

The Honorable John Barrasso  
Chairman  
Committee on Environment & Public Works  
United States Senate  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Thomas Carper  
Ranking Member  
Committee on Environment & Public Works  
United States Senate  
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The Honorable Peter DeFazio  
Chairman  
Committee on Transportation & Infrastructure  
United States House of Representatives  
2164 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Sam Graves  
Ranking Member  
Committee on Transportation & Infrastructure  
United States House of Representatives  
2164 Rayburn House Office Building  
Washington, D.C. 20515

August 24, 2020

Chairman Barrasso, Chairman DeFazio, Ranking Member Carper, and Ranking Member Graves:

Thank you for prioritizing legislation this year focused on investing in our nation's water infrastructure. We appreciate Congress continuing to work on bi-partisan water resources legislation, which it has done every two years since 2014. Both the House and Senate are considering a number of important proposals, including America's Water Infrastructure Act (S. 3591), the Drinking Water Infrastructure Act (S. 3590), the Water Resources Development Act of 2020 (H.R. 7575), the Moving Forward Act of 2020 (H.R. 2), and the PFAS Action Act (H.R. 535). We hope the best from each of these proposals can be incorporated into a final bill.

As you begin pre-conference negotiations, we want to highlight several provisions we support and ask that they be included in any final bill. These provisions help address the pressing need for additional wastewater and stormwater infrastructure funding and make this federal funding easier for frontline communities to access and leverage. Additionally, there are several important provisions that incentivize and advance the use of natural infrastructure in both the House and Senate WRDA bills. Natural infrastructure – healthy rivers, floodplains, wetlands and shorelines – is a vital tool to reduce flood and storm damages, protect water quality, and enhance wildlife habitat all while creating quality job opportunities across the nation.

### **Moving Forward Act (H.R. 2)**

- Sec. 22104: Authorizes a grant program to help wastewater utilities increase the resilience of water systems in the face of climate change, including through the use of green infrastructure, and prioritizes assistance to rural communities.
- Sec. 22106: Increases funding for Clean Water Act Section 221 grants to \$2 billion annually, reduces the non-federal cost share for low-income communities, and creates a 20% set aside to help address the needs of rural communities.

- Sec. 22109: Establishes a funding priority for infrastructure projects that prioritize natural infrastructure by requiring a minimum of 15% of CWSRF capitalization grants be directed to projects that incorporate green infrastructure.
- Sec. 22110: Requires states to use at least 10% of their CWSRF annual capitalization grant to provide additional subsidization to disadvantaged communities and raises the current 30% limit on additional subsidization for states that invest more of their own money in their CWSRF programs.
- Sec. 22113: Reauthorizes the Clean Water State Revolving Fund (CWSRF) at \$8 billion annually, which would quadruple current funding levels and help to make progress on our nation's substantial water infrastructure backlog. The EPA estimates that we need to invest \$271 billion in maintaining and repairing our wastewater infrastructure over the next twenty years just to meet current environmental and health standards.<sup>1</sup>
- Sec. 33101: Authorizes \$500 million per year in direct assistance to community water systems, prioritizing disadvantaged communities, that are suffering from contamination with "forever toxic chemicals" called PFAS (per- and polyfluoroalkyl substances)
- Sec. 33103: Reauthorizes the Drinking Water State Revolving Fund at increased levels (ramping up to \$5.5 billion per year). EPA estimates the need for maintaining and improving the nation's drinking water infrastructure over the next 20 years at \$472.6 billion.<sup>2</sup>
- Sec. 33105: Authorizes a comprehensive lead service line replacement grant program, which would provide \$4.5 billion annually for communities to fully replace lead service lines. The program would prioritize disadvantaged and environmental justice communities.

#### **House WRDA (H.R. 7575):**

- Sec. 109: Directs the Corps to issue final agency procedures to implement the Principles, Requirements and Guidelines (PR&G) that serve as the basis for the Corps' evaluation of project benefits and costs. Implementation of the PR&G is a critical step in improving water resources project planning and resiliency.
- Sec. 111: Requires the Corps to complete previously authorized reports on community and tribal consultation, and update Corps policies on environmental justice considerations and community engagement and consultation. Also expands the Corps' consultation requirements with Tribal and indigenous groups when working on or adjacent to Tribal lands and areas.
- Sec. 113 (and corresponding Senate Sec. 1098): Allows for natural and nature-based features as part of Section 205 continuing authorities program for small flood risk management projects.
- Sec. 114: Clarifies that the cost-share for natural and nature-based features is the same as for non-structural flood and storm damage reduction measures, 65% Federal and 35% non-Federal.
- Sec. 119: Establishes a 10 year pilot program to evaluate flood and storm damage reduction needs for economically disadvantaged communities to help communities evaluate flood risk reduction options including natural and nature based measures that

<sup>1</sup> <https://www.epa.gov/cwns/clean-watersheds-needs-survey-cwns-2012-report-and-data>

<sup>2</sup> <https://www.epa.gov/dwsrf/epas-6th-drinking-water-infrastructure-needs-survey-and-assessment>

can provide sustainable, environmentally protective, and less costly risk reduction solutions while also improving public health and well-being.

### **Senate America's Water Infrastructure Act (S. 3591)**

- Sec. 1098 (and corresponding House Sec.113): Allows for natural and nature-based features as part of Section 205 continuing authorities program for small flood risk management projects.
- Senate Sec. 1104: Includes natural infrastructure in 33 U.S.C. 701b-11(a) to help ensure that the Corps treats natural and nature-based measures the same as non-structural measures for cost share purposes.
- Sec. 2001: Establishes a Clean Water Infrastructure Resiliency and Sustainability Program to help improve the resilience of publicly owned treatment works to natural hazards.
- Sec. 2004: Creates an EPA grant program for small POTWs serving less than 10,000 people (or disadvantaged communities) with water and energy efficiency improvements. Authorized at \$5 million for each FY2021-FY2024.
- Sec. 2008: Increases investments in the Water Infrastructure and Workforce Investment program, doubling annual authorizations from \$1 million to \$2 million each year for FY2021 – FY2024.
- Sec. 2010: Creates a Household Decentralized Wastewater System grant program that allows non-profit organizations to receive funds for the construction, refurbishing, and servicing of low or moderate income households with decentralized wastewater systems. Authorized at \$50 million for each fiscal year 2021 and 2022.
- Sec. 2018: Directs the EPA to carry out an equity analysis using the EPA's Environmental Justice Mapping and Screening Tool to examine how states have historically dispersed Clean Water and Drinking Water State Revolving Funds to small and disadvantaged communities and identify new opportunities to improve the distribution of these funds to low-income communities, rural communities, and indigenous communities.
- Sec. 3003: Requires EPA to continue to update the existing Environmental Justice Screening and Mapping Tool annually and to make this tool available to the public.

### **Senate Drinking Water Infrastructure Act (S. 3590)**

- Sec. 6: Expands the existing Assistance for Small and Disadvantaged Communities program and reauthorizes and increases funding for the existing Drinking Water Infrastructure Risk and Resiliency program through 2024.
- Sec. 10: Requires the EPA to study the prevalence of low-income households in the United States that do not have access to affordable public drinking water systems and issue recommendations on ways to increase access to affordable and functional drinking water services.

### **PFAS Action Act (H.R. 535)**

We support this comprehensive legislation to establish binding protections against toxic PFAS

chemicals. It is critical that we establish federal safeguards against PFAS under the Clean Water Act, which would limit discharges into our waterways, as well as the Comprehensive Environmental Response, Compensation, and Liability Act (better known as Superfund), which would provide for cleanup and hold polluters financially accountable. Congress should also ensure that the EPA establishes a standard for the nation's drinking water that protects vulnerable populations such as pregnant women and children. Research suggests that for such a drinking water standard to be truly health protective, a "safe" level across all PFAS would be as low as .1 parts per trillion.<sup>3</sup> The bill also includes important provisions to reduce or eliminate PFAS use and releases so that PFAS contamination of water will be reduced, and establishes an infrastructure grant program to assist community water systems contaminated by PFAS.

## Conclusions

Investing in water infrastructure—including natural infrastructure—protects public health, enhances wildlife habitat, and creates quality job opportunities. The inclusion of the above provisions in WRDA 2020 is a vital step toward our shared goal of ensuring clean, safe, and affordable water for all.

As the committee moves to reconcile the House and Senate bills, we urge you to oppose efforts to include damaging regulatory provisions that would extend the terms of Clean Water Act National Pollutant Discharge Elimination System (NPDES) permits issued to municipal wastewater dischargers from five to ten years. This change would allow dischargers to operate for a decade or more under pollution control standards that have long since become outdated. Additionally, we urge you to oppose efforts to undermine or eliminate important environmental reviews and the corresponding public involvement for many projects. These provisions (Senate 1101 and Senate 1102) should be rejected as environmental reviews produce better and less environmentally-damaging projects, and give members of the public the right to weigh in on projects that can have profound impacts on their lives and livelihoods. These outcomes are good for the environment, the economy, public safety, and taxpayers.

Thank you for your consideration of these requests, we look forward to working with you as deliberations progress on WRDA legislation this year.

Sincerely,

Alabama Rivers Alliance  
Alliance for the Great Lakes  
American Rivers  
American Sustainable Business Council  
Atchafalaya Basinkeeper  
Bozeman Birders  
Center for a Sustainable Coast  
Center for Biological Diversity  
Clean Water Action  
Earthjustice

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<sup>3</sup> <https://theintercept.com/2019/06/18/pfoa-pfas-teflon-epa-limit/>

Endangered Habitats League  
Environment America  
Fly Fishers International  
For Love of Water (FLOW)  
Freshwater Future  
Friends of Blackwater, Inc.  
Friends of the Mississippi River  
Friends of the Rivers of Virginia (FORVA)  
GreenLatinos  
Healthy Gulf  
Izaak Walton League of America  
Kentucky Resources Council, Inc.  
Kentucky Waterways Alliance  
Lake Erie Waterkeeper  
League of Conservation Voters  
Mill Creek Alliance  
Mississippi River Collaborative  
National Wildlife Federation  
Natural Resources Defense Council  
Nebraska Wildlife Federation  
North American Climate, Conservation and Environment (NACCE)  
North Carolina Wildlife Federation  
Ohio Environmental Council  
Ohio River Foundation  
Pennsylvania Council of Churches  
Puget Soundkeeper  
River Network  
Sierra Club  
South Yuba River Citizens League  
Southern Environmental Law Center  
Tennessee Clean Water Network  
The Passaic River Coalition  
The River Project  
Verde  
Virgin Islands Conservation Society