

Testimony
to the
Sustainable Water Infrastructure Task Force
Public Hearing May 29, 2008

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Members of the Sustainable Water Infrastructure Task Force, Representative Saylor, and members of the public:

My name is John Klinedinst; I am a Professional Engineer and a Sewage Enforcement Officer and currently serve as President and Chief Executive Officer of C.S.Davidson, Inc., a 125-staff consulting engineering firm with offices in York, Gettysburg, and Lancaster. Our firm serves 37 municipalities in south central Pennsylvania including boroughs, townships, cities, and counties and 15 authorities as engineer of record. I have personally represented municipalities and authorities as their engineer for over 35 years, including those with water and sewer systems and those without any public water or sewer service. I currently am a member of two of the Task Force subcommittees, Needs Assessment and Legislative and Regulatory Issues; and you may note that my testimony emphasizes those areas.

The first major point that I would like to raise with you this evening, among the four major issues that I raise related to this Task Force, is education, including the public, the system owners, and especially most elected public officials. In my opinion, safe drinking water and environmentally sound wastewater disposal are either taken for granted, since we have had no large outbreak of illness from contaminated drinking water, or ignored, by the general public; regardless of which, the value of such infrastructure is not held highly until an issue develops, such as a boil water advisory or a fish kill. I would suggest that if a random poll were taken, the general public would value their cable television service or cell phone availability as higher priorities from an expense standpoint. I remember arguing years ago with a resident about to get sewer; he was livid about the \$30/month sewer use charge. Then I asked him how much he paid for cable television, and the discussion was over. And the cost of potable water – why is so much bottled water sold at \$1.49 for a 12 ounce bottle in areas served by public potable water systems? And let's not forget the value of adequate fire protection provided by most public water systems, preventing catastrophic widespread fires. In my opinion, the public and its elected officials needs to be educated on the costs and benefits of safe water and sound wastewater disposal, as opposed to the view that it is regulatory imposition of unnecessary utilities. What is the real value in dollars for safe water and sound wastewater disposal? And let me be clear; I am not referring to only the public or private centralized systems; I am also referring to wells, which are currently not

regulated, and on-site septic systems. The lack of private system regulation has created artificially low operation and maintenance costs; while probably the third largest investment in peoples lives, they are little considered and lead to the need for public systems to cure problems that result from improper operation and maintenance. Unfortunately our Department of Environmental Protection is currently seen as a heavy handed enforcement agency, not an advocate for better practices, or an agency to resolve technical problems, or an educational agency. In my opinion that needs to change. The view of the commonwealth needs to be proactive, in my opinion, not reactive. This Task Force is a possibility to effect change through education.

My second point is about financing upgrades and expansion costs, above and beyond operating and maintenance costs. I am mostly familiar with municipal ownership and operations, but have worked with private systems with Public Utility Commission regulated charges. Mostly I have worked with municipal operating authorities. There is an unfortunate financial system in place generally with public systems, a constant struggle to keep user fees and rates as low as possible while only meeting regulatory standards. The result? Only enough revenues to operate the system, not to improve or replace or upgrade. New regulations or requirements with no financial assistance such as the Chesapeake Bay Tributary Strategy are implemented with new borrowing or major rate increases, usually to great public outcry to the new financial impact to their pocket. Asset management, including depreciation and retention of capital reserves, would greatly assist in meeting the needs of aging infrastructure and new requirements. And our infrastructure is aging; many of the systems that I worked on in the early 1970s are coming to the end of their design life, and need replacement or upgrade. Unfortunately, improvements that do not result in revenue fall to the end of the list unless there is a crisis involved or a regulatory edict issued. Requiring all income from users to be returned to the infrastructure as opposed to balancing municipal budgets is a must. Oversight of user fee calculations, with guidance and education, is a need. Requiring annual financial reports similar to the municipal reports filed with the Department of Community and Economic Development may be an option; they would offer at least an opportunity for review and recommendations based on best practices. Implementing a private sector financial model (generation of “profit”) on public systems would provide reinvestment of excess revenues and depreciation to fund a Capital Reserve account similar to a Bond Redemption and Improvement Fund typically found in a bond issue.

A third issue that affects sustainable water and wastewater infrastructure, I believe, are the numerous, disconnected regulations that affect construction and operation of public (and, to some extent private) systems. From permit requirements that seem to change daily, to the lack of direction from the permitting agency, to the shortage of regulatory staff to interpret policies and requirements, compliance with construction seems both an insurmountable hurdle and a moving target. From local municipalities to DEP to DOT to COE to

EPA, regulations conflict and change constantly. An organized, coordinated, and supported permitting system would improve the process and, I am certain, reduce the costs of design and construction. Then there are the municipal code bidding requirements; mandatory three quotes from \$4,000 to \$10,000 with bidding required over that, increasing the costs of construction immensely even beyond the astronomical costs of newspaper advertising. Does the legislature not trust public officials to be responsible to their rate or tax payers? (That is a rhetorical question...). Then the prevailing wages; any project over \$25,000 requires a Wage Determination so that wages of workers are as high as possible. The Department of Labor and Industry is extremely efficient at issuing Determinations, using modern technology (that is a compliment to them). But the use of prevailing wage rates increases the cost of projects immensely; I'd guess 25% higher wage rates than non-prevailing wage rates, increasing the labor component of the costs. Then the code requirement to bid separate contracts, for some unknown reason, transferring project management and accountability issues to the project owner, causing work coordination issues, and increasing project costs. Then the UCC regulation of building of public utility structures and facilities; they are superfluous in the already excessive review and spending system. And then the 6% sales tax; there is not even a clear path to knowing if sales tax must be paid or not; the Commonwealth collecting sales tax on a public project seems very ironic. Most public agencies that I am familiar with simply pay the contractor, who has included sales tax in his purchasing for lack of clear direction, then do nothing, increasing the costs of the project. And PUC regulation of rates? For public systems, it just adds the cost of audits and rate filings, to the benefit of attorneys and accountants. Not that I think those professionals are not capable or necessary, just that the process is cumbersome and of marginal value, in my opinion. And let's not forget that Tapping fees are regulated, and impact fees are prohibited, and growth is ignored for all practicality.

And lastly, money. It is my opinion that, if safe, sustainable, sound, and environmentally sensitive water and wastewater systems, public and private, are a fundamental concern and priority of the Commonwealth of Pennsylvania (and I think they should be), then the Commonwealth has a duty to provide assistance and finances and resources to support the infrastructure. The only direct funding that I can ever recall was the Act 339 grant, which was the commonwealth's direct support of a wastewater system that it required. While modest, at 2% of eligible facilities, it at least represented, for about 50 years anyway, that the facilities were important to the health of the residents of the commonwealth and that the commonwealth would share in the cost. That program has since been abandoned, with no replacement. Funding today is limited to PENNVEST, which while very effective is a very competitive program with very limited resources and very little flexibility. If the Commonwealth of Pennsylvania is to hold sustainable water infrastructure as a priority, then I believe it must facilitate the financing of construction and operations of facilities through grants, loans, and assistance, not by edict or regulation or law or requirement. Obviously an affordability index

should be established, probably in the 1% to 2% of median income, to guide public funds and resources to systems and users in need; but the commonwealth needs to assist in a meaningful way to implement the policies and priorities of the government to protect the health and safety of the residents of the commonwealth.

In closing, I fear that without a plan to move forward to a sustainable infrastructure strategy, we will continue to use the existing systems, public and private, until we lurch from crisis to crisis until the infrastructure that was provided to us is used up and no longer functions. That would be a failure of immense proportion. We have an opportunity to change that situation; let us do it wisely for future users.

I appreciate the opportunity to address the Task Force tonight through this Public Hearing and thank you for your invitation. I commend the Governor for issuing the Executive Order commissioning this Task Force, and wish all of the members the best for a productive, thought-provoking, change-making report with real solutions.

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