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Environmental Financial Advisory Board Members

Joanne Throwe, Chair
Ed Chu, Designated Federal Officer

Members (July 2020)

Name	Affiliation	Represented Group
Joanne Throwe, EFAB Chair	President, Throwe Environmental LLC, Bristol, Rhode Island	Business – Financial Services
Ashley Allen Jones	Founder and Chief Executive Officer, i2 Capital, Washington, D.C.	Business – Financial Services
Brent Anderson	Chief Executive Officer, RESIGHT, Littleton, Colorado	Business – Industry
Janice Beecher	Director, Institute of Public Utilities, Michigan State University, East Lansing, Michigan	Academic Expert (Special Government Employee)
Steven J. Bonafonte	Assistant District Counsel, The Metropolitan District of Hartford, Hartford, Connecticut	State/Local Government
Angela Montoya Bricmont	Chief Finance Officer, Denver Water, Denver, Colorado	State/Local Government
Stacy D. Brown	President and Chief Executive Officer, Freberg Environmental, Inc., Denver, Colorado	Business – Financial Services

Name	Affiliation	Represented Group
Theodore Chapman	Senior Director, U.S. Public Finance Infrastructure Group, S&P Global Ratings, Farmers Branch, Texas	Business – Financial Services
Zachary Davidson	Director of Underwriting, Ecosystem Investment Partners, Baltimore, Maryland	Business – Financial Services
Jeffrey R. Diehl	Chief Executive Officer, Rhode Island Infrastructure Bank, Providence, Rhode Island	State/Local Government
Sonja B. Favors	Chief, Industrial Hazardous Waste Branch, Alabama Department of Environmental Management, Montgomery, Alabama	State/Local Government
Jon B. Freedman	Senior Vice President for Global Government Affairs, SUEZ Water Technologies & Solutions, Charlottesville, Virginia	Business – Industry
Phyllis R. Garcia	Treasurer, San Antonio Water System, San Antonio, Texas	State/Local Government
Edward Henifin	General Manager, Hampton Roads Sanitation District, Virginia Beach, Virginia	State/Local Government
Craig Holland	Senior Director of Urban Investments, The Nature Conservancy, Arlington, Virginia	Environmental/Non-governmental Organization
Craig A. Hrinkevich	Managing Director, Public Finance Team - New Jersey, Robert W. Baird & Company Inc., Red Bank, New Jersey	Business – Financial Services
John L. Jones	Member of the Board, New Mexico Rural Water Association, Albuquerque, New Mexico	State/Local Government

Name	Affiliation	Represented Group
Margot M. Kane	Chief Investment Officer, Spring Point Partners LLC, Philadelphia, Pennsylvania	Business – Financial Services
George W. Kelly	Global Client Strategy Officer, Earth & Water Strategies, Denver, Colorado	Business – Financial Services
Cynthia Koehler	Executive Director, WaterNow Alliance, San Francisco, California	Environmental/Non-governmental Organization
Colleen Kokas	Executive Vice President, Environmental Liability Transfer, Inc., Lahaska, Pennsylvania	Business – Industry
Pamela Lemoine	Principal Consultant, Black & Veatch Management Consulting, LLC, Chesterfield, Missouri	Business – Financial Services
Eric Letsinger	Founder and Chief Executive Officer, Quantified Ventures, Chevy Chase, Maryland	Business – Financial Services
James McGoff	Director of Environmental Programs, Indiana Finance Authority, Indianapolis, Indiana	State/Local Government
Christopher Meister	Executive Director, Illinois Finance Authority, Chicago, Illinois	State/Local Government
Kerry E. O'Neill	Chief Executive Officer, Inclusive Prosperity Capital, Inc., Stamford, Connecticut	Environmental/Non-governmental Organization
James (Tony) Parrott	Executive Director, Metropolitan Sewer District of Louisville, Louisville, Kentucky	State/Local Government
MaryAnna H. Peavey	Grants and Loans Bureau Chief, Idaho Department of Environmental Quality, Boise, Idaho	State/Local Government

Name	Affiliation	Represented Group
Dennis A. Randolph	Director of Public Works, City of Grandview, Grandview, Missouri	State/Local Government
Eric Rothstein	Principal, Galardi Rothstein Group, Chicago, Illinois	Business – Financial Services
William Stannard	Chairman of the Board, RAFTELIS, Kansas City, Missouri	Business – Financial Services
Carl Thompson	Vice President, Sales and Marketing, Infiltrator Water Technologies, Old Saybrook, Connecticut	Business – Industry
David Zimmer	Executive Director, New Jersey Infrastructure Bank, Lawrenceville, New Jersey	State/Local Government

LAST UPDATED ON AUGUST 5, 2020

Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Callie Koller, Field and External Affairs Division, Office of Pesticide Programs, 7650P, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (703) 347-8248; email address: koller.callie@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA’s public docket, visit <http://www.epa.gov/dockets>.

Abstract: This information collection request (ICR) is designed to provide the EPA with the necessary information to evaluate an application for the registration of a pesticide product, as required under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA). FIFRA provides EPA with the authority to regulate the distribution, sale and use of pesticides in the United States to ensure that they will not pose unreasonable adverse effects to human health and the environment. Pesticides that meet this test receive a license or “registration.”

Form Numbers: 8570-1, 8570-4, 8570-27, 8570-34, 8570-35, 8570-36, 8570-37.

Respondents/affected entities: Pesticide and other agricultural chemical manufacturing engaged in activities related to the registration of a pesticide product.

Respondent’s obligation to respond: Responses to the collection of information are mandatory under FIFRA § 3 and FFDCA § 408 as amended by FQPA.

Estimated number of respondents: 1,808 (total).

Frequency of response: On occasion.

Total estimated burden: 1,562,517 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$120,563,052 (per year), which includes \$0 annualized capital or operation & maintenance costs.

Changes in the estimates: The activities in this ICR increase net respondent burden by 37,624 hours annually over the levels in the currently

approved collection. While burden per response levels remain unchanged, the number of responses expected in certain categories has shifted as a result of using an updated data set (Section 3 registration actions annually, on average, during the years 2015–2017) to predict future registration application levels. Additionally, in this iteration of the ICR, the Agency calculates the expected annual application burden of three proposed programs that are anticipated to come online in the next three years.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2020-21524 Filed 9-28-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 10015-20-OW]

Notice of Public Meeting of the Environmental Financial Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The United States Environmental Protection Agency (EPA) announces a public meeting of the Environmental Financial Advisory Board (EFAB). The purpose of the meeting will be for the EFAB to provide advice on how the EPA can encourage private investment in Opportunity Zones, receive a briefing on the Agency’s response to recent EFAB reports, receive updates on EPA activities relating to environmental finance, and consider possible future advisory topics.

DATES: The meeting will be held on October 14, 2020 from 11 a.m. to 3 p.m. (Eastern Time) and October 15, 2020 from 11 a.m. to 3 p.m. (Eastern Time).

ADDRESSES: The meeting will be conducted via webcast and telephone. Interested persons must register in advance at the weblink below to access the meeting in the *Registration for the Meeting* section of this document.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants information about the meeting may contact Ed Chu, the Designated Federal Officer, via telephone/voice mail at (913) 551-7333 or email to chu.ed@epa.gov. General information concerning the EFAB is available at <https://www.epa.gov/waterfinancecenter/efab>.

SUPPLEMENTARY INFORMATION:

Background: The EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, to provide advice and recommendations to EPA on innovative approaches to funding environmental programs, projects, and activities. Administrative support for the EFAB is provided by the Water Infrastructure and Resiliency Finance Center within EPA’s Office of Water. Pursuant to FACA and EPA policy, notice is hereby given that the EFAB will hold a virtual public meeting for the following purposes:

(1) Engage in a consultation on how the EPA can encourage private investment in Opportunity Zones. Qualified Opportunity Zones are census tracts of low-income and distressed communities designated by state governors and certified by the Department of Treasury. These are areas where new investments, under certain conditions, may be eligible for preferential tax treatment.

(2) Receive a briefing from EPA’s Office of Water on the Agency’s response to recent EFAB reports on funding and financing of stormwater infrastructure, water system regionalization, and alternative service delivery options for public utility projects.

(3) Receive briefings from invited speakers from EPA and the Environmental Finance Center Network on environmental finance topics, including activities to respond to the COVID-19 pandemic.

(4) Discuss potential future EFAB projects.

Availability of Meeting Materials: Meeting materials (including meeting agenda and briefing materials) will be available on EPA’s website at <https://www.epa.gov/waterfinancecenter/efab>.

Procedures for Providing Public Input: Public comment for consideration by EPA’s federal advisory committees has a different purpose from public comment provided to EPA program offices.

Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees provide independent advice to EPA. Members of the public can submit comments on matters being considered by the EFAB for consideration by members as they develop their advice and recommendations to EPA.

Registration for the Meeting: Register for the meeting at: <https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.avcontact.com%2Fefab>.

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Oral Statements: In general, individuals or groups requesting an oral presentation at a virtual EFAB public meeting will be limited to three minutes. Persons interested in providing oral statements at the October 14 and 15, 2020 meetings should register and provide notification as noted in the registration confirmation by October 13, 2020 to be placed on the list of registered speakers.

Written Statements: Written statements for the October 14 and 15, 2020 meetings should be received by October 7, 2020 so that the information can be made available to the EFAB for its consideration prior to the meeting. Written statements should be sent via email to efab@epa.gov. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the EFAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, or to request accommodations for a disability, please register for the meeting and list any special requirements or accommodations needed on the registration form at least 10 business days prior to the meeting to allow as much time as possible to process your request.

Dated: September 23, 2020.

Andrew D. Sawyers,
*Director, Office of Wastewater Management,
Office of Water.*

[FR Doc. 2020-21432 Filed 9-28-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-R08-OAR-2018-0349; FRL-10015-14-Region 8]

Clean Air Act Operating Permit Program; Notice of Issuance of Title V Federal Operating Permit to MPLX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice announces that the Environmental Protection Agency issued a final permit decision under Title V of the Clean Air Act (CAA) to MPLX for the operation of MPLX's Uintah County, Utah, Wonsits Valley Compressor Station.

DATES: EPA issued Title V Permit to Operate No. V-UO-000005-2018.00 to MPLX, effective September 16, 2020 under 40 CFR part 71. EPA issued the final permit decision as to the contested portions of this permit on September 16, 2020. Pursuant to section 307(b)(1) of the CAA, judicial review of EPA's final permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Tenth Circuit by November 30, 2020.

FOR FURTHER INFORMATION CONTACT: Colin Schwartz, Environmental Scientist, Air and Radiation Division (8ARD-PM), Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, telephone number: (303) 312-6043, email address: schwartz.colin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. How can I get copies of this document and other related information?

Docket. EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2018-0349. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 8, Air and Radiation Division, 1595 Wynkoop Street, Denver, Colorado 80202. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID 19. We recommend that you telephone Colin Schwartz, Environmental Scientist, at (303) 312-6043 with any questions before reviewing the docket material. After visiting the Region 8 office.

II. Background

The 1990 amendments to the CAA established a comprehensive air quality permit program under the authority of Title V of the CAA. Title V requires certain facilities that emit large amounts of air pollution, or that meet other specified criteria, to obtain an operating permit, known as a Title V permit, after the source has begun to operate. This permit is an enforceable compilation of all enforceable terms, conditions, and limitations applicable to the source, and

is designed to improve compliance by clarifying what facilities must do to control air pollution. EPA regulations implementing Title V are codified at 40 CFR part 71 for permits issued by EPA or its delegates, and at 40 CFR part 70 for permits issued by states and local agencies pursuant to approved programs. A Title V permit is valid for no more than five years and may be renewed in five-year-increments.

MPLX, LP operates a facility in Uintah County, Utah, known as the Wonsits Valley Compressor Station. The owner of the facility is Andeavor Field Services, LLC. At the facility, natural gas is dehydrated and compressed before being routed offsite through a pipeline. The facility operates two control devices to control the emissions from the dehydration unit. In 2013, EPA issued an initial Title V permit for the Wonsits Valley facility pursuant to 40 CFR part 71. On May 13, 2020, EPA issued a renewed Title V permit to Andeavor and MPLX. See Title V Permit to Operate No. V-UO-000005-2018.00, Docket ID: EPA-R08-OAR-2018-0349. By its own terms, and consistent with 40 CFR 71.11(i)(2), most provisions of the renewal permit became effective on May 13, 2020. But on May 13, 2020, MPLX petitioned the EPA's Environmental Appeals Board (EAB) to review certain terms and conditions of the May 2020 Title V permit. Consequently, under 40 CFR 71.11(i)(2)(ii), the effective date of the contested terms and conditions of the permit was delayed.

III. Effect of This Action

On September 2, 2020, the EAB denied MPLX's petition for review. See *In re MPLX*, Permit No. V-UO-000005-2018.00, CAA Appeal No. 20-01 (EAB, Sep. 2, 2020) (Order Denying Review). Following the EAB's action, pursuant to 40 CFR 71.11(l)(5)(i), EPA issued a final permit decision as to the contested portions of the permit on September 16, 2020. All contested conditions of Title V Permit No. V-UO-000005-2018.00, as issued by EPA on May 13, 2020, were therefore final and effective as of September 16, 2020. Except as provided in the permit, the final Title V permit will expire on September 16, 2025.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 23, 2020.

Debra Thomas,
Acting Regional Administrator, Region 8.
[FR Doc. 2020-21479 Filed 9-28-20; 8:45 am]

BILLING CODE 6560-50-P

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U.S. Environmental Protection Agency Environmental Financial Advisory Board

Public Meeting

Location: Telephone and Web-based Only

October 14-15, 2020

11:00 a.m. – 3:00 p.m. Eastern Time, each day

Day 1, October 14

- 11:00 am **I. WELCOME AND REVIEW OF AGENDA**
- Ed Chu, EFAB Designated Federal Officer (convene, welcome to new members) (5 min)
 - Joanne Throwe, EFAB Chair (review of agenda) (5 min)
 - Roll Call/Member Introductions (30 min)
-

- 11:40 am **II. REVIEW OF STANDARD OPERATING PROCEDURE- Receiving, Evaluating, Acting on a Charge**
- Review of how the Board receives a Charge, how the charge is evaluated, and what actions the Board can take with the Charge- Ed Chu, EFAB Designated Federal Officer (20 min)
-

- 12:00 pm **III. OPPORTUNITY ZONES**
- Opening Remarks on the Charge- Kevin Wheeler, EPA Office of Policy (15 min)
 - Understanding the Tax Incentives- Jon Grosshans. EPA Region 5 (20 min)
-

12:35 pm **BREAK** (15 min)

- 12:50 pm **IV. OPPORTUNITY ZONES COMMUNITY STORIES**
- Daffney Moore, Chief Opportunity Zone Officer, St. Louis Development Corporation (25 min)
 - Jill Connors, Economic Development Director and Steve Brown, Project Manager- City Engineering Department, City of Dubuque, IA (25 min)
-

1:40 pm **V. OPPORTUNITY ZONE CHARGE DISCUSSION and NEXT STEPS**
(1 hour and 10 min)

2:50 pm **VI. PUBLIC COMMENT**
Registered speakers (10 minutes)

3:00 pm **RECESS**

Day 2, October 15

- 11:00 am **I. RECONVENE**
- Ed Chu, EFAB Designated Federal Officer (5 min)
 - Roll Call (5 min)
-

- 11:10 am **II. INTRODUCTION TO THE WATER FINANCE CENTER AND ACTIVITIES**
- Organizational Structure- Raffael Stein- EPA Office of Water (5 min)
-

FINAL

- What is the Center's focus- Sonia Brubaker- EPA Office of Water (5 min)
-

11:20 am **III. UPDATE FROM ENVIRONMENTAL FINANCE CENTER NETWORK (EFCN)**

- Jennifer Cotting, EFCN and Director of EPA Region 3 EFC at University of Maryland (20 min)
-

11:40 pm **IV. REVIEW OF PREVIOUS BOARD CHARGES**

- Previous Board Charges (25 min each):
 - o Environmental Risk and the Cost of Capital (*Beecher, Chapman*)
 - o Stormwater Credit Trading (*Holland, Henifin*)
 - o Water Affordability (*Rothstein, Henifin*)
-

12:55 pm **BREAK** (10 min)

1:05 pm **V. PREVIOUS BOARD CHARGES DISCUSSION AND NEXT STEPS CHARGES**

Group discussion, prioritization and next steps for the Charges (1 hour and 15 min)

2:20 pm **VI. EPA RESPONSE TO RECENT EFAB ADVICE**

- Stormwater Infrastructure Finance report- Ellen Tarquinio, Water Infrastructure and Resiliency Finance Center (10 min)
 - Pre-Disaster Resilience Finance report- Stephanie Santell, Office of Wetlands, Oceans, and Watersheds Immediate Office (10 min)
 - Member Questions and Discussion (10 min)
-

2:50 pm **VII. Public Comment**

Registered Speakers

3:00 pm **ADJOURN**

Environmental Financial Advisory Board

Operating Manual

Draft, December 13, 2019



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Introduction

The U.S. Environmental Protection Agency (EPA)'s Environmental Financial Advisory Board (EFAB) provides advice and recommendations to EPA's Administrator and EPA Program offices on ways to lower the costs of and increase investments in environmental and public health protection. As a committee established under the Federal Advisory Committees Act (FACA), the EFAB must comply with the guidelines and expectations of a formal Federal Advisory Committee.¹ The plan of action and standard operating procedures (SOPs) in this document are consistent with the requirements of FACA and EPA policy, and are intended to improve the performance of the EFAB by clarifying operations and establishing SOPs in two areas:

1. Charge development and selection
2. Recommendation development, deliberation, adoption or revision, and transmittal

Types of Work and Ways to Engage the EFAB

The EFAB's mission is to provide advice and recommendations to the EPA Administrator and to EPA programs. The SOPs in this document assume at least two types of work and ways to engage the EFAB.

1. Written recommendations resulting from a deliberative process. The work to initially develop the written recommendations may occur in workgroups but must be reviewed and approved by the chartered EFAB to become formal recommendations. Written advice and recommendations may take the form of full reports or advisory letters.
2. Full engagement of the EFAB around discussion areas and topics, where the formal product from the EFAB is a written summary of the discussion. This form of engagement (referred to as a consultation) will occur during a convening of the chartered EFAB. The written summary of the conversation will be transmitted to the agency in the same manner as a traditional set of recommendations or report.

EFAB Member Time Commitment

The EFAB generally meets in person twice annually and the work and timing of workgroups are determined during the process of establishing a work charge. In addition to the time spent preparing for and attending these in-person meetings, members will often need to devote time to preparatory work in between meetings. Examples of preparatory work include supporting topic identification, charge development, and review of draft work products that will be discussed at EFAB meetings. In addition, members who volunteer for workgroups are expected to participate in meetings and development of recommendations at the workgroup level.

Effective Practices for EFAB Workgroup Operations

For every EFAB workgroup the DFO, with consultation from the EFAB chair, identifies an EFAB member as a workgroup chair. The chair of the workgroup assumes the responsibility for the operation and execution of work of the EFAB workgroup. The chair responsibilities include close coordination with the DFO.

¹ For more information about FACA, please visit <https://www.epa.gov/faca>.

To support effective use of workgroup time and to maximize participation when the workgroup is established, the DFO and the workgroup chair should strive to:

1. Identify a role for the EFAB workgroup members consistent with their interest and expertise.
2. Establish EFAB workgroup member time commitments and expectations necessary to meet the charge to the workgroup and use EFAB member availability in selecting workgroup participants.
3. Establish, during the formation of the workgroup, a description of the final workgroup product appropriately scoped to reflect the abilities, desire, and availability of EFAB workgroup members.
4. Establish a schedule and include, at a minimum, steps 1 and 2 from SOP#2 as milestones.
5. Keep workgroups to approximately 10 members or fewer.
6. Make materials available approximately 15 days prior to every meeting
7. Provide for teleconference, Web and/or video access to meetings to improve the quality of collaboration

Standard Operating Procedure #1: Charge Development and Acceptance

Step 1: Topic Identification and Draft EFAB Work Charge Development

Topics for EFAB consideration come from four sources: EPA Programs, EFAB Members, the public, or the Designated Federal Officer (DFO). Not all proposed topics will have a draft EFAB work charge established. Topics that are appropriate for the EFAB are those topics which fit the mission/purview of the EFAB, are actionable by EPA, and for which the EFAB has the capacity to address (expertise and resources). The purpose of this step is to present topics for EFAB consideration and to select and develop work charges for topics of sufficient promise.

EFAB members and EPA programs interested in presenting a new topic should inform the DFO at least two months prior to the meeting. Four weeks before the meeting, EPA programs or EFAB members presenting a topic for EFAB consideration will provide in writing, for DFO and Chair review and then for distribution to the EFAB two weeks before the meeting, the following:

- Problem statement.
- Explanation of how the topic fits with the mission of EFAB.
- Description of how EPA action can address the problem. If an EFAB member is proposing the topic, identification of the EPA program that would be the client.
- Preliminary identification of the nature of engagement with the EFAB and of the resources necessary to support the engagement.

Each EFAB meeting will have time set aside to present potential new charges. Charges that originate from EPA will generally be accepted, possibly with some negotiations. Charges that originate from the EFAB, including those suggested by public commenters, will be deliberated by the EFAB as follows. Following the presentation of topics, the EFAB Chair and/or the DFO will manage questions and discussions, and if appropriate, call for a motion to develop a draft EFAB work charge for a topic. If an EFAB member offers a motion to develop an EFAB work charge for a topic and is seconded by a different EFAB member, a simple majority of members in attendance is the threshold necessary to approve development of a draft EFAB work charge for a topic.

Once a topic is approved by the EFAB for work charge development, the EFAB Chairs, DFO, and EFAB staff will identify an EPA lead and an EFAB member to draft the work charge. EFAB staff will support the EPA lead and EFAB member in development of the draft EFAB work charge. To enable EFAB decision-making, the EFAB work charge must document:

- Detailed problem statement
- Description of anticipated product or outcome
- Mode of engagement for EFAB, anticipated level of effort of EFAB Members, required expertise, and structure of work
- EPA resource and support plan (Includes identification of EPA FTE commitment and support resources if appropriate (e.g., contractors))
- Roles and Responsibilities of EPA Program, EFAB Staff, EFAB Member, and contractors (RACI Matrix)
- High-Level Timeline

Summary of SOP #1

Step 1: Topic Identification and Draft EFAB Work Charge Development

- At every EFAB meeting, the EFAB will dedicate time to consider new topics.
- For each issue being proposed for the EFAB consideration:
 - Four weeks before the meeting a short description describing the issue and its appropriateness must provide in writing for DFO and Chair review and comment.
 - Two weeks before the meeting the write up must be distributed to the EFAB for review.
- Each proposed topic must be presented to the EFAB and a simple majority of the quorum is required to approve development of a draft EFAB work charge.
- Once a topic is approved by the EFAB, the EFAB Chair, DFO, and EFAB staff will identify an EPA lead and an EFAB member to draft the work charge.

Step 2: Draft EFAB Work Charge Vetting

- A draft EFAB work charge must be reviewed EFAB Chair and DFO to determine if is complete and ready for full EFAB consideration.
- Once ready for EFAB consideration, the draft charge will be distributed via email to the EFAB. The EFAB will be given 10 days to provide written comments.
- Following the receipt of the written comments, the EFAB Chair and DFO may request further iterations of the EFAB charge or request a conference call and/or webinar to enable EFAB to provide verbal feedback.

Step 3: Charge Selection

- The EPA program and EFAB member who drafted the charge will make a formal presentation to the EFAB describing the anticipated work.
- A simple majority is the threshold necessary to accept a work charge.

Step 2: Draft EFAB Work Charge Vetting

For new charges that originate from the EFAB, once the EPA Program lead and the EFAB member, with support from EFAB staff, have completed drafting the EFAB work charge, they will submit it to the EFAB Chair and DFO. The EFAB Chair and DFO will determine if the draft EFAB work charge is complete and ready for full EFAB consideration. Once ready for EFAB consideration, the draft charge will be distributed via email to the EFAB. The EFAB will be given 10 days to provide written comments. Following the receipt of the written comments, the EFAB Chair and DFO may request further iterations of the EFAB charge or request a public meeting and/or publicly accessible webinar to enable EFAB to provide verbal feedback.

Step 3: Charge Selection

Steps 1 and 2 of this SOP ensure that proposed work charges fit within the purview of the EFAB, as determined by the DFO. In this step, the EFAB will discuss the pros and cons of accepting the charge, suggest modifications if necessary, and decide whether to accept the work charge. This SOP does not specify selection criteria; however, there will be instances where work that fits within the purview of the EFAB may not be desirable to take on. During this step, the EFAB should discuss items such as problem solvability, likelihood of implementation of potential solutions, and applicability of potential solutions across program areas.

The EPA program requesting the advice or, in the case of an EFAB-initiated project, the EFAB member who drafted the charge will make a formal presentation to the EFAB describing the anticipated work. Following the presentation of the draft EFAB work charge, the EFAB Chair and/or the DFO will facilitate questions and discussion and, if appropriate, call a motion for the EFAB to accept the work charge. If an EFAB member offers a motion to accept an EFAB work charge and is seconded by a different EFAB member, a simple majority of members in attendance is the threshold necessary to accept a work charge.

Standard Operating Procedure #2: Recommendation Development, Deliberation, Adoption or Revision, and Transmittal

Once the EFAB takes on a work charge, the EFAB staff will coordinate with the EPA program lead to designate who will implement the work. EFAB staff, in coordination with the EFAB Chair and DFO, will identify an EFAB member lead and membership of the workgroup if one is being established. The EPA program lead, in coordination with EFAB staff and EFAB member lead, will develop a project plan for the work.

Step 1: Quarterly Engagement with EFAB on Progress

An important part of supporting eventual full EFAB deliberation and adoption is regular engagement during the development of the recommendations to avoid the need for significant revisions or surprises near the end of the recommendation development process. This step should occur in-between regularly schedule EFAB bi-annual meetings.

If a workgroup is working on a set of recommendations, that workgroup will provide quarterly updates to the EFAB. The quarterly updates are intended to be substantive (e.g., a review of the deliverable outline or draft

recommendation language) and should invite engagement of the broader EFAB. To support efficient use of EFAB member time and to promote interaction, workgroups are encouraged to provide the quarterly engagements via publicly-accessible webinar or conference calls. (If a quarterly update is provided as a written status report and there will be no EFAB discussion, then the update may be provided to the EFAB via email and posted to the EFAB website.)

Step 2: Pre-Adoption Formal Request for Feedback

Prior to completing its work, a workgroup developing recommendations will seek feedback on a draft workgroup product at least once prior to providing a final work product for review and approval by the EFAB; workgroup products would be made available to the public at the same time they are provided to the EFAB. The purpose of this step is to ensure full EFAB interaction with a workgroup's content area before asking the EFAB to formally concur on a set of recommendations. The timing for EFAB engagement should occur at the earliest time the workgroup has a stable set of initial recommendations (as determined by the EFAB lead). The pre-adoption formal request for feedback will supersede the step 1 quarterly engagement for the quarter the engagement takes place.

EFAB members will receive a written product that is made available to the public, on which they will provide formal written feedback. EFAB members will have approximately 14 days to provide comments. To support efficient use of

Summary of SOP#2

Step 1: Quarterly Non-formal Engagement with EFAB on Progress

- If a workgroup is working on a set of recommendations, that workgroup will provide quarterly updates to the EFAB. This step must occur in-between regularly schedule EFAB bi-annual meetings.

Step 2: Pre-Adoption Formal Request for Feedback

- EFAB members have 14 days to provide comments on formal draft recommendations. All EFAB members are expected (but not required) to participate in this step.

Step 3: EFAB Adoption of Recommendations

- To proceed with Step 3, the work must be complete and the full package (recommendations, appendices, and transmittal memo) must be available to the EFAB. The workgroup must distribute that material to the full EFAB and provide at least 7 days for written comment (editorial and substantive) and host a webinar presenting findings and allowing for dialogue prior to the official call for adoption.
- When an official call for adoption is initiated a simple majority of EFAB members concurring or concurring with comment is required to accept the recommendations for transmittal to EPA.

Step 4: Transmittal of Recommendation and Post-Response EPA Briefing

- The EFAB Chair will transmit the recommendations to EPA. At the discretion of the EFAB Chair and DFO, as part of the transmittal and or follow-up engagement, the EFAB can request an EPA briefing following the formal EPA response.

Step 5: Exit Interviews of Workgroup Lead and Survey Workgroup Participants

- To support continual improvement of the EFAB and its operations, EFAB staff will perform exit interviews of the EFAB lead(s) and survey the workgroup participants to document any lessons learned during the development of the recommendations.

EFAB time, workgroups should anticipate engaging EFAB members only on the substantive language of the recommendations. EFAB members are asked to provide comments to the DFO on the content and direction of the work, including “red flags” (those items that EFAB members feel must be addressed in subsequent iterations of the work to earn their unqualified support). The DFO will provide EFAB member comments to the workgroup. During this step, EFAB members are asked not to provide editorial suggestions unless those edits would result in substantive change.

All EFAB members are expected to participate in this step. EFAB staff will track responses of the EFAB members. If the EFAB Chair and DFO determine that EFAB engagement is not sufficient during this step, they may direct EFAB staff to directly solicit feedback from non-responsive members. If the EFAB Chair and DFO determine that the nature of the feedback will require a substantial and substantive redrafting of the recommendations, they may require up to two more pre-adoption formal requests for feedback. At the direction of the DFO, there may be public teleconference calls of the EFAB to discuss feedback on the workgroup product.

Step 3: EFAB Adoption of Recommendations

For the EFAB to transmit recommendations to the EPA it should have adoption of the recommendations of at least a simple majority of members in attendance, however all members are expected to participate in the process. To proceed with Step 3, the work must be complete and the full package (recommendations, appendices, and transmittal memo) must be available to the EFAB and the public. The DFO will distribute that material to the full EFAB and provide at least 14 days for written comment (editorial and substantive). The DFO will schedule a public meeting (e.g., via webinar) at which the draft findings will be presented and discussed to allow dialogue prior to the official call for adoption. The webinar will be recorded to enable all EFAB members to access the presentation. The comments on the webinar are non-binding. At any point following the webinar a workgroup may make an official call for adoption and may include a redline version of the final recommendations. At least 14 days prior to the adoption meeting, the DFO will provide the EFAB with the final workgroup draft and request EFAB member comments. The EFAB will discuss and deliberate on the approval or revisions of the draft report and will vote on disposition at a public meeting.

If the call for final adoption is done via email, members will only be asked to determine whether the language reflects the deliberations held during public discussion of the draft. If a member non-concurs, they may provide a minority view to be appended to the report. If a member concurs with comment, the DFO will determine with the chair if the comments can be accommodated consistent with the EFAB deliberations on the draft report.

Whether adoption occurs over email or in person, EFAB members must respond with one of the following responses:

- Concur
- Concur with comment
- Not concur

If a simple majority of the EFAB concur or concur with comment, the recommendations will be transmitted to EPA.

Step 4: Transmittal of Recommendation and Post-Response EPA Briefing

The EFAB Chair will transmit the recommendations to EPA on behalf of the EFAB. At the discretion of the EFAB Chair and DFO, as part of the transmittal and or follow-up engagement, the EFAB can request an EPA briefing following the formal EPA response. The purpose of post-response briefing is to both help the EFAB understand how EPA may act on its recommendations and to get feedback from EPA on how the EFAB can improve its work going forward.

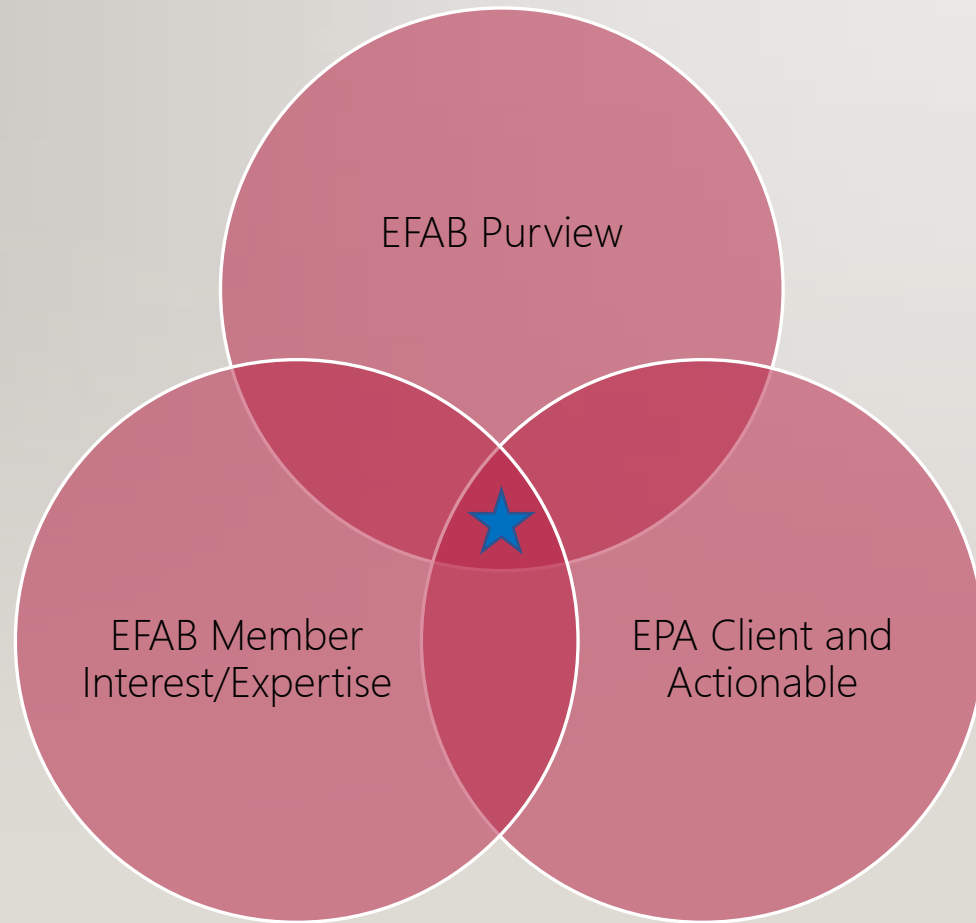
Step 5: Exit Interviews of Workgroup Lead and Survey Workgroup Participants

To support continual improvement of the EFAB and its operations, EFAB staff will perform exit interviews of the EFAB lead(s) and survey the workgroup participants to document any lessons learned during the development of the recommendations. EFAB staff will document the findings and provide them to the EFAB Chair and DFO who, at their discretion, may share them with the entire EFAB.

ENVIRONMENTAL FINANCIAL ADVISORY BOARD **OPERATING MANUAL**

STANDARD OPERATING PROCEDURE #1: CHARGE DEVELOPMENT AND ACCEPTANCE
ED CHU- DESIGNATED FEDERAL OFFICER

SOP #1: Charge Development and Acceptance



Step 1: Topic Identification and Draft EFAB Work Charge Development

- At every EFAB meeting, the EFAB will dedicate time to consider new topics.
- For each issue being proposed for the EFAB consideration:
 - Four weeks before the meeting a short description describing the issue and its appropriateness must provide in writing for DFO and Chair review and comment.
 - Two weeks before the meeting the write up must be distributed to the EFAB for review.
- Each proposed topic must be presented to the EFAB and a simple majority of the quorum is required to approve development of a draft EFAB work charge.
- Once a topic is approved by the EFAB, the EFAB Chair, DFO, and EFAB staff will identify an EPA lead and an EFAB member to draft the work charge.

Step 2: Draft EFAB Work Charge Vetting

- A draft EFAB work charge must be reviewed EFAB Chair and DFO to determine if is complete and ready for full EFAB consideration.
- Once ready for EFAB consideration, the draft charge will be distributed via email to the EFAB.
 - The EFAB will be given 10 days to provide written comments.
- Following the receipt of the written comments, the EFAB Chair and DFO may request further iterations of the EFAB charge or request a conference call and/or webinar to enable EFAB to provide verbal feedback.

Step 3: Charge Selection

- The EPA program and EFAB member who drafted the charge will make a formal presentation to the EFAB describing the anticipated work.
- A simple majority is the threshold necessary to accept a work charge.

OPPORTUNITY ZONES, US EPA PROGRAMS, AND ENVIRONMENTAL FINANCE

EFAB Meeting

October 13, 2020

Jon Grosshans

EPA Region 5

Key Takeaways



WHAT ARE OPPORTUNITY
ZONES?



HOW ARE EPA PROGRAMS
SUPPORTING OPPORTUNITY
ZONES?



WHAT ARE EFAB
OPPORTUNITIES?



Created in the 2017 Tax Cuts and Jobs Act, Opportunity Zones are designed to drive long-term capital into economically distressed communities across the nation, using tax incentives to encourage private investment into designated census tracts through privately- or publicly-managed investment funds.



In 2018, every State nominated zones. More than 8,700 around the country: 40% rural, 38% urban, and 22% suburban



OZ investment happens through IRS qualified Funds where capital gains taxes can be held and used for investment in Opportunity Zones.

What are Opportunity Zones?

CAPITAL
GAINS

Private Investor

Private investors **defer and reduce** taxable capital gains until sale of equity share (or 2027) AND gains held 10+ years are **excluded** from taxation

QOF

Qualified Opportunity Fund

A QOF is a Qualified Opportunity Fund that invests its assets in QOZs and is eligible for tax incentives

QOZ

Qualified Opportunity Zone

A QOZ is a Qualified Opportunity Zone that has been nominated by Governor and designated by the Treasury Secretary

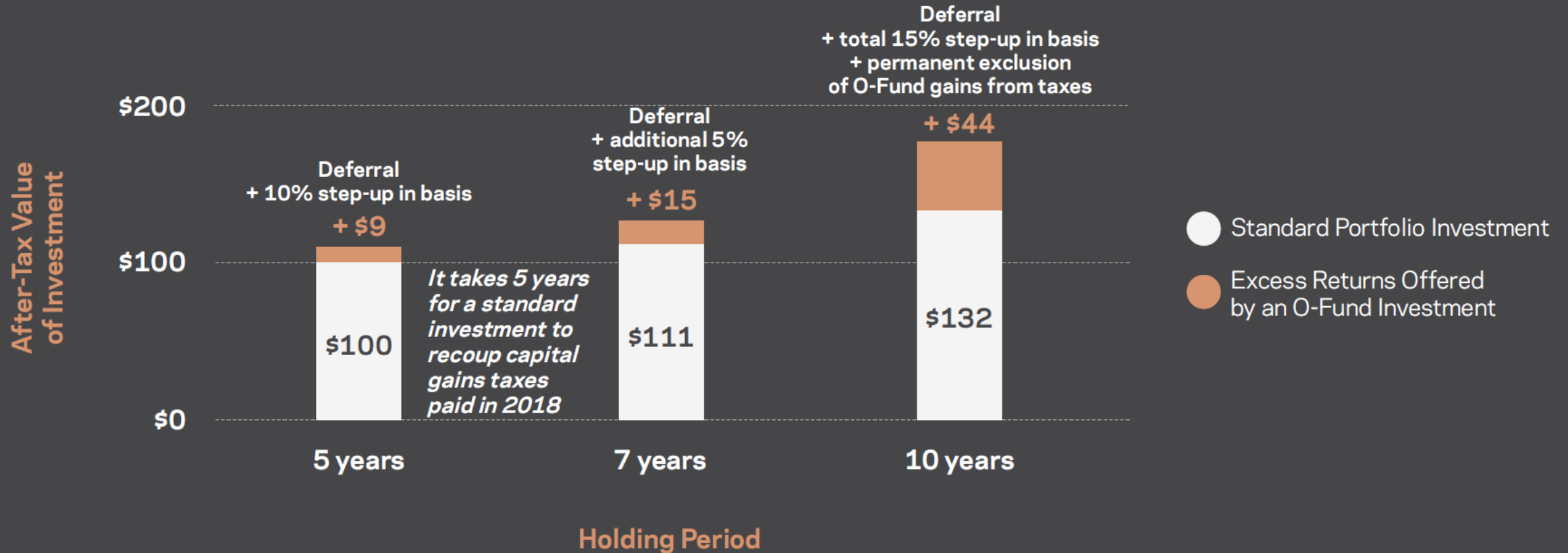
Site

Project

A previously **vacant** or **substantially improved** brick and mortar development or new business activity

KEY
TERMS

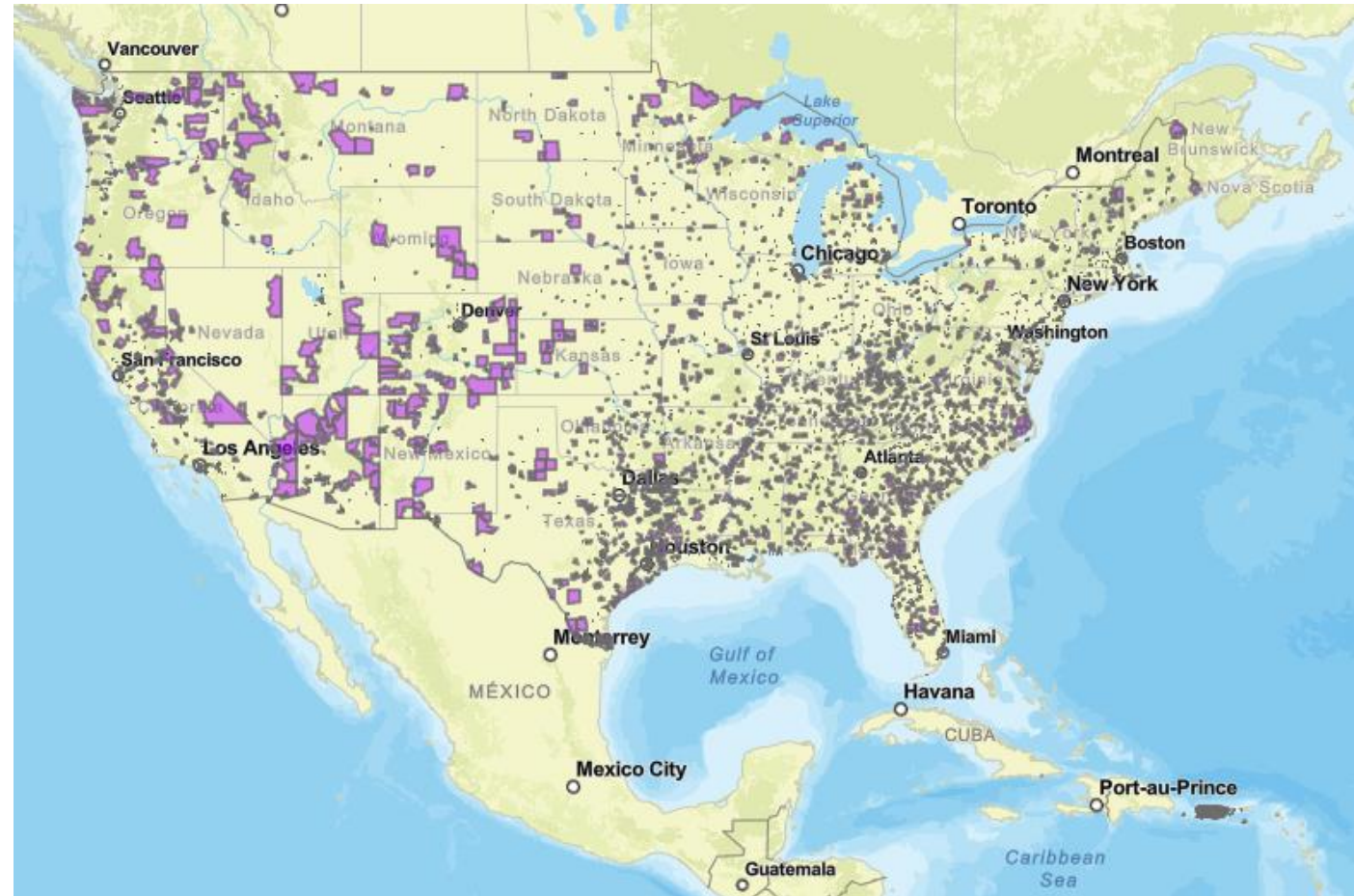
How does a capital gain of \$100 reinvested in 2018 perform over time?



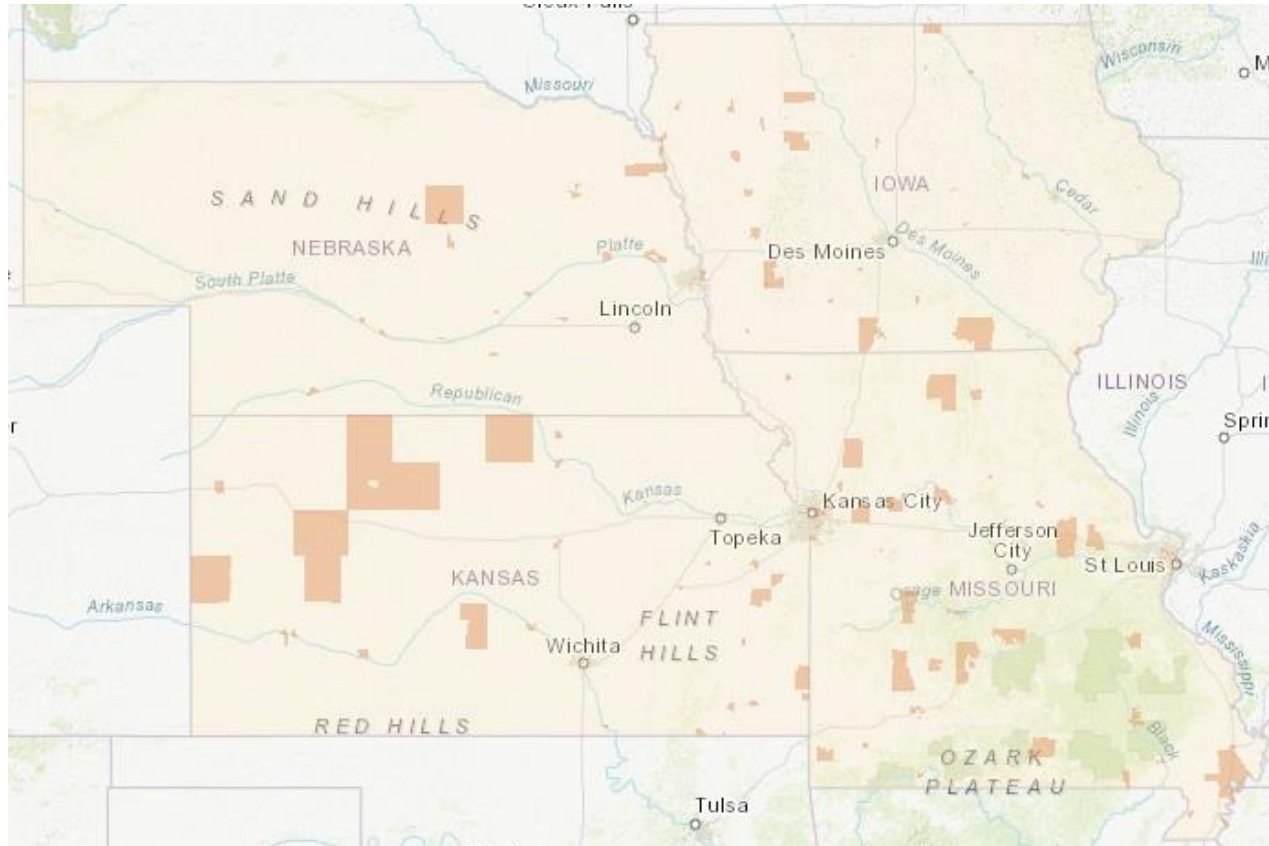
* Note: Assumes long-term federal capital gains tax rate of 23.8%, no state income tax, and annual appreciation of 7% for both the O-Fund and alternative investment.

Why Do We Care?

- New investor incentive to deal with legacy environmental challenges:
 - States selected Opportunity Zones based upon demographics and revitalization needs
 - Most would be considered EJ
 - Typically overlap with legacy commercial and industry
 - Sites are often centrally located and have existing infrastructure (roads, sewer, electrical, highway, rail) that can be reused or updated



Source: EPA GeoPlatform, July 5, 2019



Source: EPA GeoPlatform, October 11, 2019

- *341 Opportunity Zones in 218 communities in EPA Region VII (IA, KS, MO, NE).*
- *Nationally - **40% rural**
Regionally – **55% rural***
- *Rural communities are at an inherent disadvantage compared to their urban and suburban counterparts in having the resources to create redevelopment plans and market them to attract OZ investments.*

WHITE HOUSE OPPORTUNITY AND REVITALIZATION COUNCIL

Department of Housing and Urban Development	Department of Treasury	Attorney General	Department of Interior
Department of Agriculture	Department of Commerce	Department of Labor	Department of Health and Human Services
Department of Transportation	Department of Energy	Department of Education	Environmental Protection Agency
Office of Management and Budget	Small Business Administration	Council of Economic Advisers	Council on Environmental Quality

Opportunity Zone portal: <https://opportunityzones.hud.gov/>



Guidance

Provide guidance on how to target investments



Coordination

Coordinate to administer programs and leverage resources



Measure

Measure investment outcomes



Promoting communities to create and achieve their future vision.



Federal partnerships to support investment in healthy, vibrant, thriving communities



The Brownfields and Superfund programs result in cleaned up sites for redevelopment.



Energy efficiency, stormwater, air attainment, etc. support healthy places.



Our EPA programs and regions often work in many of the Opportunity Zone designated areas

What are EPA's connections to Opportunity Zones?



US EPA Programs Supporting Community Revitalization in Opportunity Zones

The USEPA program assistance listed below represent the best matches for site investment in Opportunity Zones



Land Cleanup

- Brownfields
- Superfund
- Resource Conservation and Recovery Act
- Leaking Underground Storage Tanks

Infrastructure Investment

- WIFIA
- State Revolving Funds - Drinking Water and Clean Water
- Urban Waters
- Sustainable Water Infrastructure

Technical Assistance

- Community Revitalization Workshops (OCR)
- Environmental Justice
- Land Revitalization
- Superfund Redevelopment Initiative

Geographic Initiatives

- Community-Driven Solutions
- Great Lakes Restoration Initiative (R5)
- Chesapeake Bay (R3)
- Puget Sound (R10)

Air Quality & Energy

- Tools for Nonattainment Areas (Redesignation / "Advance")
- Energy Star
- Green Power Partnership

Opportunity Funds Positioned to Invest

East Chicago, IN – RCRA & Superfund

Former DuPont Industrial Plant East Chicago, IN

- Originally established as part of the Graselli Chemical Company later purchased by E.I. DuPont de Nemours & Co. in 1928
- Centrally located to many major interstates, international airports and downtown Chicago.
- EPA Region 5 RCRA Program oversight
- ECGP successfully negotiated purchase of the 438 acre property.
- Logistics Complex 3.8 M sqft.
- Over 225 acres of developable land.



EPA: Companies agree to \$26.6 million cleanup settlement for former DuPont site in East Chicago

EAST CHICAGO — The site of the former DuPont chemical manufacturing plant on Kennedy Avenue ...



EAST CHICAGO — A vacant, contaminated industrial site on the north bank of the Grand Calumet River will be redeveloped as one of the first federal Opportunity Zone projects of its scale, according to one of its lead investors.

East Chicago Gateway Partnership co-owner and partner Scott Aschoff said a fund created to invest in the site is the first Qualified Opportunity Zone Fund to be fully capitalized and to take ownership of a parcel the size of the 440-acre former DuPont property east of Kennedy Avenue. The partnership plans to create a logistics center there that will take advantage of its proximity to the Gary/Chicago International Airport.



Brownfields Selected as Investment Targets

Cleveland, OH

Opportunity Corridor

Census Tracts: 1135.00, 1136.00, 1138.01, 1141.00, 1143.00, 1145.01, 1146.00, 1147.00, 1192.02, 1193.00, 1196.00

Municipality: Cleveland

Area: 4.9 square miles

Population: 15,186

Notable Infrastructure: Opportunity Corridor boulevard (completion 2022), Interstates 490 and 77; RTA Red Line, Blue Line, and Green Line; Norfolk Southern and CSX freight rail.

Notable Assets: Karamu House Performing Arts Theater; Urban Agricultural Innovation Zone; Green City Growers Greenhouse; Bridgeport Place; Heritage View Homes; St. Luke's Manor; Ken Johnson Recreation Center; Luke Easter Park.

District Development Partners: City of Cleveland; Cuyahoga County; Ohio Department of Transportation; Cleveland Development Advisors; Burten Bell Carr Development; Fairfax Renaissance Development; Slavic Village Development; Cleveland Neighborhood Progress; Cuyahoga Metropolitan Housing Authority; Northeast Ohio Regional Sewer District.



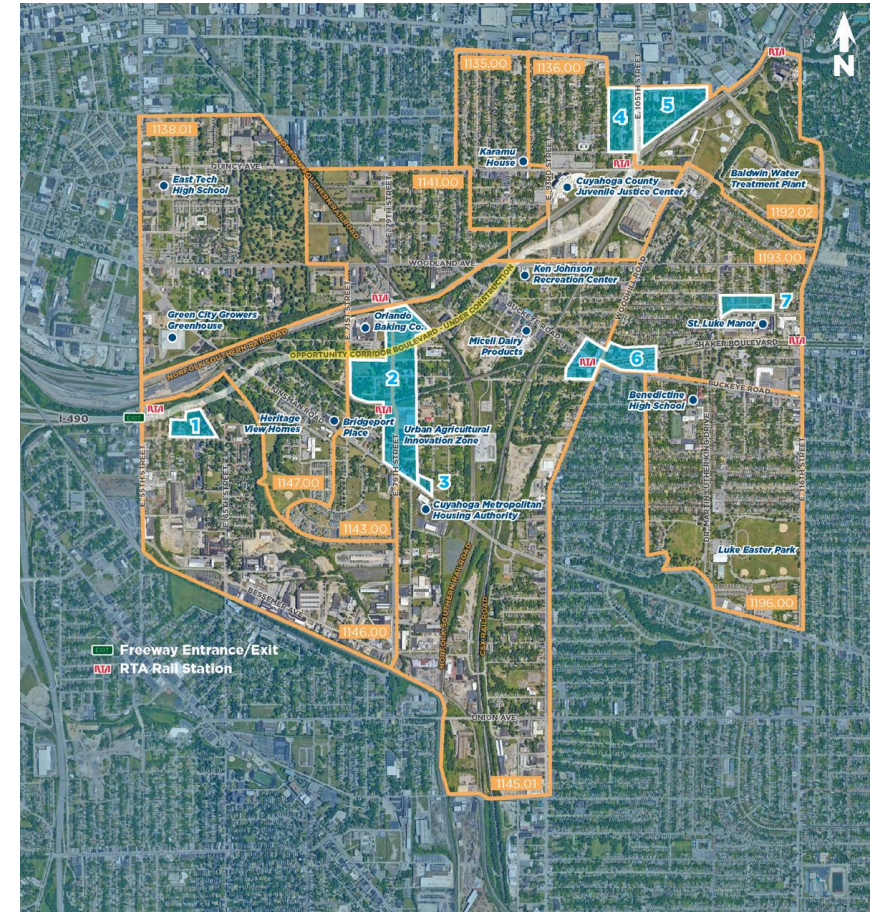
Notable Projects & Plans

Primary Developer

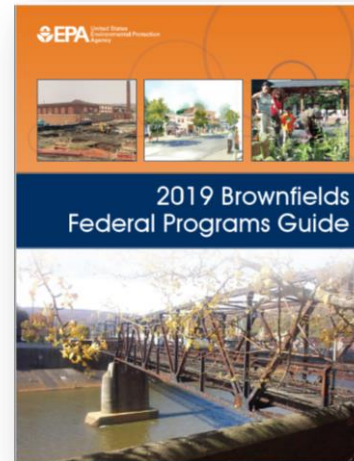
Overview

BoxSpot Cleveland	Burten Bell Carr Development	Possible expanded incubator space using shipping container construction
Buckeye-Woodhill RTS Plan	City of Cleveland	Transit-oriented development plan around recently rebuilt rail station
E. 79th Street TOD Plan	City of Cleveland	Transit-oriented development plan within core investment area of OC
Innovation Square	Fairfax Renaissance Development	New construction of mixed-income single- and multi-family residential
New Economy Neighborhood	Fairfax Renaissance Development	New construction of high-tech district with office, R&D, and lab space
St. Hyacinth TOD Plan	Slavic Village Development	New construction infill housing adjacent to key transit station
St. Luke's Pointe	Cleveland Neighborhood Progress	New construction single-family residential development

E. 79th Street TOD Plan
City of Cleveland



US EPA Resources



Opportunity Zones

Opportunity Zone Visit In Frankfort, KY

EPA was in Frankfort, KY, an Opportunity Zone, to help revitalize the community through access to healthy food.
[Learn more about Local Foods, Local Places](#)

Announcements

- [149 Communities to Receive \\$64.6M for Brownfields Grants to Address Contaminated Properties Across the Nation](#)
- [Brownfields: Properties with New Purpose booklet](#)

Basic Information

- [Overview of EPA's Role](#)
- [White House website](#)

Technical Assistance

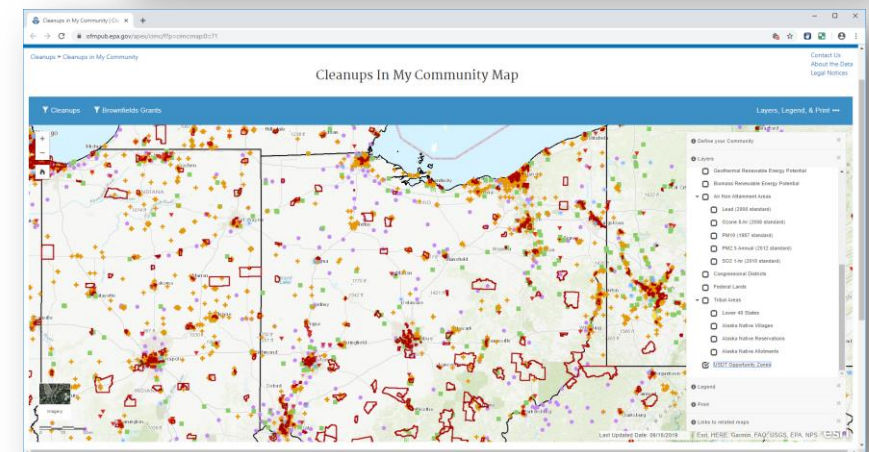
- [Smart Growth Technical Assistance Programs](#)

Tools and Publications

- [Community Revitalization Assistance](#)
- [Attracting Infill Development in Distressed Communities: 30 Strategies](#)
- [Framework for Creating a Smart Growth Economic Development Strategy](#)
- [Local Foods, Local Places Toolkit: A Guide to Help Communities](#)



CURRENT ASSESSMENT GRANT ACTIVITIES ARE TARGETED TO THE SOUTH PARK STREET REVITALIZATION AREA, AN OPPORTUNITY ZONE ELIGIBLE CENSUS TRACT.



Opportunity Zone

Lorain County / Black River

THURSDAY
July 26, 2018

NAIOP Northern Ohio, US EPA, Lorain County, Lorain Port Authority, Lorain County Board of Commissioners and Vita Nuova present the Lorain County / Black River Opportunity Zone.

PROGRAM HIGHLIGHTS:

- Overview of 500+ acres of publicly-owned land available for development along the Black River
- A look at the new Opportunity Zones program, which will allow funds to be used for economic development purposes in exchange for Federal tax breaks
- History of the Black River clean up – **Don Romancak**, Lorain County Community Development, Community Development Director
- Local incentives to development – Lorain County Commissioner **Ted Kalo**
- Environmental and financial incentives available at these and other sites – **Patricia Overmeyer**, Acting Deputy Office Director, EPA Office of Brownfield and Land Revitalization
- Panel Discussion with **Tracey Nichols**, Director of Financial Services/ Project Management Consultants; **Dan Bergrin**, Vice President & Tax Counsel, GBX Group; **Diana Rife**, Revitalization Project Manager, JobsOhio; Moderated by **Michael Taylor**, President, Vita Nuova
- Boat tours along the Black River before and after the program
- Cocktail & appetizers networking reception

DATE:
Thursday, July 26, 2018
Registration begins at 2:00. Program 3:30-5:00.
Black River boat tours available before and after the program (advance reservations required).

LOCATION:
Lorain Port Authority Train Station
421 Black River Lane, Lorain, OH 44052

REGISTRATION:
\$15 NAIOP Members | \$35 Non-Members
(Prices will increase \$10 for registrations made after July 19)
Registration & up-to-date details at:
<http://www.naiopnorthernohio.com/event/opportunity-zone-lorain-county-black-river>

NAIOP Northern Ohio • 440.899.0010 • naiop@wherryassoc.com • NaiopNorthernOhio.com

EVENT SPONSORS

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CLICK OR SCAN to Register

Investor-Project Matchmaking Needed

Locally-led strategies

- Inventory sites ready for redevelopment
 - Call local developers and landowners
 - Review environmental status
- Summarize site readiness
- Collect information together
- Create a local prospectus document or website portal
- Actively market sites to development community
- Coordinate with State and Federal agencies

Contaminated Sites Need Vision and Strategy

EPA Technical Assistance can provide redevelopment options

DEVELOPMENT SCENARIOS GAS STATION | EXISTING



DEVELOPMENT SCENARIOS GAS STATION | SCENARIO 1



Investors want to know possibilities...

DEVELOPMENT SCENARIOS GAS STATION | SCENARIO 2



DEVELOPMENT SCENARIOS GAS STATION | SCENARIO 3



Challenges



Lack of reporting requirements



Market-based vs. community-based development



Accessibility and connection to EPA resources



Community capacity



Marketing

Environmental Finance Connections

Need to Close Gaps in Knowledge and Communication

- **Linking Projects to Opportunity Funds – How to connect projects to capital in distressed communities**
 - EPA delivering technical assistance and developing new tools – How best to use them in the real world and what other actions are needed?
- **Rural / Small Communities Face Additional Challenges – How best to address rural / small community needs?**
 - Rural / small communities need both access to Opportunity Funds and other federal assistance.
- **Bundling Other Environmental Financing with Opportunity Zones**
 - For Example: How to better integrate Property Assessed Clean Energy (PACE) Financing and Opportunity Funds



St. Louis
Oppportunity
Zones

City of St. Louis **Opportunity** Zone Prospectus

➤➤➤ Gateway to Opportunity



Prepared by **Development Strategies** in collaboration with the **City of St. Louis**
and the **St. Louis Development Corporation**
October 2020

DEVELOPMENTSTRATEGIES®



PLANNING
& **URBAN DESIGN**
AGENCY



- 1 Introduction**
about the Opportunity Zone program and its potential
- 6 City of St. Louis Overview**
an introduction to the city and its economy
- 20 St. Louis' Opportunity Zones**
the city's framework for clusters and reinvestment
- 25 St. Louis Cluster Profiles**
each of the clusters, their strengths, and their opportunities
- 46 Next Steps and Resources**
contact information, partnerships, tools, and incentives

Promoting Investment

Opportunity Zones Program Overview

Potential for partnerships

Identify Strategic Projects



- **Catalyst projects** at key sites to create new momentum
- **Business investments** in firms and equipment
- **Establish focus districts** for targeted investment aligning with other initiatives

Match Projects with Investors



- **Market projects** to potential investors
- **Assemble needed capital** for priority projects

Build New Partnerships



- **Solicit project proposals** from developers with new projects in opportunity zones
- **Connect with investors** interested in supporting projects in St. Louis' Opportunity Zones
- See page XX to learn how to submit a project proposal and/or connect to project investment opportunities

LEADERSHIP, COORDINATION, ALIGNMENT

St. Louis Leads the Way

#1

Best City to Move to in 2020

Curbed, Feb 2020

#1

Top 25 Cities that Millennials can Afford - and Actually want to Live In

The Penny Hoarder, July 2019

#1

Best Beer Scene in the Country

USA Today, 2018, 2019 & 2020

#1

Best City Parks in America

Thrillist, 2016

#1

Best Zoo in the Country

USA Today, May 2018

#2

Best City for Entrepreneurs in the U.S.

Fit Small Business April 2019

#2

Top Rising Cities for Startups

Forbes, Oct 2018

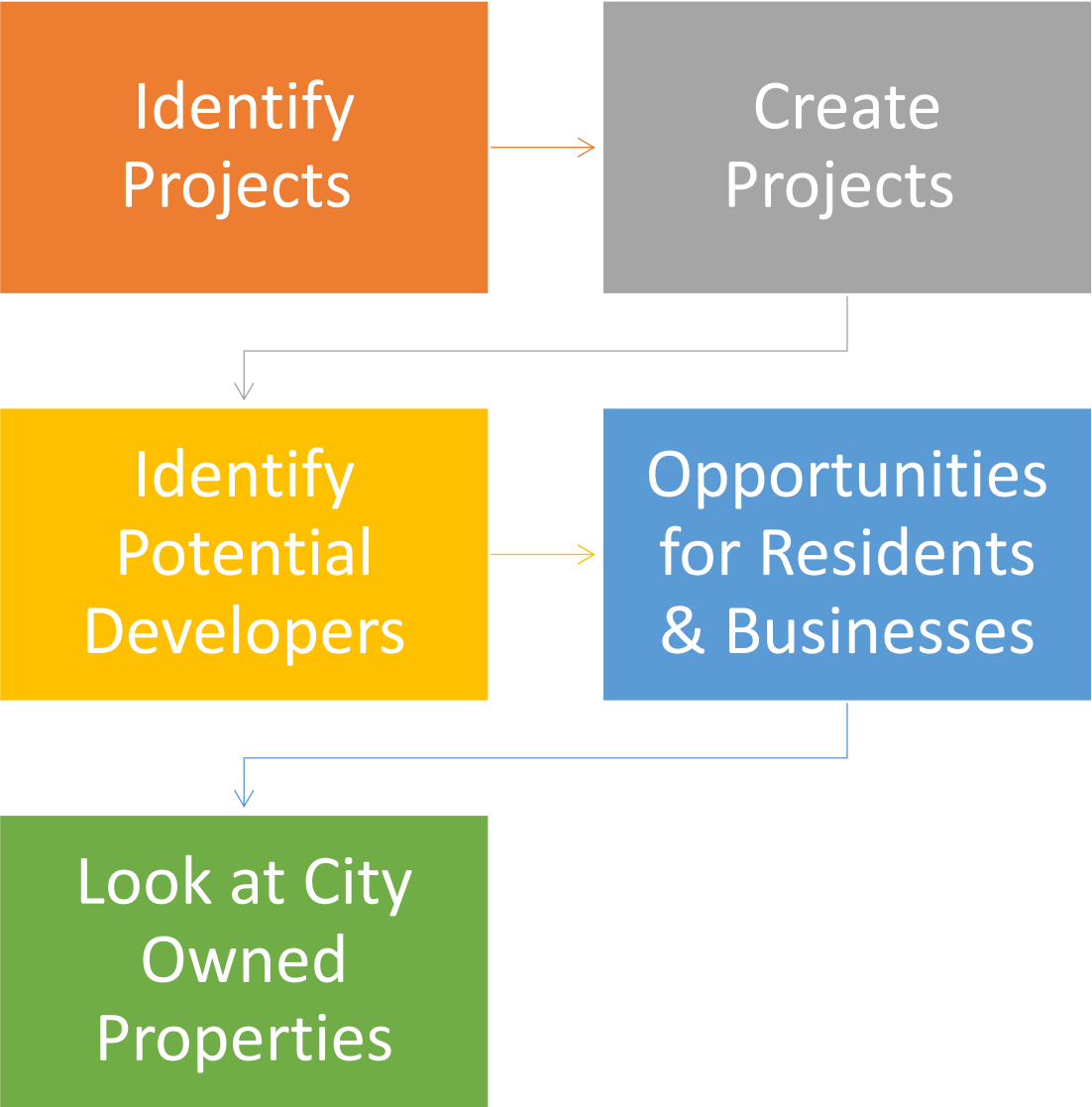
#3

Most Charitable City in the U.S.

Charity Navigator, June 2017



Project Identification



Technical Assistance



Small Developer and Small Business Training



Investment Framework



Technical Assistance Team – CPA, Legal, & Other Backoffice Assistance

Funding

- Create a Development Toolbox
- Identify and profile interested investors (and introduce to web portal)
- Explore creation of Neighborhood OZ Funds
- Identify Finance and Investment Strategies to Support Community's Goals
- Other federal, state, and local funding/resources/programs
- Better use of Contractor Loan Fund (Rewrite Program)
- Use of City Programs and funding



Building Partnerships

- Identify organizations to create ecosystems
- Community Building Blocks
- Equitable Development Resources
- Create Working Groups in Ozs
 - Opportunity Zone Working Group
 - Community Engagement Working Group

Envision Centers



* The Department of Housing & Urban Development has designated these 3 non-profits as **Envision Centers** - one of HUD's signature initiatives that aim to centralize support services focused on economic self-sufficiency.



Flance Early Childhood Center *

Sited on one of the last failed public high-rise structures in St. Louis, this early childhood center aspires to proactively alter the course of the most impoverished zip code in Missouri.

Developer: McCormack Baron Salazar Inc.



Better Family Life Cultural, Educational & Business Center *

Since 1983, Better Family Life has been providing holistic solutions to issues that commonly threaten the sustainability of the family unit through life-enhancing employment training and placement; education; housing and asset development; community outreach; and youth, family and clinical services.

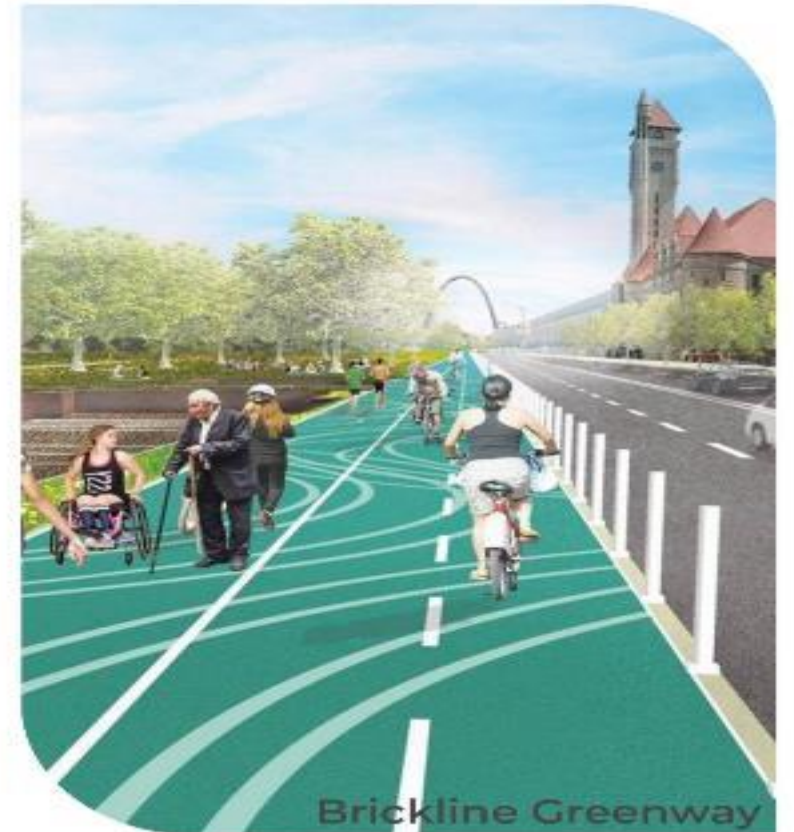
Developer: McCormack Baron Salazar Inc.



Friendly Temple Missionary Baptist Church *

From its humble beginnings in 1963, the church has grown into a 100,000-square-foot campus along the 5500 block of Martin Luther King Drive. With the mission to revitalize and restore, the church has brought hundreds of new homes to the area along with a child development center and retail. In continuing to build upon their successes, the church is implementing the collective wishes of the city and the neighborhood.

Catalytic Investments





Harris Stowe State



City Foundry STL



Paul Sablema







PHASE TWO

City Foundry STL

Opportunity Zone Website

<https://www.stloppportunityzones.org/>



[Home](#) [About](#) [Resources](#) [Map](#) [Districts](#) [OZ FAQ](#) [Contact](#)

St. Louis Opportunity Zones

Putting Opportunity to Work for St. Louis

I want to invest

I have a project



EPA Technical Assistance

Organizations Working Collectively & Building Off Existing Projects

COMMUNITY PARTNERS



Friendly Temple Holdings



Better Family Life



Greater Ville CDC

A black and white photograph of a modern townhome development. The buildings are multi-story with brick and light-colored siding. The scene includes a paved street, a sidewalk, and some landscaping. A teal semi-transparent banner is overlaid across the middle of the image, containing the text 'Vandeventer Estates Phase One LLC' in a bold, dark font. The sky is filled with large, white clouds.

Vandeventer Estates Phase One LLC



Tabernacle CDC



Center for the Acceleration of African American Business

Founded in 2006 as a tangent of the St. Louis Black Leadership Roundtable to address the business development, technical assistance and support gap among African-American businesses

In 2014, BFL and CAAAB formed a partnership

2006

today

2014

Engaged over 700 member clients with approximately 450 or 60% still operating today



Barriers & Technical Assistance

- Funding - Develop Financial Toolbox
- Build Capacity of Nonprofits to be self-sufficient
- Phase I and Phase II Environmental Assessment and clean up – Working with EPA
- In distress and under value communities we need Gap Financing
- Financial modeling
- Structuring deals
- Site preparation after building demolition
- Air quality during & after building demolition
- Reuse of building materials from vacant properties
- Equitable development & financing of vacant blocks of land
- Repurposing vacant land for usage other than construction (best sites for water retention, green space etc.)
- Land Acquisition Fund
- EPA Technical Assistance to planning and address environmental issues

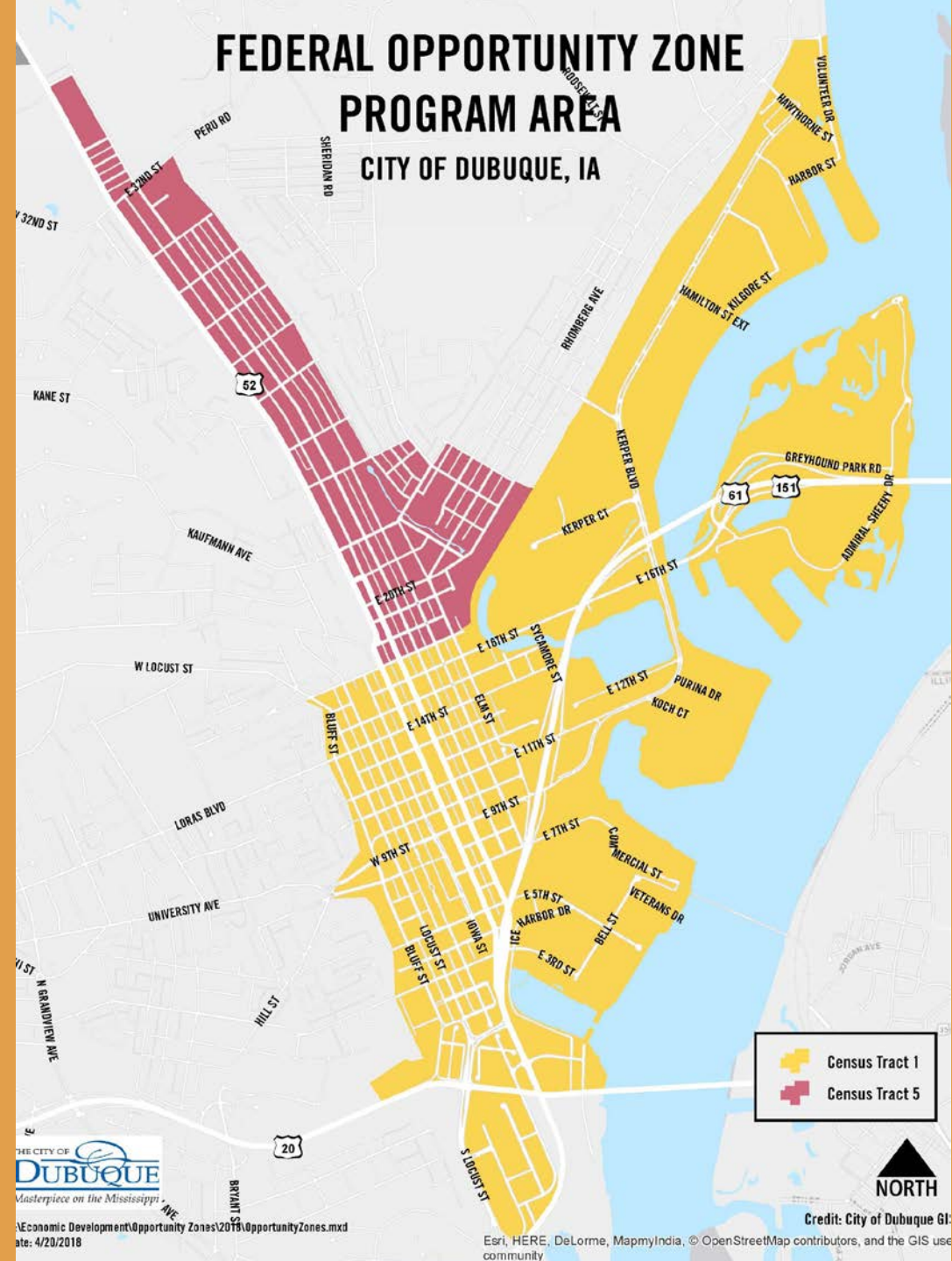


Opportunity Zones

Dubuque, Iowa

Dubuque

- ✓ Two zones capturing the majority of downtown
- ✓ Most development: 1830-1930
- ✓ Annexation to the west began in 1960s



Opportunity Zone Landscape

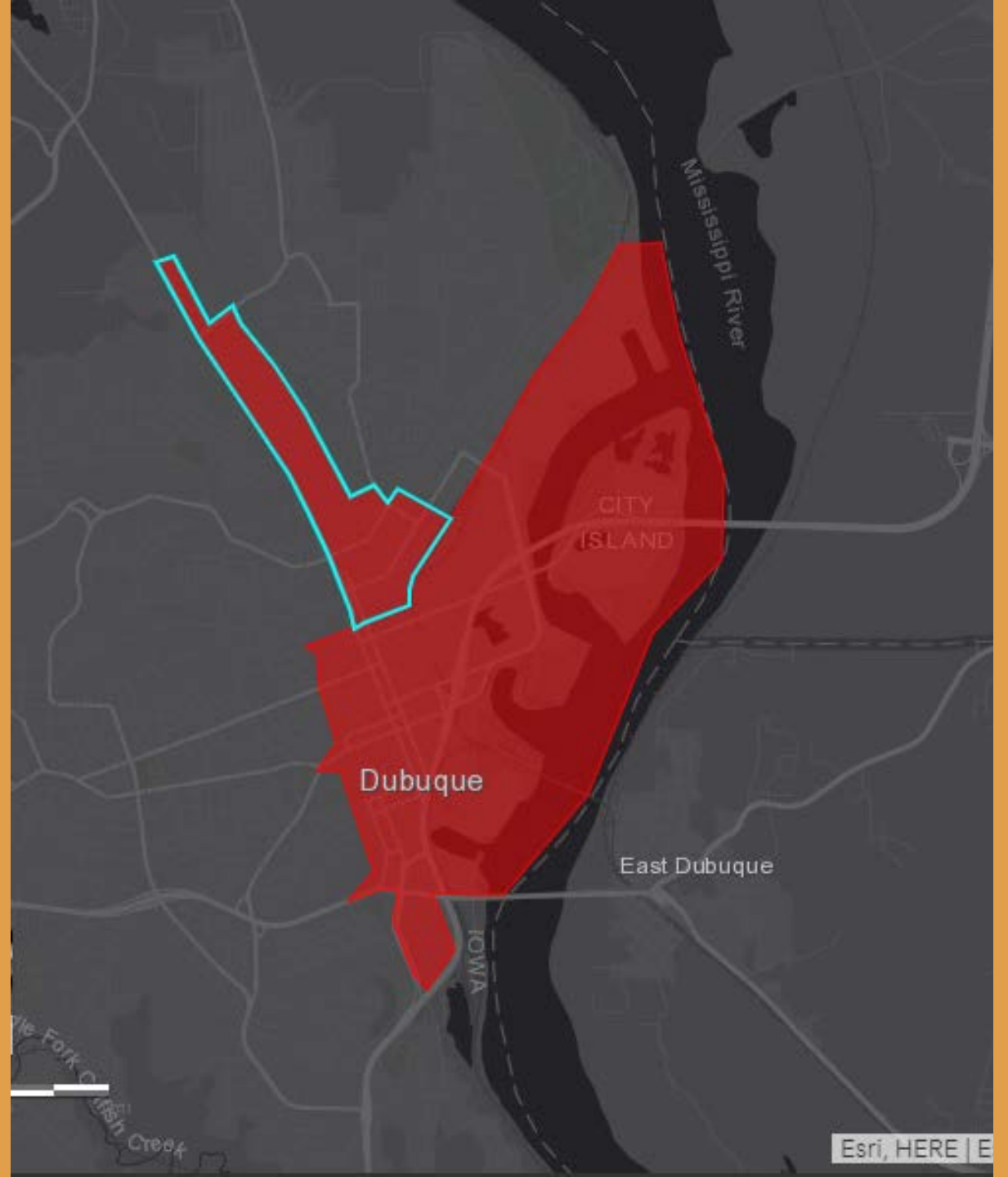
Total Population: 3,434

Median Household Income:
\$33,556

H.S. Diploma & Above: 81%

Bachelor's Degree & Above:
7.2%

Median Age: 30.2



Opportunity Zone Landscape

Total Population: 2,993

Median Household Income:
\$27,041

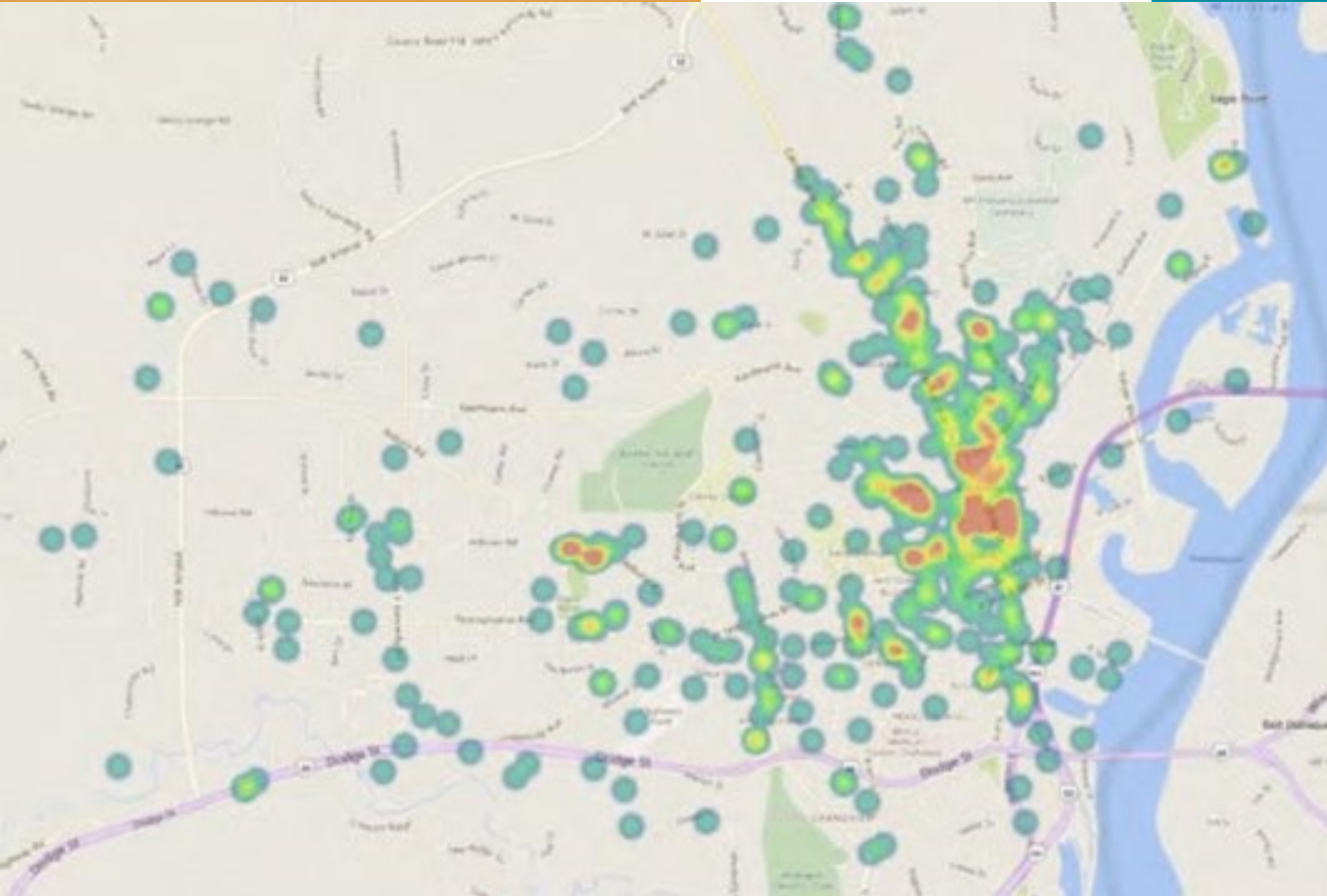
H.S. Diploma & Above: 80%

Bachelor's Degree & Above:
14.6%

Median Age: 31.3



Opportunity Zones Landscape



Teen Arrests

Jan. 2016 – Nov. 2018

“You can’t simply arrest your way out of crime. It takes partnerships and long-term problem solving to eliminate the underlying causes of crime.”

Mark Dalsing - Chief of Police

The background image shows a waterfront promenade. In the foreground, there is a paved walkway with a stone-lined edge leading to a body of water. A modern building with large glass windows and a curved roof is visible in the mid-ground. A bridge spans the water in the background. The entire scene is overlaid with a dark blue semi-transparent filter.

INCENTIVES TO PROMOTE INVESTMENT

Promoting Investment

Secure funding for large infrastructure from:



FHWA



HUD



EDA



USACE



EPA



State of Iowa



FTA

Promoting Investment

Dubuque Capital Stack

- Tax Increment Financing
- City of Dubuque – Facade grants
- Historic Tax Credits (Federal/State)
- New Market Tax Credits
- Workforce Housing Tax Credits
- Iowa Brownfield/Grayfield
- Opportunity Zone

Tax credits of up to 24% for qualifying costs of a brownfield project and 30% if the project meets green building requirements.

Tax credits of up to 12% of qualifying costs of a grayfield project and 15% if the project meets green building requirements.

Program capped at \$10 million per fiscal year with a maximum award per project of \$1 million.



Cottingham & Butler



Roshek Building – Rehab For Job Creation

Historic Millwork District Complete Streets Project



AFTER







STORMWATER IMPROVEMENTS



Aerial View of Gate to be Replaced

BEE BRANCH PUMP & GATE REPLACEMENT

Funded Flood Mitigation Improvements

Cost

Carter Road Detention Basin	\$1,076,315
West 32nd Street Detention Basin	\$4,158,589
Lower Bee Branch Creek Restoration	\$21,274,700
Historic Millwork District Complete Streets	\$7,977,311
Flood Mitigation Gate & Pump Replacement	\$17,091,000*
Upper Bee Branch Creek Restoration	\$60,995,000*
22nd Street/Kaufmann Storm Sewer Capacity Improvements	\$8,771,000*
Bee Branch Creek Railroad Culverts	\$31,654,000*
17th Street/W. Locust Storm Sewer Capacity Improvements	\$7,368,300*
North End Storm Sewer Capacity Improvements	\$1,400,000*
Flood Mitigation Maintenance Facility	\$5,550,000*
Water Plant Flood Protection	\$4,400,000*
Impervious Surface Reduction (Green Alleys)	\$57,420,000*
Bee Branch Healthy Homes	\$8,427,665*
Total Cost:	\$237,564,000*
Total Grant Funding:	\$163,015,016
Total City Share:	\$74,548,981

Unfunded Improvements

22nd Street/Kaufmann Storm Sewer Capacity Improvements (N. Main to Kane)	\$17,770,000*
17th Street/W. Locust Storm Sewer Capacity Improvements (Bee Branch to Elm)	\$4,492,600*
17th Street/W. Locust Storm Sewer Capacity Improvements (Heeb to Rosedale)	\$23,090,000*





BEE BRANCH CREEK RESTORATION PROJECT

Lower Bee Branch



BEE BRANCH CREEK RESTORATION PROJECT

Upper Bee Branch



Current Initiatives



West Blum Site -
\$400,000 EPA
Brownfield Cleanup
Grant Funding



Current Initiatives



East & West Blum Sites -
**\$600,000 EPA
Brownfield Cleanup
Grant Funding**



Reimagining the Civic Commons



CONCEPT



West Blum

CONCEPT

E. 16th St.

E. 15th St.

East Blum





COMMUNITY GOALS

**QUALITY OF LIFE
& EQUITY**

North Port Revitalization

EPA Resources

- * Brownfield grants earliest dollars raised
- * 2002 Brownfields Assessment Grant – 12 Phase I and 6 Phase II environmental site assessments
- * 2003 Brownfields Cleanup Grant – Remediation of petroleum plume



AFTER



North Port Revitalization

- Over \$800 million in redevelopment since 2002
- **Additions to North Port After Public Investments**
 - Diamond Jo Casino
 - Flexsteel Corporate HQ
 - Grand Harbor Resort & Waterpark
 - Grand River Event Center
 - McGraw-Hill Companies
 - Merge Urban Development**
 - Mississippi River Walk
 - National Mississippi River Museum & Aquarium
 - Port of Dubuque Marina
 - Shot Tower
 - Stone Cliff Winery



PORT OF DUBUQUE MARINA PROJECT

Opportunity Zone Potential

- ✓ \$25 million investment, 180 residential units, 23,000 SF commercial
- ✓ Brought OZ fund to the table



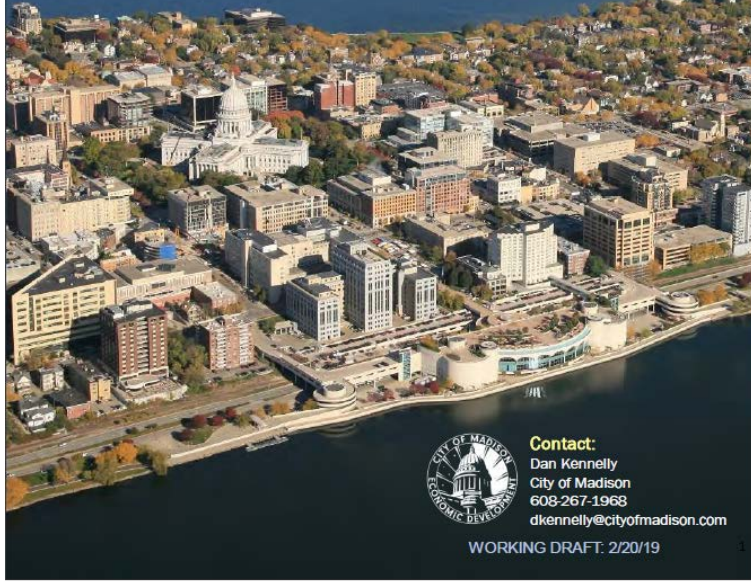


City of Cedar Rapids Opportunity Zones Investment Prospectus



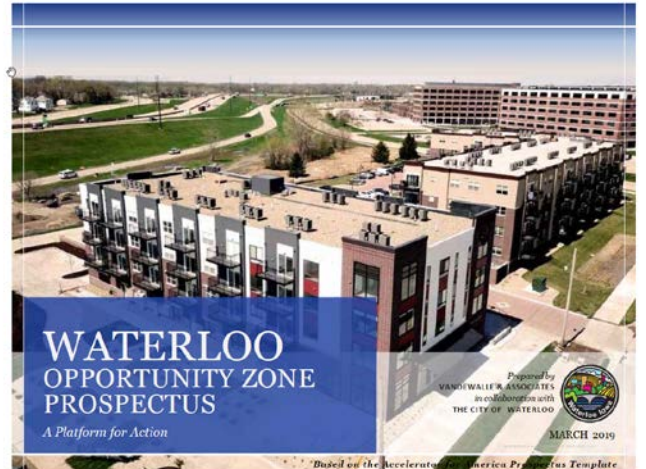
MADISON AREA OPPORTUNITY ZONE INVESTMENT PROSPECTUS

FEBRUARY 2019



Contact:
Dan Kennelly
City of Madison
608-267-1968
dkennelly@cityofmadison.com

WORKING DRAFT: 2/20/19



WATERLOO OPPORTUNITY ZONE PROSPECTUS

A Platform for Action

Prepared by
VANOUWALTER ASSOCIATES
in collaboration with
THE CITY OF WATERLOO
MARCH 2019

Based on the Accelerated America Prospectus Template

QUAD CITIES REGION OPPORTUNITY ZONE PROSPECTUS



DSM USA

DES MOINES, IOWA

OPPORTUNITY DSM

OPPORTUNITY ZONE INVESTMENT PROSPECTUS

#DSMUSA DSMpartnership.com



No Local Opportunity Fund

Why?

- ✓ Lack of interest – prefer known programs like 1031 exchanges
- ✓ Not connected to network of outside funds
- ✓ Lack of resources to shop out potential projects with a prospectus

Opportunity Zone Barriers

Logistics

- ✓ Complexity of needing multiple layers
- ✓ Inability to fill gaps
- ✓ OZ program sunset dates

Opportunity Zone Barriers

Developer Knowledge

- ✓ Innocent landowner protections
- ✓ Timing for completion of a phase 1 assessment prior to acquisition.
- ✓ Comfort letter vs. Iowa Land Recycling program
- ✓ Time for Section 106 reviews at EPA to expedite projects
- ✓ How to achieve and willingness to invest toward larger community goals



South Port Concept



Opportunity Zone Potential

Portion of South Port
in Opportunity Zone



Opportunity Zone Potential

South Port -

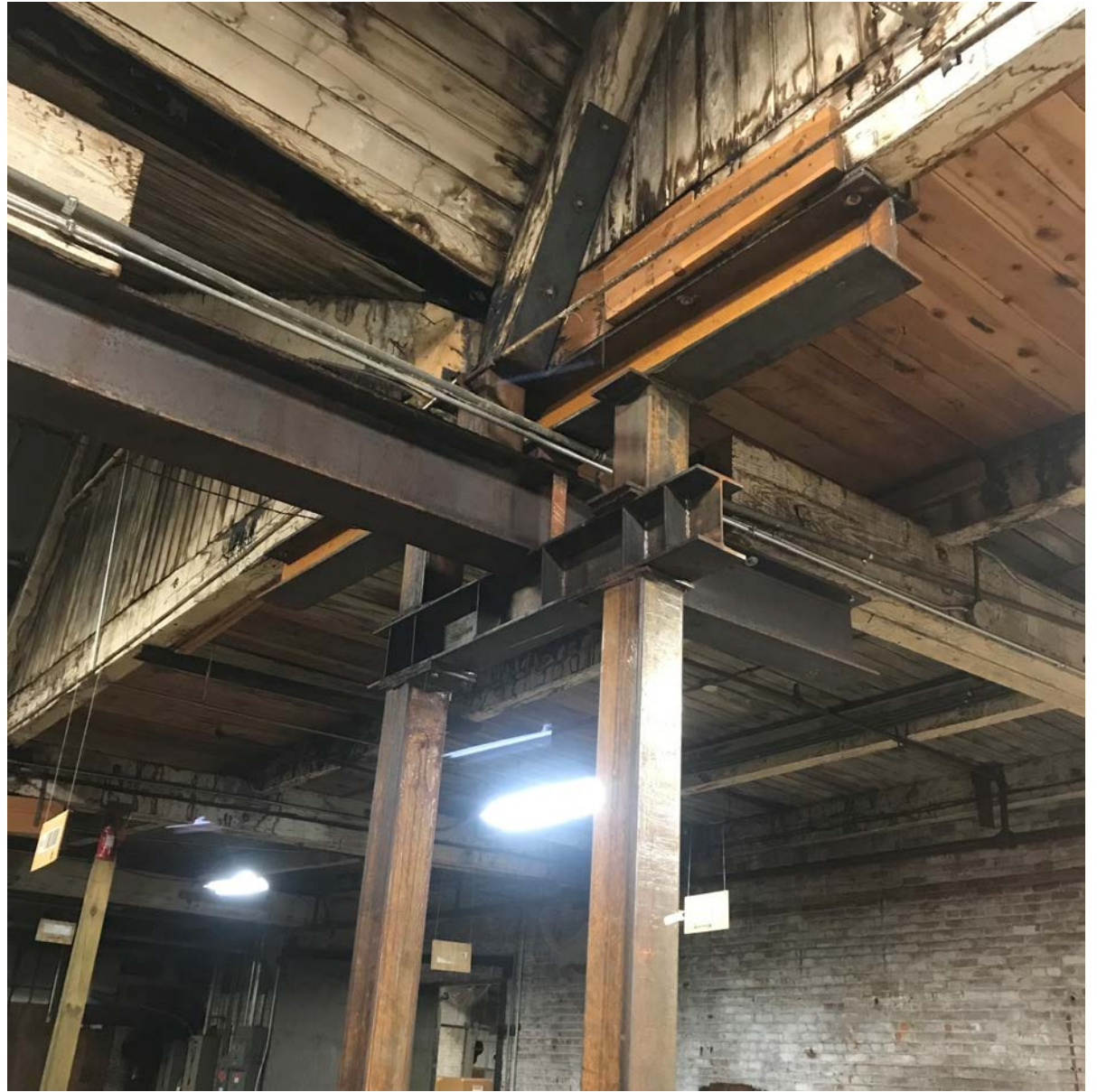
Just South of
Opportunity Zone



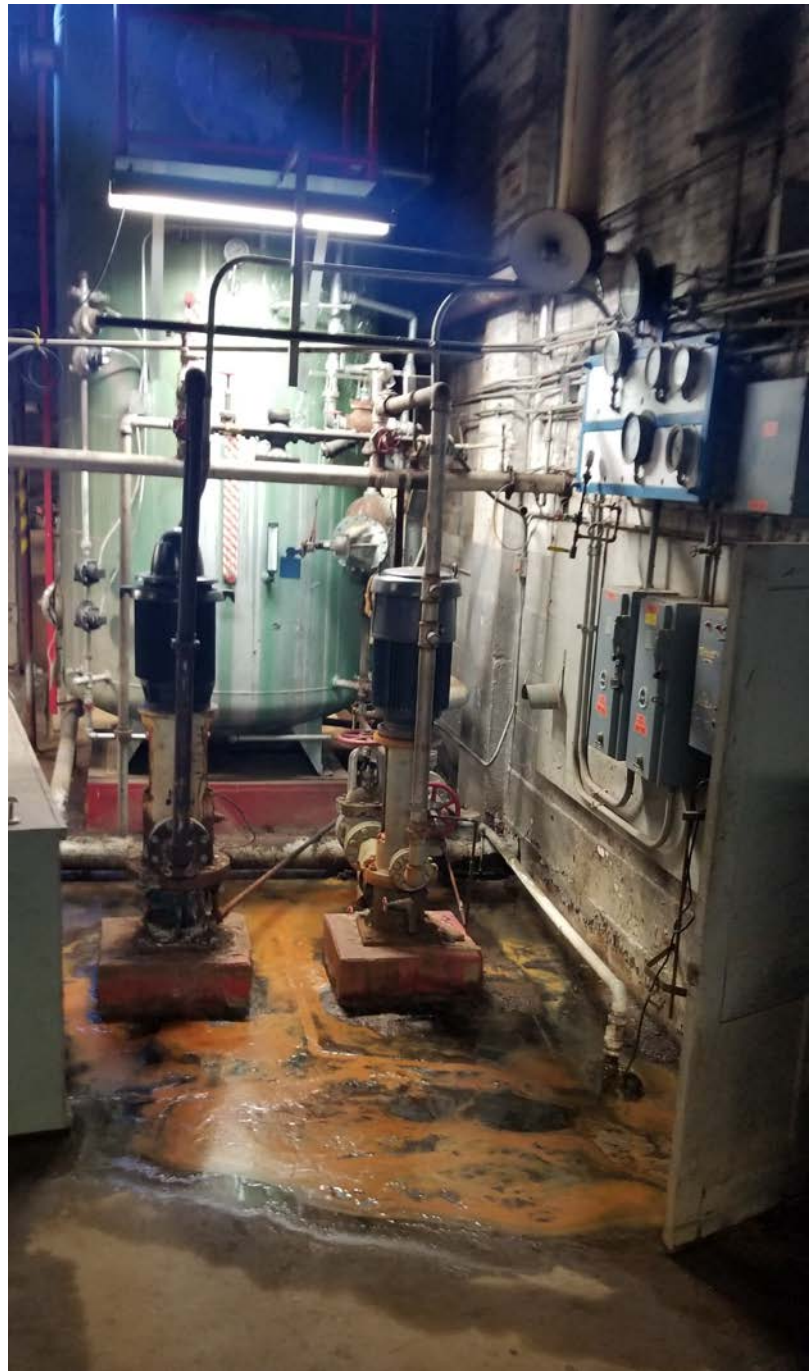
Just North of Opportunity Zone











Keys to Success



- ✓ Strong, consistent local leadership
- ✓ Engaged citizenry
- ✓ Master Planning
- ✓ Municipal investments
- ✓ Clear funding requests
- ✓ Relationships/Partnerships at all levels
- ✓ Celebrating successes



Thank You

WATER FINANCE CENTER



WATER INFRASTRUCTURE AND RESILIENCY FINANCE CENTER

EPA's Water Finance Center provides information that can be used to make **drinking water, wastewater, and stormwater** infrastructure decisions.



Research

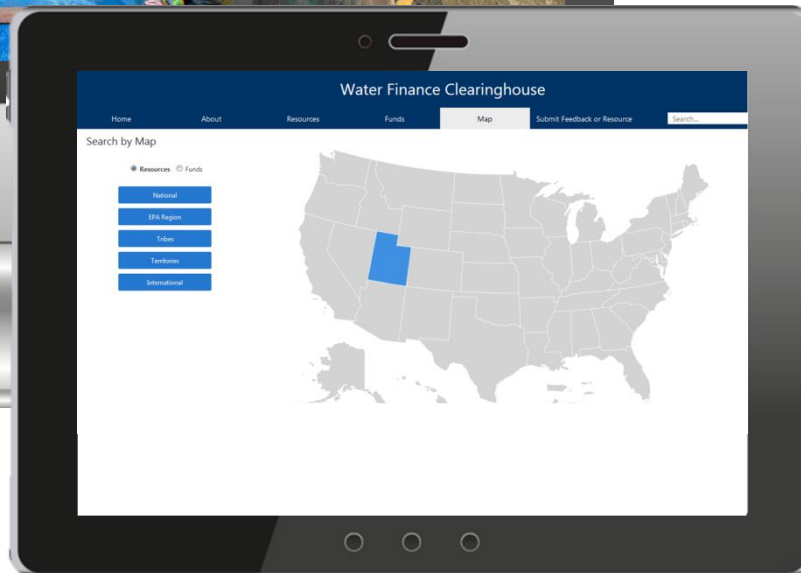
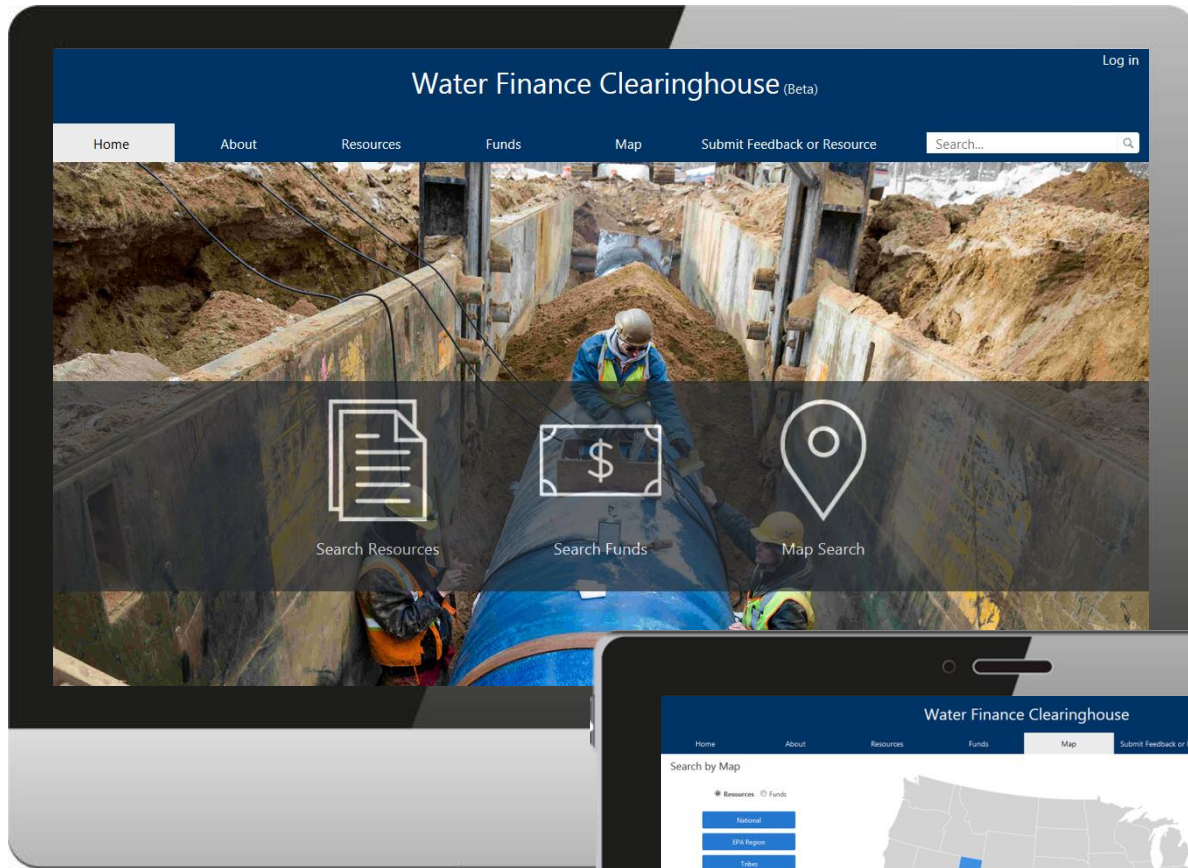
Advise

Innovate

Network

<https://www.epa.gov/waterfinancecenter>

WATER FINANCE CLEARINGHOUSE



Meeting the Needs of Stakeholders

The Water Finance Clearinghouse is an **easily navigable web-based portal** that helps communities locate **information** and **resources** for all things water finance.

www.epa.gov/wfc

10

REGIONAL ENVIRONMENTAL FINANCE CENTERS (EFCs)

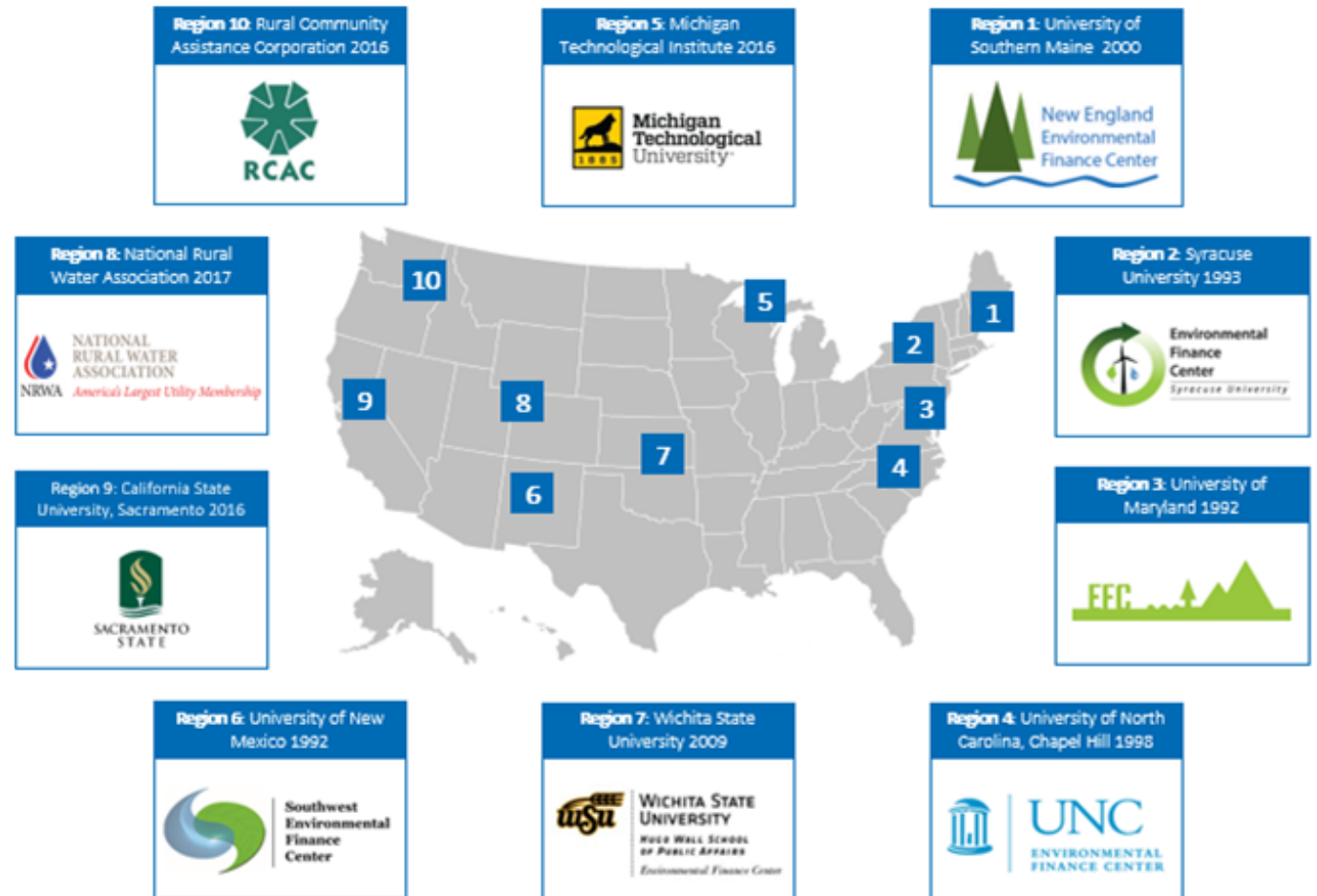
Providing On the Ground Assistance

Since 1992, the EFCs have been **advising, training, and providing technical assistance** to public and private officials on traditional and innovative financing for environmental infrastructure.

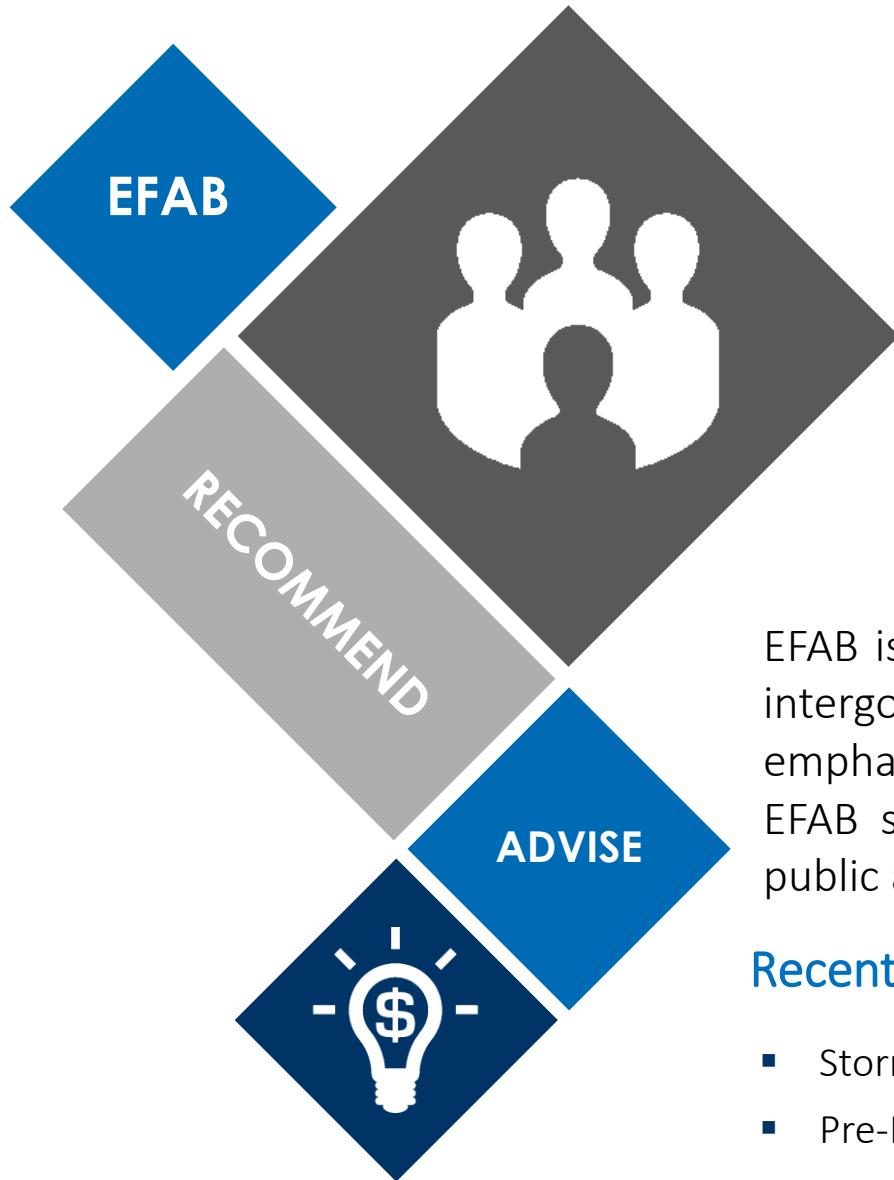
Examples of assistance provided by the EFCs include:

- Asset Management planning
- Financial planning & rate setting
- Effective budgeting strategies
- Long-term capital planning
- Collaboration with other facilities
- Affordability analyses

<https://www.epa.gov/envirofinance/efcn>



ENVIRONMENTAL FINANCIAL ADVISORY BOARD (EFAB)



EFAB is an independent advisory committee that provides EPA with a cross-media, intergovernmental perspective on environmental and economic goals, while emphasizing cost-effective, risk-based approaches, and public-private partnerships. EFAB seeks practical ways to lower costs of environmental compliance, increase public and private investment, and build state and local financial capacity.

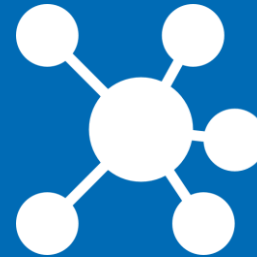
Recent Charges

- Stormwater Infrastructure Funding and Financing
- Pre-Disaster Resiliency Investment and Financing
- Public-Private Partnerships Predevelopment Protocols/BMPs
- Regionalization Financing Strategies
- Chesapeake Bay – Identifying Financial Metrics of Success
- Alaska Waste Backhaul Revenue Options

RECENT ACTIVITIES

COVID-19 WATER SECTOR FINANCIAL IMPACTS

Tool for drinking water and wastewater utilities to determine changes to cash flow



STORMWATER FINANCE

Webinars

Implementing recommendations from EFAB

WATER AFFORDABILITY

Proposed 2020 Financial Capability Assessment (FCA) – Public Comment period ends Oct 19, 2020

Utility Customer Assistance Programs document



FINANCIAL SUSTAINABILITY

Sustainable Financial Management Planning for Water Utilities webinar

Water Infrastructure Financial Leadership document

Sonia Brubaker

Director

U.S. EPA Water Finance Center

(202) 564-0120 | brubaker.sonia@epa.gov



ENVIRONMENTAL FINANCE CENTER NETWORK



JEN COTTING, EFCN PRESIDENT
UNIVERSITY OF MARYLAND EFC
OCTOBER 15, 2020

THE EFC NETWORK

- Ten centers across the country
- Covering each EPA Region
- Regional expertise leveraged through collaboration



ENVIRONMENTAL
FINANCE CENTER



**Great Lakes
Environmental
Infrastructure Center**
Environmental Finance Center for EPA Region 5



NEW MEXICO
ENVIRONMENTAL
FINANCE CENTER
<http://nmefc.nmt.edu>



OUR AUDIENCES & PARTNERS

- Local governments
- State and federal agencies
- Tribes
- Nonprofits
- Academic institutions
- Private sector



WHAT WE DO

- Direct technical assistance
- Capacity building
- Outreach, education and training
- Support to state and federal agencies
- Development and distribution of tools and resources
- Community engagement
- Network facilitation
- Program and policy analysis
- Systems analysis, modeling and GIS



SECTORS WE WORK IN

- Water
- Green Infrastructure
- Energy
- Air
- Agriculture
- Waste
- Sustainability
- Resilience



EXAMPLES OF OUR WORK



EXAMPLES OF OUR WORK

- Asset management and capacity development
- Revenue-sheds for water resources
- New York State Center for Sustainable Materials Management
- Supporting California Water Board's SAFER Program
- Supporting indigenous solutions to resilience




ENGAGE US!

The EFCN includes:

- [New England Environmental Finance Center at the University of Southern Maine](#)
- [Environmental Finance Center at Syracuse University](#)
- [Environmental Finance Center at the University of Maryland](#)
- [Environmental Finance Center at University of North Carolina, Chapel Hill](#)
- [Great Lakes Environmental Infrastructure Center at the Michigan Institute of Technology](#)
- [Southwest Environmental Finance Center at the University of New Mexico](#)
- [Wichita State University Environmental Finance Center](#)
- [National Rural Water Association Environmental Finance Center](#)
- [Environmental Finance Center at Sacramento State](#)
- [Environmental Finance Center at the Rural Community Assistance Corporation](#)



A photograph of a garden bed with mulch, green plants, and small purple flowers. The background is slightly blurred, showing a paved area and more greenery.

OCTOBER 2020

Washington, DC Stormwater Credit Trading: Overview



2013 Stormwater Rule

In 2013, the Washington, DC Department of Energy and Environment revised the stormwater rules to require:

- New development¹ to retain the stormwater caused by a 90th percentile storm event
- Major renovation² to retain the stormwater caused by an 80th percentile storm event
- 50% of the stormwater retention must be managed onsite
 - Approved best management practices include green roofs, cisterns, bioretention cells, vegetative ground cover, and more
 - The remainder can be provided by offsite Stormwater Retention Credits (SRCs) or by paying an in-lieu fee.

1 – New development = land disturbance > 5,000 SF

2 – Major renovation = project whose cost exceeds 50% of the pre-project assessed value and whose combined footprint(s) are > 5,000 SF

Benefits of Offsite Compliance Using SRCs

COST SAVINGS

Purchasing SRCs from an offsite provider saves money.

DESIGN FLEXIBILITY

Offsite compliance allows developers to focus on design instead of stormwater management.

OPPORTUNITY COSTS

Offsite compliance frees space for revenue-generating features like parking spaces and rooftop amenities.



100% Retention Onsite in Practice

Less below
ground parking

More expensive
structure + systems



Less amenity space

50% Retention Onsite and 50% Offsite in Practice



Increased revenues from more underground parking and rooftop amenity space

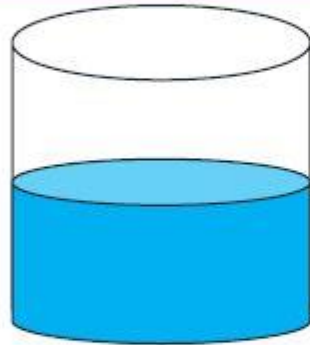


Cost effective offsite green infrastructure with environmental co-benefits

Why Trading is Environmentally Beneficial

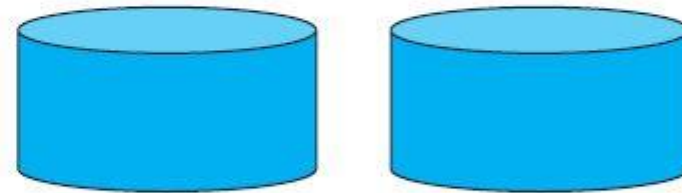
The onsite requirement, in conjunction with trading, has potential to increase District-wide stormwater retention

100% On- or Offsite



5,000
Gallons

50% Onsite



5,000 + 5,000 = 10,000
Gallons

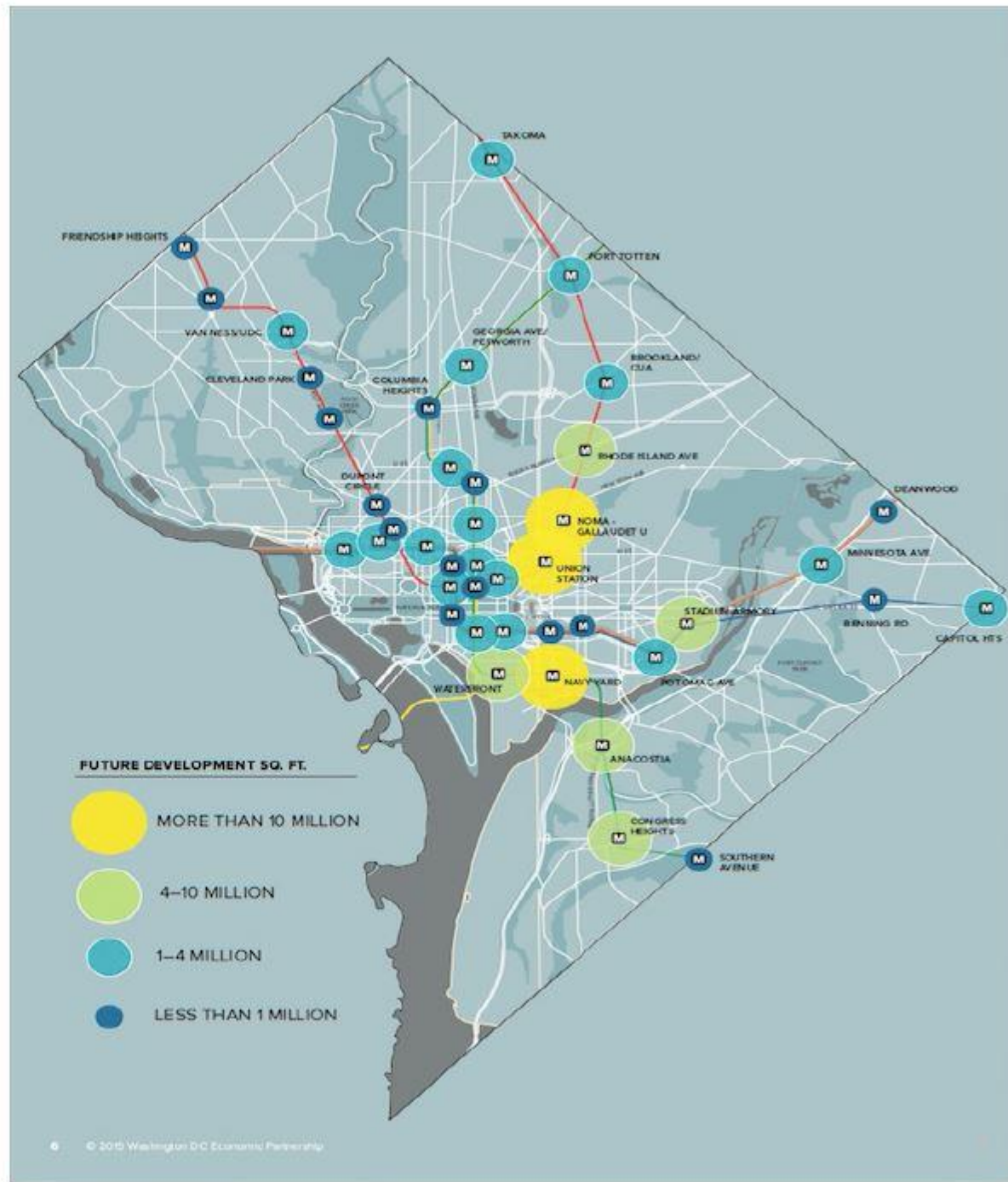
- 1.2" retention standard reflects 90th percentile storm event
- Offsite retention allows more property to retain lesser storms
- For a 0.6" storm, above scenario would increase retention by 57%

90-95%

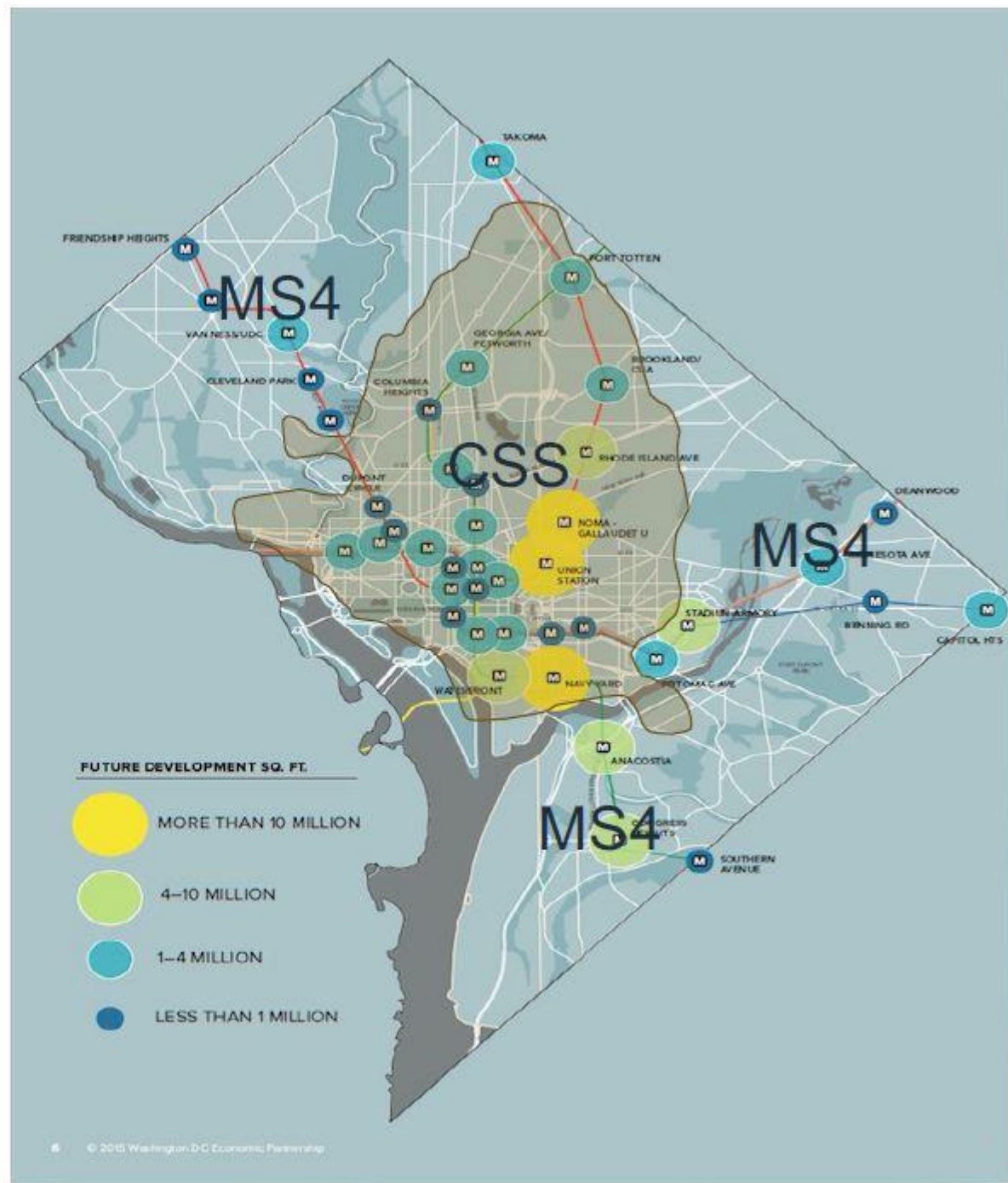
Private Ownership of Land
Across most U.S.
Urban/Suburban areas

*Climate Resilience Relies on Partnerships with Private
Landowners*

Development
Activities Finance
Social and
Environmental
Outcomes

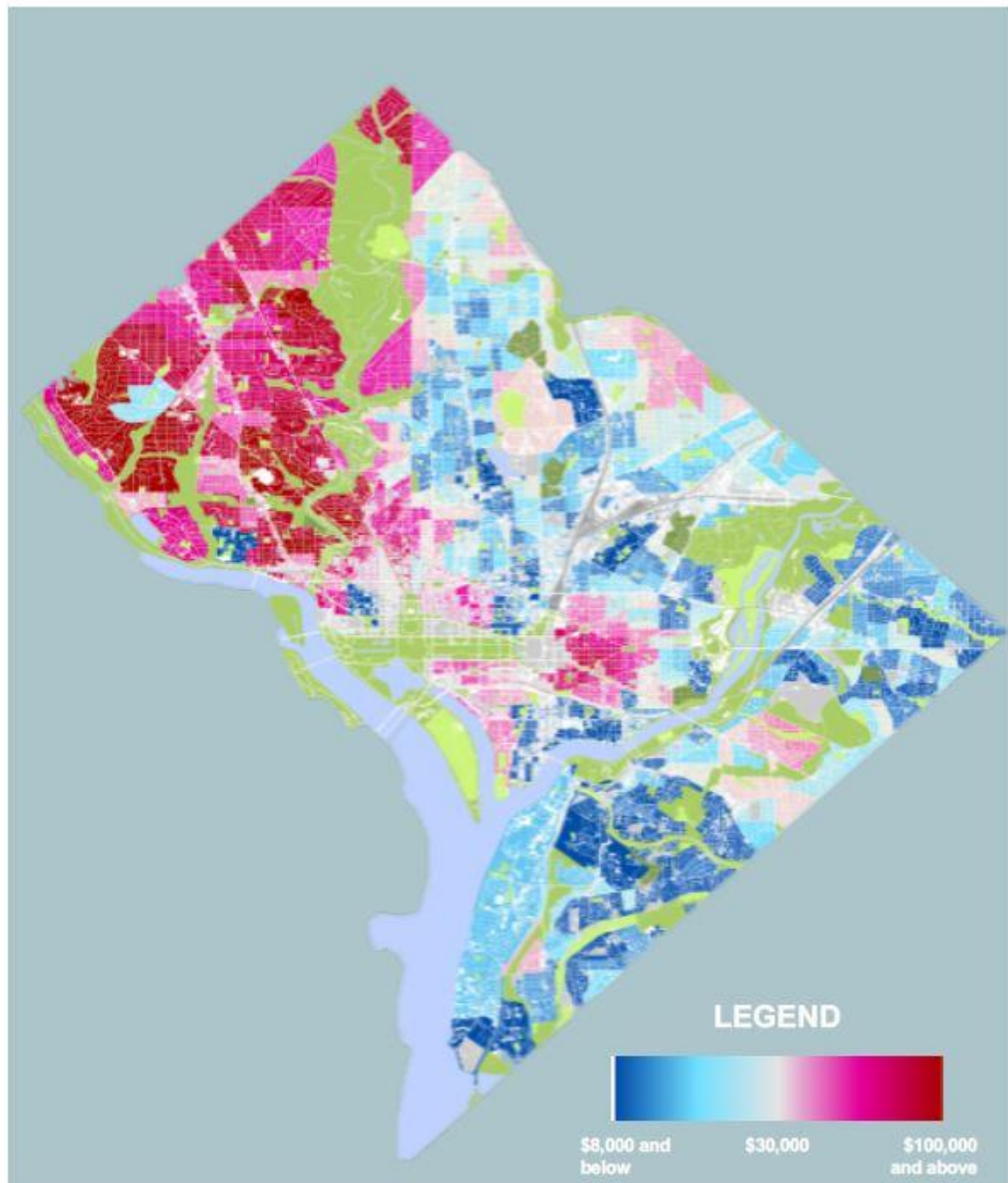


Development
Activities Finance
Social and
Environmental
Outcomes



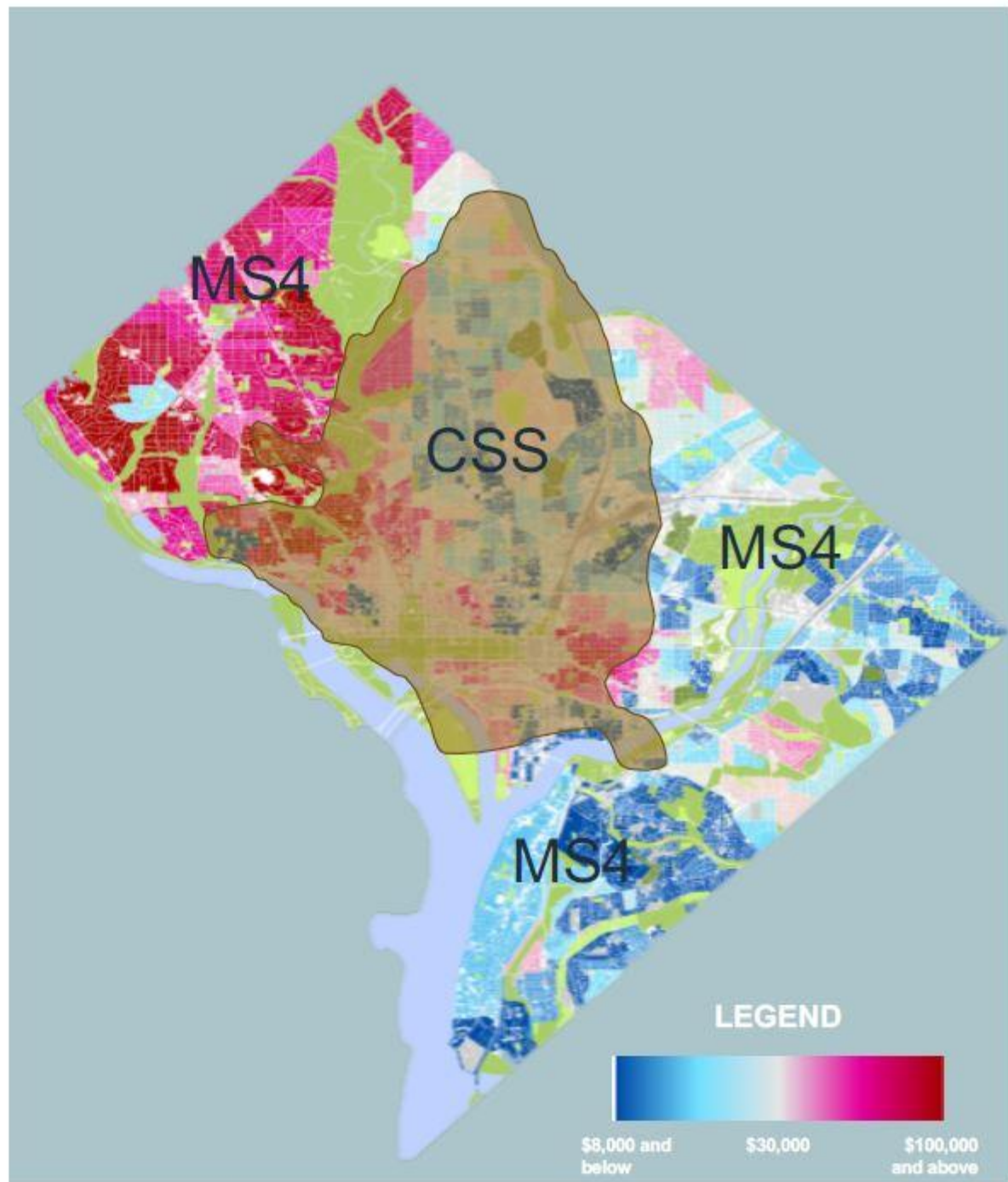
Development
Activities Finance
Social and
Environmental
Outcomes

*Map of Per-Capita Income
based on 2010 Census Data*



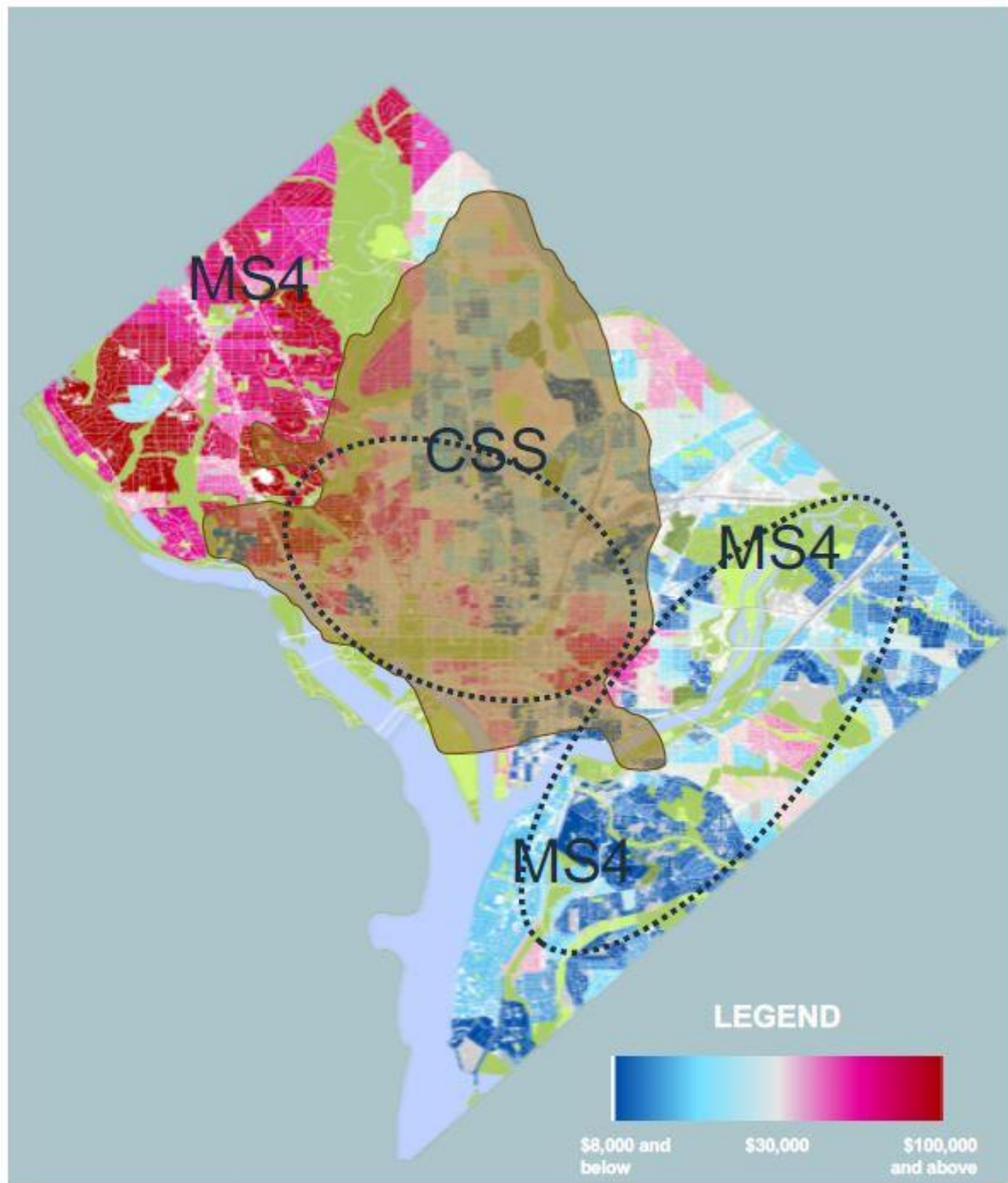
Development
Activities Finance
Social and
Environmental
Outcomes

*Map of Per-Capita Income
based on 2010 Census Data*

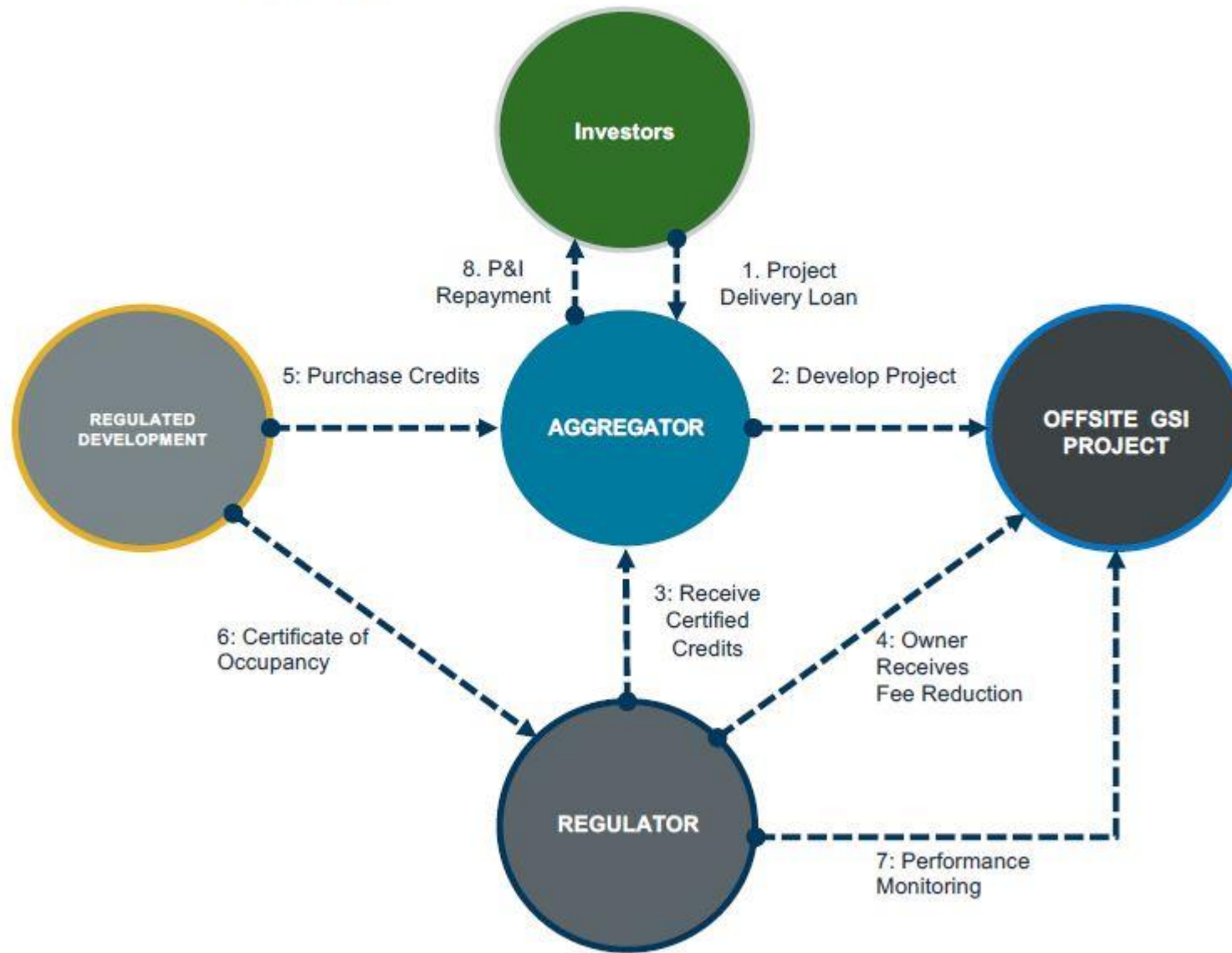


Development
Activities Finance
Social and
Environmental
Outcomes

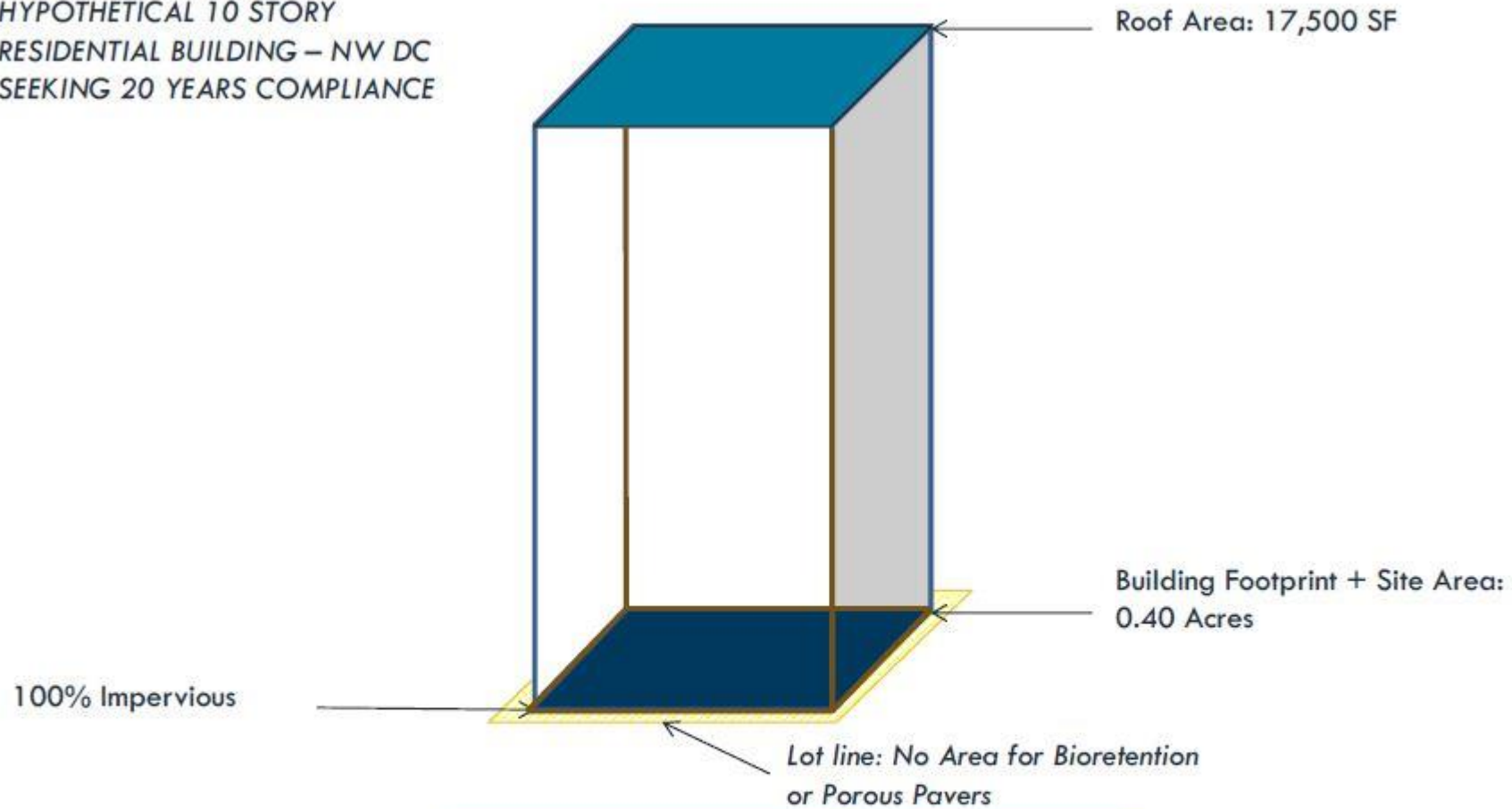
*Map of Per-Capita Income
based on 2010 Census Data*



What Credit Aggregators Do



HYPOTHETICAL 10 STORY
RESIDENTIAL BUILDING – NW DC
SEEKING 20 YEARS COMPLIANCE



Cost Comparisons	CapEx + NPV O+M
Onsite Only	\$1,418,246
Onsite/Offsite	\$1,117,535
Savings (\$)	\$300,711
Savings (%)	21%

Indicative Savings from Offsite Compliance

Savings from offsite compliance are site-specific.

Key drivers for savings are:

- Volume of gallons managed
- Direct cost of onsite compliance, driven by site constraints
- Benefits of onsite/offsite stormwater management:
 - More space for parking
 - More available rooftop amenity space

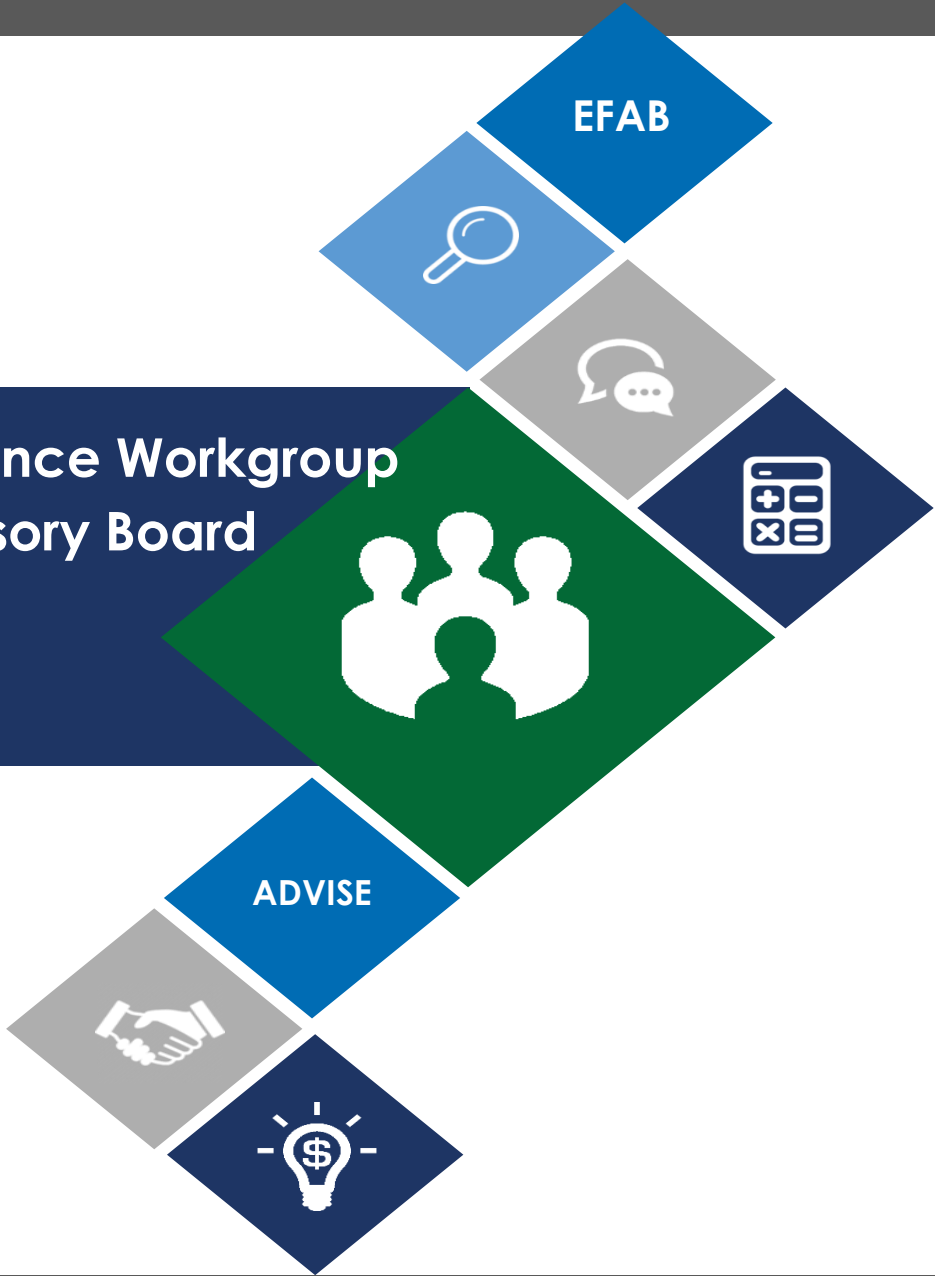
At right is an abstracted example from District Stormwater developer conversations that illustrates the potential cost savings by using 50% offsite retention through the purchase of SRCs to comply with the new DOEE regulations.

Cost savings do not include forgone revenue from lost amenities or design restrictions that are likely to occur from 100% onsite compliance

Site Assumptions	
Compliance Required (gal.)	15,000
Total Onsite Cost	\$1,000,000
50% Onsite Cost (\$/gal.)	\$550,000*
Annual Maintenance (% Cost)	5%
Investment Period (years)	20
Percent Offsite	50%
SRC Price	\$2.25
Discount Rate	10%
*reflects certain fixed costs	

Cost Comparisons	CapEx + NPV O+M
Onsite Only	\$1,418,246
Onsite/Offsite	\$1,117,535
Savings (\$)	\$300,711
Savings (%)	21%

Stormwater Infrastructure Finance Workgroup
Environmental Financial Advisory Board



Stormwater Funding Task Force

SEC. 4101. STORMWATER INFRASTRUCTURE FUNDING TASK FORCE

- America's Water Infrastructure Act (AWIA) was signed into law on October 2018.
- Section 4101 calls for EPA to establish a Stormwater Infrastructure Funding Task Force, composed of representatives of Federal, state, and local governments, and private (including nonprofit) entities.
- Objective is to conduct a study on, and *develop recommendations to improve*, the availability of public and private sources of funding for the construction, rehabilitation, and operation and maintenance of stormwater infrastructure to meet the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

Environmental Financial Advisory Board (EFAB)

STORMWATER INFRASTRUCTURE FINANCE WORKGROUP

The Stormwater Infrastructure Finance Workgroup provided recommendations to the EPA in the following areas:

- 1) Identify how funding for stormwater infrastructure from such sources has been made available, and utilized, in each state to address stormwater infrastructure needs;
- 2) Identify how the source of funding affects the affordability of the infrastructure, including consideration of the costs associated with financing the infrastructure;
- 3) Evaluate whether such sources of funding are sufficient to support capital expenditures and long-term operation and maintenance costs

Stormwater Funding Task Force

SEC. 4101. STORMWATER INFRASTRUCTURE FUNDING TASK FORCE

- The Task Force was convened through a Federal Advisory Committee – the *Environmental Financial Advisory Board (EFAB)*
- *The Task Force* was made of 14 EFAB members and 19 invited experts.
 - **Co-Chairs:** Joanne Throwe, Rudy Chow. **Section Leads:** Pam Lemoine, Ted Henifin, Ted Chapman.
- *EFAB* accepted the Charge on March 20, 2019 and provided the final report to the EPA with their recommendations on March 30, 2020.

Stormwater Infrastructure Finance Workgroup Activities

- Report featuring recommendations on stormwater funding and financing
- Detailed descriptions of stormwater funding and financing mechanisms that are being used with examples
- Case studies on how stormwater is being funded across the country
- Database on stormwater funding options by state

Stormwater Funding Task Force

SEC. 4101. STORMWATER INFRASTRUCTURE FUNDING TASK FORCE

- The Task Force found that current stormwater funding as well as outreach on the importance of stormwater infrastructure are insufficient to meet existing needs.
- The Task Force identified an estimated annual funding gap of \$7-10 billion based on current studies.
- EFAB made a total of eight recommendations to EPA in its report. These recommendations were grouped into two overarching categories:
 - 1) allocate new federal stormwater funding
 - 2) provide stormwater funding education and technical assistance.

Allocate new federal stormwater funding

- Develop a new and enhanced construction grant program specifically for stormwater projects, similar to the federal Municipal Construction Grants Program.
- Increase annual funding allocation for and modify the Clean Water Act section 319(h) grant program to allow and encourage local capacity building, utility fee study and implementation and asset management, and remove restrictions on use of grant funds for MS4 permit compliance.
- Create a federal funding program (similar to the Low Income Home Energy Assistance Program [LIHEAP]) to help address household affordability issues for customers who are economically challenged in paying their water related charges, including stormwater.

Provide additional funds for the CWSRF and Water Infrastructure Finance and Innovation Act (WIFIA) programs specifically for stormwater. Whether stormwater receives consideration of its own through a new SRF program or receives less restrictive eligibility considerations and larger appropriations within the existing CWSRF, it is the view of the Task Force that stormwater would benefit from a separate, additive, recurring financial commitment from EPA. This could be achieved by the implementation of one or more of the following, each of which has associated risks and opportunities:

- Create a specific stormwater set-aside in the existing CWSRF framework and increase awareness/guidance on the CWSRF for stormwater projects, including the Green Project Reserve program.
 - Create a “One Water” SRF with amounts allocated to drinking water, clean water and stormwater.
 - Create a new SRF program exclusive to stormwater programs and projects.
 - Expand the existing WIFIA program (e.g., explicit references to stormwater project eligibility, priority points for stormwater projects, lower project minimums for bundled stormwater projects) to allow funding for more stormwater projects or fund the Army Corps of Engineers (USACE) Corps Water Infrastructure Financing Program (CWIFP), also established in 2014.
-

Provide stormwater funding education and technical assistance

-
- Provide funding to educate elected officials, professional administrative leaders and the public on the benefit and need for sustainable local stormwater funding and organizational capacity through, for example, the creation of stormwater utilities or the expansion of existing utilities into the stormwater sector.
 - Provide technical assistance and funding to help communities create and maintain sustainable and legally defensible funding sources and increase operational efficiency.
-

Provide
stormwater
funding
education and
technical
assistance

-
- Provide for a common application for different federal grants applicable to stormwater across all federal agencies.
 - Provide funding to build and maintain a compendium of case studies and other resources to assist users to identify successful stormwater funding and financing approaches.
-

- EFAB Report
 - <https://www.epa.gov/waterfinancecenter/evaluating-stormwater-infrastructure-funding-and-financing-task-force>
- Water Finance Center
 - <https://www.epa.gov/waterfinancecenter>
- Water Finance Clearinghouse
 - <https://www.epa.gov/waterdata/water-finance-clearinghouse>
- Sewer Overflow and Stormwater Municipal Grants program
 - <https://www.epa.gov/cwsrf/sewer-overflow-and-stormwater-reuse-municipal-grants-program>
- Green Infrastructure funding page
 - <https://www.epa.gov/green-infrastructure/green-infrastructure-funding-opportunities>



Funding for Pre-Disaster Resiliency
Environmental Financial Advisory Board



EFAB



ADVISE



Stephanie Santell
Office of Water
US EPA

The Charge from EPA

In January of 2018, the Office of Water developed a charge for EFAB to *"investigate effective investment and funding strategies that reduce risks to essential water infrastructure and post-disaster costs attributable to extreme natural events and chronic flooding and which achieve net savings on a probabilistic adjusted Net Present Value given historic and expected incidence."*



Pre-Disaster Resiliency Investment & Finance Workgroup

- To define “resilience,” EFAB considered concepts from several resources.
- Focused mainly (but not exclusively) on the impacts of flooding and drought.
- Focused on issues related to both funding and financing in the United States.
- The Report highlighted opportunities and barriers associated with pre-disaster resiliency at the local and Federal levels.
- The Report discussed investments in flood control and stormwater infrastructure, and analyzed how such investments can help with infrastructure resiliency.

- The costs of disasters are increasing, but communities remain unprepared for such events.
- These impacts have significant economic, social, and environmental implications; from the household level to nationally.
- It costs less to prevent and minimize damage and to strengthen our communities than it does to spend resources on recovery afterward.
- Outlined the primary barriers to communities when it comes to addressing key infrastructure pre-disaster resilience.

Key Problems & Needs Identified in the Report

Recommendations

- EFAB presented the following recommendations, in order of priority:
 - Encourage long-term planning and the use of asset management planning tools for both municipal and investor-owned utilities.
 - Develop a Coordination Team to foster communication among Federal agencies, set priorities, and reduce gaps in funding pre-disaster resiliency for public infrastructure.
 - Consider the creation and authorization of a new Stormwater SRF and/or expansion of existing SRF or WIFIA programs to include additional stormwater/flood control eligibilities.
 - Suggest EPA's Water Infrastructure and Resiliency Finance Center (WIRFC) develop a compendium of information to measure resiliency costs, benefits, and best practices.

Related EPA Actions & Initiatives

- Activities under AWIA that relate to pre-disaster resiliency
- SRF Programs and success stories
- The SRF-FEMA MOU (June 2019)
- Water Finance Clearinghouse
- Water Reuse Action Plan – Decision Support Tool (Action 2.6.1)
- Technical Support
- Other cross program activities and workgroups

Thank You



Attracting Private Investment to Opportunity Zones: A Role for EPA

EPA Efforts in Opportunity Zones

In December 2018, the White House Opportunity and Revitalization Council (WHORC) was established by Executive Order 13853 to implement administrative reforms and initiatives to target, streamline, and coordinate Federal resources in economically distressed communities. EPA is a member of the Council and is included in two separate work streams: Safe Neighborhoods and Economic Development. In addition to tax incentives for development in designated Opportunity Zones (OZ) provided by the Tax Cuts and Jobs Act of 2017, a new feature on grants.gov beginning in March 2020 will enable applicants to search for available grants/programs across the federal government that benefit OZs. This will benefit OZ stakeholders by increasing general awareness of federal programs with OZ benefits.

Problem/Question Statement: Maximizing the Impact of EPA Investment in Distressed Communities

The OZ initiative creates incentives for equity investments in real estate and infrastructure projects as well as new or expanded businesses located in the designated OZs. It is principally an economic development initiative that is designed to support the revitalization of communities to address chronic and acute problems that result from economic decline. Many of these problems relate to the environment and human health.

Our experience with community-focused programs suggests that economic investments from the private sector are far more likely and attractive when environmental quality is maintained at healthy levels. Potential environmental liability and uncertainty about environmental quality can also discourage private sector investment in a community. We believe that additional environmental infrastructure and improvement is a necessary condition for attractive private sector investment in many communities, even with OZ incentives.

Investing in distressed communities is not new for EPA. The agency has historically provided support to communities through mechanisms that have included grants, tools, training, education, and technical assistance. Despite these efforts and investments, EPA cannot always determine, in advance, whether its limited resources will be effectively leveraged to make a measurable environmental and public health improvement for these communities.

The EPA would appreciate any strategic advice from the EFAB on ways to encourage private investment in OZs. Specific questions include:

- 1) First, which specific federal/EPA incentives (monetary or otherwise) are most likely to increase public/private investment in OZs?
- 2) Looking at existing EPA incentives, including funding programs such as environmental justice, or brownfields grants which incentives, programs or approaches are better suited to achieve desired community outcomes while reducing risk, liability and/or

regulatory uncertainty for investors in OZs?

- 3) Does the EFAB have recommendations on readily implementable adjustments to existing Agency programs to make them more effective in reducing risk, liability and/or regulatory uncertainty? Are there more complicated adjustments that should be also considered by the Agency?
- 4) What regulatory/liability/risk data could be provided to allow investors to compare OZs and determine which OZ might be a best fit for their investment?
- 5) Does the EFAB have any recommendations on how we share information and resources in a way that would ensure that the programmatic resources we leverage for OZ purposes lead to improvements in local health and environmental outcomes for the existing community.

EPA Mission Fit:

The EPA Office of Policy (OP), located in the Office of the Administrator, is the primary policy arm of EPA. Among other duties, OP is responsible for coordinating all of EPA's Opportunity Zone (OZ) work across the agency. OP has extensive experience in working in economically distressed communities across the country to support locally led, community-driven strategies that improve economic development and environmental and human health outcomes. OP uses this expertise in coordinating across EPA programs and in collaboration with other federal agencies to assist communities' efforts to ensure that public and private sector investments support community goals.

Type of EFAB Engagement: to be determined

Risk, its Impact on the Cost of Capital for Essential Utilities, and Opportunities for Innovative Financial Solutions

EFAB members: J. Beecher, T. Chapman, and C. Meister

Problem/Question Statement

Financial and economic regulators are increasingly risk-aware, particularly with respect to market risk posed by environmental issues. Capital and insurance markets also recognize environmental factors more explicitly in their assessment of risk profiles and credit quality across the infrastructure and utility sectors. The relevant risk factors are also expanding in the context of complex infrastructure systems that encompass both the natural and built environments. In the water and energy sectors, risk relates to interrelated aspects of operations, including reliability, resilience, and regulatory compliance. There is growing recognition that environmental hazards, including those associated with natural or humanmade disasters, are affecting the cost of capital. Managing and mitigating risk is a high priority for the managers and operators of essential utilities.

The following key questions are of interest:

- What risk factors are affecting essential utilities, and how are they being addressed? Examples of risk impacts include costs (such as increased capital or operations scope, reporting, and administrative effort), delays due to required environmental permits or approvals, and management and mitigation measures to ensure system and project viability.
- How do risk disclosure, reporting, and management practices compare between the U.S. and other countries and between the public and private sectors?
- How can utilities more effectively evaluate, manage, and mitigate risk, and which tools are most cost-effective for which risks (e.g., planning and scorecards)?
- How are utility credit ratings and insurance products affected by risk, and how are changing risks affecting utility capital markets, the cost of capital, and utility revenue requirements?
- How are risks and associated costs shifted between the public and private sectors and among utilities, shareholders, and ratepayers?
- How does risk-bearing relate to issues of place and environmental justice, public health and safety, and economic development?
- Examine all of the above, both opportunities for EPA to build upon its enviable record of solution-oriented financial innovation as well as broader, appropriate risk identification, in the context of a recent report by a federal financial regulatory agency¹ and the public statements of a major market participant earlier in 2020².

EFAB Mission Fit. Risk is a natural topic for the EFAB due to its implications for the financial health and viability of essential utilities. EFAB members have considerable expertise in how financial markets

¹ Federal Advisory Committee (FACA) of the Commodity Futures Trading Commission, Climate-Related Market Risk Subcommittee off the Market Risk Advisory Committee, “*Managing Climate Risk in the U.S. Financial System*,” September 9, 2020, [https://www.cftc.gov/sites/default/files/2020-09/9-9-](https://www.cftc.gov/sites/default/files/2020-09/9-9-20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf)

[20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf](https://www.cftc.gov/sites/default/files/2020-09/9-9-20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf)

² Fink, L. (2020). *Sustainability as BlackRock’s New Standard for Investing*. Letter to CEOs from the Global Executive Committee, January 14, New York, NY. Retrieved from <https://www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter>

DRAFT PROPOSED CHARGE FOR EFAB DISCUSSION

perceive and process risk and how this, in turn, affects utilities, the cost of capital, and investment barriers and opportunities.

EPA Mission Fit. EPA's interest in risk relates its roles as the nation's environmental health regulator but also as a significant source of capital financing. Importantly, EPA has an established and successful track record with respect to the implementation of financial solutions to environmental challenges. Sound risk management along with innovative financial solutions has implications for the financial health and resilience of essential utilities, and thus public and environmental health over the long term.

Type of EFAB engagement. We recommend an EFAB consultation at a public meeting or an EFAB-sponsored educational workshop, similar to the successful approach recently taken with respect to the Congressionally-mandated Stormwater report, with a written summary. This topic is a chance to identify opportunities for innovative financial solutions as well as to contribute to ongoing conversations among market participants, market regulators, and environmental stakeholders regarding evolving standards with respect to financial risk.

Stormwater Credit Trading 101: Advice for Permit Writers and their Permittees

Problem Statement

As many cities in the United States continue to experience growth, the increase in stormwater runoff associated with impermeable surfaces has presented challenges for many municipal water utilities trying to keep pace with increasingly stringent Clean Water Act (CWA) permitting requirements.

To address these challenges, municipalities across the United States are implementing strict stormwater management requirements for new and existing properties throughout their jurisdictions. These requirements mandate a certain volume of stormwater be managed on those properties. The goal of these programs is to reduce the volume of stormwater entering existing storm- and wastewater infrastructure, which improves overall water quality at the point of discharge from municipal sewer systems.

While in some cases the costs of stormwater best management practices (BMPs) can be high, one of the key obstacles facing building owners is the opportunity costs related to siting BMPs. For example, roof space for high value amenities such as pools, bars, and decks, or underground space for parking can be limited if that same space is used instead for BMPs. Further, the optimal location of a BMP from a watershed benefit standpoint might not be where development is occurring. As such, cities and states throughout the country are exploring the development of innovative market-based mechanisms that would allow private sector developers to finance offsite projects with the sale of credits, which are used by property owners to meet their regulatory obligations under new stormwater management standards. Similar to cap and trade markets for carbon dioxide emissions, the advent of a credit against these standards creates a marketplace that drives competition and ultimately provides the lowest-cost solutions to stormwater mitigation, thereby reducing costs of compliance.

EFAB Mission Fit

EFAB's mission is to explore ways to lower costs and increase investments in environmental protection. Environmental markets are often designed to achieve both facets of this mission. Stormwater credit trading is a new and exciting tool that CWA permittees might want to have at their disposal. With thoughtful market design, it may be possible for those communities to drive low cost compliance, incentivize and increase economic development by offering private developers an alternative compliance pathway, and drive investment in environmental services to traditionally underserved/underinvested neighborhoods. EFAB may be able to provide guidance and advice on how to structure these markets so that they can achieve these goals.

EPA Mission Fit

EPA's mission is to protect the environment through the enforcement of the nation's environmental regulations, scientific research, and public education. Often this means working with communities to determine the best pathways to achieve compliance in a cost-effective manner. In a February 6, 2019 memo¹ Assistant Administrator Ross reiterated EPA's support for market-based water quality programs, including water quality trading and offsets, and encouraged regional offices to find opportunities to promote market-based programs within its regulatory mandates.

Type of EFAB Engagement

EFAB could assist EPA through a written report that would provide guidance to permit writers and their permittees on how to implement stormwater credit trading. This may include market design, incentives design, market administration, among others.

¹ <https://www.epa.gov/sites/production/files/2019-02/documents/trading-policy-memo-2019.pdf>

Environmental Finance Advisory Board

Addressing Affordability Challenges to Equitable Water Service Delivery

As water service rates have risen faster than inflation and income growth, addressing water affordability has become a central policy issue. This focus has prompted a number of studies and research efforts that offer alternative measures of household burdens, delineate geographical distributions of water service cost burdens, and outline potential revisions to methods for assessing community financial capabilities (including EPA's ongoing review of its 1997 methodology guidance).

In the last two decades, EFAB has developed two related charges that addressed: (1) potential rate design (and complimentary customer account management) options to address water affordability,¹ and (2) how the EPA's Water Infrastructure and Resiliency Center could assist local governments with affordability challenges.² In subsequent years, particularly after the Flint Water Crisis and various reports on water access challenges in the United States,³ the water service sector is redefining its services in terms that challenge historical pricing through measures of billable volumes and customer account management practices. This more explicit recognition of the importance of water affordability to fulfill the water sector's public health protection responsibilities has complementary implications for regulatory, financial, and technical support initiatives. Selected State agencies and local utilities are evolving practices to address affordability and environmental justice to prioritize project funding and implement infrastructure investments.⁴ The importance of these measures is amplified by the COVID-19 pandemic and future public health protection imperatives.

Problem/Question Statement

This proposed EFAB charge is to develop recommendations for how EPA's enforcement practices and financial and technical assistance programs may be modified to enhance and amplify the ongoing refinement of water service definitions that highlight the importance of assuring water affordability and access. These refinements recognize that water services are more than management of drops measured through water meters and impervious area measures. They more explicitly recognize the public health protection value conveyed, and the attendant imperatives to assure access and affordability. The charge is to address how EPA can help ensure that the costs of compliance with environmental regulations do not impose inequitable burdens on economically disadvantaged households while also advancing water quality improvement and utility system reinvestment. The charge is to gauge the extent to which EPA-sponsored financial and technical assistance programs may be modified to address community access and affordability challenges to render more equitable outcomes. The charge may also address how EPA may reinforce initiatives to reconsider and/or reconfigure water systems' cost structures to recognize public health benefits as a shared community responsibility and benefit.

EFAB Mission Fit

The charge is oriented toward providing recommendations related to EPA's approaches to enforcement of environmental regulations that may have acute impacts on community financial capabilities and household affordability, and on how EPA could modify its financial and technical assistance programs to enhance support to communities with affordability and access challenges.

Type of EFAB Engagement

- EFAB workgroup written report
- EFAB-sponsored workshop

¹ *Affordable Rate Design for Households*, EFAB report dated February 2006.

² *Household Affordability Challenges in the Water Sector*, EFAB report submitted February 26, 2016.

³ *Closing the Water Access Gap in the United States: A National Action Plan*, Dig Deep and US Water Alliance, 2019.

⁴ See, for example, <https://www.wateronline.com/doc/governor-cuomo-proposes-state-s-water-infrastructure-loan-programs-0001>

EBAB Meeting

October 14-15, 2020

List of Public Commenters (Oral)

1. Lawrence Levine (October 14)
Director, Urban Water Infrastructure & Senior Attorney
Healthy People and Thriving Communities Program Natural Resources Defense Council
llevine@nrdc.org
2. Sylvia Orduno (October 15)
Michigan Welfare Rights Organization
smorduno@gmail.com
3. Nicole Hill (October 15)
People's Water Board Coalition
lasharon.laster@gmail.com

-----Original Message-----

From: Casburn, Tracey
Sent: Thursday, October 22, 2020 10:18 AM
To: Kurd Ali <kali@endyna.com>
Cc: Williams, Sandra <Williams.Sandra@epa.gov>; Johnson, Tara <Johnson.Tara@epa.gov>
Subject: FW: request to make oral comments at EFAB meeting

Kurd,

Can you make sure that Mr. Levine's email and attachments get logged and posted as written public comments received?

Thank you very much,

Tracey

-----Original Message-----

From: Levine, Larry <llevine@nrdc.org>
Sent: Wednesday, October 21, 2020 12:11 PM
To: Casburn, Tracey <casburn.tracey@epa.gov>; Kurd Ali <kali@endyna.com>
Cc: Chu, Ed <Chu.Ed@epa.gov>; Brubaker, Sonia <Brubaker.Sonia@epa.gov>; EFAB <EFAB@epa.gov>;
Williams, Sandra <Williams.Sandra@epa.gov>; Stein, Raffael <Stein.Raffael@epa.gov>
Subject: RE: request to make oral comments at EFAB meeting

Ms. Casburn,

Please share with EFAB members the attached comments on EPA's Proposed 2020 Financial Capability Assessment for Clean Water Act Obligations guidance, which I referenced in my oral remarks at last week's EFAB meeting.

Thank you for your attention to this matter.

LAWRENCE LEVINE

Director, Urban Water Infrastructure

& Senior Attorney*

Healthy People and Thriving Communities Program NATURAL RESOURCES DEFENSE COUNCIL

40 W 20TH STREET

NEW YORK, NY 10011

T 212.727.4548

<https://gcc01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.nrdc.org%2FEXPERTS%2FLA>

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p;sdata=IZHx4YFBMw1apnxep2bTaGeKZa4bPXJgeH7mMTXswns%3D&reserved=0
@LLEVINE_NRDC / @NRDCWATER / @NRDCNY

*Admitted in New York and Pennsylvania

-----Original Message-----

From: Casburn, Tracey <casburn.tracey@epa.gov>
Sent: Wednesday, October 14, 2020 3:21 PM
To: Levine, Larry <llevine@nrdc.org>; Kurd Ali <kali@endyna.com>
Cc: Chu, Ed <Chu.Ed@epa.gov>; Brubaker, Sonia <Brubaker.Sonia@epa.gov>; EFAB <EFAB@epa.gov>;
Williams, Sandra <Williams.Sandra@epa.gov>; Stein, Raffael <Stein.Raffael@epa.gov>
Subject: RE: request to make oral comments at EFAB meeting

Thank you Mr. Levine. I have forwarded on to the Board members.

Respectfully,

Tracey Casburn
U.S. Environmental Protection Agency
Region 7
913-551-7016

-----Original Message-----

From: Levine, Larry <llevine@nrdc.org>
Sent: Wednesday, October 14, 2020 2:03 PM
To: Kurd Ali <kali@endyna.com>
Cc: Chu, Ed <Chu.Ed@epa.gov>; Brubaker, Sonia <Brubaker.Sonia@epa.gov>; EFAB <EFAB@epa.gov>;
Williams, Sandra <Williams.Sandra@epa.gov>; Casburn, Tracey <casburn.tracey@epa.gov>; Stein, Raffael <Stein.Raffael@epa.gov>
Subject: RE: request to make oral comments at EFAB meeting

Thanks for the opportunity to speak today. I will copy EFAB on written comments on EPA's proposed "2020 Financial Capability Assessment for Clean Water Obligations" when NRDC files them in the formal EPA docket on Monday.

Please note that the EPA proposal is here:
<https://www.epa.gov/waterfinancecenter/financial-technical-assistance-and-tools-water-infrastructure#affordability>.

The 2007 EFAB report that I referenced is here:
<https://nepis.epa.gov/Exe/ZyPDF.cgi/P100AA6V.PDF?Dockey=P100AA6V.PDF>

I would be happy to discuss this issue further. Thanks for your attention to this important issue.

Sincerely,

LAWRENCE LEVINE
Director, Urban Water Infrastructure
& Senior Attorney*
Healthy People and Thriving Communities Program NATURAL RESOURCES DEFENSE COUNCIL
40 W 20TH STREET
NEW YORK, NY 10011
T 212.727.4548
<https://gcc01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.nrdc.org%2FEXPERTS%2FLARRRY-LEVINE&data=04%7C01%7Ccasburn.tracey%40epa.gov%7Cb3a60bceadef4d2706b508d875e442ba%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637388971996281020%7CUnknown%7CTWPbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&am>
p;sdata=IZHx4YFBMw1apnxep2bTaGeKZa4bPXJgeH7mMTXswns%3D&reserved=0
@LLEVINE_NRDC / @NRDCWATER / @NRDCNY

*Admitted in New York and Pennsylvania

-----Original Message-----

From: Levine, Larry
Sent: Wednesday, October 14, 2020 1:52 PM
To: Kurd Ali <kali@endyna.com>
Cc: Chu, Ed <Chu.Ed@epa.gov>; Brubaker, Sonia <Brubaker.Sonia@epa.gov>; EFAB <EFAB@epa.gov>;
Williams, Sandra <Williams.Sandra@epa.gov>; Casburn, Tracey <casburn.tracey@epa.gov>; Stein, Raffael <Stein.Raffael@epa.gov>
Subject: RE: request to make oral comments at EFAB meeting

thanks

LAWRENCE LEVINE
Director, Urban Water Infrastructure
& Senior Attorney*
Healthy People and Thriving Communities Program NATURAL RESOURCES DEFENSE COUNCIL
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NEW YORK, NY 10011
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<https://gcc01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.nrdc.org%2FEXPERTS%2FLARRRY-LEVINE&data=04%7C01%7Ccasburn.tracey%40epa.gov%7Cb3a60bceadef4d2706b508d875e442ba>

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@LLEVINE_NRDC / @NRDCWATER / @NRDCNY

*Admitted in New York and Pennsylvania

-----Original Message-----

From: Kurd Ali <kali@endyna.com>
Sent: Wednesday, October 14, 2020 1:17 PM
To: Levine, Larry <llevine@nrdc.org>
Cc: Chu, Ed <Chu.Ed@epa.gov>; Brubaker, Sonia <Brubaker.Sonia@epa.gov>; EFAB <EFAB@epa.gov>;
Williams, Sandra <Williams.Sandra@epa.gov>; Casburn, Tracey <casburn.tracey@epa.gov>; Stein, Raffael <Stein.Raffael@epa.gov>
Subject: Re: request to make oral comments at EFAB meeting

Hi Larry:

I have attached the agenda. The public comment section is scheduled for 2:50 pm ET today.

Here is the zoom information for the meeting.

oin Zoom Meeting

[https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fus02web.zoom.us%2Fj%2F86071](https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fus02web.zoom.us%2Fj%2F86071322361)

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Meeting ID: 860 7132 2361

Passcode: 700773

One tap mobile

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+13126266799,,86071322361#,,,,,0#,,700773# US (Chicago)

Dial by your location

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+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 860 7132 2361

Passcode: 700773

Find your local number:

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;sdata=brdFOZSUGVvP0mSS9S0zVIIdneOLCtW0X6MJUzYkMURk%3D&reserved=0

Let me know if there is anything you need.

Kurd Ali

EnDyna, Inc.

7926 Jones Branch Drive

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kali@endyna.com

202-880-2665

703-848-9001 (f)

From: Levine, Larry <llevine@nrdc.org>

Sent: Wednesday, October 14, 2020 1:03 PM

To: Kurd Ali

Cc: Chu, Ed; Brubaker, Sonia; EFAB; Williams, Sandra; Casburn, Tracey; Stein, Raffael

Subject: RE: request to make oral comments at EFAB meeting

Please let me know about the timing of oral comments. I haven't received any info today about how or when to log-in. Thanks

From: Levine, Larry

Sent: Wednesday, October 14, 2020 12:34 AM

To: Kurd Ali <kali@endyna.com>

Cc: Chu, Ed <Chu.Ed@epa.gov>; Brubaker, Sonia <Brubaker.Sonia@epa.gov>; EFAB <EFAB@epa.gov>;

Williams, Sandra <Williams.Sandra@epa.gov>; Casburn, Tracey <casburn.tracey@epa.gov>; Stein, Raffael <Stein.Raffael@epa.gov>

Subject: RE: request to make oral comments at EFAB meeting

Thanks. I noticed that the agenda includes public comment on both days of the meeting. On which day would I be speaking?

Lawrence Levine

Director, Urban Water Infrastructure

& Senior Attorney*

Healthy People and Thriving Communities Program Natural Resources Defense Council
40 W 20th Street
New York, NY 10011
T 212.727.4548

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@llevine_nrdc<<https://gcc01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.nrdc.org%2Fexperts%2Fflarry-levine&data=04%7C01%7Ccasburn.tracey%40epa.gov%7Cb3a60bceadef4d2706b508d875e442ba%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637388971996290978%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&data=wfjz4PtYwz6Op9u8ZsTU1A6vdDvFUrCASWxdh5OSXCI%3D&reserved=0>

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@NRDCWater<<https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FNRDWater&data=04%7C01%7Ccasburn.tracey%40epa.gov%7Cb3a60bceadef4d2706b508d875e442ba%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637388971996290978%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&data=bXByoSCgeCMzuHAR8fdq1yM6F6u0ZysXJg6wRJaEqAQ%3D&reserved=0>

@NRDCWater<<https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FNRDWater&data=04%7C01%7Ccasburn.tracey%40epa.gov%7Cb3a60bceadef4d2706b508d875e442ba%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637388971996290978%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&data=bXByoSCgeCMzuHAR8fdq1yM6F6u0ZysXJg6wRJaEqAQ%3D&reserved=0>

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*Admitted in New York and Pennsylvania

From: Kurd Ali <kali@endyna.com<mailto:kali@endyna.com>>

Sent: Tuesday, October 13, 2020 10:22 PM

To: Levine, Larry <llevine@nrdc.org<mailto:llevine@nrdc.org>>
Cc: Chu, Ed <Chu.Ed@epa.gov<mailto:Chu.Ed@epa.gov>>; Brubaker, Sonia
<Brubaker.Sonia@epa.gov<mailto:Brubaker.Sonia@epa.gov>>; EFAB
<EFAB@epa.gov<mailto:EFAB@epa.gov>>; Williams, Sandra
<Williams.Sandra@epa.gov<mailto:Williams.Sandra@epa.gov>>; Casburn, Tracey
<casburn.tracey@epa.gov<mailto:casburn.tracey@epa.gov>>; Stein, Raffael
<Stein.Raffael@epa.gov<mailto:Stein.Raffael@epa.gov>>
Subject: Re: request to make oral comments at EFAB meeting

Hi Larry

I will email you the login information and agenda tomorrow morning.

Thank you,
Kurd Ali
Sent from my iPhone

On Oct 13, 2020, at 7:06 PM, Levine, Larry
<llevine@nrdc.org<mailto:llevine@nrdc.org>> wrote:

Hi Ed,

Thanks very much for your prompt reply. Please let me know what time, and how to access the meeting to be able to speak. (From my registration, I do have the link to view the meeting on Youtube.)

Larry

Lawrence Levine
Director, Urban Water Infrastructure
& Senior Attorney*
Healthy People and Thriving Communities Program Natural Resources Defense Council
40 W 20th Street
New York, NY 10011
T 212.727.4548
<https://gcc01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.nrdc.org%2Fexperts%2Flarry-levine&data=04%7C01%7Ccasburn.tracey%40epa.gov%7Cb3a60bceadef4d2706b508d875e442ba%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637388971996290978%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Iik1haWwiLCJXVCI6Mn0%3D%7C1000&reserved=0>
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*Admitted in New York and Pennsylvania

From: Chu, Ed <Chu.Ed@epa.gov<mailto:Chu.Ed@epa.gov>>
Sent: Tuesday, October 13, 2020 1:24 PM
To: Levine, Larry <llevine@nrdc.org<mailto:llevine@nrdc.org>>
Cc: Brubaker, Sonia <Brubaker.Sonia@epa.gov<mailto:Brubaker.Sonia@epa.gov>>; EFAB <EFAB@epa.gov<mailto:EFAB@epa.gov>>; Williams, Sandra <Williams.Sandra@epa.gov<mailto:Williams.Sandra@epa.gov>>; Casburn, Tracey <casburn.tracey@epa.gov<mailto:casburn.tracey@epa.gov>>; Kurd Ali <kali@endyna.com<mailto:kali@endyna.com>>; Stein, Raffael <Stein.Raffael@epa.gov<mailto:Stein.Raffael@epa.gov>>
Subject: RE: request to make oral comments at EFAB meeting

Larry,

We will be happy to put you on the list of public commenters.

Edward H. Chu | Deputy Regional Administrator U.S. Environmental Protection Agency
Region 7 (Kansas, Missouri, Nebraska, Iowa & Nine Tribes)
(913) 551-7333
epa.gov<http://epa.gov/> |

epa.gov/region7<https://www.epa.gov/aboutepa/epa-region-7-midwest>
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From: Levine, Larry <llevine@nrdc.org<mailto:llevine@nrdc.org>>
Sent: Tuesday, October 13, 2020 12:07 PM
To: Chu, Ed <Chu.Ed@epa.gov<mailto:Chu.Ed@epa.gov>>
Cc: Brubaker, Sonia <Brubaker.Sonia@epa.gov<mailto:Brubaker.Sonia@epa.gov>>; EFAB <EFAB@epa.gov<mailto:EFAB@epa.gov>>
Subject: FW: request to make oral comments at EFAB meeting

Dear Mr. Chu,

Please see the below request to make an oral comment at the EFAB meeting on Oct. 14-15. I sent the request to the email address indicated in the confirmation of my registration

(EFABMeeting@endyna.com<mailto:EFABMeeting@endyna.com>). However, the message “bounced back” and undeliverable.

I am now writing to you because the Federal Register notice for this meeting designates you as the Designated Federal Office to contact for additional information about the meeting. I am also copying on this email the main EFAB email address and Director of EPA’s Water Infrastructure and Resiliency Finance Center.

Please see attached: (1) a PDF of the confirmation screen that provided the “EFABMeeting@endyna.com<mailto:EFABMeeting@endyna.com>” email address; and (2) a PDF of the “bounce back” email.

Please also note, as indicated in my original message below, that this request is timely per the instructions in the Federal Register notice of the meeting.

Thank you for your attention to this request. Please reply to confirm receipt of this message and to confirm that I will be added to the speaker list. Please also provide instructions and the time to join to deliver oral comments.

Sincerely,

Lawrence Levine
Director, Urban Water Infrastructure
& Senior Attorney*

Healthy People and Thriving Communities Program Natural Resources Defense Council
40 W 20th Street
New York, NY 10011
T 212.727.4548

<https://gcc01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.nrdc.org%2Fexperts%2Flarry>

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*Admitted in New York and Pennsylvania

From: Levine, Larry
Sent: Tuesday, October 13, 2020 12:49 PM
To: EFABMeeting@endyna.com<mailto:EFABMeeting@endyna.com>
Subject: request to make oral comments at EFAB meeting

To Whom it May Concern:

Please add me to the list to make oral comments at the Oct. 14-15 EFAB meeting.
Please reply to
confirm and let me know what time the comment period will be.

The Federal Register Notice announcing the meeting provides instructions to register
and to deliver oral
comments. The notice states that requests to make an oral statement are due on "Oct.
13, 2020,"
without specifying a time of day. (85 Fed Reg 60994,
<https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.govinfo.gov%2Fcontent%2Fpkg%2FFR-2020-09-29%2Fpdf%2F2020-21432.pdf&data=04%7C01%7Ccasburn.tracey%40epa.gov%7Cb3a60bceadef4d2706b508d875e442>

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ba%7C88b378b367484867acf976aacbeca6a7%7C0%7C0%7C637388971996320850%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Iik1haWwiLCJXVCI6Mn0%3D%7C1000& ;sdata=JmQnhOma5zRdpdAgf6N5xPzkHMThVjjcw5FeXpt%2Bqvc%3D& ;reserved=0>) Therefore, this request should be considered timely, notwithstanding that the confirmation displayed on the website after I registered today states “The deadline to request to make public comments is October 13, at 10:00 am EDT.”

Please reply to confirm that this email was received and that my request to speak has been approved.

Thank you for your attention to this request.

Sincerely,

Lawrence Levine
Director, Urban Water Infrastructure
& Senior Attorney*
Healthy People and Thriving Communities Program Natural Resources Defense Council
40 W 20th Street
New York, NY 10011
T 212.727.4548

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*Admitted in New York and Pennsylvania

October 19, 2020

Andrew Sawyers
Director, Office of Wastewater Management
U.S. Environmental Protection Agency, Office of Water
1200 Pennsylvania Avenue NW
Washington, DC 20460

Submitted via www.regulations.gov

**Re: Docket ID No. EPA–HQ–OW–2020–0426; Proposed 2020
Financial Capability Assessment for Clean Water Act Obligations**

On behalf of NRDC and our over 3 million members and online activists, please accept these comments on the Environmental Protection Agency’s (“EPA” or “the Agency”) Proposed 2020 Financial Capability Assessment for Clean Water Act Obligations (“2020 Guidance”), which was published for public comment on September 18, 2020.¹ NRDC also joins in comments submitted today by 97 national, regional, and local organizations. This letter provides additional detailed comments, consistent with the concerns raised in those joint comments.

The 2020 Guidance would amend an existing guidance document under the Clean Water Act (“CWA” or “the Act”), which was first issued in 1997 (“1997 Guidance”).² EPA and states have used the 1997 Guidance to help determine the length of compliance schedules for municipal dischargers—in other words, how many years to allow continued discharges of raw sewage into waters used for drinking, recreation, and/or ecological habitat—depending upon on the ability of a wastewater system and its customers to pay for necessary infrastructure upgrades. Over the years, the 1997 Guidance has also been used to determine compliance schedules for other sources of municipal wastewater and stormwater pollution. The 2020 Guidance would apply to all of those situations. Unlike the 1997 Guidance, it would also apply to requests by municipal dischargers to lower the bar for what counts as “clean” water under the Act—*i.e.*, to weaken water quality standards—so that polluted waterways may never have to be cleaned up.

EPA must withdraw the current draft of the 2020 Guidance and fundamentally reconsider the Agency’s approach. The 2020 Guidance protects neither public health and the environment nor the low-income households it purports to protect. Instead, the 2020 Guidance makes it easier for EPA to reinforce existing inequities in access to clean water and sanitation, in which health and environmental burdens fall disproportionately on communities of color and low-income communities. The ongoing COVID-19 pandemic has highlighted and exacerbated the health impacts of inequitable access to water and sanitation. EPA should be working on every front to eradicate that underlying inequity, not taking any actions that would further entrench it.

¹ 85 Fed. Reg. 58352. The full draft guidance document is available at the following link in the docket associated with the Federal Register Notice: <https://www.regulations.gov/contentStreamer?documentId=EPA-HQ-OW-2020-0426-0002&contentType=pdf>.

² EPA, “Combined Sewer Overflows–Guidance for Financial Capability Assessment and Schedule Development” (Feb. 1997), <https://www3.epa.gov/npdes/pubs/csofc.pdf>.

Across the country, there is tremendous need for investment in failing and outdated wastewater and stormwater infrastructure—many hundreds of millions of dollars over the next twenty years. A complete solution requires action, not only by regulators and dischargers themselves, but also by Congress and state legislatures, which must direct more funding to municipal water infrastructure, allocate it more equitably to disadvantaged communities, and increase the amounts available as grants rather than loans. We advocate forcefully with coalition partners for that funding.

The current investment shortfall does not affect all communities equally. Many areas of the country have fallen into a two-tiered system, where the wealthy enjoy safe sanitation services and clean water while others get second-class services that pose risks to their health and environment. In some cases, areas with poor water and sanitation service are subjected to rate increases that are used to fund capital improvements that primarily benefit wealthier areas.

This inequitable outcome, which especially burdens environmental justice communities and rural communities, is not consistent with the Clean Water Act’s regulatory approach. Yet, the 2020 Guidance would perpetuate these inequities, rather than helping remedy them. It is an escape hatch that would enable EPA to look the other way on Clean Water Act compliance when a municipality points to high levels of poverty in its service area—or even when a municipality points to the need for investments in Safe Drinking Water Act (“SDWA”) compliance, thereby pitting one set of health and environmental protections against the other in a zero-sum game. A municipality cannot simply plead poverty or cite affordability concerns to avoid statutory or regulatory compliance under either the Clean Water Act or the Safe Drinking Water Act, and no EPA guidance can supersede statutory or regulatory requirements.

An entirely different approach is needed. A revised version of the 2020 Guidance should be a driver for equitable clean water solutions. EPA and states with delegated CWA programs must ensure that municipal wastewater and stormwater systems pursue all available opportunities to adequately and equitably fund necessary investments in clean water. EPA, the states, and municipal dischargers must all work to implement solutions that enable necessary clean water investments while also protecting customers who are least able to pay.

Comprehensive solutions will require local officials and state and federal regulators to re-think the “business model” on which municipal water and wastewater utilities operate, to ensure universal access to essential services regardless of a customer’s ability to pay. Even within the scope of amending the 1997 Guidance, however, there is much that the EPA can and should do to advance real solutions to our nation’s water affordability and clean water challenges. We provide some specific recommendations in our detailed comments below.

During the years-long development of this 2020 Guidance, EPA primarily solicited the opinions of regulated parties, leading to a framework that promotes their interest in avoiding regulatory obligations, rather than the people’s interest in having access to safe, clean water. We urge EPA to step back and seek input, openly and comprehensively, from a much wider set of stakeholders, especially impacted environmental justice communities, to inform the development of a revised proposal. We would welcome the opportunity to engage in this dialogue with the Agency.

We also encourage EPA to consult its National Environmental Justice Advisory Council (“NEJAC”) as part of this process, and to pursue the recommendations in NEJAC’s March 2019 report, “EPA’s Role in Addressing the Urgent Water Infrastructure Needs of Environmental Justice Communities,” which urges EPA in all of its activities to treat water and sanitation as a human right and to prioritize long-standing issues in environmental justice communities.³

EPA should also consult its Environmental Financial Advisory Board (“EFAB”) for feedback on the 2020 Guidance. As discussed below, EFAB in 2007 issued recommendations for updating the 1997 Guidance. Some of those recommendations mirror recommendations we include below that were not incorporated into the 2020 Guidance. Now that EPA has proposed specific modifications to the 1997 Guidance, more than a decade after EFAB issued its recommendations, EPA should provide EFAB another opportunity to weigh-in.

Below we provide further detailed comments, which elaborate on our key concerns and provide high-level recommendations on how EPA can address them in developing a revised proposal. In sum:

- EPA must ensure that municipalities, states, and the Agency itself do everything possible to achieve both affordability and clean water, rather than use legitimate affordability concerns as justification to prolong ongoing pollution that harms human health and the environment.
- The 2020 Guidance must consider not only the costs of compliance, but also the benefits.
- EPA must not use the 2020 Guidance to pit Safe Drinking Water Act compliance against Clean Water Act compliance in a zero-sum game.
- EPA must address various methodological problems that will lead to mischaracterization of municipalities’ financial capability to achieve Clean Water Act compliance.
- EPA must provide its justifications for, and provide greater detail concerning, the recommended lengths of compliance schedules and take further public comment on that topic.
- EPA should not apply the 2020 Guidance to decisions concerning water quality standards.
- EPA must ensure robust community engagement whenever cost and affordability concerns may influence decisions about local Clean Water Act compliance.

* * * * *

³ <https://www.epa.gov/environmentaljustice/epas-role-addressing-urgent-water-infrastructure-needs-environmental-justice>

1. EPA must ensure that municipalities, states, and the Agency itself do everything possible to achieve both affordability and clean water, rather than use legitimate affordability concerns as justification to prolong ongoing pollution that harms human health and the environment.

The 2020 Guidance includes at least one valuable improvement over the existing 1997 guidance, by considering costs for low-income customers specifically. We support EPA’s proposal to modify the existing reliance on median household income (“MHI”) when evaluating the cost of wastewater and stormwater service. As recognized in the 2020 Guidance, the metric of cost per residential customer as a percentage of MHI (referred to in the 1997 Guidance and the 2020 Guidance as the Residential Indicator (“RI”)), fails to account for the affordability of service to low-income customers. We welcome the acknowledgement that poverty measures for low-income customers must be considered in decisions concerning wastewater infrastructure investment. The Guidance does so by adding a new metric called the Lowest Quintile Residential Indicator (“LQRI”), which examines the cost per household for low-income households, as well as a Poverty Indicator (“PI”), based on various measures of poverty within the wastewater system’s service area.

The 2020 Guidance, however, completely misses the mark on what to do when a “financial capability assessment” determines, based on appropriate methodologies, that low-income customers face affordability challenges or that the utility as a whole faces financial challenges. The 2020 Guidance takes that finding as a license to allow extended compliance schedules under the Act, up to 25 years or more. In effect, this relegates communities to decades of continued pollution, and falsely sets up affordability and clean water as objectives that are inherently in conflict. What the 2020 Guidance should do is direct municipalities, EPA, and the states to do everything they can to solve affordability challenges without sacrificing clean water.

There are many steps that utilities can take, often with support from EPA or state regulatory agencies, to improve affordability without deferring necessary clean water investments. **EPA must revise the 2020 Guidance so that identification of affordability challenges will require further assessment of those options—in effect, a “Financial Alternatives Assessment.”**

Such a financial alternatives assessment must consider an array of options and implement them to the maximum possible extent, in order to maximize the municipality’s “financial capability” to achieve compliance with clean water requirements.⁴ These options must include, for example:

- **Adopting or expanding affordability programs that reduce bills on an ongoing basis for vulnerable customers, including chronically low-income households.**
There are many types of affordability programs that can be used to reduce the LQRI,

⁴ The financial and rate modeling approach under “Alternative 2” does seem to allow for consideration of some of the alternatives listed below: “The models are typically set up so that it is possible to evaluate alternative scenarios in terms of cost, length of time to complete a program, or assumptions related to financing strategies.” 2020 Guidance at 20-21. However, neither Alternative 1 nor Alternative 2 *requires* evaluation of these or any other alternatives to improve a municipality’s financial capability to meet CWA requirements without an extended compliance schedule.

all of which are used by various wastewater utilities, though not as widely as they should be.⁵ These include:

- Lifeline Rate—A low rate for an initial amount of water, to cover most or all of a household’s basic needs, such as drinking, cooking, and sanitation. Water consumption above the lifeline amount is charged at a higher rate. Can be applied to all customers, or just to low-income customers.
 - Percentage-of-Income Payment Plan—Rate design that prevents water bills from exceeding a certain percentage of the customer’s income.
 - Bill Discount—Reduces an eligible low-income customer’s bills by a flat dollar amount or a percent discount. Can be used to reduce the fixed service charge, the volumetric consumption charge, or both. Additionally, discounts can be tiered by income.
 - Water Efficiency Assistance—Direct financial assistance (through rebates or upfront subsidies or direct replacement of fixtures) for efficiency improvements like leak repairs or replacement of inefficient fixtures or appliances.
- **Modifying rate structures to more equitably generate revenue for capital investments.** Many wastewater utilities use rate structures that place a disproportionate cost burden on low-income customers, or on residential customers generally. Modifying these rate structures can reduce the RI and/or LQRI score under the Guidance. EPA’s own Environmental Financial Advisory Board, in its 2007 recommendations for modifications to the 1997 Guidance, emphasized that “the cost actually incurred by households will depend on the type of rate structure employed by the utility and the service usage of the households....A recent EFAB paper on affordability highlighted the importance rate structures have on distributing and allocating costs to individual households. A strategic rate structure change or a relatively modest subsidy targeted to assist the households with the greatest need (e.g. creation of emergency assistance funds) may greatly mitigate the financial impact on the most financially disadvantaged households in a community.”⁶ Rate structures that promote more equitable distribution of cost burdens include:

⁵ An April 2016 EPA report surveying wastewater utilities’ practices presented a typology of customer assistance programs. The report found that only a small minority used any of the program types listed here, which provide ongoing bill-paying assistance. EPA, Compendium of Drinking Water and Wastewater Customer Assistance Programs, <https://www.epa.gov/waterfinancecenter/compendium-drinking-water-and-wastewater-customer-assistance-programs>.

⁶ EPA Environmental Financial Advisory Board, “EFAB Comments on EPA Document: Combined Sewer Overflows—Guidance for Financial Capability Assessment and Schedule Development,” (May 31, 2007), p. 2, <https://nepis.epa.gov/Exec/zyPDF.cgi/P100AA6V.PDF?Dockey=P100AA6V.PDF> (hereinafter “EFAB Recommendations”).

- Impervious-area based stormwater fees to fund wet-weather compliance costs— This rate structure tends to shift cost burdens from residential customers to non-residential customers, such as commercial and industrial properties that have large impervious areas but use little water.
 - Inclining block rates that charge higher per gallon rates for higher increments of use—This rate structure tends to help lower-income customers who, as noted in the 2020 Guidance, generally use less water than higher-income customers. As EFAB noted in its 2007 recommendations, “a utility system with an increasing block rate structure would see residential customers with large consumption incurring a much larger cost than customers with low consumption.”⁷
 - Adoption of volumetric rates, rather than flat, non-volumetric charges for sanitary sewer service—Non-volumetric rates are common in many areas but penalize customers with below-average levels of usage. (This is discussed further below in Point #4.)
- **Modifying the cost allocation between residential and non-residential customer classes, or between retail and wholesale customers, to reflect best practices or incorporate up-to-date data.** Cost allocations between residential and non-residential customer classes determine the total amount of system revenue needs that must be recovered from residential customers as a whole. These cost allocations may not have been re-visited for years or decades, and may reflect inequitable allocations that disproportionately burden residential customers. Similarly, in cases where a wastewater utility has both retail and wholesale customers—*i.e.*, where a city owns and operates a collection and treatment system (charging its own residents directly for service) and neighboring communities connect their own collection systems into the city’s system (paying a wholesale rate to the city’s utility), formulas for cost allocation between the retail customers and wholesale customers may not have been re-visited for years or decades, and may reflect inequitable allocations that disproportionately burden retail customers who, in core cities, may tend to be disproportionately lower-income relative to the suburban wholesale service area. The 2020 Guidance does not directly address the ability of those wholesale customers to contribute towards compliance costs. The wholesale customers generate revenue to pay their costs through wastewater charges billed to their own retail customers. That means compliance costs are spread across a much larger population than are the direct customers of the utility. Household incomes in the suburban communities may be materially different than incomes in the city, and this ability to pay must be factored in to the residential indicator.
 - **Ensuring that a municipality is taking advantage of all available federal and state infrastructure grant programs and subsidized loan programs:** Eligible municipalities do not always take advantage of available program that provide low-cost financing or grants for wastewater and stormwater infrastructure improvements. In some instances, this is due to limited capacity to complete the application

⁷ EFAB Recommendations, p. 2.

requirements; in some others it is due to lack of knowledge of all available programs. Federally funded programs include not only the Clean Water State Revolving Fund (which provides subsidized loans and, for economically disadvantaged communities, may also provide grants), but also the US Department of Agriculture Rural Utilities Service (which provides grants for small systems) and Community Development Block Grants. Other grant programs targeted at specific types of infrastructure also exist, such as a recently reauthorized federal grant program for sewage overflow abatement projects. Many states also have their own state-funded programs.

- **Taking advantage of other financing and funding options that can reduce project costs.** For example, EFAB’s 2007 recommendations noted that “the availability of extended term financing (30 to 40 years) compared to shorter term financing (20 years) could have an impact on rates.”⁸ Other approaches, particularly for wet-weather management, can reduce costs to ratepayers by placing more of the cost burden on private property owners that contribute runoff to the collection system; for example, under Philadelphia’s Green City clean Water Program, most CSO reductions will be achieved through reduction of runoff from impervious areas into the collection system using green infrastructure, and most of the green infrastructure to date has been “funded,” in effect, by private developers that must meet on-site stormwater retention standards when they redevelop existing imperious area.
- **Optimizing operations, maintenance, and capital programs overall to reduce life cycle costs.** Optimizing the efficiency of a utility’s operations (including through operational changes and strategic capital investments) is an important tool to help reduce a system’s total revenue needs and thereby improve the affordability of bills for all customers. This can often be accomplished through improved asset management, especially over the course of a multi-year compliance schedule. As summarized by the U.S. Environmental Protection Agency, asset management is “the practice of managing infrastructure capital assets to minimize the total cost of owning and operating these assets while delivering the desired service levels.”⁹ Proper asset management helps utilities reduce life cycle costs of their infrastructure, including by prioritizing repair or replacement of critical infrastructure before it breaks down and requires even more expensive interventions.¹⁰ A recent report from New Jersey provides an example of a major wastewater utility that was able to use cost efficiency measures, along with state grants and low-interest loans, to improve its infrastructure while avoiding significant rate increases—current rates are well below those in place at the beginning of the program, when adjusted for inflation.¹¹

⁸ EFAB Recommendations, p. 4.

⁹ EPA, “Asset Management for Water and Wastewater Utilities,” USEPA, accessed October 19, 2020, <https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities>.

¹⁰ See, e.g., New Jersey Department of Environmental Protection, “Asset Management Policy Program: Life Cycle Costs,” accessed October 19, 2020, <https://www.nj.gov/dep/assetmanagement/lifecycle.html>.

¹¹ “Promoting Affordability of Public Water and Sewer Service for Low-Income Households in New Jersey: Policy Options,” Prepared for the Jersey Water Works Asset Management and Finance Committee (April 2019), pp. 29-30, <https://www.jerseywaterworks.org/wp-content/uploads/2019/04/Final-Affordability-Report-JWW-AMF.pdf>.

- **Ensuring that rate revenues are not diverted to non-utility purposes.** In some places, perhaps many, a portion of wastewater system revenues are transferred to general municipal budgets, for use on local government expenses unrelated to services rendered to the system by the municipality. Ending this practice would reduce wastewater bills for all customers.
- **Considering regionalization, consolidation, and/or other partnerships to provide economies of scale.** Where appropriate, these approaches should be considered, provided there is a robust role for affected members of the public in decision-making (such as decisions on utility governance structures and representation on the resulting governing bodies) and that all arrangements provide fair and equitable treatment to the people and communities served by a system entering into partnership.

At the same time, federal and state agencies—including permitting and enforcement offices working in concert with the offices that manage funding programs—must prioritize disadvantaged communities for funding, ensure that municipalities actually can and do access available funds, and provide technical assistance on matters of infrastructure financing and low-income affordability. In a revised version of the 2020 Guidance, EPA should specifically commit that it will make every effort, and should provide that delegated state programs are expected to make every effort, to help municipalities identify, apply for, and obtain available grants and loans from all relevant sources, on the most favorable terms available. EPA and states should also work to improve states’ “affordability criteria” under the Clean Water State Revolving Fund (and the Drinking Water State Revolving Fund), which determine eligibility under those programs for grants (i.e., additional subsidization) rather than loans, to ensure that communities facing affordability challenges pursuant to the metrics used in a revised Financial Capability Assessment guidance will be eligible for those grant funds.

Any approach to assessing a municipality’s “financial capability” to meet CWA requirements is incomplete without all of these elements. To the extent, if any, that the CWA may allow consideration of costs in permitting and enforcement, any compliance schedule adopted without exhausting every opportunity to improve a municipality’s “financial capability” to comply more expeditiously would violate the Act.¹²

2. The 2020 Guidance must consider not only the costs of compliance, but also the benefits.

The 2020 Guidance focuses entirely on assessing a municipality’s “financial capacity” to pay for infrastructure investments. It does not consider at all the “return” on that investment. As the 2020

¹² See, e.g., 40 C.F.R. § 122.47(a)(1) (where schedules of compliance are allowed in NPDES permits under the Act, such schedules “shall require compliance as soon as possible, but not later than the applicable statutory deadline under the CWA” (emphasis added)); see also *U.S. v. City of Akron*, 794 F.Supp.2d 782, 796-800 (N.D. Ohio 2011) (rejecting a city’s proposed Clean Water Act consent decree, including its 19-year schedule of compliance to remedy combined sewer overflows, on the grounds that the city had not exhausted all financial options that would enable it to comply more expeditiously).

Guidance would have it, CWA compliance is nothing but a financial *liability* for the municipality and its ratepayers. This turns the CWA on its head.

EPA’s approach to permitting and enforcement must account for the benefits of clean water investments, which are the animating purpose of the Act itself. These benefits accrue largely to the communities (including ratepayers) served by a municipal wastewater or stormwater system. For example, water infrastructure investments can provide communities with improved public health outcomes, greater job availability, and increased resilience to climate change. Therefore, when determining appropriate compliance schedules, EPA must consider the environmental and economic benefits of compliance, including those that are readily quantifiable in monetary terms and those that are not. Those benefits include both the benefits associated with water quality and public health improvement and any co-benefits, such as those identifiable through “triple bottom line” analysis of environmental, social, and economic benefits.¹³

Further, the benefits to be considered should include consideration of the beneficial effects on water quality on downstream communities, which may themselves be disadvantaged, as well as the effects on others living outside the community at issue. Communities do not exist in a vacuum and recognition of benefits outside the specific community faced with the need for upgrades may lead to state funding or development of other resources necessary to address the pollution problems.

3. EPA must not use the 2020 Guidance to pit Safe Drinking Water Act compliance against Clean Water Act compliance in a zero-sum game.

The 2020 Guidance identifies drinking water costs as one of several “other metrics” that can be considered under both Alternative 1 and Alternative 2.¹⁴ It states that “[s]ignificant consideration should be given to drinking water costs as well as the cost of meeting CWA obligations.”¹⁵

When considering customers’ ability to pay for wastewater and stormwater service, in certain situations it may be appropriate to consider their ability to pay for those services and essential public water services in the aggregate. However, this does not mean that high costs for public water service or significant need for local investments in drinking water infrastructure can lawfully excuse non-compliance with CWA standards.

Nor can asserted high costs of CWA compliance justify non-compliance with the SDWA. The SDWA has explicit provisions applicable only in narrowly circumscribed circumstances and subject to clear criteria and procedures, in which variances or exemptions from compliance with the Act may be considered.¹⁶

¹³ See *U.S. v. City of Akron*, 794 F.Supp.2d at 795 (explaining that a witness’s expert testimony about a city’s financial capability to complete combined sewer overflow remediation projects was unpersuasive and entitled to little weight because it “included no discussion of the economic benefit the City of Akron and its surrounding communities would receive from a river that is safe for recreational activities such as boating and fishing”).

¹⁴ 2020 Guidance at 26-27.

¹⁵ 2020 Guidance at 9.

¹⁶ See SDWA §1415, 42 U.S.C. §300g-4 (variances); SDWA §1416, 42 U.S.C. §300g-5 (exemptions).

Compliance with both the CWA and SDWA are legally required and are necessary to protect human health and the environment. Communities with higher rates of poverty should not have to accept a choice between the two.

For all of these reasons, when a municipality seeks to use drinking water costs to justify extended CWA compliance schedules, our comments above concerning the need for a “Financial Alternatives Assessment” apply equally to the drinking water costs. In other words, rather than pointing the finger at drinking water costs to evade CWA compliance, the municipal discharger, EPA, and relevant state agencies must collaborate to find equitable, affordable ways to fund and finance the necessary drinking water investments, as well as the necessary CWA compliance investments. As described in Point #1 above, this includes such things as adopting low-income drinking water affordability programs; adopting more equitable drinking water rate structures; ensuring that a public water system is taking advantage of all available federal and state infrastructure grant programs and subsidized loan programs; and prioritizing public water systems in disadvantaged communities for financial assistance under those programs.

Further, delayed compliance with CWA requirements can result in *increased* costs for SDWA compliance, either in the same community or in downstream communities, where wastewater discharges degrade the quality of source waters for a drinking water system. Therefore, a Financial Alternatives Assessment should also consider whether wastewater or stormwater discharges affect drinking water treatment costs and, therefore, whether accelerated CWA compliance would help *reduce* SWDA compliance costs.

Finally, to the extent that drinking water costs are used to characterize a community’s financial capability to invest in wastewater and stormwater improvements under the 2020 Guidance, we offer the following comments:

- Household drinking water costs must be based on water usage to meet basic needs: If a municipality chooses to provide information or modeling analysis concerning household costs for drinking water service, the 2020 Guidance must provide that only costs for indoor water usage, which serves basic needs like drinking, cooking, health, and sanitation, may be considered. The cost of additional water usage that serves discretionary purposes, such as outdoor landscape irrigation, should play absolutely no part in assessing a community’s “financial capability” to invest in wastewater infrastructure improvements. Therefore, in many places, the typical or average total monthly usage for residential customers will not be an appropriate basis for calculating household water costs under Alternative 1 or Alternative 2.¹⁷
- Benchmarks: As highlighted by “Question for Public Comment #15” in the 2020 Guidance, EPA has not proposed any “benchmarks for considering the contribution of drinking water costs to household burdens,” similar to the low, medium, and high impact benchmarks for wastewater costs as a percentage of household income. If EPA chooses to adopt such benchmarks, it should first identify specific benchmarks under consideration,

¹⁷ See M. Teodoro, “Measuring Household Water Affordability for Water and Sewer Utilities,” *Journal AWWA*, 110:1 (Jan. 2018).

provide the Agency’s supporting rationales, and provide an opportunity for public comment.

4. EPA must address various methodological problems that will lead to mischaracterization of municipalities’ financial capability to achieve Clean Water Act compliance.

The 2020 Guidance’s approach to assessing a municipality’s “financial capability” includes two alternative approaches, as well as “other metrics” that may be considered under either approach. The methodologies presented have a number of flaws that must be addressed, in addition to the over-arching flaws discussed in other sections of these comments.

A. Peer Review

As an initial matter, we note that the 2020 Guidance introduces many new technical methods and concepts that were not in the 1997 Guidance, including some that may not be squarely in the “wheelhouse” of EPA’s core expertise. For example, the new Poverty Indicator selects several specific measures of poverty and assigns equal weight to each one for use in determining a community’s financial capability. These poverty measures are based on data and methods developed by other federal agencies, which have more expertise to determine the most effective ways to use these or other poverty metrics. The 2020 Guidance provides no indication that EPA has obtained peer review of the 2020 Guidance by relevant experts at these other agencies, such as the Departments of Health and Human Services, Department of Labor, and the Census Bureau. We urge EPA to obtain such peer review before adopting a final guidance. Similarly, there is significant expertise available in academia on poverty economics generally, as well as water rates and water affordability specifically, and EPA should seek peer review from such experts.

B. “Alternative 1”

We offer the following comments specifically on Alternative 1. The methods for calculating the RI and LQRI under Alternative 1 are deeply flawed and must be revised.

i. Allocation of project costs to residential customer class

The 2020 Guidance incorporates the method from the 1997 Guidance for allocating project costs between residential and non-residential customers. This allocation is based on the proportional wastewater flow between those classes of ratepayers, regardless of what cost allocation method a particular wastewater system actually uses.¹⁸

In reality, cost allocation methods for collection and treatment systems typically account for other factors, which significantly affect the resulting allocations. The 2020 Guidance should require use of the utility’s actual cost allocation method (as well as consideration of alternative cost allocation methods where needed, as discussed in Point #1 above).

¹⁸ 1997 Guidance, p. 14. The 2020 Guidance does not change this method.

For example, wastewater systems' cost allocations often account for the "strength" of pollutants in the wastewater, which is typically greater for non-residential customers. Therefore, the 2020 Guidance's unrealistic assumption about cost allocation will often overstate the cost for residential customers.

To take another example, some wastewater utilities generate revenue needed for wet weather management through impervious area-based stormwater fees, which are not based at all on wastewater flow. As noted in Point #1 above, these rate structures tend to shift a greater share of the cost burden to non-residential properties. Again, the simplistic methodology in the 2020 Guidance will tend to overstate residential costs for municipalities that use stormwater fees. Further, when the financial capability of a Municipal Separate Storm Sewer System ("MS4") permittee is at issue, wastewater flow rates will have nothing to do with residential cost allocation; often the allocation will be based on impervious area-based fees, and in other instances it will be based on property tax assessments or other criteria, which will also result in significantly different cost allocations than the 2020 Guidance assumes.

The method for cost allocation also does not appear to distinguish between the retail and the wholesale service areas of a regional wastewater utility. Many systems provide both collection and treatment services on a retail basis to customers within a certain territory, but provide only treatment services to adjacent municipalities on a wholesale basis; the adjacent municipalities recover the cost of treatment on a retail basis from customers in their own jurisdictions, based on their own cost allocation formulas, and pass along those revenues to the wastewater treatment utility.¹⁹ Therefore, if cost allocation to residential households across the entire "service area" of a wastewater utility is considered—both retail and wholesale—those cost allocations cannot be calculated without accounting for the differences between wholesale and retail cost allocations.

ii. Calculation of cost per household and cost as a percentage of median household income

After the total cost allocation to residential customer class is determined, the next step in the 1997 Guidance and the 2020 Guidance is to determine the cost per household. The total residential allocation is simply divided by the number of households in the service area.²⁰ For purposes of the RI, this cost per household is divided by the MHI for the service area. Implicitly, then, the cost per household is meant to represent the cost for a customer at the median income. Also, implicitly, this method assumes that all households are customers, and that the median income household receives a bill equal to the "average" of all residential bills across the service area. As a method to determine costs to those customers, these assumptions are completely unrealistic, for several reasons.

¹⁹ The municipalities receiving treatment services on a wholesale basis typically own the collection systems within their boundaries, and charge their own residents on a retail basis to recover wastewater collection costs. The total bill for customers in those areas is a function of the rates charged by the municipality to its customers to recover collection costs (based on the revenue needs of the municipality's own collection system) and treatment costs (based on the revenue needs of the wholesale wastewater treatment provider). Those local rates may differ substantially from the retail rates charged to households that receive both collection and treatment services on a retail basis from the municipality that owns the treatment system.

²⁰ 1997 Guidance, p. 14. The 2020 Guidance does not change this method.

Many of the same factors that affect cost allocation between customer classes, described above in point #4.B.i., also affect how costs are distributed within the residential customer class. For example, not only may the cost per household differ by geography between households in a wastewater utility's retail service area and wholesale service area, but in many places a wholesale service area may consist of suburban communities with higher median incomes than the retail service area. Therefore, a household with the median income across the entire service area may have a bill that does not at all resemble the average bill for customers across the entire service area. This would result in a skewed assessment of the RI.

The retail rate structure can also result in bills for a median income household that do not resemble the average of all residential bills across the service area. For example, an inclining block rate places proportionately greater cost burdens on higher-volume residential users, who may also correspond to higher-income users. In that case, the median income household may have a bill that is significantly less than the average of all residential bills.

Moreover, this method assumes that all households within the service area are customers of the utility. Renters most often are not customers, however. Typically the landlord is responsible for paying wastewater charges. While wastewater charges and other costs of building ownership are passed on to tenants through rent, many factors go into a landlord's response to higher sewer bills and the determination of rent. Landlords may replace inefficient plumbing to reduce sewer bills, and some jurisdictions may limit the ability to raise rent through rent control. As a result, the assumption that all households in the service area are customers will tend to overstate the cost burdens for renters, who may comprise a large share of the total number of households in a utility's service area and a disproportionate share of low-income households. Indeed, the lack of modeling or supporting studies of the incidence of poverty between customers and non-customer households in a utility service area points to a significant conceptual flaw in EPA's methodology.

iii. Scaling factor for household cost at lowest quartile income

The 2020 Guidance introduces the LQRI, which adjusts the per household cost for lower-income households based on the assumption that those households have lower bills than a household at the median income because they use less water. This is based on the assumption that rates are volumetric, such that bills are directly proportional to usage. But EPA provides no support for that assumption of volumetric rates. In reality, wastewater utilities very often charge residential customers based entirely on a flat, fixed charge. For example, a 2018 study of 323 New Jersey municipalities found that over two-thirds relied entirely on a fixed charge for residential sewer service, with no consideration at all of usage.²¹ In California, a 2012 report found that 70 percent of California households served by a public water supplier pay for sewer service through a flat, non-volumetric charge.²² Any scaling factor must account for the rate structure of the particular

²¹ Van Abs and Evans, *Assessing the Affordability of Water and Sewer Utility Costs in New Jersey* (2018), pp. 71-81, <https://www.jerseywaterworks.org/wp-content/uploads/2018/09/Van-Abs-and-Evans-2018.09.09-Assessing-Water-Sewer-Utility-Costs.pdf>.

²² NRDC, "Volumetric Pricing for Sanitary Sewer Service in California Would Save Water and Money," (2012), <https://www.nrdc.org/sites/default/files/Volumetric-Wastewater-FS.pdf>.

utility. If low volume households receive the same bill as high-volume households, scaling reduction is not appropriate.

Further, all of the flaws of the determination of the per household cost for the RI also skew the per household cost for the LQRI. A scaling factor that adjusts downward from an inaccurate cost for a median income household will necessarily result in an inaccurate cost per low-income household. In some instances, those flaws may tend to systematically skew the results in one direction or another.

For example, low-income households tend to be over-represented in multi-family rental housing. Therefore, to the extent that the methods in the 2020 Guidance overstate the costs to households in multi-family buildings (see Point #4.b.ii.), the methods also will tend to overstate the costs to low-income households. Moreover, low-income households in multi-family rental housing are more likely than other renters to be buffered from rate increases because of participation in housing programs that limit their combined rent and utility expenses (*e.g.*, public housing and voucher programs that limit rent and utility expenses based on income; local rent regulations). This further skews the results when assessing costs for low-income households.

iv. Selection of household income level representing the lowest quartile

The 2020 Guidance does not explain why EPA selected the “upper boundary” of the lowest income quartile as the appropriate income to represent low-income customers in the analysis. By definition, virtually all households within the lowest income quartile will have *less* income than this level. We urge EPA to consider the comments submitted by a group of “Low Income Consumer Representatives,” arguing that the “mean income” within the lowest income quartile is a more appropriate metric, which would more fully represent the extent of affordability challenges for low-income customers.

v. LQRI thresholds for low, medium, and high impact

EPA asks in “Question for Public Comment #10” whether the RI benchmarks for low impact (below 1% of household income) and high impact (above 2% of household income) should also be used as the benchmarks for LQRI, or whether the LQRI benchmarks should instead be set *higher* (1.7% of income for low impact, 3.4% of income for high impact).²³ The 2020 Guidance states that “EPA is not proposing to institutionalize disparate impacts on low income households”—yet that is exactly what higher thresholds would do. EPA must not take that approach. Higher thresholds would represent a value judgment that it is acceptable for low-income households to pay significantly more for basic sanitation services, as a percentage of household income, than higher-income households. EPA should not make any legal or policy decisions based on that inequitable premise.

²³ 2020 Guidance at 15.

We note that income-based water and wastewater affordability programs recently adopted in Philadelphia and Baltimore take precisely the opposite approach.²⁴ They are designed so that lower-income households pay a lower percentage of their income for water and wastewater service, based on the premise that they can afford only to pay a lower percentage, given the other essential monthly expenses that they must also meet on a limited income. EPA should consider using a similar sliding scale. It definitely should not adopt benchmarks that point in the exact opposite direction.

vi. Over-reliance on static “snapshot” assumptions

We recognize that Alternative 1 is, by design, less able to account for changes over time than the dynamic rate and financial modeling envisioned under Alternative 2. However, EPA should identify key assumptions for which Alternative 1 should account for anticipated changes over time, without the need for complex modeling.

For example, under the 1997 Guidance and Alternative 1 in the 2020 Guidance, operating and capital costs (as reflected by debt service) are annualized in current dollars and compared with current residential populations and current incomes. Trends in population and/or real income that might bolster the financial capability to service a given amount of debt in future years are ignored, compromising the integrity of the analysis. EFAB made the same point in its 2007 recommendations.²⁵

Similarly, the current methodology does not account for anticipated retirement of existing debt. Utilities may currently be paying off debt incurred for projects built decades ago, while new debt assumed to pay future costs of compliance will be amortized for decades into the future. While that new debt is being paid off, however, old debt will be retired, thereby reducing the total debt burden of the system. A snapshot view, as per the methodology in the current guidance, gives the false impression that new debt will be entirely cumulative with existing debt, thereby underestimating the capacity of the system to take on new debt.

C. “Alternative 2”

Alternative 2 provides an alternative method to determine the RI and LQRI. It relies on “Financial and Rate Model Analyses...as an analytic tool in lieu of the recommended critical metrics and [compliance] schedule benchmarks set forth under Alternative 1.”²⁶ The financial and rate model analyses would focus on the “capital expenditures necessary to meet CWA obligations” and would be used to “determine the revenues and rate increases necessary to support” those expenditures for each individual year during a proposed compliance schedule.²⁷ The resulting rate increases would be overlaid with household income data to calculate a RI and

²⁴ See <https://www.circleofblue.org/2017/water-management/pricing/philadelphia-water-rate-links-payments-household-income/> and <https://www.circleofblue.org/2019/world/baltimore-council-approves-income-based-water-bills/>.

²⁵ EFAB, p. 4 (“Over time, a fast growing community with excess wastewater treatment capacity is likely to see the impact on their customers change much less than a slow growing (or shrinking) community with similar CSO control costs.”)

²⁶ 2020 Guidance at 19-20.

²⁷ 2020 Guidance at 20.

LQRI.²⁸ In turn, RI and LQRI would inform the development of a compliance schedule. We offer the following comments on the Alternative 2 methodology for determining RI and LQRI.

i. Financial and rate models must be used to identify alternatives that would reduce the RI and LQRI.

As noted above, the 2020 Guidance states that the financial and rate models used under Alternative 2 “are set up so that it is *possible* to evaluate alternative scenarios” (emphasis added), including alternative “assumptions regarding financing strategies.”²⁹ However, nothing in Alternative 2 *requires* use of the models to evaluate of alternatives that could improve a municipality’s financial capability—e.g., by reducing the RI and LQRI “impact” levels. EPA must revise Alternative 2 to require such an alternatives analysis. In other words, the models must be used as a tool for performing the “Financial Alternatives Analysis” described in Point #1 above.

To take one example, Step 6 of the recommended modeling approach states that the municipality should “[t]ranslate the revenue requirements into annual increases in rates and bills for customers [and] [a]pply the annual percentage increases to the baseline or current average household bill.”³⁰ It seems to be implied here that the “translation” of revenue requirements into annual rate increases, as well as the baseline bill to which those increases are added, are based on the municipality’s existing rate structure and affordability programs. Instead, EPA must require a municipality to evaluate how alternative rate structures, or new or expanded affordability programs, could reduce the baseline bill and annual rate increases for residential customers, including customers with median household income and/or those in the lowest quintile of household income.

ii. Financial and rate models should be required to rely on locally-specific data to the greatest possible extent.

Despite the significant utility-specific data that is needed to implement Alternative 2, the 2020 Guidance allows a municipality to rely on default numbers for key variables that can significantly affect the results. EPA should revise Alternative 2 to require the use of as much locally-specific data as possible, for all variables and assumptions.

For example, Alternative 2 allows a municipality to calculate residential bills based either on “nationwide average” per household usage, suggested to be 5 to 6 CCF per month, or based on “real information on usage from actual billing” by the particular municipality.³¹ The 2020 Guidance allows either option despite recognizing that “[i]f the community serves a significant number of households in multi-family structures, then the usage will likely be lower.”³² Other factors may also affect local or regional variation in household usage, , including the age of the

²⁸ 2020 Guidance at 21-24.

²⁹ 2020 Guidance at 20-21.

³⁰ 2020 Guidance at 22.

³¹ 2020 Guidance at 21, n. 17.

³² 2020 Guidance at 21, n. 17.

housing stock and its associated plumbing. Alternative 2 should require the use of locally-specific usage data instead of allowing the use of generic national averages.³³

iii. Recommended submissions should be clarified in key areas.

The items enumerated on page 21 should be supplemented with the following:

- Documentation for the model being used (creator, peer review status, version, etc.);
- Clear identification of dollar values in all analyses as either constant (year) or nominal dollars;
- Clarification that “basis for the residential bill” includes the cost allocation method used to establish the bill, and the rate design used to construct single-family and multifamily residential bills.

D. “Other metrics”

We offer the following comments specifically on some of the “other metrics” identified in the 2020 Guidance. In Point #3 above, also we provided extensive comments concerning the use of drinking water costs as an “other metric.”

i. EPA must account for the ways in which low-income affordability programs *enhance* a municipality’s financial capability to invest in CWA compliance.

The 2020 Guidance identifies “customer assistance programs,” or low-income affordability programs, as an “other metric” that may be considered.³⁴ But it counts low-income affordability programs only as a “cost” to the utility—*i.e.*, a factor weighing in favor of more extended compliance schedules.³⁵ This puts things exactly backwards. The 2020 Guidance must fully account for the ways in which low-income affordability programs can *improve* a municipality’s financial capability to invest in CWA compliance.

First, as explained in Point #1, low-income affordability programs are a tool to enable shorter compliance schedules by allowing increased total spending on compliance without burdening low-income customers. For example, when Portland, Oregon, was first required to implement a long-term plan to reduce combined sewer overflows (CSOs) in the 1990s, that regulatory compliance obligation spurred creation of the city’s first low-income customer assistance

³³ We also emphasize, as explained above in Point #3, that where the combined household burden of water and wastewater bills is considered, water bills should be modeled based only on a level of household water usage necessary to meet basic needs, not usage that serves discretionary purposes such as landscape irrigation.

³⁴ Many advocates for low-income water and wastewater affordability prefer the term “affordability program,” rather than “customer assistance program.” Whereas the former suggests a program designed specifically to ensure affordability for all customers, the latter may encompass programs that provide some level of assistance but are not designed to ensure affordability for customers at all income levels. For the purposes of these comments, however, we take the term “customer assistance programs,” as used in the 2020 Guidance, to be inclusive of all water affordability programs.

³⁵ 2020 Guidance at 30-31 (“If a community has developed a CAP to assist individual households, EPA intends to consider both the costs needed to administer the program as well as the revenue lost from the assistance provided (discounted rates, collection fees foregone, improved water efficiency, etc.).”)

program.³⁶ More recently, Cleveland Heights, Ohio, needed to increase rates to comply with a CSO consent decree, but accompanied this rate increase with a new discount of 40 percent to customers at or below 200 percent of the federal poverty level to mitigate the impacts on low-income customers.³⁷

Further, low-income affordability programs can help improve the financial stability of wastewater systems as a whole, financially benefiting all customers. When low-income customers are billed an amount they can afford, they are much more likely to pay those bills, voluntarily and on time, providing a more stable, predictable revenue stream for the utility. Studies in Indiana and Colorado, for example, have shown that affordable bill programs help energy utilities improve their bottom lines through increased customer revenues and/or increased “net back” (i.e., customer revenue minus the costs of collecting unpaid bills).³⁸ It is not a novel idea to apply these financial lessons to the water sector, and national leaders in the water utility sector have come to embrace them. In 2010, a report by the Water Research Foundation and U.S. Environmental Protection Agency (EPA) stated:

The cost of collections and bad debt are generally accepted cross-subsidies because they are regarded as unavoidable costs of doing business. Ironically, *customer assistance programs have been shown to be capable of producing more total revenue for the dollars expended . . .* This result is documented not only in the short-term, but there are also long-term cost reductions to be won by helping to break the perpetual cycle of nonpayment problems and providing a framework for continuous improvement of collections.³⁹

Similarly, in 2017, the American Water Works Association’s (AWWA) executive director for government affairs wrote that:

Frequent service shutoffs and resolving bad debt from customers who cannot afford their rates can be *more expensive for a utility than instituting a [customer assistance program]* and assisting customers in paying their bills . . . The benefit

³⁶ Blake, B., Portland Water Bureau, “Workable Programs for Low Income Utility Rate Assistance,” <https://www.youtube.com/watch?v=doW9rTq3pI0&feature=youtu.be> (presented at EPA webinar on June 7, 2016, starting at 32:12 in the video); American Water Works Association, “AWWA Approves First Affordability Policy Statement,” October 24, 2018, <https://www.awwa.org/AWWA-Articles/ArticleId/4941/cid/157/portland-oregon-leader-in-tackling-water-affordability-challenge?category=connections-article>.

³⁷ All customers received a letter explaining the reason for the rate increase and the availability of the new low-income assistance program to mitigate the effect of the increase: https://www.clevelandheights.com/DocumentCenter/View/1999/SewerPLanMailer_Corrected

³⁸ Roger D. Colton, *Water Bill Affordability for the City of Philadelphia*, April 9, 2015, <http://www.povertylaw.org/files/docs/Colton%20City%20Council%20comments--April%208%202015--Final.pdf>; Roger D. Colton, *Baltimore’s Conundrum: Charging for Water/Wastewater Services that Community Residents Cannot Afford to Pay*, November 2017, https://www.foodandwaterwatch.org/sites/default/files/baltimore_water_study-final_report-2017.pdf.

³⁹ Water Research Foundation, *Best Practices in Customer Payment Assistance Programs*, 2010, p. 91 (emphasis added), <http://www.waterrf.org/publicreportlibrary/4004.pdf>.

to the utility of having discounts or lower rates for low-income customers is the increased likelihood of collecting payment from these customers.⁴⁰

Even AWWA’s formal technical guidelines reflect this concept, to some degree; “the past two editions of the American Water Works Association’s ‘M1’ [the industry standard manual for water rate setting] outline the ways that *not* having affordability programs can hurt a utility’s bottom line.”⁴¹

ii. The metric of “potential bill impacts relative to household size” should be removed.

The 2020 Guidance’s discussion of bill impacts relative to household size is of limited utility. Exhibit 8, which illustrates the use of this metric, is only functional in systems where residential customers receive bills for sewer service with a volumetric component, which in some states, such as California, is the minority of households. Further, the eight levels of consumption (from 2 ccf to 9 ccf) that are presented for each household size produce cells that are illustrative, but are not weighted by the actual number of a utility’s customers in each cell. Nor is there any accounting for changes in customer consumption over time; residential per capita water use has been declining for many years across the country and this trend is expected to continue. Nevertheless, EPA offers to allow relaxed implementation deadlines when “most” of the cells show “high burden,” regardless of the share of customers contained within such cells, *i.e.*, regardless of the actual distribution of per household usage across the residential customer base. EPA should withdraw this offer and remove this flawed methodology from the 2020 Guidance.

5. EPA must provide its justifications for, and provide greater detail concerning, the recommended lengths of compliance schedules and take further public comment on that topic.

We emphasize throughout these comments that EPA, states, and municipal dischargers must exhaust every opportunity to resolve a community’s “financial capability” challenges without providing an extended compliance schedule. However, to the extent that extended compliance schedules are used after all such opportunities have been exhausted, the 2020 Guidance fails to justify the recommended lengths of compliance schedules under Alternative 1 and fails to offer any meaningful framework for determining the length of a compliance schedule under Alternative 2.

⁴⁰ G. Tracy Mehan, et al., “Addressing Affordability as a Necessary Element of Full-Cost Pricing,” *Journal AWWA*, 109, no. 10 (October 2017) (emphasis added; internal quotations omitted), http://aquadoc.typepad.com/files/affordability_full-cost_pricing_jawwa20o2017.pdf.

⁴¹ UNC Environmental Finance Center, *Navigating Legal Pathways to Rate-Funded Customer Assistance Programs: A Guide for Water and Wastewater Utilities*, 2017, at p. 18 (emphasis added), <https://efc.sog.unc.edu/sites/www.efc.sog.unc.edu/files/Pathways%20to%20Rate-Funded%20CAPs.pdf>.

A. Alternative 1

The 2020 Guidance proposes new “implementation schedule benchmarks” for Alternative 1 that recommend significantly longer compliance schedules than the existing 1997 Guidance.⁴² EPA fails to provide adequate justification for these longer schedules, which would prolong the health and environmental harm of untreated or inadequately treated wastewater and stormwater discharges.

Both the 2020 Guidance and the 1997 Guidance use a “matrix” to characterize a community as “low burden,” “medium burden,” or “high burden,” based on consideration of various metrics or “indicators.” The level of “burden” corresponds to a recommended range of years for a compliance schedule. Under both the 1997 Guidance and the 2020 Guidance, a “low” burden, should result in a compliance schedule based on a “normal engineering/construction schedule.” For a “medium” burden, the 1997 Guidance recommends up to a 10-year schedule, but the 2020 Guidance recommends up to a 15-year schedule. For a “high” burden, the 1997 Guidance recommends up to 15 years or, in “unusually ‘High Burden’ situations” up to 20 years; but the 2020 Guidance recommends up to 25 years, or even more based on “consideration of additional information.”

The 2020 Guidance provides only the following, inadequate explanation for the longer timelines: “EPA has developed new schedule benchmarks to account for the consideration of two new critical metrics, the LQRI and the PI. The proposed schedule benchmarks are based on EPA’s experience negotiating over 100 CWA consent decrees with communities of various sizes.”⁴³ There does not seem to be any reason that adding “two new critical metrics” to the method for determining a low, medium, or high burden would require changing the recommended schedule associated with each level of burden. And the explanation that the new timelines reflect “EPA’s experience negotiating over 100 CWA consent decrees with communities of various sizes” is entirely conclusory. Especially in light of the much longer timelines in the 2020 Guidance, a much more detailed justification must be provided for public review and comment.

B. Alternative 2

The 2020 Guidance’s explanation of how the analyses under Alternative 2 are actually used to set a particular compliance schedule is so vague and subjective as to be meaningless. A more detailed proposal must be offered for public comment, and a more specific framework must be included in any final guidance.

For Alternative 2, like Alternative 1, uses the RI and LQRI to inform development of a compliance schedule. However, unlike Alternative 1, the 2020 Guidance provides no meaningful explanation of *how* the RI and LQRI would be used under Alternative 2. The guiding principles provided are simply that, under Alternative 2, the compliance schedule should “avoid rate shock and...avoid water utility rates that represent an overly burdensome percentage of household income.”⁴⁴ (We assume that by “water utility rates,” EPA actually means “wastewater and/or

⁴² 2020 Guidance at 18 (Exhibit 6); 1997 Guidance at 46 (Table 4).

⁴³ 2020 Guidance at 18.

⁴⁴ 2020 Guidance at 24, 37.

stormwater rates,” unless the municipality chooses to include drinking water costs in the model, in which case the model would address combined water and wastewater rates and, as applicable, stormwater rates. EPA should clarify this.)

Similarly, the 2020 Guidance says a compliance schedule should “keep the percentage of household income spent on wastewater utility bills (and if added to the model, drinking water utility bills) within reasonable bounds,” provided that the schedule should not “exceed the useful life of the community’s water infrastructure assets.”⁴⁵ (We assume that by “water infrastructure assets, EPA actually means “wastewater and/or stormwater infrastructure assets.” EPA should clarify this.)

These vague and subjective statements can neither genuinely “guide” EPA’s decision-making nor provide affected members of the public and regulated entities with any clarity about the approach EPA intends to use. We are not able to meaningfully comment on an EPA proposal, as there effectively is none.

C. The role of “other metrics” in determining compliance schedules

The 2020 Guidance is also vague regarding how the optional “other metrics” should affect the length of the compliance schedule. We urge EPA to provide more detail on this and take further public comment.

Additionally, when consideration of these “other metrics” do affect the length of a compliance schedule, the proposed schedule should be accompanied by an explanation of the extent to which each factor contributed to the length of the proposed schedule as well as supporting rationales.

D. Prioritization of projects within the compliance schedule

We applaud EPA’s inclusion in the 2020 Guidance of two new considerations that were not included in the 1997 Guidance, which relate to the sequencing of projects within the compliance schedule. Specifically, in addition to prioritizing CSO reductions to “sensitive areas” and to waters with “impaired uses,” which were referenced in the 1997 Guidance, the 2020 Guidance states that compliance schedules should prioritize projects that remedy direct human exposure to raw sewage (*i.e.*, from sanitary sewer overflows that result in basement backups and ejection of raw sewage from manholes onto streets) and projects that mitigate impacts of municipal discharges to areas with environmental justice concerns.⁴⁶ EPA should develop specific protocols to ensure that these urgent public health and environmental justice concerns are prioritized, including robust opportunities for public participation in the development of compliance schedules. People living in affected communities have the best understanding, from firsthand experience, of the locations and health impacts of wastewater and stormwater discharges; their knowledge and input is essential to prioritize projects that meet the most urgent community needs.

⁴⁵ 2020 Guidance at 24-25.

⁴⁶ 2020 Guidance at 35.

6. EPA should not apply the 2020 Guidance to decisions concerning water quality standards.

The 2020 Guidance also includes a new proposal, entirely beyond the scope of the existing 1997 Guidance, to use the same methodology to justify weakening water quality standards, such as through the removal of designated uses pursuant to a use attainability analysis, issuance of variances to allow violations of existing water quality criteria, and the application of anti-degradation standards to allow increased pollution in places where current water quality exceeds existing water quality criteria.⁴⁷

This proposal goes well beyond allowing extended timelines to achieve future compliance with existing standards. It effectively authorizes permanent degradation of our waters—removing any obligation to meet existing water quality standards on any timeline—based on a method for assessing “financial capability” that is, as explained above, deeply flawed. EPA must withdraw this proposal.

If EPA wishes to develop guidance on how to consider compliance costs under the Agency’s water quality standards regulations, it should establish a separate process, including all stakeholders, to consider thoroughly any legal, technical, and practical considerations that may be unique to the water quality standards context. Moreover, EPA cannot use this or any other guidance effectively to amend existing water quality standard regulations, such as the rules on variances, use designations, and anti-degradation that are referenced in the 2020 Guidance.

We also note that, by proposing the same methodology to inform the length of compliance schedules and to evaluate potential weakening of water quality standards, the 2020 Guidance appears to blur the line between deferring pollution reductions and removing the requirement to ever achieve those reductions. The 2020 Guidance states, on the one hand, that it “does not remove obligations to comply with the CWA nor does it reduce regulatory requirements. Rather, EPA uses the FCA to assess a community’s financial capability for the purpose of developing a reasonable implementation schedule that will not overly burden the community.”⁴⁸ But it adds in a footnote: “If a permittee cannot meet water quality-based requirements of the CWA, the permittee should work with its state or authorized tribe to evaluate other tools, such as a revision to designated uses under 40 C.F.R. Part 131.”⁴⁹ Later in the document, the 2020 Guidance explicitly proposes using the same methodology used to determine whether costs justify an extended compliance schedule to meet existing water quality standards to also determine whether costs justify weakening existing standards by removing a designated use. EPA must clarify the distinction between using costs to inform compliance schedules and costs to justify weakening standards; if the same criteria apply in both instances, what determines whether EPA will

⁴⁷ The 2020 Guidance states that “EPA proposes to apply the options and flexibilities from Alternative 1 of the proposed [2020 Guidance] to the consideration of economic impacts to public entities when making such WQS decisions.” 2020 Guidance at 19. It also states that “EPA is not considering the use of financial and rate model analysis under Alternative 2 in lieu of Alternative 1 in WQS decisions. However, for WQS decisions, the use of financial and rate models could be used in a manner similar to the other metrics in Sections III.E and III.F of the proposed 2020 FCA, i.e., as additional information for consideration.” 2020 Guidance at 20.

⁴⁸ Guidance at 6.

⁴⁹ Guidance at 6, n. 3.

propose an extended compliance schedule to meet existing standards, or instead propose to weaken the underlying standard itself?

7. EPA must ensure robust community engagement whenever cost and affordability concerns may influence decisions about local Clean Water Act compliance.

The 2020 Guidance does not provide for any public participation in developing financial capability assessments or in determining how a completed assessment should impact a municipality's Clean Water Act compliance obligations. These decisions have profound impacts for people's health, environment, and access to affordable water and sanitation. Therefore, EPA must ensure that, before decisions are made, affected communities have opportunities for meaningful, informed input. A revised version of the guidance must address this critical issue, consistent with principles of environmental justice.

* * * * *

Thank you for your consideration of these comments. We would welcome the opportunity to discuss them further with you.

Sincerely,

/s

Lawrence Levine
Director, Urban Water Infrastructure & Senior Attorney
Natural Resources Defense Council

cc (via email):

Dave Ross, Assistant Administrator, Office of Water
Susan Bodine, Assistant Administrator, Office of Enforcement and Compliance Assistance
Lee Forsgren, Deputy Assistant Administrator, Office of Water
Mark Pollins, Director, Water Enforcement Division, Office of Civil Enforcement
Deborah Nagle, Director, Office of Science and Technology
Sonia Brubaker, Director, Water Infrastructure and Resiliency Finance Center
EPA Environmental Financial Advisory Board
National Environmental Justice Advisory Committee

Geoff Daly as part of his registration included the following questions: "What is the EFABs stance on handling the vast range of PFASs' being found in 98% of drinking water within Wells and municipal water suppliers and the increasing Infrastructure failures?" which should also be logged as a written comment.

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Ashley	Allen	2 Capital
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Catherine	Bartone	VTDEC
Andres	Bas Moore	King County Wastewater Treatment Division
Stacia	Bax	Missouri Department of Natural Resources
Lara	Beaven	Inside EPA
Lisa	Bechini	Northbridge
Jory	Becker	Kentucky Division of Water
Johanna	Bell	Association of Idaho Cities
Stacey	Berahzer	IB Environmental
Lisa	Beyer	World Resources Institute
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Jody	Bickel	Creebank Associates
Courtney	Black	King County
Brian	Bohnsack	WSU EFC
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Doug	Brune	USEPA Region 7
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Bradly	Chaffee	NYSDEC
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Debby	Dickson	Natural Resources Commission (AR)
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Khris	Dodson	SU-EFC
Amy	Doll	EnDyna
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Stephen	Feely	US EPA
Brent	Fewell	Earth & Water Law
Laura	Fishman	US EPA
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Graham	Goodman	Seattle Public Schools
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Patrick	Whalen	US EPA
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