



May 1, 2020

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

The Honorable Thomas Carper
Ranking Member
Senate Committee on the Environment and Public Works
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

On behalf of the Healing Our Waters-Great Lakes Coalition, we thank the Senate Committee on Environment and Public Works for its bi-partisan effort in releasing the draft America's Water Infrastructure Act and the Drinking Water Infrastructure Act of 2020, keeping the Water Resources Development Act on its two-year cycle. This is an important step in funding and addressing the infrastructure needs across the nation and in the Great Lakes region. We appreciate the opportunity to provide the committee our comments on the draft bills as the Senate continues its deliberations.

America's Water Infrastructure Act of 2020 (AWIA)

The U.S. Army Corps of Engineers (USACE) plays a significant role in helping Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin restore the Great Lakes. Through projects that have been authorized like the electric dispersal barrier in the Chicago Sanitary Ship Canal that helps prevent aquatic invasive species from entering the Great Lakes to other programs like the Great Lakes Fishery and Ecosystem Restoration Program, Army Corps investments are helping our region grow our economy and protect our environment.

AWIA could serve to help continue the progress being made in partnership with the USACE, in addition to addressing critical water infrastructure needs through its Title II provisions and reauthorizing the successful Great Lakes Restoration Initiative. In reviewing the draft legislation, the Coalition would like to note the following provisions:

Title I – Water Resources Development

Subtitle A – General Provisions

Sec. 1002 – Great Lakes comprehensive flood protection study

Great Lakes coastal communities face significant challenges as lake levels have fluctuated dramatically in recent years. Most recently record high water levels led to significant flooding and damage across the region, only 6 years after seeing record low levels. These fluctuations will only become more common and more severe as climate change continues to impact the region.

The Coalition supports the inclusion of another comprehensive study on shoreline protection and resiliency in response to flooding from record high lake levels in 2019. Though with Congress having authorized the Great Lakes Coastal Resiliency study in 2016, a study yet to have received funding, we urge both efforts be coordinated to avoid duplication and hope Congress continues to advocate for its inclusion in the USACE FY2021 workplan.

Sec. 1017 – Continuing authority programs

The Coalition appreciates the committee’s efforts to expand access to and the affordability of water resource projects to small and disadvantaged communities. Establishing a cost-share waiver for these communities under the continuing authorities program will help local and regionally beneficial projects (such as streambank and shoreline erosion protection, shore damage prevention and mitigation, and aquatic ecosystem restoration projects) get off the ground and reach completion. We also support the increases in the authorization levels for the Section 204, 206, and 1135 Continuing Authorities Programs.

Sec. 1041 – Brandon Road study

The Coalition supports the Brandon Road Lock & Dam project as a critical line of defense against the advance of the invasive carp. We appreciate the Committee’s proposed adjustment to the cost-share requirement, but we urge Congress to further adjust the cost-share to full federal expense in recognition of the national importance of this project.

We ask that the Committee also include in any final legislation an additional project authorization that allows the Corps to rapidly study and implement options and technologies at Brandon Road that improve the efficacy of the aquatic nuisance species (ANS) measures similar to the efficacy study authority associated with the electric barrier (Section 3061(b)(1)(D) of WRDA 2007) and implementation authority in Section 1039(c) of the WRRDA of 2014, P.L. 113-121, per sections ES.15 and 9.13.6 of “The Great Lakes and Mississippi River Interbasin Study -- Brandon Road Final Integrated Feasibility Study and Environmental Impact Statement – Will County, Illinois.”

Sec. 1093 – Harmful algal blooms demonstration program

The growing threat of harmful algal blooms is of great concern to the Great Lakes region. New blooms are being fueled by excessive amounts of phosphorus washing into the region’s rivers and lakes from urban and agricultural runoff. Moreover, stronger storms driven by climate change and the ecosystem impact of invasive mussels contribute to the problem. These harmful algal blooms close beaches, kill fish, impact local drinking water supplies (like Toledo, Ohio, in 2014), and when water supplies are contaminated, the most vulnerable members of the community are the first to be impacted.

The Coalition supports the establishment of a demonstration program that will seek to determine the causes of, and how to effectively treat and eliminate, harmful algal blooms within the Great Lakes and Lake Okeechobee, FL, and applicable tributaries. We appreciate the Committee’s inclusion of a consultation provision to ensure collaboration with ongoing research efforts across federal agencies. Additionally, we urge the inclusion of a requirement that the USACE widely disseminate the results of the projects undertaken under this program. The lessons learned will be valuable in addressing the challenge of freshwater runoff pollution and the threat of algal blooms in our water across the country.

Sec. 1102 – Development of Categorical Exclusions

The Coalition asks for this section to be removed from the bill. Directing other departments and agencies, like the Department of the Interior, to adopt the Army Corps’ categorical exclusions for major projects could undermine meaningful review of work that impacts our region’s waters.

Categorical exclusions should be used carefully since they allow projects to move forward without corresponding public input, impact evaluation, and analysis of alternatives that could be more beneficial.

Subtitle D – Water Resources Infrastructure:

Sec. 1401 – Project authorizations

The Coalition appreciates the Committee’s authorization of the Great Lakes and Mississippi River Interbasin Study-Brandon Road. The study evaluated options and technologies at the Brandon Road site in Will County, Illinois to prevent the upstream transfer of aquatic nuisance species from the Mississippi River Basin into the Great Lakes Basin, while minimizing impacts to existing waterway uses and users. Essential to protecting the Great Lakes ecosystem and economy, we support the USACE’s efforts to quickly move forward with this project.

Subtitle F – Invasive Species:

The threat of aquatic invasive species is an ecological and economic threat to the Great Lakes, an ecosystem that has been significantly impacted by their introduction. An estimated 180 invasive species have been introduced in the Great Lakes leading to more than \$200 million in annual damages and management costs. With an economy dependent on the recreational opportunities of its waters and a \$7 billion fisheries industry, the looming threat of Asian carp and the ongoing battles being fought to control and eradicate countless other species emphasizes the need for a strong federal partnership.

The Coalition supports the inclusion of the broad range of provisions to address invasive species provided in this subtitle. Control and eradication of invasive species must be a nationwide effort and we appreciate the addition of programs (Sec. 1607 and 1608) to address the advance of Asian carp, particularly in the Mississippi River and its sub-basins. Additionally, the Coalition supports the expansion of Army Corps research and coordination with regions threatened by aquatic invasive species, as provided for in Sec. 1603, as well as the creation of an EPA technical assistance program for the eradication of invasive species from U.S. impaired waterways, as proposed under Sec. 1602.

Title II – Clean Water

Sec. 2007 – Sewer overflow and storm reuse municipal grants

The Coalition supports the reauthorization of the EPA Sewer Overflow and Stormwater Reuse Municipal Grant program, increasing its annual funding authorization to \$250 million for fiscal years 2021 – 2022. With an estimated \$77 billion in need across the Great Lakes region over 20 years to replace old sewer pipes and wastewater plants, continuing these infrastructure investments is essential to our waters.

Sewer overflows are of particular concern to Great Lakes cities who experience acute impacts from CSO/SSOs pouring millions of gallons of raw sewage into the Great Lakes. These communities are exposed to waterborne diseases, economically impacted by beach closures due to bacterial contamination, and have their waters further harmed by algal growth. The Coalition appreciates the inclusion of notification systems as an allowable use of grants, an important service to protect vulnerable communities as further investments are made to eliminate CSO/SSOs across the region.

Sec. 2012 & Sec. 2015 – Use of Clean Water State Revolving Funds & Reauthorization of Clean Water State Revolving Loan Funds

The Coalition supports the increase the Committee proposes in its reauthorization of the Clean Water State Revolving Loan Fund (CWSRF) under Sec. 2015. In increasing the CWSRF incrementally from \$2 billion for FY2021 to \$3 billion for FY2023, the program can better address the infrastructure backlog that the Great Lakes communities have been facing. Though after decades of limited federal investment, replacing the ageing and crumbling infrastructure across the region will necessitate a greater commitment from the federal government. The eight-state region faces over \$77 billion in estimated needs over the next 20 years, a burden that continues to grow as communities already face unaffordable water rates and struggle to maintain already weak infrastructure. We urge the Committee reauthorize the CWSRF at no less than \$3.4 billion in FY2021.

The Coalition also appreciates the intent to codify the minimum 10 percent set-aside for the CWSRF program for grants, negative interest loans, and loan forgiveness. This subsidization is critical for many communities struggling to bear the full weight of financing these expensive projects. High water rates, frequently the only solution available to water systems to cover the rising costs of local infrastructure, often do not work for families that already cannot pay their water bills and communities struggling to cover costs in places with low population or wages. We urge the Committee clarify Sec. 2012 to ensure it provides a 10 percent minimum for this additional project subsidization and not a cap.

Additionally, we ask the Committee to consider the codification of the green project reserve set-aside at no less than 20 percent. Prioritizing resilient and nature-based solutions such as restoring wetlands, building rain gardens, and installing permeable roads and sidewalks can often be more cost-effective solutions providing significant environmental and community benefits.

Sec. 2010 – Grants for construction, refurbishing, and servicing of individual household decentralized wastewater systems for individuals with low or moderate income

The Coalition supports the establishment of a decentralized wastewater grant program. Public sewer systems do not extend to all communities, with estimates suggesting that more than 1.7 million people in the U.S. lacking access to basic plumbing facilities. This lack of connection to public systems is primarily borne by low-income and communities of color, with system failures leading to public health and water quality concerns. The Coalition supports assisting these low- and moderate-income households but urges the committee to remove its geographic eligibility restriction to include the households across the country including the Great Lakes region.

Sec. 2017 – Small and Disadvantaged Community Analysis

The Coalition supports the inclusion of a Small and Disadvantaged Community analysis as proposed in Sec. 2017. Examining the historical distribution of funds with the intent of identifying new opportunities and methods to improve distribution and access for these most vulnerable and economically disadvantaged communities is an important step in ensuring no community gets left behind. These communities are often the worst impacted by ageing and deteriorating infrastructure, facing significant financial burdens and unaffordable water rates that make investing in the upgrades necessary to comply with clean water standards close to impossible. In order to provide a comprehensive analysis, we urge the Committee to direct the EPA to work in consultation with other relevant federal agencies. To understand the barriers to access and clarify how to improve distribution of assistance to these communities, the analysis should include consideration of other water infrastructure funds distributed to these communities such as USDA Rural Utilities Service Water & Environmental Programs, HUD Community

Development Block Grants, and Economic Development Administration Public Works Program grants.

The Coalition also supports the proposed reauthorization or establishment of the following programs:

- Clean water infrastructure resiliency and sustainability program
 - Sec. 2001 establishes a new EPA grant program to assist POTWs in increasing their resiliency and adaptability to natural hazards. Authorized at \$5 million for each fiscal year 2021 – 2024.
- Technical assistance for Treatment works
 - Sec. 2002 reauthorizes a series of technical assistance grants for rural, small, and tribal municipalities. Increasing its authorization to \$75 million for every fiscal year 2021 – 2024.
 - Sec. 2003 establishes a new circuit rider program, awarding grants for technical assistance to small and medium publicly owned treatment works (POTWs). Authorized at \$10 million for each fiscal year 2021 – 2024
- Water infrastructure and workforce investment
 - Sec. 2008 reauthorizes the Water Infrastructure Workforce Development program. Doubling its authorization to \$2 million for each fiscal year 2021 – 2024 and expanding those entities eligible for grants.
- Connections to publicly owned treatment works
 - Sec. 2011 establishes a new EPA grant program to reimburse POTWs or nonprofits for the costs of connecting households to municipal or private wastewater systems. Authorized at \$20 million for each fiscal year 2021 – 2022
- Water Infrastructure financing
 - Sec. 2014 reauthorizes the Water Infrastructure Finance and Innovation Act (WIFIA) through FY2024.

Title III – Tribal and Other Matters

Sec. 3003 – Mapping and screening tool

The Coalition appreciates the Committee’s continued commitment to the use and updating of the EPA’s EJSCREEN program. An important tool in the consideration of environmental justice in decision-making.

Sec. 3006 – Great Lakes Restoration Initiative

The Great Lakes Restoration Initiative (GLRI) is improving the lives of people across the region. Cleaning up toxic hot spots, improving water quality, and addressing emerging contaminants has benefited public health and local economies. It has led to a resurgence in water-based outdoor recreation, increased tourism, and revitalized communities with economic returns of more than 3 to 1. The House of Representatives recognized these successes when it reauthorized and expanded the GLRI by passing H.R. 4031 overwhelmingly earlier this year.

Even with the results being achieved, we still have more work to do and the Coalition supports the reauthorization of the GLRI at \$375 million for FY2022. Though, the success of the GLRI is predicated on its multi-year authorization providing funding certainty for the long-term projects critical to the remediation of toxic hotspots and the restoration of the Great Lakes ecosystem. We urge the Committee adopt the full reauthorization proposed by S. 2295 (introduced by Sen. Stabenow, currently with 12 co-sponsors), authorizing the GLRI through FY2026 with incremental increases to its original funding level of \$475 million.

We thank the Committee for the opportunity to provide comment on the America's Water Infrastructure Act of 2020. What follows are our comments and perspectives regarding the Drinking Water Infrastructure Act of 2020.

Drinking Water Infrastructure Act of 2020:

Communities across the country, and in the Great Lakes region, continue to grapple with crumbling, antiquated drinking water infrastructure. A staggering \$110 billion is estimated to be needed over 20 years for improvements, upgrades, and repairs in the eight-state region. Moreover, too many communities are struggling to provide clean and affordable drinking water. Many simply are unable to bear the full weight of financing these expensive projects, forcing urban and rural communities to face unaffordable water rates leading to struggling families having to face the danger of water shutoffs that jeopardize their health and the health of their children. We applaud the Committee's efforts to comprehensively address these issues. This is a significant step to increasing funding and the accessibility of federal programs to underserved and low-income communities, though more must be done to ensure that all have access to safe and affordable drinking water.

In reviewing Drinking Water Infrastructure Act of 2020, the Coalition would like to note following provisions:

Sec. 4 – Drinking Water State Revolving Loan Fund

The Coalition appreciates the committee's efforts to support the remediation and mitigation of public health threats to drinking water through the Drinking Water State Revolving Loan Fund. Too many households still have water that is contaminated from lead. Since no level of lead is safe, replacing this dangerous infrastructure must be a top priority. We support the inclusion of a minimum 20 percent set-aside for additional subsidies (prioritizing disadvantaged communities) to public water systems addressing the threat of heightened exposure to contaminants, including lead. In codifying this set-aside, communities can more affordably finance and access grants for critical infrastructure investments.

Furthermore, PFAS chemicals and other emerging contaminants are a clear threat to our communities and their drinking water. We are encouraged by the proposed tripling of grants to \$300 million annually to protect public water systems and remediate the potential threat to underground drinking water sources from PFAS chemicals. As a growing threat in the Great Lakes region and beyond Congress must continue to act and address PFAS chemical contamination and remediation. As indicated in the hold set at the end of the draft bill negotiations are ongoing, we urge Congress include a mandate to set health-based drinking water and wastewater standards for PFAS chemicals, including designation under CERCLA to ensure polluters are held financially accountable for cleanup efforts.

Sec. 6 – Assistance for Small and Disadvantaged Communities

Section 6 reauthorizes and expands EPA's Small and Disadvantaged Communities program increasing its authority to \$60 million in FY2021 and \$100 million for each fiscal year 2022 – 2024. While existing federal programs provide much-needed funding to help communities meet their clean water goals, some communities still cannot afford to bear the full weight of financing these expensive upgrades. This program assists those underserved communities and the Coalition supports its expansion, including the adjustment of its cost-share from a minimum of 45 percent to a waivable 10 percent non-federal contribution.

Moreover, the Coalition appreciates the expansion of the program to empower water systems and states to use funds for the purchase of filters to remove contaminants, assistance for the replacement of lead service lines, and entering contracts with nonprofits. Empowering

collaboration with local nonprofit organizations can foster increased community engagement, ensuring local investments meet community needs.

Sec. 7 – Reducing Lead in Drinking Water; Lead Mapping Pilot Program

The Coalition supports the creation of this pilot program as too many households in the Great Lakes region and across the country still have water that is contaminated from lead. Since no level of lead is safe, replacing this dangerous infrastructure must be a top priority. This pilot program would provide funds to system operators that through lead mapping have been found, or believed, to have 30 percent or more of service lines containing lead. Funds would be provided to those eligible to carry out lead reduction projects, testing the efficacy of their mapping techniques. In requesting a subsequent report as to the success project successes, the program will serve to provide valuable information to advance the critical mapping processes necessary to accurately map and locate lead service lines. An essential step in replacing the lead service lines still in place.

Sec. 10 – Needs Assessment for Nationwide Rural and Urban Low-Income Community Water Assistance

The Coalition supports the inclusion of a study to examine the prevalence of low-income households across the country lacking access to affordable drinking water services. From 2010 – 2017, water costs increased 41 percent across the country. In some Great Lakes communities water bills have tripled over the last 10 years, and when individuals cannot pay their water bills, they face water shutoffs, which jeopardize their health and the health of their children. Understanding the best methods to increase access to safe and affordable drinking water is essential, though the affordability of a family’s water bill is not only dependent on drinking water service. We urge the Committee also include consideration of the affordability of wastewater services, two services commonly included in a single bill and both critical to a household.

Sec. 11 – Lead Contamination in School Drinking Water

Section 11 reauthorizes EPA’s Voluntary School and Child Care Lead Testing program through FY2022. No level of lead is safe and with known lead exposure concerns across the Great Lakes region this program continues to be essential to communities. We appreciate the changes that will enable greater collaboration between local educational agencies and water systems, though much more must be done to protect our children. We urge the Committee increase the programs authorization and include resources to support point of use filters for schools and day care centers that are waiting for their lead lines to be replaced.

The Coalition also supports the proposed reauthorization and establishment of the following programs:

- Technical assistance and grants for emergencies affecting public water systems
 - Sec. 3 reauthorizes the Emergency Situations program at \$35 million for each fiscal year 2021 – 2024, clarifying the eligibility of the program to address public health threats resulting from contaminants such as lead.
 - Sec. 3 reauthorizes the technical assistance program for small public water systems to achieve and maintain compliance with drinking water standards. An important source of funding for small communities.
- Drinking water infrastructure resilience and sustainability programs
 - Sec. 6 reauthorizes the EPA’s small systems grant program to increase resilience to natural hazards. Increasing its authorization from \$4 million to \$10 million for each fiscal year 2021 – 2024
 - Sec. 9 creates an identical program for mid-size systems, authorized at \$5 million for each fiscal year 2021 – 2024.
- Grants for the connection to public water systems

- Sec. 6 establishes a new EPA grant program to provide grants for the connection of low-income households to public water systems. Authorized at \$20 million for each fiscal year 2021 – 2022, the program will benefit those most underserved and threatened by groundwater pollution throughout the Great Lakes region.
- Pilot program for state competitive grants for underserved communities
 - Sec. 6 establishes a new pilot program, State Competitive Grants for Underserved Communities. Authorized at \$50 million for each fiscal year 2021- 2024, the program will provide important priority funding to states with a high proportion of underserved communities lacking connection to drinking water or wastewater services.
- Indian Reservation drinking water program
 - Sec. 12 reauthorizes the Tribal Drinking Water program, increasing its authorization from \$20 to \$50 million for each fiscal year through 2024.

We appreciate the opportunity to provide comment on the draft America’s Water Infrastructure Act and the Drinking Water Infrastructure Act of 2020. Thank you for considering our perspective and we urge the Committee include these priorities in the final bills. Please do not hesitate to contact Chad Lord, Policy Director for the Healing Our Waters-Great Lakes Coalition, with any questions. He can be reached at: clord@npca.org, (202) 257-4365, or by mail at 777 6th Street, NW, Suite 700, Washington, DC 20001.

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