United States Senate
WASHINGTON, DC 20510

April 29, 2009

The Honorable Barbara Boxer
112 Hart Senate Office Building
Washington, D.C. 20510

The Honorable James Inhofe
453 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Ben Cardin
509 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mike Crapo
239 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senators,

We understand that the Environment and Public Works Committee intends to mark up the reauthorization of the Clean Water Act next week. We are writing to alert you to one of our chief concerns with the Clean Water Act State Revolving Fund (CWA SRF)--the formula which allocates SRF funds to the states.

As you know, Congress adopted the current allocation formula in the 1987 amendments to the Clean Water Act and it has not been changed since. The formula is a set of fixed, statutory percentages assigned by state. These percentages set each state's allocation of the total congressional appropriation to the CWA SRF. This formula is faulty because it bears no relationship to the actual infrastructure needs reported by the states in the EPA's Clean Watershed Needs Survey (CWNS).

Under this formula, some states, including our home state of Arizona, are significantly shortchanged. The attached chart compiled by the Congressional Research Service shows that Arizona ranks 11th in terms of need by state (2.67% of the total portion allocated in the current formula), yet Arizona receives just 0.68% from the current formula, ranking 50th among states in terms of the percentage of documented needs that are actually met.

It is interesting to note that, when Congress enacted the 1996 Safe Drinking Water Act, it ensured that no such inequity would burden the newly created Drinking Water State Revolving Fund. From its inception, the Drinking Water Fund was allocated on the basis of EPA's Drinking Water Needs Survey. The survey documents the states needs for drinking water infrastructure, to ensure compliance with CWA regulations. The EPA then allocates Drinking Water Fund appropriations on the basis of each state's proportional share of the total need documented in the survey. There is a fundamental fairness associated with allocating the funds on the basis of the needs survey.

This is not the first time we have advocated changing the CWA SRF formula and righting this wrong. In 2001, the Senate passed a sense of the senate resolution that was adopted about needing to report authorizing legislation that included an equitable, needs-based formula. The

next year, Sen. Kyl testified before the Committee on this issue, and in 2005, offered an amendment to the fiscal year 2006 Interior Appropriations bill that was withdrawn based on commitments from this Committee to address this inequity. Now, we understand that you are working on the Clean Water Act Reauthorization Bill. We call on you to honor the commitments made by the Committee and to work with us to ensure all Americans have the clean water they deserve. A failure to address these inequities up front will no doubt lead to a much longer process for reauthorizing the SRF. We remain committed to working with you to take whatever time is necessary to get the formula right.

Sincerely,

United States Senator Jon Kyl

United States Senator John McCain

Table 1. Clean Water Act Formula Comparison

Alternative "Needs" Formula vs. Current Statutory Formula

State	% Need Share (EPA Needs Survey)[1]	EPA Needs Survey at $550 million (FY09 Request)	Need Rank	Share of Total FY2006 Allotment (Current Formula)[2]	Current Formula at $550 million (FY09 request)	Rank of Percentage of Needs Met (Current Formula)
Alabama	1.53%	$8,415,000	21	1.13%	$6,215,000	46
* Alaska	0.00%	$0	52	0.61%	$3,355,000	52
Arizona	2.67%	$14,685,000	11	0.68%	$3,740,000	50
Arkansas	0.40%	$2,200,000	38	0.66%	$3,630,000	19
California	8.85%	$48,675,000	3	7.24%	$39,820,000	39
Colorado	1.08%	$5,940,000	27	0.81%	$4,455,000	44
Connecticut	1.64%	$9,020,000	20	1.24%	$6,820,000	42
Delaware	0.06%	$330,000	49	0.50%	$2,750,000	3
District of Columbia	0.92%	$5,060,000	30	0.50%	$2,750,000	48
Florida	9.24%	$50,820,000	2	3.42%	$18,810,000	49
Georgia	1.06%	$5,830,000	28	1.71%	$9,405,000	20
Hawaii	0.89%	$4,895,000	31	0.78%	$4,290,000	36
Idaho	0.28%	$1,540,000	41	0.50%	$2,750,000	17
Illinois	6.06%	$33,330,000	4	4.58%	$25,190,000	43
Indiana	2.99%	$16,445,000	9	2.44%	$13,420,000	40
Iowa	0.45%	$2,475,000	37	1.37%	$7,535,000	11
Kansas	0.93%	$5,115,000	29	0.91%	$5,005,000	31
Kentucky	1.28%	$7,040,000	25	1.29%	$7,095,000	28
Louisiana	1.50%	$8,250,000	22	1.11%	$6,105,000	45
Maine	0.39%	$2,145,000	39	0.78%	$4,290,000	15
Maryland	2.65%	$14,575,000	12	2.45%	$13,475,000	34
Massachusetts	1.42%	$7,810,000	23	3.44%	$18,920,000	12
Michigan	2.71%	$14,905,000	10	4.35%	$23,925,000	21
Minnesota	2.10%	$11,550,000	17	1.86%	$10,230,000	35
Mississippi	0.48%	$2,640,000	34	0.91%	$5,005,000	16
Missouri	2.18%	$11,990,000	15	2.81%	$15,455,000	23
Montana	0.24%	$1,320,000	44	0.50%	$2,750,000	14
Nebraska	0.61%	$3,355,000	33	0.52%	$2,860,000	38
Nevada	0.12%	$660,000	46	0.50%	$2,750,000	6
New Hampshire	0.26%	$1,430,000	42	1.01%	$5,555,000	8
New Jersey	4.19%	$23,045,000	7	4.14%	$22,770,000	29
New Mexico	0.07%	$385,000	48	0.50%	$2,750,000	4
New York	9.85%	$54,175,000	1	11.18%	$61,490,000	25
North Carolina	2.31%	$12,705,000	14	1.83%	$10,065,000	42

North Dakota	0.02%	$110,000	51	0.50%	$2,750,000	1
Ohio	5.83%	$32,065,000	6	5.70%	$31,350,000	32
Oklahoma	0.47%	$2,585,000	35	0.82%	$4,510,000	18
Oregon	1.33%	$7,315,000	24	1.14%	$6,270,000	37
Pennsylvania	5.88%	$32,340,000	5	4.01%	$22,055,000	47
Rhode Island	0.61%	$3,355,000	32	0.68%	$3,740,000	27
South Carolina	0.33%	$1,815,000	40	1.04%	$5,720,000	9
South Dakota	0.04%	$220,000	50	0.50%	$2,750,000	2
Tennessee	0.47%	$2,585,000	36	1.47%	$8,085,000	10
Texas	4.01%	$22,055,000	8	4.63%	$25,465,000	24
Utah	0.26%	$1,430,000	43	0.53%	$2,915,000	13
Vermont	0.08%	$440,000	47	0.50%	$2,750,000	5
Virginia	2.12%	$11,660,000	16	2.07%	$11,385,000	33
Washington	1.79%	$9,845,000	18	1.76%	$9,680,000	30
West Virginia	1.15%	$6,325,000	26	1.58%	$8,690,000	22
Wisconsin	2.43%	$13,365,000	13	2.74%	$15,070,000	26
Wyoming	0.12%	$660,000	45	0.50%	$2,750,000	7
Puerto Rico	1.65%	$9,075,000	19	1.32%	$7,260,000	53
* Territories	0.00%	$0	53	0.25%	$1,375,000	51
Total	100.00%	$550,000,000		100.00%	$550,000,000	

[1] Environmental Protection Agency, "Clean Watersheds Needs Survey 2004 -- Report to Congress" (January 2008)
[2] Sec. 205 c(3) of the Federal Water Pollution Control Act (33U.S.C.1384)

* Alaska and the Territories did not complete the Clean Watersheds Needs Survey 2004

Note: 28 states receive more under the current formula (Col. 4) than under a needs-based formula (Col. 1): Arkansas, Delaware, Georgia, Idaho, Iowa, Kentucky, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Dakota, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin, and Wyoming.

Data compiled by CRS