

November 16, 2016

Dear President-Elect Trump:

Congratulations on your election as the 45th President of the United States. We look forward to working with your administration. Having campaigned strongly in favor of revitalizing the U.S. economy and making capital investments in its critical infrastructure, you are uniquely positioned to propel vitality into America's drinking and waste water systems—critical systems that support our communities and economic enterprises.

As you have acknowledged, America's infrastructure is crumbling. Water infrastructure is in particularly dire need of repair and is one of the great challenges of our time. Solving this problem is imperative for the future growth of our economy and the continued retention and creation of good paying jobs for all Americans.

NAWC represents the private water utility industry which is comprised of water service providers--the regulated drinking and waste water utilities—who drive innovation and resourcefully manage water systems to add value through effective operations. The private water utility industry is eager to work with your administration to open the door to more effective public-private partnerships (PPPs) and other entrepreneurial methods that will improve the state of the nation's water infrastructure systems.

Attached is a two-page document developed for your transition team to help you better understand our industry sector and how we are positioned to help you drive innovation.

Thank you for your consideration, and congratulations!

Michael Deane



NATIONAL ASSOCIATION OF WATER COMPANIES

Private water utility overview (Transition Information)

The National Association of Water Companies (NAWC) represents the private water utilities who provide drinking and waste water services to 15-20% of the communities in the U.S. Similar to the electric industry, private water companies are also called investor-owned utilities—and are overseen by State Public Utility Commissions—who set customer rates for these services. Private water utilities are regulated by State environmental agencies and the Environmental Protection Agency at the Federal level to ensure they meet statutory safe drinking and clean water compliance requirements.

Most Americans receive water service from local systems owned and operated by cities and counties. The country's water infrastructure is heavily fragmented, with approximately 56,000 local systems across the country. Of 293 million Americans receiving water service, 245 million – 83 percent -- are served by such local systems. Most of the rest, are served by privately owned water companies, many of which own multiple local systems.

Thousands of water systems in the United States have infrastructure approaching the end of their useful lives. US EPA forecasts capital needs of \$650 billion over the next decade to upgrade pipes, storage facilities, and other assets for drinking and wastewater systems combined. Of course, the capital needs of the country's water infrastructure mirror the urgent needs of other types of infrastructure, such as roads and bridges.

At the same time that capital is urgently needed for water infrastructure, available federal financing for such infrastructure has been in decline, as Congress has increasingly squeezed discretionary spending to allow for rising entitlement spending. The prospects of new federal funding in terms of grants or low interest loans are minimal.

For smaller cities and counties facing the need to upgrade their water systems, an increasingly compelling option is to enter into partnership arrangements with private water companies to acquire or just operate the systems under varied lengths of management contracts, and make the necessary capital improvements. By virtue of their ownership of multiple systems, private water companies have the ability to amass the broad engineering and managerial expertise needed to operate the systems with maximum efficiency, reliability, and safety. Local governments can join forces with private companies through a range of partnership structures, from long-term concession or lease arrangements, to operating agreements, to outright private-sector ownership, under utility rate regulation. The potential for collaboration between local governments and private water companies is almost unlimited, given the fragmented ownership of water systems from coast to coast.

NAWC FEDERAL POLICY ESSENTIALS

- **Federal tax policy.** This is critically important to the private water utility sector both from a capital investment perspective and for facilitating the use of public-private partnerships for water infrastructure improvement in coming years:
 - **Remove Volume Cap on Private Activity Bonds.** Just as cities and counties can issue tax exempt bonds to fund water improvements, the federal government should ensure the availability of such bonds for public-private partnerships. In particular, Congress should eliminate the state-by-state volume cap that currently applies to tax exempt bonds. Federal, state and local governments should also encourage cities and counties to look to the private sector as a partner, not discourage them from doing so.
 - **Modify Regulations Impeding Public-Private Partnerships (P3).** One step within the new Administration's authority is to modify regulations under Section 141 that have the effect of impeding P3s. As a general rule, the tax exemption on such bonds is lost if a private-sector business acquires a long-term interest in the project (i.e., sale or a long-term concession (30 years or more). Though, the IRS has issued rules meant to give local governments a reasonable path for preserving the tax-exempt status of these bonds in such an event; it allows governments to take prescribed remedial actions to preserve the tax exemption. Unfortunately, as currently drafted, these remedies are not practicable for water utility projects and, thereby, deter beneficial water P3 projects. NAWC has previously proposed recommendations to make narrowly tailored modifications to remedial actions allowed under the regulations that would have the effect of providing localities and private water utilities greater flexibility to engage in P3s, and we would gladly work with the President-elect Administration to modify the existing regulations.

- **Tax reform and attracting the capital private water utilities need for investment in water infrastructure depends on federal tax rules.** In any tax rewrite in coming years, Congress should focus on changes that will reduce the cost of capital for private water companies. In particular, cutbacks in depreciation deductions, cutbacks in interest deductions, and increases in the tax rate on dividends paid to shareholders can all have the effect of increasing the cost of capital and, other things being equal, discouraging investment. Changes such as more-rapid depreciation allowances and a reduction in the corporate tax rate would have the effect of decreasing the cost of capital and encouraging investment.
- **Water Infrastructure Funding and Expansion of Public Private Partnerships (P3).** Constraints on government funding at all levels has placed increased focus on alternate strategies to raise revenue such as finding private sector partners to help with the overwhelming need for infrastructure investment throughout the U.S. Nearly a trillion dollars need to be invested in public water systems that have deferred investment for years because the capital expense is too great. The private sector is uniquely positioned to help public systems via P3 arrangements or simply through acquisition, if the local government agrees.
 - **Private water utility sector seeks level playing field with the public sector.** The private sector serves entire communities with water services—residents of whom pay local taxes—thus Drinking Water and Clean Water SRF funding extended to publicly owned water systems should similarly be granted to private water and wastewater systems. Likewise, the private sector seeks the same access to federal credit assistance (WIFIA funding), and seeks to use similar tax exempt (municipal bond) funding as its public counterparts.
 - **Amend the Safe Drinking Water Act to Provide Greater Accountability and Encourage Partnerships.** Modest changes to Section 1420 of the Safe Drinking Water Act designed to help distressed water systems can advance the goal of providing communities with safe, reliable drinking water and protect public health by helping public systems achieve regulatory and statutory compliance with federal laws. Creating a pathway to compliance through a collaborative partnership - by increasing incentives and accountability - can help manage healthy and effective water systems. Partnerships offer a choice to communities who might otherwise be subject to an enforcement action and costly civil penalties by EPA or a state.
- **Cyber-security and Safety.** Private water systems are committed to maintaining the upmost standards to preserve the security and safety of our water treatment infrastructure. The private water industry sector shares the same concern with other critical infrastructure sectors regarding government oversight of safety and security of systems. Government and industry must foster partnerships among interdependent actors; robust and active sharing of security information between private sector and government is essential to safeguard the integrity and continued operation of the critical infrastructure systems our nation relies on for its economic prosperity, physical safety and public health.
 - **No single entity or government institution alone can be expected to tackle the significantly larger and complex issues associated with the growing threats to U.S. cybersecurity.** Government should be actively engaging the private critical infrastructure sectors to share cybersecurity-related information about new threats, hazards and mitigation tools. Cybersecurity requires organizations to adapt to a constantly changing and menacing environment. Thus, managing cyber risks and threats requires close collaboration among government and industry. We also support greater clarity concerning the roles and responsibilities of the public and private sectors to strengthen partnerships.
 - **Private sector water utilities have elevated protective standards beyond federal requirements and have established superior safety and security measures since 9/11.** Where regulatory requirements exist, the private water sector has 100% compliance with vulnerability assessments and emergency response plans and make continual strides in preparedness and resiliency measures. As such, we believe local utility experts should determine the safest and most effective way to treat their water supplies and it is critical they retain authority on operational decisions such as when to implement “inherently safer technologies”.

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