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On Behalf of the
Association of Metropolitan Water Agencies

Senate Environment and Public Works Committee

"Implementing IIJA: Perspectives on The Drinking Water and Wastewater Infrastructure Act"

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Chairman Carper, Ranking Member Capito, and members of the Committee: I appreciate the opportunity to represent the Association of Metropolitan Water Agencies (AMWA) at today's hearing on "Implementing IIJA: Perspectives on The Drinking Water and Wastewater Infrastructure Act."

I am Randy Hayman, and I serve as the Commissioner and CEO of the Philadelphia Water Department (PWD). Before coming to PWD, I served as general counsel for Metropolitan St. Louis Sewer District and DC Water. PWD serves more than 1.6 million people in Philadelphia and provides services to Montgomery, Delaware, and Bucks counties in Pennsylvania via wholesale contracts. We use science and technology to provide quality water 24 hours a day, 365 days a year. For over 200 years, the Department has ensured the city has the clean, safe water it needs.

In addition, since 2021, I have served on the Board of Directors of AMWA, which represents the nation's largest publicly owned drinking water systems. Each of AMWA's member utilities typically serves a population of greater than 100,000 people. AMWA's members collectively serve more than 160 million Americans from coast to coast with quality drinking water.

I am proud to testify on behalf of AMWA at this hearing. AMWA worked with members of this Committee to develop the legislation that became the Drinking Water and Wastewater Infrastructure Act (DWWIA), and AMWA strongly supported the bill in 2021 when it passed the Senate with an overwhelming vote of 89 – 2. We were pleased to see this legislation subsequently incorporated into the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), and passage of that legislation later in 2021 was one of Congress' landmark achievements, not only on water infrastructure funding, but investment in a range of critical infrastructure sectors.

Today, I will discuss the many benefits of DWWIA and IIJA to PWD and other community water systems across the country. These benefits are already impacting communities. Last month, President Biden announced that PWD will receive $500 million in loans through IIJA and DWWIA-authorized programs to upgrade our water infrastructure, including through water main replacement that will include the removal of any lead service lines discovered.[1] This financing will make a real difference in Philadelphia and across Pennsylvania, but only represents the beginning. DWWIA also included several other new program authorizations that carry the potential to address a range of other challenges, from extreme weather resilience to low-income affordability. And looking ahead, I will share some suggestions for how AMWA and the entire water sector hope to work with Congress and the EPA to make IIJA even more effective as implementation continues in the upcoming years.

Critical near-term appropriations that support Philadelphia's Water Revitalization Plan

The final enacted version of IIJA was a massive piece of legislation that impacted nearly every sector of the economy. But for drinking water systems the benefits will be felt in two key areas: a near-term infusion of billions of additional dollars into EPA's existing water infrastructure programs and several new program authorizations at EPA that will supplement the State Revolving Fund (SRF) with targeted grant funding opportunities to address key infrastructure and public health priorities. While Philadelphia does not qualify for grant funding or principal forgiveness through Pennsylvania's SRF, the additional federal funding, in the form of affordable financing, will support PWD's Water Revitalization Plan, which was completed in 2019 to lay out a 25-year, multi-billion dollar strategic vision for upgrading and expanding our core water drinking water infrastructure.[2] The plan includes improvements to water treatment plants, pumping stations, and transmission mains, while leveraging low-cost financing opportunities to keep rates affordable for our customers.

In additional near-term funding, IIJA appropriated roughly $48 billion in new spending for drinking water and wastewater infrastructure programs over five years, primarily through the Drinking Water and Clean Water State Revolving Funds. For drinking water, this sum includes:

- $11.713 billion for essential drinking water infrastructure projects funded through the DWSRF, like money for treatment plants, filtration systems, and distribution infrastructure. In 2022 alone, Pennsylvania received more than $55 million in these additional general DWSRF funds.

- $15 billion over five years for lead service line replacement projects and associated activities, like carrying out required lead service line inventories that tell communities the exact location of these outdated lead pipes. Pennsylvania received more than $87 million worth of these lead remediation funds in 2022.

[1] https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/02/fact-sheet-president-biden-announces-500-million-for-philadelphia-water-upgrades-and-lead-service-removal/
[2] https://water.phila.gov/pool/files/pwd-water-revitalization-plan.pdf

- $4 billion to address per- and polyfluoroalkyl substances, or PFAS, and other emerging drinking water contaminants, plus another $5 billion to support these efforts in small and disadvantaged communities. The funds, more than $23 million of which went to Pennsylvania in 2022, will support the installation of advanced contaminant detection and water treatment technologies to help drinking water systems comply with new federal drinking water regulations for PFAS that are expected to be proposed later this year.

In addition to these drinking water programs, the law appropriated another $11.713 billion for wastewater infrastructure projects through the Clean Water SRF and $1 billion to help wastewater systems address their emerging contaminant challenges.

EPA began to distribute the first tranche of these water infrastructure dollars to states last fall and will continue to do so through the 2026 fiscal year. Philadelphia is fortunate to anticipate at least $160 million in low-interest loans from Pennsylvania's share of these funds to support our Water Revitalization Plan and replace more than 19 miles of water mains and any lead service lines found during that work. This infusion will enable PWD to make significant strides in advancing our public health mission.

Long-term program authorizations for targeted infrastructure investment

Perhaps overlooked in the attention provided to IIJA's historic level of water infrastructure spending were more than one dozen authorizations and reauthorizations for substantial, targeted EPA programs that will help individual water systems address a range of pressing public health challenges. These program authorizations were all part of the EPW Committee's DWWIA legislation that was incorporated into IIJA, and AMWA strongly supports action to deliver funding to each of these programs at their full authorized level.

DWSRF and WIFIA

DWWIA carried reauthorizations of EPA's core drinking water and wastewater infrastructure programs, signaling a strong commitment to federal support for local water infrastructure needs in the years ahead. The Drinking Water and Clean Water SRFs were each reauthorized at a total of $14.65 billion over five years – a sum that would, if fully funded, eclipse the $11.713 billion that each program will receive through the direct appropriations included in the infrastructure law. While Congress did not fully fund either program in its final FY22 or FY23 appropriations bills, AMWA wrote to President Biden in January to ask that he seek the DWSRF's full $3 billion authorization as part of his FY24 budget request.[3]

Funding the SRFs at their highest authorized level represents the best chance to ensure essential water infrastructure funds are provided to a wide swath of necessary projects across the country. This is because each year's DWSRF capitalization grant is distributed by formula to each state, based upon a quadrennial needs survey conducted by EPA. The agency's most recent Drinking Water Needs Survey and Assessment, completed in 2018, identified $472.6 billion[4] worth of

[3] https://www.amwa.net/letter/letter-fy24-funding-water-infrastructure-programs

[4] This sum reflects constant dollars as of January 2015. According to the U.S. Bureau of Labor and Statistics, it would total just under $605 billion in January 2023.

drinking water infrastructure investment needs over the next 20 years, just to maintain current levels of service.[5] This sum includes:

- $312.6 billion for distribution and transmission projects to replace or refurbish aging or deteriorating pipelines;
- $83 billion to construct, expand or rehabilitate treatment infrastructure to reduce contamination;
- $47.6 billion to construct, rehabilitate or cover water storage reservoirs; and
- $21.8 billion to construct or rehabilitate intake structures, wells and spring collectors.

While communities of all sizes face significant water infrastructure needs, the report found that large community water systems, defined as those serving more than 100,000 people, face nearly $175 billion in infrastructure need (or $224 billion in January 2023 dollars). Pennsylvania alone was found to require more than $16 billion in drinking water investment over 20 years, including nearly $7 billion in need from large water systems like Philadelphia's.[6]

Along with the SRFs, DWWIA also reauthorized EPA's Water Infrastructure Finance and Innovation Act (WIFIA) program at a total of $250 million over five years. WIFIA was first established with AMWA's strong support in 2014, and if this authorization were fully funded, the program could leverage that federal investment into roughly $25 billion worth of funds to make available as loans – nearly 33 percent more than the amount of credit assistance the program has provided to date.

Like the SRFs, WIFIA is intended to help communities finance critical water infrastructure projects. But unlike SRF dollars, which are distributed to states through capitalization grants, WIFIA funds are offered directly by EPA to communities nationwide, on a competitive basis. Further, WIFIA provides low-cost financing to cover up to 49 percent of the cost of a large-scale project (generally expected to cost at least $20 million), while historically the average DWSRF loan has been approximately $2.6 million.[7] WIFIA, therefore, fills an important need to ensure that even large-scale water infrastructure projects can benefit from meaningful low-cost federal financing without consuming a disproportionate amount of a state's annual SRF capitalization grant.

As of last month, WIFIA had closed 100 loans, totaling $17 billion in credit assistance, and helping finance more than $36 billion for water infrastructure projects.[8] I am proud to say that in January, PWD closed on a WIFIA loan in the amount of $19.8 million. We will use these funds to replace 15 miles of water mains throughout the city, allowing for the removal of approximately 160 lead service lines.

Importantly, this WIFIA loan to PWD marks just the first stage of a promised $340 million

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[5] https://www.epa.gov/dwsrf/epas-6th-drinking-water-infrastructure-needs-survey-and-assessment

[6] According to the U.S. Bureau of Labor and Statistics, in January 2023 dollars Pennsylvania would require more than $20 billion in drinking water investment needs over twenty years, including nearly $9 billion for water systems serving more than 100,000 people.

[7] https://www.epa.gov/system/files/documents/2022-04/2019-annual-report-final-508compliant.pdf

[8] https://www.epa.gov/wifia/wifia-closed-loans

financing commitment by the federal government to the City to upgrade our drinking water infrastructure.[9] These future investments will be paid for by subsequent rounds of WIFIA loans, that is why it is essential that DWWIA reauthorized WIFIA and set a course for the program's stability in the years ahead.

Drinking Water System Resilience and Sustainability

AMWA was especially supportive of DWWIA's inclusion of a five-year, $250 million authorization for EPA's new Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program that will help drinking water systems prepare to withstand the effects of natural disasters and cyber threats. Establishing this source of dedicated funding to help all drinking water systems address these challenges had been one of the association's top long-term priorities, and it builds on a similar program, first established in America's Water Infrastructure Act of 2018, to help community water systems serving small and disadvantaged communities prepare to counter natural hazards.[10] That existing small-system program was also reauthorized by DWWIA, so we commend members of this Committee for incorporating these initiatives into the legislation and committing to the operational resilience of the nation's drinking water systems. At PWD, these funds could help us implement our Climate Change Adaptation Program, which outlines how we will make infrastructure planning and design choices to address scenarios like increased rain and extreme storms, higher air temperatures, and rising sea levels.[11] PWD is certainly not the only water system planning for these challenges, so these funds will fill a vital need nationwide.

In FY23, Congress appropriated $5 million for the Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program. AMWA encourages EPA to act swiftly to stand up this program and the similar program serving small and disadvantaged communities and put these funds to work across the country without delay.

Reducing Lead in Drinking Water

In addition to the five-year, $15 billion appropriation for lead service line identification and replacement activities provided to states via the DW SRF, the legislation also reauthorized a pair of more modest – but just as important – competitive grant programs at EPA to further protect public health and drinking water from lead contamination. Originally established with AMWA's support and assistance through the Water Infrastructure Investments for the Nation (WIIN) Act of 2016, the Reducing Lead in Drinking Water Grant Program and the Voluntary School and Child Care Program Lead Testing and Reduction Grant Program are making strides to help community water systems and schools ensure their water is safe to drink. Together, these two programs offer grants to fully replace lead service lines with a focus on replacements at low-income households, and to help schools and childcare centers carry out lead testing and

[9] https://www.epa.gov/newsreleases/biden-harris-administration-announces-340-million-water-infrastructure-and-lead-pipe

[10] This program focused on assisting small and disadvantaged drinking water systems, the Drinking Water System Infrastructure Resilience and Sustainability Program, has been appropriated $18 million by Congress through the 2023 fiscal year.

[11] https://water.phila.gov/pool/files/climate-change-adaptation-program-overview.pdf

remediation activities within their buildings. In 2022, the School District of Philadelphia benefited from a nearly $5 million grant to reduce lead in its facilities, and in total these two programs have awarded millions of dollars in assistance to carry out eligible projects in other communities like Boston, Washington DC, Newark, Benton Harbor, Mich., Detroit, and Trenton.[12]

DWWIA reauthorized the Reducing Lead in Drinking Water Grant Program at $500 million over five years and the school and childcare center program at $200 million over the same time span. AMWA is pleased that the two programs are positioned to continue supporting efforts to remove lead service lines and plumbing components and will support continued federal appropriations.

Low-Income Water Affordability

Unlike federal programs to help qualifying low-income households heat their homes or purchase food, the federal government has not traditionally helped families or individuals maintain essential water or wastewater service. In fact, until the Low-Income Household Water Assistance Program was established at the Department of Health and Human Services as a temporary program during the Covid-19 pandemic, the federal government did not provide any mechanism to aid households in paying their water or wastewater bills. This has left individual states or communities responsible for establishing, funding, and operating their own programs to help their in-need customers maintain water and wastewater service, but it is often a challenge to raise sufficient revenues to support these programs, given the scope of the need.

In Philadelphia, we have a wide-ranging, income-based customer assistance program that provides discounted water bills to seniors, low-income households, and those experiencing hardship. These programs, serving tens of thousands of customers, also prevent service disconnections and can provide a path to debt forgiveness. For non-residential accounts, discounts are provided to qualifying customers such as places of worship and hospitals. Lacking state or federal support, our customer assistance program is funded entirely by the water bills of customers who do not qualify for assistance.

But while the Philadelphia Water Department has the resources to offer this robust assistance program to our ratepayers, not every water system across the country is in the same position. Given that access to water and sanitation service is central to public health, low-income families and individuals nationwide should have the same opportunities to apply for financial assistance to avoid having their water shut off when they cannot afford the bills. Congress made some progress in this area during the pandemic with the creation of the temporary Low-Income Household Water Assistance Program at the Department of Health and Human Services. Before funds were exhausted, Philadelphia customers who accrued debt during the pandemic were able to access over $13 million in grants through this program.

To expand access to low-income water and wastewater ratepayer assistance nationwide, AMWA supported and contributed to the development of DWWIA's Rural and Low-Income Water Assistance Pilot Program, through which EPA is authorized to award up to 40 grants to support municipally operated water and wastewater affordability programs across the country through

[12] https://www.epa.gov/dwcapacity/wiin-grant-reducing-lead-drinking-water

direct aid to eligible household, lifeline rates, bill discounts, and other hardship provisions. Importantly, the pilot's funding assistance will be distributed evenly to a cross-section of small and large drinking water and wastewater systems so the EPA can identify which affordability aid approaches work best for different types of communities. Ideally, AMWA hopes this will represent a step toward the creation of a permanent federal low-income water and wastewater aid program.

While DWWIA did not authorize funds for the new EPA pilot, it specified that before the program can proceed the agency must carry out a needs assessment and report to Congress on the prevalence of local or tribal governments with water service providers that serve a "disproportionate percentage … of households with qualifying need," as well as the prevalence of local or tribal governments that "have taken on an unsustainable level of debt due to customer nonpayment" for drinking water and wastewater service. Congress' FY23 omnibus spending bill provided the agency with $3 million to carry out this needs assessment, which we hope will enable further action to begin awarding pilot grants – a critically important need given that the temporary authorization for the Low-Income Household Water Assistance Program at the Department of Health and Human Services has expired.

Other DWWIA authorizations

Aside from these EPA programs, DWWIA also authorized or reauthorized several others that, if funded, will play a critical role in ensuring the provision of safe and clean drinking water nationwide. These include:

- Assistance for Small and Disadvantaged Communities, which offers grants to communities that are unable to finance projects needed to comply with Safe Drinking Water Act mandates;
- Source Water Protection Program, which supports voluntary partnerships to prevent source water degradation;
- Advanced Drinking Water Technologies, which will identify potential technologies to enhance water treatment and offer grants to small communities to deploy them; and
- Water Infrastructure and Workforce Investment, which supports efforts to train the next generation of water utility workers.

As Congress develops its appropriations bills for FY24 and beyond, AMWA supports fully funding all drinking water-related authorizations included within DWWIA.

Areas to collaborate for improvement

Finally, as the Committee continues to provide oversight on implementation of DWWIA and IIJA, AMWA would welcome the opportunity to work constructively to clarify or amend any portions of the law that might not operate as efficiently or as effectively as originally intended.

One such area where more clarity and consistency would be beneficial relates to the law's requirement that 49 percent of the additional Drinking Water and Clean Water SRF appropriations must go to "eligible recipients" in the form of additional subsidy such as grants or 100 percent principal forgiveness loans. But the law does not define the term "eligible

recipients," and EPA's subsequent implementation memorandum specified that only communities that meet their state's definition of a "disadvantaged community" under the Safe Drinking Water Act may access the additionally subsidized DWSRF funds.[13] However, because states do not use consistent metrics for determining which water systems serve disadvantaged communities, a water system in one state may benefit from this additional subsidization, while one serving a similar community in another state may not.

For example, Philadelphia is recognized as the nation's poorest large city and has several communities impacted by long-term, systemic poverty and disinvestment. However, due to serval factors, the Philadelphia Water Department cannot access grants or principal forgiveness through PENNVEST, Pennsylvania's SRF program. AMWA would therefore be interested in working to establish a baseline definition of what criteria constitutes a disadvantaged community under the Safe Drinking Water Act.

Also challenging for water systems are new Build America, Buy America mandates that apply not only to iron and steel, but also any manufactured products used in water and wastewater projects. While using the goal of using American-made products is laudable, many specialized electronic components or other manufactured products used by water systems are either not domestically produced or in reliable supply. These may include high speed turbo and other blowers; motors; smart meters and sensors, actuators; certain types of pumps; UV technologies; membranes and membrane bioreactors; reverse osmosis system equipment and piping; ozone treatment; monitors, data analysis, and other smart technologies; as well as certain adsorbent media, including best available technologies for PFAS removal. While the law allows EPA to grant waivers to this new mandate on a case-by-case basis, there is no uniform waiver process more than a year after enactment, and this could complicate the ability of water systems to deploy federal funds to pay for manufactured products that are not readily available from domestic sources. AMWA therefore urges EPA to issue a two-year adjustment period product waiver for these technologies, similar to the waiver the U.S. Department of Transportation issued for electric vehicle chargers. AMWA would be eager to work with the Committee to ensure that Build America, Buy America implementation achieves its stated objectives and does not unintentionally complicate the timely expenditure of critical water infrastructure dollars.

Finally, we understand that the $15 billion in funding to address lead service lines included in IIJA will be distributed to states based on the existing DWSRF distribution formula, which itself is based on EPA's last Drinking Water Needs Survey and Assessment. However, that survey examined states' overall drinking water infrastructure needs and did not include a specific focus on a given states' prevalence of lead service lines. As a result, the proportion of lead remediation dollars delivered to each state based upon the formula may not align with a given state's actual lead replacement need, relative to others. AMWA looks forward to working with the Committee to ensure consistency with the goals and objectives of the law.

Conclusion

On behalf of AMWA, the Philadelphia Water Department, and drinking water systems across the country, I thank you for the opportunity to testify at today's hearing. I cannot express enough the

[13] https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf

gratitude that the nation's water systems feel to this Committee for its tireless and collaborative efforts to develop the Drinking Water and Wastewater Infrastructure Act, and to incorporate it into the larger Infrastructure Investment and Jobs Act. Now that the law is being implemented and funding is beginning to reach states and communities, AMWA stands ready to work with you to ensure the funding is used to ensure the continued delivery of safe, clean drinking water across the nation.

Thank you again, and I am happy to answer any questions you may have.