also does not consider the resources needed to adapt to climate change, which utilities say could add hundreds of billions of dollars in additional water infrastructure funding requirements through the middle of the century.[13] A new EPA survey of clean water infrastructure needs will be released next year, which should give us a better understanding of the true level of investment required.

No matter what the specific estimate is, it is clear that need far outstrips the resources that have been provided. Even accounting for the one-time influx of supplemental IIJA funds, the federal government's contribution to water infrastructure spending as a share of total investment has fallen dramatically over the last several decades.[14] When federal support is unavailable, state and local governments are left to pick up the tab. This burden has strained municipal and utility budgets across the country, and many important projects are not being implemented as a result. The Value of Water Campaign has estimated the annual funding gap for drinking water, wastewater, and stormwater infrastructure—in other words, the gap between actual spending and estimated needs each year—is $82 billion.[15] This figure tells us that relying on state and local resources is not an adequate way to fund infrastructure that is necessary to keep our families safe and healthy.

Because of this heavy reliance on local funds, the quality of a community's infrastructure largely depends on the financial capacity of its residents. Communities with less wealth have been forced to postpone or forego important projects, endangering public health and environmental quality. Other communities have sought alternative, more expensive financing for their projects, which requires them to raise rates and jeopardize the affordability of service for their customers. Neither alternative is acceptable.

In order to bring relief to communities and ensure that all people in this country have access to high-quality infrastructure, Congress should fund the Clean Water State Revolving Fund *at least* at the full IIJA-authorized level. CWSRF appropriations in the past two years have fallen short of the authorized amount by more than half. Concerningly, recent budget proposals for FY24 would slash appropriated funding for the program even further. The intent of IIJA was to *supplement* current funding levels and provide help to more communities than ever before, not to offset steep cuts to annual spending and leave overall program investments barely holding steady.

---

[12] U.S. Environmental Protection Agency, Clean Watershed Needs Survey 2012 Report to Congress, https://www.epa.gov/cwns/clean-watersheds-needs-survey-cwns-report-congress-2012.
[13] National Association of Clean Water Agencies & Association of Metropolitan Water Agencies, Confronting Climate Change: An Early Analysis of Water and Wastewater Adaptation Costs (2009), https://www2.nacwa.org/images/stories/public/2009-10-28ccreport.pdf.
[14] Value of Water Campaign, The Economic Benefits of Investing in Water Infrastructure (2017), p. 5, http://thevalueofwater.org/sites/default/files/Economic%20Impact%20of%20Investing%20in%20Water%20Infrastructure_VOW_FINAL_pages.pdf.
[15] Id. at p. 2.

Not only is total program funding falling short, but the recent practice of diverting that funding away from state CWSRF programs toward congressionally directed spending is particularly concerning. In FY23, more than half of the total CWSRF appropriation was directed to specific earmarked projects, leaving less than half for states to allocate through their programs.[16] Proposed FY24 spending bills would increase the proportion of funding directed to earmarks even more dramatically.

This shift has several negative consequences. First, it circumvents the existing allotment formula prescribing how much CWSRF funding flows to states each year, creating a situation where some states come out ahead and others lose.[17] The unpredictability of these fluctuations creates confusion and makes it difficult for states to implement their long-term infrastructure improvement plans. Second, while funds that flow through state CWSRF programs are subject to public engagement and oversight through the annual adoption of the state's intended use plan, there is no formal opportunity for the public to weigh in on decisions around earmarks, frustrating transparency and accountability. Third, the CWSRF program requirements that apply to state-distributed funds, such as the reservation of grant funds for disadvantaged communities, do not apply to congressionally directed spending. This can result in wealthy, politically connected communities receiving earmark grant funds they do not need and would not have qualified for under normal CWSRF rules, leaving such funds unavailable for lower-income communities that depend on them.[18]

While many congressionally directed spending projects are worthwhile projects with positive benefits for communities, funding for such projects should come *on top of* the regular annual CWSRF appropriation, rather than being carved out of it.

Reducing appropriations and diverting funds toward earmarks would diminish the impact of IIJA's historic funds and undermine that legislation's purpose. If we want to make a meaningful dent in our country's infrastructure needs, we must increase—not decrease—CWSRF annual appropriations . We must also fully fund the other important programs authorized in IIJA, such as the Sewer Overflow and Stormwater Reuse Municipal Grants Program and the Household Decentralized Wastewater Grant Program. Alongside these funds, Congress should provide additional resources to EPA and state CWSRF administrators so they can continue to build capacity to operate these programs efficiently.

A recent national poll of U.S. voters shows that the vast majority of people (68%) believe water infrastructure should be a top priority for investment by the federal government, a higher positive response rate than for any other type of infrastructure.[19] Increasing federal funding for water systems would not only support public health and the environment, it would also generate

[16] See Tony Room, "States Lose Federal Water Funds as Lawmakers Redirect Money to Pet Projects," Washington Post, July 24, 2023, https://www.washingtonpost.com/business/2023/07/24/water-infrastructure-congress-earmarks/.
[17] Id. (noting that 38 states have been shortchanged about $660 million in DWSRF and CWSRF funding combined over the last two years due to earmarks).
[18] Id. (noting that in some states, very few congressionally directed spending projects have been located in disadvantaged communities).
[19] Water Hub, National Voter Poll on Water Access, Affordability, and Safety (Aug. 2023), https://waterhub.org/wp-content/uploads/2023/09/August-2023-Polling-Memo.pdf.

billions of dollars in economic activity and create thousands of jobs.[20] And it would make funds available for beneficial but cost-intensive infrastructure such as water recycling and reuse projects that can help arid regions adapt to conditions of increasing water scarcity. Members of this Committee and Subcommittee should work with their colleagues on the Appropriations Committee to ensure that substantially enhanced funding for the CWSRF and other clean water programs is provided in FY24 and beyond.

Congress Should Support Efforts to Direct Funding to Disadvantaged Communities and Improve Water & Sewer Affordability

A key component of IIJA's investment in clean water infrastructure was its requirement that states distribute 49 percent of the supplemental funds in the form of additional subsidization—grants, principal forgiveness, and other forms of assistance that recipients do not have to repay.[21] IIJA also amended the Clean Water Act to require that states distribute at least 10 percent of their annual CWSRF capitalization grants in the form of additional subsidization each year, leaving in place the statute's existing maximum limit of 30 percent.[22]

Additional subsidization is a critical tool for ensuring that all communities can take advantage of CWSRF assistance. Communities with a small, declining, and/or low-income rate base often experience difficulty obtaining financing for infrastructure projects and in many cases cannot afford to pay back even a low-interest CWSRF loan. These jurisdictions may have the means to carry out priority projects only if they receive additional subsidization. As a result, additional subsidization facilitates high-impact projects that would not otherwise get built. This is what the CWSRF program is about at its core: ensuring that the environmental and public health benefits of good-quality infrastructure are not a privilege for the few, but rather are accessible to everyone in this country, even those living in less affluent jurisdictions.

Prior to IIJA, states distributed relatively little funding in the form of additional subsidization. From 2011 to 2020, for example, states distributed only about 4 percent of total assistance as additional subsidization ($2.6 billion out of $62.5 billion).[23] Many CWSRF program managers have been hesitant to distribute funding that does not "revolve" as loan repayments because of concerns about the long-term viability of the state's fund. This perspective has led to state programs that are financially stable but are not serving the communities that need help the most, frustrating the purpose and goals of the CWSRF.

In its focus on providing more funding as grants and principal forgiveness, IIJA is helping to bring about a shift in mindset that is long overdue. Requiring nearly half of the supplemental funds to be distributed as additional subsidization has had a significant impact on the way EPA and states implement the CWSRF program. It has raised awareness of the need to adopt policies that make the program accessible to a wider range of potential recipients and to conduct outreach to communities that have not participated in the past. Implementing this additional subsidization

[20] Value of Water Campaign, The Economic Benefits of Investing in Water Infrastructure.
[21] Pub. L. No. 117-58, Title VI.
[22] Pub. L. No. 117-58, § 50210(a)(1)(B) (codified at 33 U.S.C. § 1383(i)(3)(B)(i)(II)).
[23] EPA, *Clean Water SRF Program Information: National Summary*, February 2022, 15–16, line 109; 19–20, line 128; and 65-66, lines 321 and 323, https://www.epa.gov/system/files/documents/2022-03/us21.pdf.

requirement has proven to be feasible and has already resulted in communities receiving CWSRF assistance that have never received it before.

Congress should build upon IIJA's progress in this area by raising the permanent statutory limit on additional subsidization beyond 30 percent of the annual capitalization grant. Given the immense positive impact of these funds, states should have the discretion to distribute more subsidization than this arbitrarily low threshold allows, assuming they determine that they have the community demand and financial capacity to do so.

That said, even if greater amounts of additional subsidization become available, many states still have policies on the books—in their intended use plans (IUPs), regulations, and state statutes—that make it difficult for certain underserved communities to access that funding. For example, many states cap the amount of additional subsidization an individual recipient can receive, excluding the neediest jurisdictions from accessing CWSRF funds. Some states set this cap as low as 20 or 30 percent of the total award. A low-income community that cannot finance the remaining 70 or 80 percent of the project costs on its own will not be able to access CWSRF assistance with such a cap in place. Other state policies that make it harder for communities to obtain funding include limiting subsidization eligibility based on strict population thresholds, not allowing disadvantaged areas within non-disadvantaged communities to qualify for subsidization, and failing to account for affordability or financial need within the state's project ranking system.

Policies like these have led to inequities in the distribution of past years' CWSRF funding. A nationwide analysis of CWSRF awards between 2011 and 2020 found that small and minority communities were statistically less likely to receive assistance.[24] Federal guidance is needed to encourage and assist states in updating their policies to ensure that all communities have a shot at obtaining CWSRF funds. Congress should provide resources for EPA to provide technical assistance to state CWSRF managers on best practices for improving accessibility and fairness in their programs.

Beyond state program rules, another policy mechanism to make it easier for disadvantaged communities to access CWSRF funds is financial assistance for low-income customers. Water and wastewater utility bills have been increasing at more than three times the rate of inflation in recent years.[25] Researchers have found that 10 percent of households spend more than 4.5% of their annual income on essential water and sewer services.[26] Communities facing greater affordability challenges often defer implementing infrastructure projects to avoid raising rates on vulnerable residents. Conversely, communities with more affordable sewer rates that do not

[24] Katy Hansen, EPIC & Becky Hammer, NRDC, *A Fairer Funding Stream: How Reforming the Clean Water State Revolving Fund Can Equitably Improve Water Infrastructure Across the Country* (2022), https://www.nrdc.org/sites/default/files/clean-water-state-revolving-fund-infrastructure-report.pdf.
[25] David Harrison, "Why Your Water Bill Is Rising Much Faster Than Inflation," *The Wall Street Journal*, March 15, 2018, https://www.wsj.com/articles/who-is-paying-to-fix-outdated-water-and-sewer-systems-you-are-1521106201.
[26] Diego S. Cardoso & Casey J. Wichman, "Water Affordability in the United States," Water Resources Research, Vol. 58, Issue 12, November 2022, https://agupubs.onlinelibrary.wiley.com/doi/abs/10.1029/2022WR032206.

unduly burden their customers are in a better position to access CWSRF assistance and carry out needed construction and maintenance work.

In order to support water and sewer affordability in all communities, Congress should establish a permanent federal water and sewer assistance program. In the meantime, Congress should also provide additional funding in FY24 for the existing temporary Low-Income Household Water Assistance Program (LIHWAP) as a bridge to the establishment of that permanent program. Through the third quarter of FY23, LIHWAP helped over 1.1 million households nationwide afford their water and sewer bills.[27] Recent national polling found that 79 percent of voters support the federal government helping lower-income families with their water and sewer bills, and 76 percent support extending LIHWAP funding when the program expires at the end of this fiscal year.[28] Drawing from experience with program implementation to date, any LIHWAP funding moving forward should require improvements to administration, such as automatic enrollment of households that already participate in other income-qualified programs.

Congress Should Support Increased Investment in Green Projects

A priority in CWSRF program implementation over the past decade and a half has been to encourage applicants to carry out sustainable "green" projects: green stormwater infrastructure, water and energy efficiency upgrades, and other environmentally innovative activities. These projects can provide wide-ranging benefits to communities. For example, green infrastructure reduces stormwater volumes and pollutant loads, leading to cleaner waterways, reduced wastewater treatment needs for combined sewer systems, reduced flooding, and increased groundwater recharge. It is frequently more cost-effective than gray infrastructure, so it can reduce the costs of water quality compliance and flood control for communities and ratepayers.[29]

For its first two decades, the CWSRF did not fund many green projects. According to the EPA, many states had "little or no history" of funding such projects because their programs focused on traditional infrastructure, or because state law presented obstacles.[30] Then, in 2009, Congress passed the American Recovery and Reinvestment Act (ARRA). ARRA provided supplemental appropriations for the CWSRF and required that states allocate at least 20 percent of these new funds as a Green Project Reserve (GPR) for green infrastructure, water efficiency, energy efficiency, and other environmentally innovative projects. It also made GPR projects eligible for additional subsidization.[31] Since 2009, Congress has extended the GPR in appropriations acts each year, though starting in FY2012 the requirement was reduced from 20 percent to 10 percent of the state's annual CWSRF capitalization grant.[32]

---

[27] Quarterly LIHWAP Report Snapshot, https://lihwap-hhs-acf.opendata.arcgis.com/pages/quarterly-snapshot.
[28] Water Hub, National Voter Poll on Water Access, Affordability, and Safety, p. 1-2.
[29] Environmental Protection Agency, Green Infrastructure Cost-Benefit Resources, https://www.epa.gov/green-infrastructure/green-infrastructure-cost-benefit-resources.
[30] EPA, ARRA Clean Water State Revolving Fund Green Project Reserve Report (2012), p. 8, https://www.epa.gov/sites/production/files/2015-04/documents/arra_green_project_reserve_report.pdf.
[31] American Recovery and Reinvestment Act of 2009, P.L. 111-5 (123 Stat. 169).
[32] See Congressional Research Service, "Greening" EPA's Water Infrastructure Programs through the Green Project Reserve (2016), https://www.everycrsreport.com/reports/IN10540.html.

The establishment of the Green Project Reserve led many states to fund green projects with CWSRF resources for the first time. Over the past fourteen years, the GPR has funded hundreds of beneficial green infrastructure projects across the country – everything from urban reforestation and wetlands preservation to green roofs and roadway retrofits. Additionally, the GPR has supported energy efficiency and water efficiency projects that advance clean water objectives by upgrading the efficiency of pumps and motors, powering clean water facilities with renewable energy from on-site resources, and reducing both customer and facility water use. Decentralized wastewater treatment solutions in areas lacking access to sanitation are also eligible for the GPR in the "environmentally innovative" category.[33]

The EPA determined last year that if the Green Project Reserve is included in an annual appropriations bill, it applies to the IIJA capitalization grants for the corresponding fiscal year.[34] Green projects are also eligible for the 49% of supplemental IIJA CWSRF funds that must be distributed as additional subsidization (discussed above).[35] As a result, IIJA has created strong incentives for the implementation of sustainable infrastructure and has already funded dozens of GPR-eligible projects.

Despite the program's growing impact, overall the CWSRF has been underutilized as a funding source for green projects. Since the establishment of the Green Project Reserve in 2009, EPA data indicate that only 10.6 percent of total CWSRF assistance has gone to GPR projects ($10.2 billion out of $95.7 billion).[36]

Under the existing Green Project Reserve requirement, states do not have strong incentives to educate potential applicants about the benefits of green projects and the availability of GPR funding, nor to assist them with their funding applications. The current 10 percent requirement only applies to the extent that a state receives "sufficient eligible project applications."[37] EPA has interpreted this rule to require a "good faith solicitation effort" by the state to identify eligible GPR projects, but the state's annual open solicitation for CWSRF projects is deemed to meet the requirement, even if the state does not conduct any outreach on the Green Project Reserve specifically.[38] This interpretation largely takes the burden off the state CWSRF program to actively solicit potential GPR projects. As a result, states sometimes fail to meet the GPR requirement. For example, in 2020 Florida fell short of the requirement because it did not receive

[33] EPA, "2012 Clean Water State Revolving Fund 10% Green Project Reserve: Guidance for Determining Project Eligibility," pp. 11-12, https://www.epa.gov/sites/production/files/2015-04/documents/green_project_reserve_eligibility_guidance.pdf.
[34] Radhika Fox, EPA Assistant Administrator, Memorandum: Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law (March 2022), p. 22, https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf.
[35] Id., p. 3.
[36] EPA, *Clean Water SRF Program Information: National Summary* (February 2023), https://www.epa.gov/system/files/documents/2023-02/us.pdf.
[37] See Consolidated Appropriations Act 2023, p. 335, https://www.congress.gov/117/plaws/publ328/PLAW-117publ328.pdf.
[38] See EPA, Procedures for Implementing Certain Provisions of EPA's Fiscal Year 2012 Appropriations Affecting the Clean Water and Drinking Water State Revolving Fund Programs, p. 3, https://www.epa.gov/sites/production/files/documents/final_fy12_srf_guidelines_1.pdf.

sufficient project applications.[39] Oregon did not fund a single GPR project that year.[40] Missouri is two years behind on awarding its GPR dollars.[41]

Additionally, the amount of funding that Congress requires states to allocate to the Green Project Reserve has fluctuated over time and has never been codified in statute, making potential applicants uncertain about whether GPR funds will be available for their projects in future years.[42] This uncertainty depresses demand for funds.

To resolve this issue, Congress should end the process of inserting the Green Project Reserve requirement into annual appropriations bills and codify it permanently in statute. A statutory Green Project Reserve is needed to ensure that state CWSRF programs have a continued mandate to fund green projects. As pre-2009 history shows, without the GPR requirement it is likely that fewer green projects will receive CWSRF assistance. Decades of implementation have proven that these projects offer significant benefits to utilities, ratepayers, the environment, and public health. Congress should affirm its durable support for them by writing the GPR into law.

Finally, when states fall short of the Green Project Reserve minimum requirement, it isn't because there are no possible green projects for communities to implement. According to the EPA, many potential GPR applicants are simply unaware of the funding opportunities available.[43] States can address this knowledge gap through marketing and outreach, but they need resources in order to do so. Small and disadvantaged communities need technical assistance to develop projects and complete applications, and this assistance requires resources as well. Congress should set aside more funding for states to build awareness and expertise among potential GPR applicants, with the goal of ensuring that no state ever falls short of its minimum Green Project Reserve requirement due to a lack of eligible project applications.

Congress Should Require Increased Transparency Around Spending Decisions

With a federal investment as substantial and historic as IIJA, it is critical that the public understand which communities are receiving funds and what kinds of projects they are carrying out. At present, it is difficult to access information about states' CWSRF IIJA awards in a timely or efficient manner. There is no centralized public database of funded projects, so stakeholders must look at each state's intended use plan, one by one, and those plans do not always contain details on specific projects or the kind of consistent information that would make national data aggregation possible. This situation frustrates accountability for ensuring that IIJA's critical

[39] Florida Department of Environmental Protection, CWSRF 2020 Annual Report, p. 13, https://floridadep.gov/sites/default/files/CWSRF%20Annual%20Report%202020.pdf.
[40] Oregon Department of Environmental Quality, Clean Water State Revolving Fund Annual Report, September 2020, p. 7, https://www.oregon.gov/deq/wq/Documents/cwsrfAnnualRep2020.pdf.
[41] Missouri Department of Natural Resources, Clean Water State Revolving Fund 2022 Annual Report, pp. 10, https://dnr.mo.gov/document-search/fiscal-year-2022-clean-water-state-revolving-fund-annual-report.
[42] See Illinois EPA, Water Pollution Control Loan Program 2024 Intended Use Plan (July 2023), p. 16, https://epa.illinois.gov/content/dam/soi/en/web/epa/topics/grants-loans/state-revolving-fund/documents/2024-iup/WPCLP-2024-IUP-Final.pdf ("*Despite uncertainty regarding the Federal GPR requirement*, the Illinois EPA is taking steps to institutionalize certain green infrastructure practices…").
[43] EPA, Financing Green Infrastructure: A Best Practices Guide for the Clean Water State Revolving Fund (2015), p. 3, https://www.epa.gov/sites/default/files/2016-01/documents/final_gi_best_practices_guide_12-9-15.pdf.

supplemental funding is being spent efficiently and equitably. Greater transparency around spending decisions is required in order to understand where policy reforms may be needed at the federal and state levels to improve program operations and achieve better results.

Congress should direct EPA to publish all IIJA clean water infrastructure spending data—with the long-term goal of including *all* CWSRF award data, not limited to this supplemental funding—in a nationwide online database or dashboard that is updated on a frequent basis. The database should be searchable by state, county, and census tract and include other important standardized information such as the financial terms of the award, the project type and description, the recipient's eligibility to receive additional subsidization under the state's affordability criteria, and the project's eligibility under the Green Project Reserve. Such a requirement would improve EPA's ability to oversee, manage, and monitor this substantial investment of public funds. It would also be consistent with existing federal policies requiring agencies to assess the results of other government programs.

Finally, it is important for the public to understand where IIJA's substantial technical assistance funding is going and what assistance providers are doing with it. The Biden administration has made several announcements over the past year about large grants distributed to Environmental Finance Centers and other entities to help communities access IIJA funds.[44] The recipients of these grants should be required to publicly report on their activities, including the communities they assist and whether those communities are ultimately successful in obtaining IIJA funds. Information must be available to assess their performance so that EPA can make informed decisions about which providers to support in future years.

Congress should support all of these transparency, tracking, and reporting activities by providing the resources necessary to carry them out. Stronger reporting requirements could be implemented with little burden on CWSRF recipients if Congress provides adequate resources for data collection and instructs EPA to take the lead on gathering and aggregating the data.

* * * * *

Thank you for the opportunity to testify today. NRDC looks forward to working with the Subcommittee on solutions to provide all communities with high-quality, sustainable, and affordable wastewater and stormwater infrastructure.

[44] See EPA, Water Technical Assistance, https://www.epa.gov/water-infrastructure/water-technical-assistance-waterta.