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**STATEMENT OF
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U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES**

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INTRODUCTION

Good Morning, Mr. Chairman and Members of the Subcommittee, I am Tracy Mehan, Assistant Administrator for Water at the United States Environmental Protection Agency (EPA). I appreciate the opportunity to be here today to speak to you about the President's fiscal year (FY) 2004 budget request for EPA's water programs.

During these times of competing priorities for Federal funding – including the war on terrorism and homeland security – the President's budget request provides the necessary funding for EPA's Office of Water to carry out its mission to protect human health and safeguard and restore the natural environment. The request provides the EPA with funding to continue: improving protection of our Nation's critical water infrastructure; enhancing our core water programs; and, increasing the long-term investment in the State revolving loan funds for drinking water and wastewater infrastructure. Other areas of note in the President's request include additional funding for the Great Lakes, wetland protection, and nonpoint source pollution control assistance to States.

PROTECTING CRITICAL WATER INFRASTRUCTURE

Protecting our nation's critical water infrastructure, drinking water and wastewater utilities, from terrorist and other intentional acts will remain a high priority in FY 2004, and we are requesting \$30.8 million and 16 full time positions. EPA is continuing its responsibilities as lead Federal agency for the water sector. As you know, the Public Health Security and Bioterrorism Emergency and Response Act of 2002 requires approximately 9,000 community water systems (those that provide drinking water to more than 3,300 but less than 100,000 people) to assess their vulnerability to terrorist or other intentional attacks, and to develop or revise response plans. The systems serving more than 100,000 are to complete their assessments in FY '03. About 6,000 wastewater systems serving more than 10,000 people are also conducting vulnerability assessments, and developing or updating emergency response plans.

As in the past two years, we will work with drinking water and wastewater utilities to provide technical assistance and tools as they assess their vulnerabilities to terrorist and other intentional acts, and develop or revise their emergency response plans accordingly. In addition, the Agency is supporting scientific and technical analyses on methods and technologies that can detect and treat contaminants deliberately added to water and wastewater systems.

CORE WATER PROGRAMS

Over the nearly thirty years since enactment of the Clean Water and Safe Drinking Water Acts, we have worked together at all levels to make remarkable progress in improving the quality of surface waters and the safety of drinking water. Despite measurable improvements in the quality of water, serious water pollution and drinking water problems remain. At the same time, population growth continues to result in increased water pollution, and in greater demands on wastewater and drinking water systems.

The core water programs work together in stages to achieve safe sources of drinking water, edible fish, swimmable beaches, and healthy watersheds. For every waterbody, the building blocks necessary to achieve water quality goals in that waterbody are the same: setting appropriate standards; monitoring; assessment; planning; implementation; and reevaluation through more monitoring. The success of any one of these essential activities depends on the quality with which the other activities are performed. For each core program, there are critical inputs and outputs and interdependencies. For example, we cannot set good standards without monitoring; we cannot monitor well without good standards; we cannot assess without good monitoring data; we cannot plan without good assessments; and we cannot implement programs efficiently and effectively without good plans.

The Environmental Council of the States (ECOS) has reported that most State environmental agencies are facing a second year of budget cuts. Thirty of forty reporting States show a reduction in their FY '03 budgets and eight of the ten others

had no increase in their budget (ECOS Press Release, July 2002). These budget pressures have resulted in: backlogs, several court challenges, 19 petitions to withdraw State program authorizations, and recent reports from the EPA's Inspector General and the General Accounting Office on specific programs. We recognize the budget pressures facing States and Tribes, and that we need to continue to work with them to improve our Nations's water quality. The 2004 President's Budget provides an additional \$50 million and 14 additional staff to help address water quality and drinking water issues. This includes a \$20 million increase for Clean Water Section 106 grants to States and Tribes, and an additional \$12 million for Drinking Water Public Water Supply Supervision (PWSS) grants to States and Tribes. We are also increasing EPA resources to provide guidance, training, and technical assistance. Following are additional details on other investments in the core programs we oversee.

Water Quality Monitoring

Increased funding of water quality monitoring efforts will provide critical data for States and others to: make watershed-based decisions; develop necessary standards and total maximum daily loads (TMDLs); and, accurately and consistently portray conditions and trends. A key component in FY '04 is the support of enhanced monitoring and assessment – by working with the States with a particular emphasis on the probabilistic approach and providing additional support to encourage the establishment of State-level monitoring councils and local watershed monitoring consortiums. We are requesting an additional \$2 million for grants and contracts to assist States and Tribes and an additional four positions over last year's request.

Water Quality Standards

Water quality standards establish the environmental baseline used to measure success in implementing clean water programs. In FY '04, EPA is increasing its funding request by \$3.8 million to work with State and Tribal partners to ensure that water quality standards are effective and appropriate for use in developing TMDLs. The National Research Council's 2001 assessment of the TMDL program found that the designated uses and criteria in existing standards often need more detail and refinement before they can be used as a firm basis for requiring load reductions through TMDLs. To address this concern, EPA in FY 2004 will conduct outreach to States and Tribes on approaches to analyze the attainability of their designated uses and, if necessary, refine their standards to ensure that they provide the appropriate targets for load reductions. In addition, EPA conducted a customer-focused review of the National Standards program and developed a draft long-term strategy that calls for improvements and streamlining in EPA's program. EPA will implement the high priorities in the strategy. EPA will also accelerate the technical reviews necessary for EPA to approve new or revised State/Tribal standards on a timely basis for use in TMDLs.

Total Maximum Daily Loads (TMDLs)

The Agency will continue to work with States and Tribes to carry out their TMDL programs focused more, in FY '04, on a watershed basis to identify those waters not meeting clean water goals. To assist States and Tribes in this effort, the Agency is requesting four additional staff positions and \$2.9 million in funds for grants and contracts. The Agency will also continue to help restore impaired watersheds, and to meet the many court-supervised deadlines for completing TMDLs. While increasing the pace of TMDL development remains important, EPA must work with States to help assure implementation of already-approved TMDLs, including targeting Clean Water Act (CWA) Section 319 Nonpoint Source and Clean Water State Revolving Fund monies, and marshaling Farm Bill conservation programs. EPA will assist States in revising their continuing planning processes under CWA Section 303(e) to place more emphasis on assuring needed watershed implementation.

National Pollutant Discharge Elimination System (NPDES)

In recent years the authorized State NPDES programs have been the object of an increasing number of withdrawal petitions, citizen lawsuits, and independent reviews suggesting potential noncompliance with Federal CWA requirements. EPA will continue to work with States to address issues that have been raised regarding the performance of State programs, including the need for more timely issuance of NPDES permits and greater consistency in the application of standards and requirements in those permits, including documentation of the basis for permit requirements. Specifically, in FY '04,

EPA – in partnership with the States – will work to establish environmentally-based permitting priorities, including criteria emphasizing permit priorities for situations such as: impaired waters/TMDLs, proximity to drinking water sources, newly-issued effluent guidelines, and other criteria established by States. To improve program health and accountability, EPA will work with States to ensure increased quality and quantity of data necessary to assess and maintain program health and to implement permit quality reviews, permit quality management tools, and technical training for State and EPA NPDES permit writers. To assist States with this, EPA is requesting an additional \$700,000 over last year's request.

Drinking Water Implementation

The proposed increase of \$4.6 million and 6 positions over last year's request for the drinking water program will strengthen EPA's ability to meet States', Tribes', and systems' increasingly complex implementation assistance needs. This assistance is critical for the national program to meet its long-term objective of providing drinking water that meets all priority regulations, within five years of the effective date of each standard, to at least 95 percent of the population served by community water systems. The increased resources are targeted toward developing more effective State programs and increasing the technical and managerial capacity of drinking water systems to comply with drinking water regulations, especially the arsenic and microbial, disinfectant and disinfection byproducts rules. In addition, EPA will focus increased resources on the Area-Wide Optimization Program which is designed to reduce consumers' exposure

to microbial contaminants by improving the performance of small systems' filtering technology.

Oceans and Coastal Protection

To strengthen protection of the nation's ocean resources, EPA is requesting an additional \$4 million over the previous request to address significant gaps in ocean and coastal protection in specific high priority issues. Recent legislation regarding cruise ships in Alaskan waters, and General Accounting Office and other reports have demonstrated the need to enhance cruise ship regulation and address continuing violations of existing standards. In response, EPA will enhance its regulation of discharges of pollution from vessels, including: sewage discharges; cruise ship discharges; and, operational discharges from vessels of the Armed Forces -- Uniform National Discharge Standards -- taking into consideration the concerns of the Armed Forces. In addition, EPA will place a strong emphasis on developing ballast water standards for aquatic nuisance species. EPA will also bolster its Marine Protection, Research, and Sanctuaries Act responsibilities regarding site evaluation, designation and monitoring, and permit review and concurrence.

These core programs are fundamental underpinnings for taking a watershed approach to environmental protection. This approach calls for setting watershed goals, assessing conditions, determining the sources of concern, addressing them using regulatory and voluntary tools, and then reevaluating and adapting plans as new information becomes available. By focusing and integrating the work of EPA with sister agencies, States, Tribes, local governments, industry and nonprofit organizations in

watersheds, we are able to pool information, resources and authorities and focus our collective energies on our common environmental objectives. In watersheds, we can better understand the cumulative impact of activities, determine the most critical problems, better allocate limited financial and human resources, engage stakeholders, win public support, and make real improvements in the environment.

Using the watershed approach through the Targeted Watershed Grant program we proposed last year has gained the support of hundreds of State and local watershed groups across the country. Once awarded, the grants will provide needed funding to assist communities in implementing on-the-ground restoration and protection projects designed to achieve real environmental results quickly. In August 2002, EPA invited Governors and Tribal Leaders to nominate their most meritorious watersheds with protection or restoration plans. Since then, EPA has received 179 nominations including projects in every State, Puerto Rico and the Virgin Islands. EPA is poised to begin the selection process. The Agency will be hosting several review panels to evaluate and rank the submitted watershed proposals. We hope to be able to award the grants and allocate the funds as soon as possible so that the selected organizations can begin their work by late summer.

In FY '04, we will devote a portion of the requested \$20 million for targeted watershed grants to the Mississippi River Basin to address Gulf of Mexico hypoxia or the "dead-zone" that continues to grow larger each summer. The Mississippi River basin encompasses over 40% of the United States and is affected by human-induced activities in 31 States. The hypoxia, or "dead-zone" that occurs each summer in the Gulf is of great concern and we are working hard to address this issue.

Besides the Targeted Watershed Grants, the Water Program has joined other agencies in successfully promoting this watershed approach as a way of integrating and focusing our efforts on environmental results for several years. Our “Adopt Your Watershed” database now reports the existence of over 4,000 watershed groups across the country. Yet, we have learned through program evaluations that our watershed partners do not always have the CWA products they need to work efficiently and effectively (appropriate standards, monitoring, assessments, appropriate plans, up-to-date permits). With the strengthening of these core building blocks, EPA will have a better chance at succeeding with important program innovations that focus on managing water resources at the watershed level, including trading, watershed permitting, and watershed-based TMDLs.

INFRASTRUCTURE COMMITMENTS

Even during these times of competing priorities, the President is proposing higher long-term levels of revolving funds for infrastructure. These higher levels can be achieved through the President’s proposal to lengthen the Federal government’s support for both clean water and safe drinking water beyond earlier commitments. The President proposes to do this through an increased commitment to the revolving loan fund programs over time.

Specifically for clean water, with funding previously proposed by the President and appropriated by Congress, we have now reached the goal of having \$2 billion available annually through the Clean Water State Revolving Fund (CWSRF) for building

new sewage plants and other infrastructure to keep our waters clean. Nonetheless, the President proposes to increase this annual target level to \$2.8 billion, a 40 percent increase. This projected revolving level can be met by appropriations of \$850 million a year through FY 2011. This proposal extends the funding well beyond the previous commitment, which would have ended in FY 2005. In total, the Bush Administration is proposing to invest \$4.4 billion above what would have been invested in the CWSRF from FY 2004 to 2011 based on previous commitments. Based upon current leveraging assumptions which are periodically revised, the monies available for loans are projected to increase from \$42 billion to \$63 billion under this proposal, which means that States will be able to finance an additional 15,000 new projects over the next 20 years.

The President also proposes to extend Federal support for the Drinking Water State Revolving Fund (DWSRF) so that it can revolve at a higher projected level of \$1.2 billion per year, even after Federal capitalization ends, an increase of 140 percent over the current annual average of \$500 million. To realize this increased level of revolving funds, the President proposes an appropriation of \$850 million for each year from FY 2004 to FY 2018. This proposal extends the commitment for the DWSRF well beyond the FY 2003 authorization period.

EPA and several other organizations have done assessments of the difference between hypothetical flat spending at current levels and what would be required to meet projected clean water and drinking water needs over the next twenty years. The estimates of the size of the gap or investment challenge differ, but we know that under flat levels of spending it is large and it stems from an aging infrastructure, a growing population, development pressures, and regulatory mandates.

With the Federal government doing its fair share to help close the gap including increasing the long-term investment in the revolving loan funds, we need to see greater investment from municipalities and other utility operators. This investment is needed in both capital and in operations and maintenance (O&M). EPA estimates that utilities, in aggregate, could increase their own revenues and investment at a real rate of growth of 3% per year, consistent with a reasonable expected rate of growth for the U.S. economy, resulting in a reduced investment shortfall. This was one of the scenarios identified in EPA's recent report on the infrastructure investment gap.

I should note, at least in passing, that EPA also manages the Special Needs Projects (i.e. earmarks). The number of these projects has grown exponentially through the appropriations bills beginning with 7 projects in 1992 to a total of 490 projects this fiscal year alone at a cost of over \$323 million. Since 1992, a total of \$4.182 billion has been appropriated for 1566 projects.

In addition to increased funding, we believe closing the infrastructure gap will require actions and innovations to reduce the demand for infrastructure. As representatives of various stakeholder groups discussed during the Administrator's recent infrastructure forum, these actions include: better management, conservation (or smart water use), full cost pricing, and intergovernmental cooperation through the watershed approach.

In the Office of Water, we have been looking at the potential for sustainable management systems including environmental management system and asset management techniques to reduce a utility's long-term costs and improve performance. Asset management is a structured management approach that is based on information

about the condition of a system's assets. Knowing the condition of your assets and linking that information to inventory, service levels, useful life, and repair costs will provide the information needed to make optimal management decisions -- including decisions about funding future renewal and replacement.

Recently, working with Australian and U.S. consultants, the Orange County Sanitation District approved an investment of \$22-38 million, over a six year period, to implement its Asset Management Plan, as part of a \$2 billion investment strategy over the next twenty years. This front-end investment in manpower, planning and assistance, information systems, software, training and other process changes will yield a 20 year return on investment in the range of 9:1 to 16:1. This translates into a reduction of \$150 million in their capital improvements program and a total life cycle cost savings of at least \$200 million. This 10% savings from just one utility, admittedly a very large one, is equivalent to the current full amount of the Federal contribution to California's Clean Water State Revolving Fund over two years!

Another innovative idea EPA is pursuing is Watershed-Based Trading. Watersheds are ideal for experimenting with market-based incentives; and our Water Quality Trading Policy released on January 13th of this year renews our efforts to pursue water-quality trading for nutrients, sediments and other pollutants to reduce the cost of compliance with water-quality based requirements. With this policy, we are supporting States and Tribes in developing trading programs that meet the requirements of the Clean Water Act. A water quality "credit" could be created by reducing pollution loads beyond the level required by the most stringent technology requirement. For example, an unregulated landowner or a farmer could create credits by changing cropping

practices and planting shrubs and trees next to a stream, reducing nutrient runoff and sedimentation. A municipal wastewater treatment plant then could purchase and use these credits to meet water quality limits in its permit. Trading for TMDL implementation offers particular promise for its water quality and economic benefits. Our policy supports trading among and between regulated and unregulated sources.

In its analysis of the Clinton Administration's Clean Water Initiative, EPA concluded that the total potential savings from all types of trading range from \$658 million to \$7.5 billion annually. A current example of a successful trading effort, between point sources only, can be found on Long Island Sound where nitrogen trading among publicly owned treatment works in Connecticut is expected to save over \$200 million in control costs.

A study of three watersheds in Minnesota, Michigan and Wisconsin by the World Resources Institute (2000) found that the cost of reducing phosphorous from point sources, traditional pipe-in-the-water dischargers, was considerably higher than those based on trading between point and non-point, or diffuse, sources of runoff which are not regulated by the Clean Water Act. The estimates for point source controls ranged from \$10.38 per pound of phosphorus in the Wisconsin watershed to \$23.89 in the Michigan watershed. Using trading between point and non-point sources, these costs could be lowered to \$5.95 per pound in Wisconsin, a reduction of over 40%, and to \$4.04 in Michigan, a reduction of over 80%.

An additional specific infrastructure investment in the President's request includes improving the drinking water in Puerto Rico. During 2001, 74% of Puerto Rico's community water supply systems – affecting 80% of the population – had

intermittent violations of drinking water standards. Puerto Rico is unable to afford critical drinking water infrastructure improvements to consistently meet existing drinking water standards without Federal support. Nearly 60% of the population lives in poverty, and compared to the national average, Puerto Ricans spend twice as much of their median income on drinking water. In addition, given island poverty rates, most people served by San Juan's Metropolitan community water system cannot afford the infrastructure improvements needed to consistently meet existing drinking water standards. To help address these problems, the FY 2004 budget request provides \$8 million for the design of upgrades to Metropolitan's Sergio Cuevas treatment plant in San Juan. When all upgrades are complete, EPA estimates that about 1.4 million people will enjoy safer, cleaner drinking water.

GREAT LAKES LEGACY ACT

Sediment contamination is a significant source of toxic pollutants impacting benthic organisms, fish, and wildlife in Great Lakes Areas of Concern. Human health can also be impacted via the bioaccumulation of toxic substances through the food chain. In support of the Great Lakes Legacy Act, EPA's FY '04 request includes \$15 million in funding for contaminated sediment cleanup activities. In FY '04, the Agency plans to begin cleanup on two or three new sites, which will lead to the remediation of over 100,000 cubic yards of contaminated sediments. EPA will actively coordinate on site selection and remedial efforts internally with Superfund, and externally with States, Tribes and other stakeholders.

WETLANDS

In October 2002, a Presidential Proclamation stated that, "Recent studies show that we are close to achieving our goal of halting overall wetlands loss, and we are hopeful that in the near future we will begin increasing the overall function and value of our wetlands." EPA will continue to work toward reversing historic trends of wetland losses and restoring some of the 54 percent of the Nation's wetlands already drained or filled. EPA will contribute to this wetlands quantity goal by helping to improve compensatory mitigation success, supporting wetlands restoration efforts, and building State and Tribal capacities to monitor and protect wetland resources.

EPA is committed to protecting America's wetlands and watersheds to the full extent possible under the Clean Water Act and the Supreme Court's 2001 decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (SWANCC). Although the SWANCC decision limits Federal CWA jurisdiction over isolated, intrastate, non-navigable waters and wetlands, other Federal and State laws and programs still cover these waters and wetlands. The President's budget increases Wetland Program Grants by \$5 million to a total of \$20 million to help States, Tribes, and local governments address the wetlands which may be impacted by the SWANCC decision.

States and Tribes also will use the new resources to assume more responsibility for comprehensive protection of wetlands and other waters, including those affected by SWANCC. Some States including the New England States, Michigan, New Jersey, and Wisconsin are now protecting some or all of these waters. In addition, States and

Tribes will use wetlands grants to assume more decisionmaking authority in waters that remain under the CWA.

NONPOINT SOURCE POLLUTION

Nonpoint source pollution (NPS) is the leading cause of water quality impairments in our Nation's rivers and streams, lakes, and estuaries. Agriculture alone has been identified by States as a leading cause of impairment in 48 percent of the river miles surveyed; other leading nonpoint sources identified by States include urban runoff, forestry, streambank erosion, and hydro- and habitat modification. EPA is requesting \$238,500,000 for the Nonpoint Source Grants in FY 2004.

The new Farm Bill affords EPA and the States an enhanced opportunity to significantly accelerate national efforts to control NPS pollution from agriculture. In light of the Farm Bill, EPA and the States will address non-agricultural activities, foster pollution prevention, and re-focus our efforts to support the agricultural community's efforts to help them target their work effectively on the highest priority water quality needs. States will increase their focus upon NPS categories and activities that are not funded under the Farm Bill (e.g., urban runoff, forestry, abandoned mines, and a variety of stream and streambank restoration activities), while continuing to work with the agriculture community to solve problems on a watershed basis.

Using Section 319 dollars, States will focus more of their efforts on providing the monitoring and watershed planning support needed by the agricultural community to target their work most effectively on the highest-priority water quality needs. Section

319 dollars will also provide support for hiring watershed coordinators who can provide a focus for identifying the highest priority needs in the watershed and promoting producers' adoption, with support of USDA's and other programs, of practices that will best solve water quality problems in the watershed. EPA will also continue to encourage States to use the resources of the Clean Water State Revolving Fund to finance projects to address polluted runoff. As of mid-2002, States had invested about \$1.6 billion in nonpoint source controls through the CWSRF. Furthermore, States will continue to use a variety of program tools to foster an ethic of pollution prevention in their nonpoint source watershed programs, such as low impact development techniques, source prevention, and public education, to assure that water quality improvement and protection become a permanent outcome of the program.

CLOSING

In conclusion, I look forward to working with the Subcommittee to address the needs of the water programs entrusted to EPA. The President's request supports the Office of Water's work and will allow us to continue to improve the protection and investment in water infrastructure as well as strengthen the core programs that are so vital to the improvements that we have achieved, and will continue to achieve in the quality of our surface and drinking waters.

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