

June 26, 2020

The Honorable John Barrasso
Chairman
Committee on Environment and Public Works
307 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment and Public Works
513 Hart Senate Office Building
Washington, DC 20510

The Honorable Peter DeFazio
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
2164 Rayburn House Office Building
Washington, DC 20515

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

As Congress considers legislation reauthorizing critical water resources and drinking water and clean water programs, we write to express our concern regarding possible legislative changes to the current permitting process for the National Pollutant Discharge Elimination System (NPDES).

As you know, NPDES permits fall under the authority of the Environmental Protection Agency (EPA) via the Clean Water Act (CWA). NPDES permits regulate point sources to meet water quality standards. A wide variety of industries and businesses rely on these permits, including aggregate producers, home builders, energy providers, manufacturers, and many more. NPDES permits are either issued by states that have obtained program authorization from EPA or by EPA Regions in states without such authorization. Today, 47 states and one territory have obtained NPDES program authorization from EPA. State-authorized NPDES permit programs enable states to perform relevant administrative, permitting and enforcement aspects of the program. State governments must meet rigorous requirements to be authorized to run the permitting program and they must follow EPA regulations when issuing individual permits.

In October of 2019, the House Transportation and Infrastructure Committee marked up and passed H.R. 1497, *the Water Quality Protection and Job Creation Act of 2019*. The Amendment in the Nature of a Substitute included language which would fundamentally alter the process by which NPDES permits are renewed. The new provisions would provide authority for EPA to assume control of the permitting process for any NPDES permit if certain unrealistic and overly prescriptive timelines are not met. Mandating that EPA make a final decision on any NPDES permit that has not been renewed within 180 days of its expiration date would unduly infringe on the role of states in the NPDES permitting process. Additionally, such changes would contravene the intent of the NPDES delegation authority in the CWA, likely increase regulatory uncertainty and the time needed to renew the permit, and add to the potential for unwarranted litigation over NPDES permits.

The undersigned organizations support a robust reauthorization of critical water infrastructure projects, which prioritize the necessary public works projects that maintain our Nation's economic competitiveness and improve water quality. Any attempts to create unnecessary and burdensome

changes to the NPDES permit process would likely undermine those goals and should be opposed in these bills.

Thank you for your consideration and we appreciate your continued attention to these important issues during these unprecedented times.

Sincerely,

Agricultural Retailers Association
American Concrete Pipe Association
American Farm Bureau Federation
American Forest & Paper Association
American Iron and Steel Institute
American Pipeline Contractors Association
American Public Power Association
American Road & Transportation Builders Association
Associated Builders and Contractors
Associated General Contractors of America
Distribution Contractors Association
Edison Electric Institute
Golf Course Superintendents Association of America
Industrial Minerals Association – North America
International Liquid Terminals Association
National Association of Home Builders
National Cattlemen’s Beef Association
National Council of Farmer Cooperatives
National Mining Association
National Ready Mixed Concrete Association
National Rural Electric Cooperative Association
National Stone, Sand and Gravel Association
National Utility Contractors Association
Power and Communication Contractors Association
RISE (Responsible Industry for a Sound Environment)
Southeastern Lumber Manufacturers Association
The Fertilizer Institute
Treated Wood Council
U.S. Chamber of Commerce