



NATIONAL STONE, SAND
& GRAVEL ASSOCIATION

July 28, 2021

The Honorable Tom Carper
Chairman of the Senate Committee on
Environment and Public Works
513 Hart Senate Office Building
Washington DC 20510

The Honorable Shelley Moore Capito
Ranking Member of the Senate Committee
on Environment and Public Works
172 Russell Senate Office Building
Washington DC 20510

Dear Chairman Carper and Ranking Member Capito,

On behalf of the over 400-member companies of the National Stone, Sand & Gravel Association (NSSGA), I welcome today's hearing, "*Examining the Benefits of Investing in USACE Water Infrastructure Projects.*" As your committee understands well, federal infrastructure investment at all levels is critical for our nation's economic recovery and water infrastructure projects are no different, especially those vital projects covered by the Army Corps of Engineers (Corps) chief reports via the Water Resources Development Act (WRDA) reauthorizations. Robust federal investment in water infrastructure would put tens of thousands of Americans back to work and improve the daily lives of millions of Americans regarding navigable waterway projects, shoreline protection, flood mitigation and so much more. Today's hearing will underscore the significant role water infrastructure plays in our economy through the movements of goods, diminishing the impacts of climate change and providing much-needed protection to flood-prone communities across the country.

NSSGA is the leading advocate and resource for the aggregates industry, who provides the critical raw materials found in virtually every public works project – roads, highways, bridges, runways, pipelines, vertical structures and much more. Our membership represents more than 90 percent of the crushed stone and 70 percent of the sand and gravel produced annually in the United States. We welcome the discussion today regarding key water infrastructure projects and continued investment. NSSGA is a vocal supporter of last Congress' WRDA 2020 reauthorization and advocates for passage of WRDA 2022 before the current reauthorization expires.

While we continue the support for water and waterway infrastructure under the jurisdiction of the Corps, I'd also like to spotlight and reiterate our industry's support for the Corps' current Navigable Waters Protection Rule (NWPR), in conjunction with the Environmental



Protection Agency (EPA) regarding our nation's waterways and their federal oversight. While we discuss water infrastructure, or more broadly the need to vastly improve our underfunded and overutilized infrastructure network this country depends upon, we cannot discuss these critical policy objectives without acknowledging the benefit and relevance the NWPR provides. As you know, the Biden Administration and EPA Administrator Regan officially notified their intent to repeal and replace the NWPR and draft a new Waters of the United States (WOTUS) rule within the Clean Water Act. NSSGA, and many others within the construction supply chain, fully support the NWPR and its ability to properly designate our nation's relevant waterways and uphold strenuous environmental protections with clear and concise terminology and enforcement.

NWPR plays a vital role in the permitting process for countless aggregate producers and their ability to provide the necessary raw material for virtual every public works project as efficiently and cost-effectively as possible. Under the Obama-era 2015 WOTUS Rule that the NWPR replaced last year, it was applied inconsistently across the country, as almost half the states were not under the 2015 WOTUS Rule's jurisdiction, facilitating unpredictable enforcement depending on what state your facility resided in. Further, the 2015 WOTUS Rule's ambiguous terminology created confusion within the stakeholder community regarding tributaries, ephemeral waters and ditches, leading to various lawsuits and additional erratic applicability of the rule and certain bodies of water. Since the NWPR's enactment, consistency has been achieved as the rule is enforced in all 50 states. The NWPR has eliminated opaque terminology and has made definitive efforts to classify what waters are captured, and what is not.

Should the Corps and EPA repeal NWPR and draft a rule similar to the 2015 WOTUS Rule, NSSGA would have significant concern regarding our industry's ability to meet the increasing needs for our materials throughout the country and help leverage the transformative infrastructure negotiations currently before the Senate. This would mean that federal infrastructure dollars would be handicapped as the costs of raw materials would increase and we'd experience a less effective construction supply chain as a result.

As your committee has proved before, we welcome the continued discussion for robust federal infrastructure investment and the support for water infrastructure, as identified under the Corps. NSSGA continues to support these critical projects and the significant role our material plays in its construction. Further, we implore the committee and the Corps to examine the Administration's recent intent to repeal the NWPR and negate the positive impact it has provided various industry stakeholders, like the aggregates industry. We strongly support NWPR's enactment and appreciate the committee's understanding recognizing this rule and its relevance for our country to "Build Back Better", as the Administration has repeatedly championed.

Thank you again for your time and consideration of these critical infrastructure objectives. Please consider NSSGA a resource on these matters and others relevant to your work and the aggregate industry.



Sincerely,

A handwritten signature in black ink, appearing to read 'M. Johnson', with a long horizontal flourish extending to the right.

Michael W. Johnson
President and CEO
National Stone, Sand and Gravel Association

cc: Members of the EPW Committee

