May 6, 1974

MEMORANDUM

TO: Leon Billings
FROM: Sally Walker

SUBJECT: User Charges

The Federal Water Pollution Control Act Amendments of 1972 requires that no construction grant for a municipal waste treatment facility may be made after March 1, 1973, unless the applicant has established a system of charges to insure that each user of the facility pays its proportionate share of operation and maintenance costs (including replacement) of services provided by that facility. (Sec. 204(b)(1)(A).

Issue - Use of Ad Valorem Tax as User Charge

The Environmental Protection Agency has determined, through administrative fiat, that P.L. 92-500 provided adequate administrative flexibility to approve grant applications which rely on ad valorem taxes as "user charges". This major policy change was outlined in an April 5, 1974 memo to all Regional Administrators from the Director of the Municipal Construction Division. A March 28, 1974, memo provides the supportive legal opinion.

Approval of ad valorem taxes to finance operation and maintenance of treatment facilities directly conflicts with the legislative history of the user charge provision. (The legislative history of the 1972 Act is so clear that GAO would necessarily be required to deobligate grants made on the basis of "ad valorem" operation and maintenance assurance.)

-- The reliance upon a tax-based system for generation of revenues was specifically rejected by the Congress in the establishment of the user charge concept based on treatment costs.

-- Use of tax-based on property values does not provide an accurate reflection of actual use of a treatment works, and therefore does not provide economic incentive to promote efficient use or reduce wasteful use.
-- Use of ad valorem tax provides those users (as opposed to users in municipalities paying by user charge) with the benefit of a Federal income tax write-off.

-- Use of ad valorem tax will exempt from payment those users not ordinarily subject to property taxes, i.e., churches, schools, government facilities, charities, etc.

(In the District of Columbia this would mean that as much as one-half of the "use" would freeload on the system because their property is tax exempt.)

Following is a legislative history of the development of the user charge concept.

Legislative History

The concept of charging a user for the cost of waste treatment services evolved in 1966 in legislation dealing with the Federal construction grant program for waste treatment facilities.

Senator Muskie introduced a bill, S.2947, which provided that no Federal grant for construction of waste treatment facilities could be made without assurance from the grantee that provision had been made for efficient operation and maintenance of the facility:

"(3) No grant shall be made for any project under this section until the applicant has made provision satisfactory to the Secretary for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof;..." (1)

The Administration's bill, S.2987, further refined this concept in its requirement that no grant could be made without approval of a pollution control and abatement plan. That plan had to:

"(5) provide that local interstate bodies charged with the construction and operation of treatment works and water and sewer facilities must obtain adequate authority.

...(c) to levy water and sewer and sewage collection, treatment, and disposal charges adequate to cover costs incurred in water supply and sewage disposal and treatment, including capital costs, and

...(d) to use a metering system to conserve water, prevent or minimize waste, and serve as a means of establishing equitable charges,..." (2)
Hearings held on these two bills discussed the concept of user charges. Secretary of the Interior Stewart Udall testified for the Administration (the Interior Department then had jurisdiction over water pollution control), clearly defining the user charge concept in terms of a "utility" cost for treatment services:

"Having said that, we then move to a second major conclusion and that is that most of our municipalities in this country are ill organized today in terms of being able to cope with the problem. We would like to see to it that they get organized in such a way that they can cope with it because it is our feeling that a public utility, a public necessity, water and electric power are really no different at all, that the best system ultimately is for the user to pay for what he so receives.

This is one of the reasons we talk about water metering. This is one of the reasons that we think Philadelphia is infinitely superior to New York. This is one of the reasons that most modern cities today, the best cities in this country have a modern system for water purification. They charge a straight water fee. Everybody pays for what they get, and in terms of handling the sewage at the other end of the line they also charge a sewage fee or they charge enough in the water fee to take care of sewage, to have modern treatment.

Again, the people who dirty the water pay the cost of the cleanup. It seems to us as a matter of Government in a country such as ours that the best approach to solve this pollution problem in the long term is to have people pay for the service they receive." (3)

The language of S.2947 was ultimately adopted as part of the Clean Water Restoration Act of 1966 (P.L. 89-753).

In 1969, the Committee held hearings on the critical problems associated with the lack of funds for the financing of the construction grant program for municipalities.

The administration had introduced a bill, S.3206, which was designed to facilitate the awarding of construction grants. That bill contained language requiring that before awarding any grants, the Secretary had to determine:

"(C) That the appropriate local public body having jurisdiction over the treatment works has established or agreed to establish (i) a system of charges for the treatment works service area which will be adequate to enable it to be
operated in a businesslike manner capable of amortizing treatment works costs together with operation and maintenance costs...." (4)

In his testimony supporting this proposal, Secretary Udall reiterated his 1966 testimony, further emphasizing the intent that the user charge was a utility charge:

"(5) The bill would also require the establishment of a system of user charges which would be sufficient to amortize the local share, pay operation and maintenance costs, and establish a reasonable reserve to meet planned expansion needs.

The term implies a utility function, and, consequently, a more or less close relationship between the payment required and the cost of providing the service. In addition, economic efficiency and equity would be more fully served if the charge paid by users of the system reflected the costs which this use imposes on the system.

The user charge has attained particular validity in current times because of the movement from old practices in waste disposal to a new level of municipal sanitation reflected in the provision of sewage treatment works and because of the high costs of local government in general. The charge permits the separation of sewage treatment function from the much pressed property tax. It relates the costs of service more closely to the users, manifesting a more equitable distribution of the costs of government among the members of the community. As the costs of government continue to rise and as the pressures on general obligation financing increase, it is apparent that user charges for sewerage service will continue to gain in popularity. Also, it requires industrial firms to pay an equitable share of treatment costs, encourages them to reduce their wastes through pretreatment, process changes, and better management of wastes." [Emphasis added] (5)

During those hearings, Secretary Udall's sentiment was echoed by Henry Graesser, President of the American Water Works Association:

"AWWA feels further that establishment of the waste water operation as a community utility like the water utility will improve its image as a service organization, making it better able to sell adequate rates based on service rendered, increasing the ability of the local entity to meet future demands without the necessity of continuing Federal support... If, however, the pattern is not set for such utility type approach, it is our opinion that Congress will find it necessary to meet this crisis again and again in the future as citizens become accustomed to unrealistically low rates for the service rendered. (6)
The Committee reported S. 3206 with the following remarks on the user charge concept:

"The Administration bill contained a mandatory requirement for the establishment of sewer service charges justified on the basis that (1) sewer charges equitably place the cost of this utility service on the user; (2) pressure on statutory debt limits are eased, freeing up those sources of funds for schools, roads, and other public purposes; (3) sewage treatment service is placed on a businesslike basis, allowing for improvements and proper maintenance of the system; and (4) industrial and commercial enterprises are encouraged to manage their wastes more effectively, thus potentially reducing the size of the treatment facility required.

The committee was sympathetic to the need to establish a rational method of financing treatment facilities but the committee does not believe this should be attached to a new method of financing, since it is related to the entire water pollution control program. Because of the importance of the subject, however, the committee requests that the Department of the Interior, in consultation with other appropriate agencies, submit a report by January 1, 1969, on the current practices of communities employing user charges, the advantages and disadvantages of this method of financing, the possibilities of regional treatment facilities for both municipal and industrial wastes on a charge basis, and other relevant factors. (7)

Because of disagreement with the House, S.3206 died at the close of the 90th Congress.

In September of 1970, the General Accounting Office transmitted a report to Congress entitled, "Need for Improved Operation and Maintenance of Municipal Waste Treatment Plants". This report documented serious operation and maintenance difficulties resulting in poor waste treatment. In its Conclusions and Recommendations, GAO states:

"Our review of FWQA studies and records of plant inspections and our visits to selected waste treatment plants showed that plant Q&M problems were widespread and had resulted in inefficient plant operations...These problems were generally attributable to (1) inadequate numbers of qualified plant-operating personnel, (2) inadequate controls over industrial sources of pollution, and (3) inadequate plant design or equipment deficiencies." (8)
"We recommend that the Secretary of the Interior require the Commissioner, FWQA, to (1) establish, in cooperation with the States, comprehensive guidelines for use by municipalities, the States, and FWQA in determining the provisions necessary for ensuring proper and efficient operation and maintenance of municipal waste treatment plants and (2) gather and disseminate information to help the States identify, develop, and implement more effective procedures for the prevention, detection, and correction of plant operation and maintenance problems." (9)

In extensive hearings throughout 1970 and 1971, the Congress received testimony regarding the on-going Federal grant program for sewage treatment facilities. Many facilities had difficulty maintaining efficient operations subsequent to Federal grant assistance since most facilities operated out of municipal budgets and were thereby subject to the fiscal constraints of municipal budgeting. Testimony emphasized the need for a system to insure self-sufficiency of a treatment works subsequent to Federal assistance.

The concept of "user charges" was proposed as a means of assuring that each Federally assisted facility would have adequate operation and maintenance funds. Further examination of the user charge concept showed that a charge based on cost of treatment would be a positive force in encouraging more efficient management of wastes discharged through municipal systems as well as an economic inducement to reduce excessive use. Also, the user charge, coupled with the requirement for recovery from industrial users of the Federal share of the construction cost allocable to that industrial user (a portion of which is to return to the municipality for future expansion needs), would provide sufficient revenues to terminate future Federal grant assistance.

During hearings held in April, May and June of 1970, the problem of sustaining the operation and maintenance of treatment works became apparent. Several legislative proposals were under consideration during the hearings which addressed this problem.

S.3687, a bill introduced by Senator Muskie on April 7, 1970, provided that the Federal share for waste treatment works could be increased to 60% if the works were part of an approved river basin plan. Such a plan was required to include:

"(3) that the costs of operating and maintaining such works as are assisted by grants under this section are equitably shared by the users in such basin;" (1)
The administration's proposal, (§3470) did not directly require the establishment of a user charge system, though the issue of maintaining efficient plant operations was required:

"...In making his determination the Secretary shall consider whether such program includes...

"a sewage treatment facilities program wherein such facilities are planned, constructed, and maintained so as to achieve efficiency,..." (11)

Following introduction of §3470, the Administration proposed regulations which attempted to provide funds for operation and maintenance by requiring that facilities establish a system of cost recovery based on treatment costs (for industries only):

"Where industrial wastes are to be treated by the proposed project the applicant shall assure the Commissioner that it has, or will have in effect when the project will be operated, an equitable system of cost recovery. Such system of cost recovery may include user charges, connection fees or such other techniques as may be available under State and local laws. Such system shall provide for an equitable assessment of costs whereby such assessments upon dischargers of industrial wastes correspond to the cost of the waste treatment, taking into account the volume and strength of the industrial, domestic, commercial wastes and all other waste discharges treated, and techniques of treatment required. Such cost recovery system shall produce revenues, in proportion to the percentage of industrial wastes, proportionately, relative to the total waste load to be treated by the project, for the amortization of the applicant's indebtedness for the cost of such treatment works, and for additional costs as may be necessary to assure adequate waste treatment on a continuing basis." (12)

Extensive testimony during the 1970 hearings provided further discussion of the benefits of a user charge system in addition to providing operation and maintenance revenues. User charges could provide the economic incentive to improve efficiency and reduce the volume of wastes produced. A good summary statement of the value of user charges is provided by Charles V. Gibbs, Chairman of the Steering Committee of the Association of Metropolitan Sewerage Agencies, in testimony before the Subcommittee on Air and Water Pollution in 1970:

"Waste dischargers should pay an equitable share of the cost of the abatement of pollution -- Payment in proportion to pollution would rationalize our pricing structure and improve the efficiency of many operations...The basic cost recovery promise is sound and, whenever possible, local and public agencies constructing sewerage facilities should use
sewer service charges as one element in their financing program for two reasons: (1) sewerage charges are capable of raising substantial funds, and (2) sewerage charges based on the volume of waste delivered will discourage the amount of waste production. In the long run sewerage charges will improve the economics of water pollution abatement. It is sound policy to reward communities which finance pollution abatement works by charging polluters in some reasonable proportion to the volume and character of their waste. Federal encouragement for such charges should be given in the form of an additional incentive construction grant but these charges should not be a prerequisite for the approval of the basic construction grant." (13)

No action was taken on water pollution legislation in 1970.

In 1971, the Subcommittee on Air and Water Pollution renewed consideration of pending water pollution legislation.

Senator Muskie introduced S.523 on February 2, 1971, which repeated the provision of S.3687 allowing for an increased Federal share given the establishment of a user charge system.

The language of S.1013, the Administration's proposal, allowed for an increased Federal share (up to 50%) if the grantee established a user charge system:

"...the grantee has a treatment works user charge system and otherwise has legal, institutional, managerial, and financial capability to assure adequate operation, maintenance, expansion and replacement of treatment works throughout the grantee's jurisdiction, as determined by the Administrator,..." (14)

The user charge based on cost of treatment received strong endorsement by the Administration. The Administrator of the Environmental Protection Agency, William Ruckelshaus, testified:

"We believe a much more efficient and workable system should be developed. We believe that we should now begin to structure into the law and into the life and pattern of this program the concept and the realization of 'self-sufficiency'."
"By 'self-sufficiency' we mean the ability of a community to manage and pay for the operation, maintenance, and replacement of its waste treatment facilities and to meet the future treatment needs of the community. We believe strongly that all communities should operate waste treatment systems on a 'utility' basis with each user paying a fair share of the cost.

"We have addressed this concept in a number of ways in our proposal, S. 1013. We would require every grantee as a condition of receiving a grant to assure that it is taking measures to establish or acquire adequate legal, institutional, managerial, and financial capability for meeting foreseeable future needs with respect to operation, maintenance, expansion, and replacement of the treatment works.

"The grant would support community efforts to acquire such capability.

"The possession of such capability including a user charge system would be an acceptable alternative to a State matching program as the basis for eligibility for increased Federal support.

"EPA would be obliged to administer its authorities so as to encourage such community self-sufficiency." (15)

Those testifying before the Subcommittee, including AMSA, expressed continued support for this user charge concept.

After lengthy consideration, the Senate Committee reported S. 2770 in late 1971. That bill contained a provision requiring user charges in Section 204(b)(1)(A):

"(b)(1) Notwithstanding any other provision of this title, before approving any treatment works project under section 203 of this Act, the Administrator shall determine that (A) there has been adopted, or will be adopted July 1, 1973, a system of charges to assure that by each category of users of waste treatment services, as determined by the Administrator, will pay its appropriate share of the costs of operation and maintenance (including replacement) of any waste treatment services;" (16)
The Senate Committee Report dealt at length with the intent behind the imposition of the user charge requirement:

"Among the significant changes that the Committee recommends in the treatment works construction program is a requirement that each grant applicant shall, as a pre-condition to grant approval, have in place or agree to impose a system of user charges on the various classes and categories of users who will utilize the treatment works. The committee believes that the user charges will have several important and beneficial results toward the success of the program.

"Each system of user charges imposed pursuant to the requirements of the bill must be designed in such a way as to generate sufficient revenues to operate and maintain the treatment works to which it applies. The committee intends that the concept of 'maintenance' will be interpreted to include the costs of replacing components of the treatment works at the end of their useful life, so that the useful life of each facility itself will be protected. The committee bill anticipates that the agencies responsible for constructing and operating treatment works will, through the imposition of user charges, become financially self-sufficient with respect to the operation and maintenance (including replacement as defined) of treatment works constructed with assistance pursuant to the Act.

"Although the committee is aware of the many different legal and financial circumstances that characterize state and local governments and agencies through the country, the bill directs the Administrator to promulgate guidelines for the establishment and imposition of user charge systems as a guide to grant applicants for waste treatment works grants. These guidelines should take into account the diversity of legal and financial factors that exist from jurisdiction to jurisdiction, and each applicant should be permitted reasonable flexibility in the design of a system of user charges that meets the unique requirements of his own jurisdiction. As a general rule, the volume and character of each discharge into a publicly owned system should form the basis of determining the rate at which each user should be required to pay." (emphasis added.)

* * * *

"Discretion is left to the Administrator and to state and local authorities as to the structure of each individual system of user charges. A difficult problem associated with industrial discharges is the calculation of the rate of
assessing such charges. The bill authorizes the Administrator to establish guidelines in the development of industrial user charge rates, which will at the minimum, consider factors such as strength, volume, and delivery flow characteristics of such waste." (Emphasis added.) (17)

The Committee ended its discussion of Section 204 with the following comment:

"It is clear that the environmental costs should be borne by those who place demands on the environment. User charges should carry out this principle." (18)

The House Committee on Public Works held hearings on water pollution control legislation concurrent with and following the Senate hearings. Testimony received at those hearings on the user charge issue paralleled that received at the Senate hearings.

House action followed in the Spring of 1972. The House bill, H.R. 11896, contained a Section 204(b)(1) similar to the Senate bill:

"(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(d)(1) after June 30, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation, maintenance (including replacement), and expansion of any waste treatment services provided by the applicant;" (19)

The House Committee Report echoed the Senate Report's discussion:

"A major new condition for receiving a grant relates to the establishment of user charges. This section specifically provides that the Administrator shall not approve any grant for publicly owned treatment works, after June 30, 1973, unless the applicant has adopted or will adopt a system of user charges to assure that each recipient of waste treatment services within his jurisdiction, as determined by the Administrator, will pay its proportionate share of operation, maintenance (including replacement) and expansion costs. The applicant's jurisdiction means his entire service areas.

"The Committee believes it is essential to the successful operation by public agencies that a system of fair and equitable user charges be established. The Committee recognizes that differing circumstances and conditions in local areas may call for especially designed systems and has therefore proposed that the Administrator promulgate general criteria and that such general criteria allow for variations to meet local conditions.
This section contains standards the Committee believes should be taken into account by the Administrator; foremost among these is the underlying objective of achieving a local system that is self-sufficient. (20)

During floor consideration of the House bill, Representative Edmondson made the following remarks about user charges, further indicating that ad valorem taxes were not intended to serve as a user charge:

"The position of an industrial user is different basically from the position of the residential user. For one thing, he is in a position to offset his cost through tax deductions that the average individual residential user cannot charge off for his water bill and his sewage bill in his tax return." (21)

Of major significance is the agreement reached by the Conferees on the nature of the user charge requirement. The Conferees rejected the Senate language which required that "each category of users" pay its appropriate share and accepted the House language which required that "each recipient of waste treatment services" will pay its proportionate share of the costs of operation and maintenance. This action clearly defines the intention of the Conferees to require that each user (not each category or class of user) pay its share of waste treatment costs.

The law reads:

"Sec. 204(b)(1) Notwithstanding any other provisions of this title, the Administrator shall not approve any grant for any treatment works under section 201(g) after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant." (22)
FOOTNOTES

1. S. 2947, 89th Congress, Section 4(b)(3)
2. S. 2987, 89th Congress, Section 104(a)(5)
3. Testimony of Stewart Udall, 1966 Water Pollution Control hearings, page 118.
4. S. 3206, 90th Congress, Section 2(f)(5)(c)(1)
6. Testimony of Henry J. Graiser, 1968 Water Pollution hearings, p. 597
7. Report of the Senate Committee on Public Works on S. 3206 (Senate Report 90-1370), p. 4
8. Report to the Congress: Need for Improved Operation and Maintenance of Municipal Waste Treatment Plants (B0166506) by the Comptroller General of the United States, September 1, 1970, page 11
9. Ibid, page 15
10. S. 3687, 91st Congress, Section 8 (c)(3)
11. S. 3370, 91st Congress, Section 6(1)
14. S. 1013, 91st Congress, Section 8(a)(2)(G)
15. Testimony of William D. Ruckelshaus, volume 1, 1971 Water Pollution Control Legislation hearings, pp. 23-24
16. A Legislative History of the Water Pollution Control Act Amendments of 1972, January 1973, volume 2, p. 1584 (S. 2770, 92nd Congress, Section 204(b)(1)(A)
17. Ibid, pp. 1446-1447 (Report of Senate Committee on Public Works on S. 2770)
18. Ibid, p. 1446 (Report of Senate Committee on Public Works on S. 2770)
19. A Legislative History of the Water Pollution Control Act Amendments of 1972, January 1973, Volume 1, pp. 943-944 (H.R. 11896, 92nd Congress, Sec.204(b)(1)(A))
22. Public Law 92-500, Section 204(b)(1)(A)
July 18, 1974

MEMORANDUM

TO: Senator Edmund S. Muskie
FROM: Sally Walker

SUBJECT: Status of User Charges/Ad Valorem Tax Issue

The 1972 law included a requirement that no construction grant could be approved after March 1, 1973 unless the grantee agreed to adopt a system of user charges which assured that each recipient of waste treatment services paid a proportionate share of the system's operation and maintenance.

Last March, EPA determined that the law provided adequate administrative flexibility to approve grant applications which relied on ad valorem taxes to satisfy the user charge requirement.

Because this policy directly conflicted with the legislative history of the user charge provision, GAO was asked (informally by Leon and formally by a House Committee) to investigate the legality of EPA's position. The legislative history clearly supports the argument that user charges must be structured so that each user pays its proportionate share of the operation and maintenance costs. EPA's ad valorem policy did not meet this requirement.

At the same time, you received a letter from John Quarles providing justification for the Agency's position. You responded to his letter with a detailed description of the legislative history (attached).

On July 2, GAO decided that the collection of user charges through the ad valorem tax system does not comply with the statutory requirements.
Now Russell Train et al think this decision will stop the construction grant program (even though EPA initiated the concept in 1971). Others believe that communities faced with an either/or situation (no user charge/no grant) will change local policy. The staff believes that user charges are an essential step toward local self-sufficiency. Any future Federal financing program which proposes to eliminate Federal grants must be based on the capability of local systems to operate on a utility basis.

Attached are A) the EPA memoranda permitting the use of the ad valorem tax system, B) a memorandum providing the legislative history of the user charge provision, C) John Quarles' letter to you, D) your response to Quarles, and E) the GAO decision.
October 4, 1974

MEMORANDUM

TO: Senator Edmund S. Muskie

FROM: Leon G. Billings

SUBJECT: Abner Milva Affair

You may be accosted in Chicago by representatives of the Metropolitan Sanitary District at the Abner Milva affair this evening. V.Janicki, a member of the MSD Board, may bring up the question of user charges and the opposition of Chicago to the requirement of the Federal Water Pollution Control Law that grant recipients adopt residential user charges to pay the cost of operation and maintenance of systems assisted by Federal funds.

Janicki has publicly accused me in the Chicago media of blocking legislation to change this requirement. No legislation has been transmitted by the Administration, nor is any pending in this Committee. The Administration is studying the matter and may propose legislation later this year or early next year. The House is not inclined to act this late in the session on substantive changes in the Act.
TO: Leon Billings
FROM: Sally Walker

SUBJECT: History of User Charges

The user charge provision of the 1972 Amendments to the Federal Water Pollution Control Act represents many years of discussion on the subject.

As early as 1966, the problems associated with the operation and maintenance of Federally-financed waste treatment facilities were recognized. The major problem appeared to be the inability of municipalities to sustain the costs of operation and maintenance of facilities constructed with Federal grant money.

Most facilities were operated out of municipal budgets and were thereby subject to the fiscal constraints of municipal budgeting. These constraints included legal limitations on the amount of general obligation debt, limitations on municipal tax sources and the taxing power of special districts, and the rapid increase of the demand for other public services.

The concept of "user charges" was originally proposed as a means of assuring that each Federally assisted facility would have adequate operation and maintenance funds. In this way, municipalities could employ their limited taxing powers in providing other forms of public services; and waste treatment facilities could be operated and maintained efficiently thereby assuring adequate waste treatment services and the sound investment of Federal dollars.

Further examination of the user charge concept revealed additional benefits. A charge to the "consumer," based on cost of treatment, would be a positive force in encouraging more efficient management of wastes.
discharged through a municipal system as well as an economic inducement to reduce excessive use.

The problems of operating and maintaining municipal systems and the economic benefits of utilizing a user charge system were specifically addressed in a 1969 report from the Federal Water Pollution Control Administration. In 1970 a GAO report further emphasized the critical nature of operation and maintenance difficulties which resulted in poor waste treatment.

Although the user charge concept had been under discussion since 1966, it was not until 1970 and 1971 that this issue received extensive attention during water pollution hearings.

During these hearings, it became apparent that the on-going effort to achieve secondary treatment for municipal waste treatment systems was not succeeding. The need for a massive injection of Federal construction grant funds was recognized. The Congress was willing to provide those funds — but it wanted complete assurance that those funds would result in the creation of an efficient waste treatment program. More importantly, the Congress wanted assurance that, after the commitment of large amounts of Federal dollars, Federal funds would no longer be needed — that these Federally assisted facilities would become self-sufficient.

The user charge concept satisfied all of these needs. Therefore, the 1972 Amendments include such a provision. The Senate Public Works Committee Report describes the adoption of this provision:

"Among the significant changes that the Committee recommends in the treatment works construction program is a requirement that each grant applicant shall, as a pre-condition to grant approval, have in place or agree to impose a system of user charges on the various classes and categories of users who will utilize the treatment works. The Committee believes that the user charges will have several important and beneficial results toward the success of the program."
Each system of user charges imposed pursuant to the requirements of the bill must be designed in such a way as to generate sufficient revenues to operate and maintain the treatment works to which it applies. The Committee intends that the concept of 'maintenance' will be interpreted to include the costs of replacing components of the treatment works at the end of their useful life, so that the useful life of each facility itself will be protected. The Committee bill anticipates that the agencies responsible for constructing and operating treatment works will, through the imposition of user charges, become financially self-sufficient with respect to the operation and maintenance (including replacement as defined) of treatment works constructed with assistance pursuant to the Act.