



August 10, 2020

The Honorable John Barrasso
Chairman
Senate Environment & Public
Works Committee
Washington, D.C.

The Honorable Thomas R. Carper
Ranking Member
Senate Environment & Public
Works Committee
Washington, D.C.

The Honorable Peter DeFazio
Chairman
House Transportation &
Infrastructure Committee
Washington, D.C.

The Honorable Sam Graves
Ranking Member
House Transportation &
Infrastructure Committee
Washington, D.C.

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

On behalf of the National Association of Clean Water Agencies (NACWA), and the over 325 public wastewater and stormwater utility members nationwide we represent, both large and small, I write in strong support of ensuring clean water remains a key part of Senate and House conference negotiations on the Water Resources Development Act (WRDA) of 2020.

NACWA thanks you for your strong bipartisan efforts to address the nation's growing clean water infrastructure needs and commends your leadership on producing bipartisan legislation, S. 3591, the America's Water Infrastructure Act 2020 (AWIA), H.R. 7575, the Water Resources Development Act of 2020, and H.R. 1497, the Water Quality Protection and Job Creation Act of 2019, in your respective chambers. NACWA appreciates your collaboration with the clean water sector on these important pieces of legislation and looks forward to further engagement during the conference process.

Each day, clean water professionals around the country work to ensure that families, hospitals, schools, and businesses in their communities have the safe, reliable, and affordable clean water services they need while ensuring the highest level of protection of public health and the environment. The ongoing COVID-19 pandemic has only reinforced the vital importance that water and wastewater infrastructure play in our communities to help mitigate the spread of the disease.

More than ever, communities of all sizes are being asked to do more with less to meet their rapidly growing and evolving clean water infrastructure needs and obligations. The 2020 WRDA process provides a valuable opportunity for the federal government to reaffirm its partnership with the public clean water sector in meeting the nation's clean water objectives.

Need for Strong Federal Investment in Public Clean Water Infrastructure

The Congressional Budget Office (CBO) finds that the federal cost-share of water and wastewater utility costs is less than 5 percent, a far lower cost-share than other important infrastructure sectors. While the Clean Water Act (CWA) called for a strong Federal-state-local partnership, the costs of compliance have fallen overwhelming to local ratepayers in recent years.

Additionally, the ongoing COVID-19 pandemic is having major economic ramifications on publicly owned treatment works (POTWs) and public clean water utilities. NACWA estimates that the [financial impacts to the clean water](#) sector will reach \$16.8 Billion on an annual basis. This number conservatively estimates 20 percent loss of revenue to utilities as water usage declines from industrial, commercial, and institutional sources. This estimate also factors in that customer delinquencies are rising as households face increased financial strain and that utilities, in an effort to ensure vital access to sanitation and hygiene, have largely halted shutoffs for non-payment. The costs of continuing service to delinquent accounts are estimated to reach \$4.3 Billion just on the clean water side alone.

These financial impacts threaten to limit necessary system operation and maintenance work, postpone planned capital investments, increase workforce challenges, and force communities to make additional tough decisions about rate increases at a time so many households are struggling. NACWA believes the federal resources and tools provided in both AWIA and H.R. 1497 are a critical step in ensuring communities and POTWs have the ability to provide their ratepayers, and your constituents, with the first-rate essential clean water services they need and deserve in an affordable manner.

In addition to some of the policy recommendations outlined below, we ask that any final WRDA bill negotiated in conference provide for the strongest level of federal funding possible for clean water programs.

Clean Water State Revolving Fund (CWSRF)

The CWSRF is a critical financing tool that communities and public clean water utilities, both large and small, leverage to help meet their federal obligations under the CWA.

U.S. wastewater and stormwater infrastructure are at a major juncture and increased federal investment is critical to ensure the clean water gains of the past fifty years are maintained and expanded. Local communities currently bear the majority of clean water costs, with 95 percent of water infrastructure investment coming through local ratepayer and state funding. At the same time, public utilities are being asked to do more – to address aging infrastructure, manage increasingly complex water quality challenges and regulatory requirements, all while maintaining rates that are affordable for all customers – especially low-income households.

Additional federal investment is needed as sewer and water rates continue to increase and outpace the rate of inflation. NACWA's 2019 *Cost of Clean Water Index* indicates that the average cost of wastewater services rose by 1.9 percent in 2019 and 3.9 percent in 2018, surpassing the increase in the rate of inflation as measured by the Consumer Price Index (CPI) each year. The national average amount that a single-family residence pays for wastewater collection and treatment is now \$513 per year, and that figure is over \$900 in some parts of the country. This is the 18th consecutive year that wastewater service charges have increased faster than inflation, doubling the average wastewater service charge since 2003.

The CWSRF has a demonstrated record of success in communities across the country, both large and small. It has been instrumental to the success of clean water utilities in complying with National Pollutant Discharge Elimination System (NPDES) permits, implementing secondary (biological) treatment of wastewater, reducing the frequency and size of sewer overflows during wet weather events, implementing innovative stormwater and nutrient management projects, and upgrading aging infrastructure and improving overall local water quality.

NACWA strongly supports both H.R. 1497 and AWIA's reauthorization of the CWSRF program at robust increases of \$14 billion over five years and \$7.5 billion over three years, respectively, and requests the highest level of funding possible is provided in conference negotiations. As the primary federal clean water funding tool that communities utilize to help meet their CWA obligations and infrastructure needs, the CWSRF will be needed more than ever in the coming years.

Sewer Overflow and Stormwater Reuse Municipal Grants (CWA Sec. 221)

Controlling sewer overflows and ensuring proper management of stormwater are essential to protecting public health and the environment. Compliance with increasingly stringent water quality standards, however, is very costly, placing financial strain on many communities and their ratepayers, especially in older communities dealing with aging infrastructure and population and economic shifts.

The 1994 *Combined Sewer Overflow Policy*, which has led to massive infrastructure investment costs at the local level, was originally proposed to be paired with federal grant funding which did not materialize, leaving combined sewer communities and local ratepayers bearing the costs through years of rate increases. NACWA strongly applauds the program's authorization in the *America's Water Infrastructure Act (AWIA) of 2018* and the first round of appropriations in FY 2020. EPA has also recently released a draft allocation formula for this program that will help ensure the funds are directed where they will have the greatest impact.

The sewer overflow and stormwater reuse municipal grants are a rare opportunity for clean water utilities to receive federal grants and will be critical to helping communities and their ratepayers more affordably reduce wet weather Combined Sewer Overflow (CSO) and Sanitary Sewer Overflow (SSO) discharges into local waterbodies and manage stormwater for beneficial reuse.

NACWA strongly supports both AWIA and H.R. 1497's reauthorization of the sewer overflow and stormwater reuse municipal grants program at levels of \$250 million and \$225 million per year, respectively, and requests the increased authorized level of \$250 million be provided during conference.

Water Infrastructure Finance and Innovation Act (WIFIA)

The WIFIA program is a complement to the SRFs, providing an additional financing tool to address water infrastructure investment by leveraging limited federal resources. For example, EPA's FY 2020 appropriations legislation provided \$55 million for WIFIA to leverage into as much as \$11.5 billion worth of loans and loan guarantees for major drinking water and wastewater infrastructure projects.

The WIFIA program has provided valuable financing for a growing number of large clean water investment projects around the country. NACWA strongly supports its reauthorization in AWIA and the reform proposed, which would reduce the number of final rating opinion letters

required for each WIFIA applicant from two to one. This will ease the administrative burdens on clean water agencies pursuing WIFIA assistance.

NACWA supports AWIA's reauthorization of WIFIA at the core annual funding level of \$50 million and strongly requests that this level or higher is authorized in conference.

NACWA also strongly requests that any issues related to budgetary scoring of federally owned projects seeking to obtain or be a part of WIFIA financing be resolved in conference so clean water utilities can be assured moving forward they have the ability to utilize this important cost-effective federal financial leveraging tool to help with their clean water infrastructure needs.

Water Infrastructure and Workforce Investment

Over the next decade, the water utility workforce is expected to incur a retirement rate of over one-third. This number is not only alarming given the important daily work of these professionals but is also problematic given the extensive education and training these jobs require. Jobs in the water sector provide a good career with competitive wages that tend to pay more on average compared to all occupations nationally.

NACWA appreciates the attention that both AWIA and H.R. 1497 give to this important issue.

Building on AWIA 2018, which responded to this issue by establishing a new competitive grant program at EPA for water workforce development activities, NACWA strongly supports the reauthorization and increased funding for this competitive grant program in AWIA 2020 at \$2 million annually and appreciates the bill's clarification that public water and clean water utilities are directly eligible for these grants. NACWA encourages reauthorizing the program at even higher levels.

NACWA also supports provisions in H.R. 1497 that requires an EPA report to Congress on the current and future workforce needs of POTWs and a summary of actions taken by the agency that promote workforce development to address such needs.

NACWA looks forward to further collaboration with the Senate and House to address water workforce development needs.

Clean Water Infrastructure Resiliency

As communities across the country increasingly face extreme weather events and natural disasters, public clean water agencies are on the front lines of keeping communities safe. Clean water agencies protect communities from waterborne disease, reduce environmental impacts of severe storms, and prevent basement backups and property damage. However, collection systems and treatment works were often designed and built years ago for local conditions that may no longer exist. Many communities are actively investing in their wastewater and stormwater systems to protect critical infrastructure against extreme storms, manage new and projected flows – whether wetter or drier – and ensure they can meet community needs well into the future.

NACWA appreciates that both AWIA and H.R. 1497 pay attention to these resiliency issues and strongly supports the federal funding provided in each bill for POTWs to help address this important and growing issue.

Specifically, NACWA supports H.R. 1497's authorization of \$110 million under section 122 of the CWA for watershed pilot project grants, which would support projects for wet weather control and increased resiliency of POTWs.

NACWA also supports AWIA's authorization of a Clean Infrastructure Resiliency and Sustainability program at \$15 million annually to provide grants to POTWs of all sizes for the planning, design, and construction of projects to increase the resiliency of POTWs to natural hazards.

These funds will be crucial in helping POTWs across the country better mitigate against the impacts of increasingly extreme weather events and natural disasters. We strongly support both provisions moving forward. NACWA also supports drinking water utilities in urging that WRDA expand the Drinking Water System Infrastructure Resilience and Sustainability Program, which was created in the 2018 AWIA, to drinking water utilities of all sizes through this 2020 WRDA process.

Clean Water Advanced Technology

AWIA includes several technology provisions that NACWA supports to help ensure public clean water utilities have the innovative and cost-effective technologies to address increasing and complex water quality challenges.

This includes the establishment of five Centers of Excellence for stormwater control research and the establishment of a pilot grant program for small utilities to invest in transforming waste-to-energy.

Additionally, the Senate EPW's Drinking Water Infrastructure Act of 2020 includes provisions directing an EPA study to examine the state of existing and emerging technology that enhances or could enhance the treatment, monitoring, affordability, efficiency, and safety of drinking water provided by public water systems, as well as creates a technology grant program for public water systems that serve a population of 100,000 or fewer people or a disadvantaged community. These provisions in large part incorporate the key components of the House's bipartisan H.R. 6113 *Advanced Research Projects Agency – Water (ARPA-H2O)* concept and legislation, which NACWA has long championed and strongly supports as it includes both drinking water and clean water.

NACWA encourages both the House and Senate to strongly consider incorporating elements of the APRA-H2O into a final WRDA package. NACWA also strongly requests that any final WRDA legislation advanced through conference extends this technology study and grants program to the clean water sector as well.

U.S. Environmental Protection Agency (EPA) Affordability and Financial Capability Guidance Update

In 2017, at the behest of Congress, the National Academy of Public Administration (NAPA) released a report with recommendations for major changes to EPA's current methodology and procedures for evaluating clean water ratepayer affordability and utility financial capability. Among recommendations in the report was the need to revise EPA's existing methodology for evaluating affordability across its Clean Water Act and Safe Drinking Water Act programs, which currently relies on median household income (MHI) as a singular measure of affordability in regulatory decision-making.

Building on the NAPA report, in 2019, NACWA, along with the American Water Works Association (AWWA) and the Water Environment Federation (WEF), published a report evaluating how EPA can best implement the recommendations made in the NAPA report and proposed a new approach to evaluating affordability and financial capability.

While it is our understanding EPA has made strides in updating its affordability guidance, no draft of a new approach has been published for public comment to date. And it is unclear how much EPA's new approach may address the NAPA and water sector recommendations.

H.R. 1497 includes a directive for EPA to review existing affordability guidance, including the NAPA and water sector reports, and sets an eighteen-month deadline for EPA to complete its review and identify needed revisions to Congress. NACWA strongly supports inclusion of this provision in any final conferenced WRDA bill, as it is key to ensuring EPA puts forth updated guidance that truly recognizes the actual and diverse water affordability needs of communities across the country.

Providing Clear Congressional Authorization for Supplemental Environmental Projects (SEPs) in Clean Water Act Settlement Agreements

One issue not addressed in AWIA or H.R. 1497, which NACWA strongly requests inclusion of during conference, is language clearly authorizing the use of Supplemental Environmental Projects (SEPs) in CWA settlement agreements between the federal government and local governments.

SEPs have historically been used for many years by the U.S. Department of Justice (DOJ) and the U.S. EPA, under both Republican and Democratic administrations, in CWA consent decrees and settlement agreements with local governments. SEPs allow local governments, in lieu of paying a fine to the US Treasury, to instead invest these same dollars in local projects that improve the environment. This allows local governments to use these dollars to directly improve their local environment instead of sending the money to the federal government.

SEPs have been widely embraced by the federal government, local governments, clean water utilities, and local citizen groups. However, DOJ recently issued a questionable new policy prohibiting the use of SEPs going forward in new settlement agreements because they are not specifically authorized by Congress in the language of the CWA. DOJ took this action despite strong opposition from EPA and the public clean water community.

NACWA strongly requests that any final conferenced WRDA bill includes language clearly authorizing the use of SEPs in CWA consent decree and settlements and preserving their use as an important tool for EPA, DOJ and local governments.

Wastewater Infrastructure Discretionary Grant Program

NACWA strongly supports this new EPA discretionary grant program established in AWIA to provide POTWs, other governmental entities, or State infrastructure financing authorities federal grants for wastewater infrastructure projects. In selecting grant recipients, the EPA must give priority to projects for which the grant would assist in completing an overall financing package for the project and that would help bring the POTW into CWA compliance. It would also allow for the eligible entity to include more than 1 project in a single application.

Federal support for water and wastewater infrastructure has long relied overwhelmingly on loan financing, while the costs of CWA compliance have grown. This important grant program would help communities come into compliance more affordably.

NACWA requests AWIA's \$50 million annual authorization for this program be included in any final conferenced WRDA bill.

CWA Section 319 Nonpoint Source Management Grants

CWA Section 319 grants are an important tool in helping to advance the nation's clean water goals by directing federal financial and technical resources to nonpoint sources, which are further contributing significantly to water quality impairments in some watersheds.

Section 319 helps address nonpoint sources by providing funding to states to provide technical and financial resources, monitoring, training, and other assistance on-the-ground in local communities. The grants can also provide an opportunity for point sources, like NACWA's members, to partner collaboratively with nonpoint sources at the watershed level to help make real water quality improvements.

NACWA requests inclusion of the bipartisan *Local Water Protection Act*, as passed in the House (H.R. 1331) and introduced in the Senate (S. 1604), in any final conferenced WRDA bill.

NACWA again thanks you for your bipartisan work and collaboration with the public clean water sector on AWIA and H.R. 1497. We appreciate your consideration of both our funding and policy requests for WRDA 2020 and look forward to working with you further to advance this important clean water legislation.

Sincerely,

Adam Krantz, Chief Executive Officer
National Association of Clean Water Agencies