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MEMORANDUM

RE: Water Resources Development Act (WRDA) of 2020

Summary

Our nation's water resources systems are crucial to our economy, public safety, and the preservation and enhancement of our environmental resources. Our levees, dams, inland waterways, and ports protect hundreds of communities, support millions of American jobs, and generate trillions of dollars of economic activity. However, many of these infrastructure assets have reached the end of their design life, and the investment gap must be closed if we hope to both repair and modernize our water resources systems to be competitive in the 21st century.

Ideally, every two years, Congress passes the Water Resources Development Act (WRDA); WRDA bills are drafted and debated in the House Committee on Transportation and Infrastructure and in the Senate Committee on Environment and Public Works. Recently, Congress has kept to the biennium schedule with WRDA legislation enacted in 2014, 2016, and 2018.

In May, the Senate Committee on Environment & Public Works successfully passed their bipartisan WRDA 2020 bill, entitled America's Water Infrastructure Act (AWIA) of 2020, as well as the Drinking Water Infrastructure Act of 2020. The bills now await a vote on the full Senate floor. (See ASCE's issue brief on these bills here.)

This week, the House Committee on Transportation and Infrastructure released and passed their bipartisan WRDA 2020 bill. The bill is expected to be voted on by the full House before the August recess.

Highlights include:

- Technical changes to the High Hazard Potential Dam Rehabilitation Program to allow for smoother implementation;
- Modernization of the cost-share change to the Inland Waterways Trust Fund;
- Full utilization of the $10 billion balance in the Harbor Maintenance Trust Fund;
- Requires the USACE to update existing planning guidance related to sea level rise based on the best available, peer-reviewed science;
- Directs the USACE to consider nature-based features for flood and storm damage reduction projects and authorizes a study of its consideration in project planning; and
- Directs the USACE to complete an inventory of Corps facilities that are or could be contaminated by perfluoroalkyl or polyfluoroalkyl (PFAS) substances.

Background: Water Resources Infrastructure

Dams & Levees

Our nation's 91,468 dams and 30,000 miles of levees are critical components of risk reduction and protect communities, critical infrastructure, and trillions of dollars in property. However, ASCE's *2017 Infrastructure Report Card* estimated that $80 billion is needed in the next 10 years to maintain and improve the nation's levees, while the Association of State Dam Safety Officials estimates the cost of rehabilitating our nation's federal and non-federal dams to exceed $70 billion. Included in this is the U.S. Army Corps of Engineers' (USACE) estimate that more than $21 billion will be required to address dam deficiencies for Corps-owned dams; at the current rate of investment, these repairs would take over 50 years to complete. As such, ASCE's *2017 Infrastructure Report Card* gave our nation's dams and levees each a grade of "D."

Investment is needed to rehabilitate deficient dams and to complete the national inventory of levees outside of the USACE's authority. ASCE supported the 2018 America's Water Infrastructure Act's reauthorization of the National Dam Safety Program and the National Levee Safety Program through Fiscal Year 2023. However, both these programs are consistently appropriated at levels far short of their authorized levels. The National Dam Safety Program historically receives only a portion of its annual $13.9 million appropriations, while the High Hazard Potential Dam Rehabilitation Program received only $10 million of its $25 million authorization in FY19 and $10 million of its authorized $40 million in FY20. Likewise, the Water Resources & Reform Development Act of 2014 created a new National Levee Safety Program to promote consistent safety standards, create levee safety guidelines, and provide funding assistance to states for establishing participating levee safety programs, and while it received $15 million in FY20 – triple the amount of funding it had ever received – it is still receiving less than its full $79 million authorization.

Ports

To remain competitive in the global market and to accommodate larger vessels, the nation's nearly 1,000 ports have been investing in their facilities and plan to spend over $154 billion from 2016 to 2020 on expansion, modernization, and repair. However, for years, much of the revenue going into the Harbor Maintenance Trust Fund (HMTF) was used for general deficit offsets instead of its intended purpose of dredging our nation's harbors and ports, and $10 billion of unappropriated funds remain in the HMTF. Underinvestment in our nation's ports has resulted in a 25 percent decrease in port productivity in the past ten years. ASCE's *2017 Infrastructure Report Card* gave our nation's ports infrastructure a grade of "C+."

Inland Waterways

The USACE operates and maintains an aging and vast network of 25,000 miles of inland waterways and 239 locks. ASCE's 2016 economic study found that from 2026 through 2040, the average annual investment gap for waterside improvements, including dredging and lock and dam repair, is expected to be $1.9 billion, which will result in an economic loss of $2.8 trillion of GDP and 1.2 million fewer jobs in 2040 than would otherwise be expected with modernized water resources systems in place. ASCE's *2017 Infrastructure Report Card* gave our nation's inland waterways a grade of "D."

ASCE supported the 2015 increase of the Inland Waterways Trust Fund user tax, and although recent increases in investment have resulted in some improvement in the projected completion date of many

inland waterway lock and dam rehabilitation projects, funding must continue at a higher and more consistent level to meet the large backlog of needs.

ASCE also championed Section 5014 of WRRDA 2014, which authorizes the USACE to enter agreements with non-federal interests, including private entities, to finance construction of at least 15 authorized water resources development projects. Alternative financing and delivery mechanisms are an important new resourcing tool that can help the USACE meet the growing needs of our nation's inland waterways infrastructure.

ASCE was pleased that WRRDA 2014 authorized a new water infrastructure financing mechanism, the Water Infrastructure Finance and Innovation Act (WIFIA), to be administered by the USACE and the U.S. Environmental Protection Agency (EPA). The WIFIA concept is modeled after a similar transportation project assistance program, the wildly successful Transportation Infrastructure Finance and Innovation Act (TIFIA). Under this program, the USACE is authorized to provide WIFIA support for an array of projects, including environmental damage reduction projects, hurricane and storm damage reduction projects, flood damage reduction projects, coastal or inland harbor navigation improvement projects, and/or inland and intracoastal waterways navigation projects, while the EPA's WIFIA program provides financing for wastewater, drinking water, and stormwater infrastructure projects.

Water Resources Development Act of 2020

Fully Unlocks the Harbor Maintenance Trust Fund
WRDA 2020 fully unlocks the Harbor Maintenance Trust Fund by allowing for the fund's $10 billion balance to be used for its intended purpose of dredging at our nation's ports and inland harbors.

ASCE Position: ASCE was pleased that the recent coronavirus economic stimulus package, the CARES Act, included a provision that unlocks the HMTF, a long-time ASCE priority. This ensured all future annual receipts and interests into the HMTF – an expected $24.5 billion over the next decade – are used for its intended purpose of dredging at our nation's ports and inland harbors. It did not, however, allow for Congress to retroactively spend from the fund's current $10 billion balance. ASCE strongly supports WRDA 2020's provision that allows for the HMTF's $10 billion balance to be used for its intended. It is expected to take five years of complete HMTF funding to dredge and restore channel depths and widths.

Water Infrastructure Finance and Innovation Act (WIFIA) Program Reauthorization
WRDA 2020 does not reauthorize the USACE's WIFIA program.

ASCE Position: While the EPA portion of the WIFIA program has been implemented with much success, the USACE portion of the program has yet to receive any funding in the appropriations process. We urge the Committee to also reauthorize the USACE's WIFIA program and for Congress to fully fund it.

High Hazard Potential Dam Rehabilitation Program
WRDA 2020 includes technical changes to the High Hazard Potential Dam Rehabilitation Program. These proposed changes better define technical terms and are designed to help the program, which was implemented for the first-time last year by the Federal Emergency Management Agency (FEMA), run more smoothly in the future. As current written, the program has run into issues with the clarity of eligibility requirements, as well as technical definitions.

ASCE Position: ASCE has been a long-time advocate for the High Hazard Potential Dam Rehabilitation program, which was enacted in the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016 and provides federal grant assistance for the rehabilitation, repair, or removal of non-federal high hazard potential dams. High hazard potential dams are those whose failure is anticipated to cause a loss of life. ASDSO estimates it will cost $20.42 billion to bring our nation's non-federal high hazard potential dams into a state of good repair; that's an increase from $18.71 billion in 2016. ASCE's *2017 Infrastructure Report Card* gave our nation's dams a grade of "D" and recommends fully funding this program as a way to raise the grade.

Inland Waterways Trust Fund (IWTF) Cost-Share Change

WRDA 2020 changes the Inland Waterways Trust Fund (IWTF) current 50% general revenue, 50% IWTF cost-share to 65%-35%. Inland waterways construction and rehabilitation costs, including for locks, are shared by the federal government through general funds and by users through the IWTF. Operation and maintenance costs for inland waterways are covered in full by the federal government. The IWTF is supported by a 29 cents per gallon tax on barge fuel and cannot exceed expenditures in a given year. In April 2015, this user tax was increased by 9 cents for the first time since 1995 upon the urging of the Inland Waterways Users Board, in order to increase investment in the system.

ASCE Position: ASCE supports amending the current IWTF cost-share for construction and rehabilitation projects on our nation's inland waterways systems. Previous WRDA bills have changed the cost-share for certain projects, which allowed for more leveraging of funds and increased project efficiency. This precedent proved that making this cost-share change will encourage faster construction and expedite the completion of inland navigation projects.

Resilience and Innovation

WRDA 2020 includes several resilience provisions, including requiring the USACE to update existing planning guidance related to sea level rise based on the best available, peer-reviewed science. It also gives the USACE discretion to consider benefits accrued over time due to sea level rise. The bill directs the USACE to identify projects that could benefit from the addition of nature-based features and directs the agency to include in each flood reduction, hurricane, and storm damage reduction project feasibility study a summary of any nature-based features that were considered, as well as explanation if nature-based features are not recommend.

ASCE Position: As natural hazards become more frequent and severe, resilience measures and green infrastructure investments will save lives and dollars. In fact, the National Institute of Building Sciences (NIBS) found that mitigation funding can save the nation $6 in future disaster costs for every $1 spent on hazard mitigation. Therefore, ASCE supports the inclusion of resilience and innovation measures in this bill and has been strongly advocating on behalf of increased federal resilience programs. ASCE has been a key advocate for of the bipartisan H.R. 3779, the Resiliency Revolving Loan Program, which was included in the House passed H.R.2, and S. 3418, the Safeguarding Tomorrow through Ongoing Risk Mitigation Act, as well as for ASCE codes and standards to be used to provide the framework for building a more resilient infrastructure. ASCE also supports the use of asset management plans, which involves creating a comprehensive infrastructure inventory as a way to improve efficiencies and shore up resilience.

Per- and Polyfluoroalkyl Substances (PFAS)

WRDA 2020 directs the USACE to complete an inventory of Corps Civil Works facilities that are or could be contaminated by PFAS, which are chemicals found in many household products and can have negative impacts on human health.

ASCE Position: ASCE supports the inclusion of this provision. The Society supports continued research on emerging pathogens and pollutants and into improved methods governing the disinfection of drinking water to protect public health from any harmful byproducts. Last year, ASCE submitted public comments to the EPA's draft interim recommendations to address groundwater contaminated with PFAS.

Further Action

ASCE is pleased that Congress is working towards bipartisan passage of these critical water resources infrastructure bills. **The House is expected to vote on WRDA 2020 during the week of July 27, although it is unclear at this time when the Senate will vote on the America's Water Infrastructure Act of 2020.** ASCE will continue working with both Committees and Congress to ensure key investments are made in our nation's water resources infrastructure systems.

For questions, please contact the ASCE Government Relations team.

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