

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

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EXECUTIVE VICE PRESIDENT &  
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January 17, 2020

The Honorable John Barrasso  
Chairman  
Committee on Environment  
and Public Works  
United States Senate  
Washington, DC 20510

The Honorable Peter DeFazio  
Chairman  
Committee on Transportation  
and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Tom Carper  
Ranking Member  
Committee on Environment  
and Public Works  
United States Senate  
Washington, DC 20510

The Honorable Sam Graves  
Ranking Member  
Committee on Transportation  
and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

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

The U.S. Chamber of Commerce believes your Committees have significant opportunities in 2020 to advance important legislation related to water in ways that would modernize and increase the resiliency of infrastructure, promote integrated planning approaches to reduce risks and improve efficiency, address persistent contamination issues, and reinvest in ports, waterways, and water systems that are critical drivers of America's economic growth.

Reauthorizing the Water Resources Development Act (WRDA) before it expires at the end of the fiscal year is the most pressing and significant priority.

In particular, your committees should build on the improvements of recent WRDA reauthorizations to expand opportunities for private investment to supplement, not replace, public investment, and focus on projects to modernize America's waterways and water infrastructure. Such legislation should integrate the recent U.S. Army Corps of Engineers Chief's Reports into WRDA-related projects.

WRDA reauthorization should also build on important broad water policy approaches to address significant problems faced in efforts to modernize water, wastewater, and stormwater systems.

WRDA reauthorization also provides an opportunity for Congress to address many other water-related issues, including funding, public-private partnerships (P3s), resiliency, regulatory reform, persistent contamination, and options to facilitate deployment of emerging technologies.

- 1) **Funding** — Congress should maintain or expand resources provided to states, local governments, communities, and the Corps.
  - **Fund U.S.-Mexico Border projects:** We urge full funding of the \$300 million Border Infrastructure Program to implement projects included in the U.S.-Mexico-Canada Free Trade Agreement.
  - **Enact H.R. 2440, the Full Utilization of the Harbor Maintenance Trust Fund:** This legislation, recently passed by the House with a substantial bipartisan support, would ensure that the Harbor Maintenance Trust Fund is used for its intended purpose, allowing the Corps to dredge all federal harbors to their constructed widths and depths. It would also provide \$34 billion in infrastructure investment for coastal and inland harbors by raising the Harbor Maintenance Tax.
  - **Reauthorization of the Clean Water State Revolving Fund (SRF):** Congress should reauthorize and fully appropriate the SRF program in the same manner as the Safe Drinking Water Act SRF (SDWA), which was reauthorized during the last WRDA cycle.
  - **Fund CWSRF and WIFIA:** The Chamber supports providing full funding and extending the Safe Drinking Water State Revolving Fund, and the Water Infrastructure Finance and Innovation Act.
- 2) **Expanding and incentivizing deployment of P3s** — The significant funding that Congress provides to states and communities for water and water-related projects is not enough to meet pressing infrastructure needs. Moreover, new federal tools are needed to facilitate and optimize P3s. Commonsense, flexible policies would unleash the power of the private sector to implement creative and innovative approaches to different aspects of infrastructure. We urge the Committees to consider legislation that would:
  - **Leverage P3s for SRFs:** P3s can stretch limited SRF and other federal funding resources. To accomplish this goal, private sector entities should be empowered to access SRF resources to serve the recognized needs of facility customers. To ensure stakeholders have “skin in the game,” private sector entities should provide the 20% matching funds for qualified projects. Legislation should prioritize grants or loans to those projects that bring private investment to complement federal financing.
  - **Allow contracting of professional services:** Public agencies should have broad flexibility to partner with the private sector, especially for important, high-risk projects with restricted schedules and budgets. The expertise and innovation of private sector firms would help ensure the delivery of quality, on-time services at less cost.

- **Remove barriers to the deployment of innovative technologies:** Congress should promote innovation and encourage its adoption by reducing barriers to implementation, promoting effective utility management, and helping communities achieve the scale and expertise necessary to deploy technology through additional technical assistance and cooperative arrangements.

3) **Resilience** — All forms of water infrastructure must become more resilient. Congress should work to reduce barriers to implementation of new technologies, promote effective utility management, and help communities achieve the scale and expertise necessary to deploy technology through additional technical assistance and cooperative arrangements. This effort should include water reuse and smart technologies, such as artificial intelligence and cloud computing, that improve efficiency and lower costs.

- **Create a Resilience Revolving Loan Fund:** We urge you to move forward with legislation, such as H.R. 3779, that would offer flexibility for states to support pre-disaster mitigation.
- **Authorize a Resilience Improvement Grant Program.** Congress should move quickly to authorize a program that would provide new funding to the Corps for projects that better anticipate, prepare for, and adapt to, extreme weather and natural disasters.
- **Enable and expand filtration.** For water emergencies lasting more than a few weeks, an alternative water supply other than bottled water is necessary. Congress should amend Section 1431 of the Safe Drinking Water Act directing EPA to provide guidance that water filtration devices used in emergencies are independently certified to the pertinent American National Standards Institute standard, which would ensure that filters reduce specific contaminants and protect public health. Moreover, the Supplemental Nutrition Assistance Program (SNAP) and the Supplemental Nutrition Program for Women, Infants, and Children (WIC) program should allow the purchase of certified water filters. Currently, SNAP and WIC allow only the purchase of bottled water.

4) **Regulatory reform** — Updating the regulations and requirements on issues related to water would maximize funds, speed efforts to make infrastructure more resilient, and ensure that P3s reach their full potential.

- **Maintain state permitting primacy:** Congress should ensure that states – not the Environmental Protection Agency – maintain the lead role in decision-making for permit renewals pursuant to the National Pollutant Discharge Elimination System (NPDES) program. States are in the best position to allocate permitting resources to handle such decisions, even those for permits “administratively continued” beyond their expiration date.

- **Empower Local Control Over Water System Design:** Technical decisions on materials, such as pipes and treatment technologies, are too often subject to the quagmire of bureaucracy. These decisions are better made by professional engineers and other key experts based on the unique needs of each system, taking into account critical factors such as structural integrity, soil compatibility, maintenance and life cycle costs. Encouraging and supporting local governance enables those closest to the problem to determine the best, most cost effective solutions, which saves money as local communities can hold those in their localities more accountable.
  - **Provide flexibility for MS4 permits, including green infrastructure and reuse:** Partnerships between businesses that need stormwater solutions to meet their industrial permit requirements and cities that often lack funding to maintain and modernize their infrastructure provide an opportunity for innovative approaches to compliance, including market mechanisms, green infrastructure, reuse, and watershed restoration—and still meet water quality standards.
  - **Expand Qualifications-Based Selection (QBS) to SDWA projects.** This change would ensure that government projects get highly technical services from the most qualified firms at a fair and reasonable cost and would help communities better address challenges to drinking water supplies and systems. QBS is widely used by all federal agencies and 46 state governments and many localities.
  - **Exempt water filters from pesticide regulation.** Water filters should no longer be treated as pesticides by the Environmental Protection Agency (EPA). Instead, filters should be required to meet the appropriate industry standards and to be verified by independent, third party testing and certification. EPA’s current approach is overly burdensome and costly and does little to protect public health and safety.
- 5) **PFAS** — Congress should ensure that legislation that addresses the persistent contamination related to per- and polyfluoroalkyl substances (PFAS) results in the timely and expeditious cleanup of contaminated sites. Last year, Congress made an important down payment towards addressing those sites with critical funding and other steps, as provided in the Defense Authorization and Appropriations legislation. We look forward to working with Congress on additional steps to be taken.

We caution Congress, however, from pursuing legislation that would regulate the myriad PFAS compounds as a single class or would short circuit the important work EPA needs to expeditiously complete in this area. The Chamber believes the PFAS provisions of S. 1790, the Senate-approved Defense Authorization bill, provide a framework for Congress to address this issue in a manner that would clean up the most sites in the shortest amount of time.

- 6) **Prepare for the future** — Congress should emphasize planning in new water and infrastructure related legislation. The traditional focus on projects will always remain an important priority for Congress to consider, but more focus should be devoted to ensuring

that infrastructure planning is robust, facilitates technological developments, and fosters economic growth.

- **Require full cost evaluation, financial accountability and transparency:** A recent survey found that only one-third of water utilities are operating under rate structures that provide adequate revenue to fully cover their costs. This undervaluation of water infrastructure creates severe constraints on the ability of utilities to finance the investment required to modernize this critical infrastructure. A multifaceted approach is needed—one where the cost of building and modernizing water infrastructure is fully understood, while ensuring that all households have reliable and affordable water service.
- **Promote federal, state, and local laws that utilize “green” and “smart” solutions:** Established and early-stage equipment and technology companies are rapidly innovating new approaches to manage stormwater flow that can often be deployed more rapidly and are less expensive than traditional approaches, especially when combined with green infrastructure. Technologies such as rainwater harvesting systems, structural soil systems, carbon filter systems, and permeable pavements should be incentivized, especially in urban and densely populated areas. Additionally, the federal government should promote the products and services internationally.
- **Address workforce issues:** Congress should enhance SDWA set-asides related to the certification and training of water operators to ensure that EPA and the Department of Labor can fund and expand water-focused career paths and apprenticeship programs.

Water policy and infrastructure issues offer Congress an opportunity to adopt consensus, bipartisan proposals that will improve quality of life and economic prosperity.

Thank you for your consideration.

Sincerely,



Neil L. Bradley

cc: Members of the Committee on Environment and Public Works  
Members of the Committee on Transportation and Infrastructure