

February 7, 2020

The Honorable Jared Huffman  
House Committee on Natural Resources  
Chair, Water, Oceans & Wildlife Subcommittee  
1527 Longworth House Office Building  
Washington D.C. 20515

Submitted electronically to: <https://huffman.house.gov/future-drought-act/comments>

**RE: Discussion Draft FUTURE Drought Resiliency Act**

Dear Chair Huffman:

Thank you for this opportunity to comment on the Discussion Draft of the “Furthering Underutilized Technologies and Unleashing Responsible Expenditures for Drought Resiliency Act” (Act). WaterNow Alliance<sup>1</sup> is a nonprofit network of more than 500 local water leaders nationwide dedicated to advancing sustainable, affordable, and climate resilient water strategies, and we appreciate your leadership in elevating the issue of sustainable water management and innovation with this important bill.

We have reviewed the discussion draft of the Act<sup>2</sup> released on January 8, 2020, and are encouraged by the recognition that “[r]obust Federal investment and support is needed to assist the Western States in developing future drought resiliency in the face of climate change, which will continue to exacerbate existing water supply challenges in an already arid region of the country.” As a former local water decision maker yourself, you may be aware that federal investment in local water systems has declined significantly over the last thirty years such that cities, towns, special districts and other public water resource utilities provide drinking water to almost the entire U.S. population and represent 95% of all spending on urban drinking, wastewater, and stormwater water infrastructure nationwide.<sup>3</sup> Particularly in the face of climate change, the time is right for a return to federal investment in water resilience.

In particular, localized, onsite and decentralized water management technologies, installations and strategies have tremendous potential to provide increased water supply security and address urban flooding and water quality challenges – often at far lower cost than conventional alternatives while providing multiple community benefits. We appreciate that the Act recognizes the value of decentralized strategies, and offer the following recommendations to strengthen the Act’s ability to accelerate and support their widespread deployment. To this end, our comments focus on Sections 101, 106, 107, 201, 304, and 305. In brief, we recommend the following:

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<sup>1</sup> [www.waternow.org](http://www.waternow.org)

<sup>2</sup> <https://huffman.house.gov/imo/media/doc/Huffman%20Water%20Bill%20Text1.pdf>

<sup>3</sup> Not Everything is Broken, pp. 38, 60, RAND 2017, available at [https://www.rand.org/pubs/research\\_reports/RR1739.html](https://www.rand.org/pubs/research_reports/RR1739.html), accessed January 16, 2019.

- Section 201—Establish as the federal standard that consumer rebates and other incentives provided by water utilities for water conservation, efficiency, reuse, and green infrastructure for stormwater management measures are exempt from income tax.
- Sections 106 & 107—Streamline the WaterSMART application process to clear the path for water use efficiency projects in mid-to-small municipalities that may not otherwise have the capacity to access available funding.
- Section 101—Elevate localized reuse strategies and projects that provide multiple benefits through integrated management.
- Section 304 & 305—Maintain the Cooperative Watershed Management Program and establish the competitive watershed grant program to protect habitat for native species while providing multiple benefits.

A new generation of localized water solutions is coming online with extraordinary but as yet untapped potential to address the supply, water quality, flooding, and environmental contamination challenges facing cities, towns and special districts nationwide. Localized, “distributed infrastructure” includes a wide range of water saving and managing technologies and solutions installed at properties dispersed across communities. These technologies and practices serve the same functions as conventional, centralized infrastructure—they provide clean drinking water and manage wastewater and stormwater—often more sustainably and resiliently because they use resources more efficiently, can employ nature-based solutions, and have greater flexibility to respond to environmental change.<sup>4</sup> Far more so than conventional water infrastructure, decentralized water strategies are also able to provide multiple benefits for local communities and the environment, including increased wildlife habitat, improved water quality, improved air quality, local green jobs, increased property values, affordable rates, increased energy efficiency, reduced greenhouse gases, increased open space, improved public health, and reduced crime.<sup>5</sup>

While many local utilities have adopted initiatives at various times to promote conservation, efficiency, onsite reuse, or distributed green infrastructure programs, these programs are usually relatively small scale. As detailed in WaterNow’s recent report, *Innovation in Action: 21st Century Water Infrastructure Solutions (Innovation in Action)*, investing in localized solutions, particularly for water use efficiency, at much higher levels is essential if the country is to realize the benefits that can accrue from these solutions in

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<sup>4</sup> Nancey Green Leigh & Heonyeong Lee, *Sustainable and Resilient Urban Water Systems*, pp. 8-9, Sustainability, Vol. 11 (2019), [https://www.researchgate.net/publication/331066784\\_Sustainable\\_and\\_Resilient\\_Urban\\_Water\\_Systems\\_The\\_Role\\_of\\_Decentralization\\_and\\_Planning](https://www.researchgate.net/publication/331066784_Sustainable_and_Resilient_Urban_Water_Systems_The_Role_of_Decentralization_and_Planning); Optimizing the Structure and Scale of Urban Water Infrastructure: Integrating Distributed Systems, p. 5, The Johnson Foundation at Wingspread, August 2014, available at [https://www.johnsonfdn.org/sites/default/files/reports\\_publications/CNW-DistributedSystems.pdf](https://www.johnsonfdn.org/sites/default/files/reports_publications/CNW-DistributedSystems.pdf), last accessed January 3, 2019.

<sup>5</sup> See Moving Toward a Multi-Benefit Approach for Water Management, pp. VII-VIII, 17, 27-28, 34-35, <https://pacinst.org/wp-content/uploads/2019/04/moving-toward-multi-benefit-approach.pdf>, last accessed July 23, 2019; see also The Impact of *Green City, Clean Waters* on Philadelphia: Measuring the Triple Bottom Line Impact of Green Stormwater Infrastructure pp. 18-26 (detailing the crime reduction and health benefits of Philadelphia’s program), <https://www.sbnphiladelphia.org/wp-content/uploads/2019/04/Impact-of-Green-City-Clean-Waters-on-Philadelphia-2019.pdf>, last accessed July 23, 2019; see also Santa Fe Water Division: Fostering a long-standing culture of water efficiency, WaterNow Case Study, p. 5, <https://tapin.waternow.org/wp-content/uploads/sites/2/2019/04/SantaFeWaterUtilitiesDivision.pdf>, last accessed July 23, 2019.

the aggregate, and be more resilient against recurring and worsening drought due to climate change.<sup>6</sup> For these reasons, we respectfully request that you adopt our recommended revisions to Sections 101, 201, 106, and 107 to elevate these strategies and support widely expanded and accelerated investment in localized water infrastructure. We also offer our support of Sections 304 and 305, as important programs needed to protect watershed health and support multi-benefit projects.

### **Revising Section 201 to Eliminate Tax Barriers to Localized Strategies**

Utility-sponsored financial incentives, including specifically consumer rebates and direct installation programs, are among the most important and cost-effective tools available to local water providers to achieve water use efficiency objectives, particularly for turf replacement, onsite reuse systems, and other high cost water-saving options. These programs, representing public investments in reduced water use and responsible onsite stormwater management, include rebates for turf removal and replacement with water-conscious landscaping, installation of permeable pavements, green roofs and rain gardens on private property to reduce flooding, and rainwater harvesting for beneficial use, as well as for onsite reuse systems. Residential, commercial, industrial and institutional participation in such programs is essential to their success. Taxing public utility incentives is a significant disincentive for the millions of Americans and businesses willing to do their part in promoting water conservation, reuse, and stormwater management and cleaner waterways through these rebate programs.

Similar energy efficiency rebates were deemed non-taxable nearly 30 years ago. We applaud your leadership on this issue and are pleased that the Act includes Section 201 to create parity for water use and stormwater-related consumer rebates. Setting this federal standard is especially important as much-needed guidance for the states. For example, state legislation to extend California's tax exemption for turf rebates did not pass this year. To ensure this important, yet simple, change to federal tax code covers the full range of important consumer incentives related to distributed, sustainable and resilient water management, we respectfully recommend that the Section 201 expressly cite water reuse incentive programs by including the bolded blue text as follows:

- Page 70, lines 14-18: ... provided (directly or indirectly) by a public utility to a customer, or by a State or local government to a resident of such State or locality, for the purchase or installation of any water **reuse**, conservation or efficiency measure,...
- Page 71, lines 15-21: ...For purposes of this section, the term 'water **reuse**, conservation or efficiency measure' means any evaluation of water use, or any installation or modification of property, the primary purpose of which is to reduce consumption of water, **reuse water**, or to improve the management of water demand with respect to one or more dwelling units...

Eliminating tax disincentives to water efficiency and stormwater capture consumer rebate

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<sup>6</sup> Cynthia Koehler & Caroline Koch, *Innovation in Action: 21st Century Water Infrastructure Solutions*, San Francisco, Calif.: WaterNow Alliance (2019), last accessed February 4, 2020, [https://tapin.waternow.org/wp-content/uploads/sites/2/2019/11/WaterNowAlliance\\_Innovation-In-Action\\_FINAL-1.pdf](https://tapin.waternow.org/wp-content/uploads/sites/2/2019/11/WaterNowAlliance_Innovation-In-Action_FINAL-1.pdf)

programs will ensure water managers have the ability to implement innovative and sustainable water programs at scale and use all the necessary tools at their disposal. Adding a specific reference to water reuse in the Act will make clear that rebates for reuse—important components of this strategy—are covered by the tax-exemption. We believe it will also help build broader support for Section 201 among water industry and trade associations.

**Revising Sections 106 & 107 to Streamline the WaterSMART Application Process**

WaterNow supports the Bureau of Reclamation’s WaterSMART program, and commends the Act’s authorization of additional funding for this vital program. At the same time, we believe the Act could significantly enhance WaterSMART’s effectiveness by providing guidance to the Bureau to simplify and make more accessible the application process for smaller and midsize utilities.

A core WaterNow initiative encourages and provides direct support for cities and utilities in the Colorado River Basin to apply for WaterSMART grants to help them improve their communities’ water use efficiency and drought resilience. Over the past year, our outreach about the program yielded 55 responses expressing interest in WaterSMART funding opportunities, and after further discussion, explaining the different programs and explore the specific needs of eligible communities, WaterNow provided direct support to 20 communities to help them navigate the process. Among other tasks, we researched past grantees; drafted sections of applications; conducted water savings calculations; developed application templates; clarified and tracked submission requirements; wrote letters of recommendation; and reviewed applications prior to submission. Twelve of the communities we worked with have or will submit complete grant applications and to date, two of those applications have been awarded funding (with the majority of remaining applications pending award announcement). The Bureau of Reclamation’s WaterSMART staff have been great to work with, available to answer questions and provide additional information needed to complete applications.

This process has provided us with considerable insight not only into the benefits of the WaterSMART program, but also the challenges of applying for these grants from the utility perspective. Chief among these challenges is that smaller and midsize cities, towns and special districts have limited capacity to respond to the grant application requirements which can deter participation. Meeting all application requirements takes significant time and resources and often technical expertise. Indeed, it is not uncommon for better-resourced applicants to hire outside consultants to support their applications, an expense generally out of reach for many, if not most, smaller or midsize water providers across the West. In addition, the relatively short application windows, combined with lengthy application requirements, have been a constraint on full participation from utilities most in need of the support provided by the WaterSMART program. It can also be challenging to access the different types of funding opportunities available or to find timely examples of successful applications that could serve as useful guidance for other applicants.

Given our experience working with Western communities applying for WaterSMART grants, we respectfully recommend that the Act include language directing that the

application processes for these grants be updated and streamlined to ensure that mid-sized and smaller municipalities looking to make needed investments to improve their water use efficiency and drought resilience but have not had capacity to apply for these grants can compete for available funds. In addition, a streamlined application process may help to shorten the time between a grant application being approved and allocation of the approved funds. Currently, the lengthy timeframe of more than a year creates uncertainty for grantees that presents planning and other challenges.

Finally, we understand that environmental non-governmental organizations have expressed concerns that a meaningful number of projects that received funding under the WaterSMART Water and Energy Efficiency Grant program have enabled increased consumptive use of water. Updating the application process also presents an opportunity to ensure WaterSMART projects increase resilience, decrease water conflict and relieve water supply imbalances, as intended by the program’s authorizing legislation.

We look forward to working with you on identifying specific ways to incorporate these revisions into the Act.

### **Revising Section 101 to Elevate Localized Strategies and Multi-Benefit Projects**

WaterNow supports the Act’s authorization of additional funding through 2024 for the Title XVI competitive grant program, expansion of the federal share of costs of individual projects, and the proposed revisions to the definitions of priority projects. Projects eligible for grant funding under Title XVI if the project “reclaims and reuses municipal, industrial, domestic, or agricultural wastewater.”<sup>7</sup> Onsite water reuse systems reclaim and reuse industrial and domestic wastewater. Further, as explained above, localized water strategies such as decentralized water reuse, provide multiple benefits for local communities and the environment.<sup>8</sup>

Thus, to clarify that this important grant program is available for funding for both centralized and decentralized water reuse projects that provide multiple benefits to the communities building these projects, we respectfully recommend that the Section 101 expressly cite multi-benefit onsite water reuse projects by including the bolded blue text as follows:

- Page 9, lines 1-4: When funding projects under paragraph (1), the Secretary shall give funding priority to projects, **both centralized and decentralized**, that meet one or more of the following criteria:...
- Page 9, lines 15-19: Projects that provide multiple benefits, **such as projects that**

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<sup>7</sup> 43 U.S.C. § 390h(e)(1)(B)(i).

<sup>8</sup> See Moving Toward a Multi-Benefit Approach for Water Management, pp. VII-VIII, 17, 27-28, 34-35, <https://pacinst.org/wp-content/uploads/2019/04/moving-toward-multi-benefit-approach.pdf>, last accessed July 23, 2019; see also The Impact of *Green City, Clean Waters* on Philadelphia: Measuring the Triple Bottom Line Impact of Green Stormwater Infrastructure pp. 18-26 (detailing the crime reduction and health benefits of Philadelphia’s program), <https://www.sbnphiladelphia.org/wp-content/uploads/2019/04/Impact-of-Green-City-Clean-Waters-on-Philadelphia-2019.pdf>, last accessed July 23, 2019; see also Santa Fe Water Division: Fostering a long-standing culture of water efficiency, WaterNow Case Study, p. 5, <https://tapin.waternow.org/wp-content/uploads/sites/2/2019/04/SantaFeWaterUtilitiesDivision.pdf>, last accessed July 23, 2019.

**integrate** ecosystem benefits, groundwater management and enhancements, water quality improvements, and **water supply reliability measures**.

These revisions will help elevate decentralized water reuse, multiple benefit projects as eligible priority projects under Title XVI grants.

**Sections 304 & 305 Are Important for Maintaining and Developing Multipurpose Watershed Programs**

WaterNow supports the Cooperative Watershed Management Program and appreciates its reauthorization through 2024, as set out at Section 304, and support additional funding for this program. We look forward to working with the Department of the Interior, and other key stakeholders, to refine the prioritization and eligibility criteria as proposed in Section 304(2). WaterNow also supports creation of a multi-benefit project grant program, as included in Section 305. The programs' focus on multi-benefit projects that mitigate against climate change, improve water quality, and enhance water conservation, including through alternative water uses, with help promote holistic, One Water management needed to combat 21st century water challenges. As the 13 *Innovation in Action* case studies demonstrate, water strategies such as distributed green infrastructure, conservation, and onsite reuse that fall within the scope of these watershed programs provide multiple co-benefits including habitat protection, alternative sources of supply, and improved water quality.<sup>9</sup>

**Conclusion**

Localized water infrastructure has enormous potential to sustainably manage our water resources now and for future generations, often more affordably than other alternatives. As detailed above, we propose revisions to Sections 101, 201, 106 & 107, and 304 & 305 to ensure local water providers have increased access and ability to finance and implement these cost-effective, equitable, and environmentally friendly solutions.

We appreciate your consideration of our comments and look forward to working with you to transform the nation's water infrastructure to secure our water future.

Sincerely,



Executive Director  
WaterNow Alliance

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<sup>9</sup> Cynthia Koehler & Caroline Koch, *Innovation in Action: 21st Century Water Infrastructure Solutions*, San Francisco, Calif.: WaterNow Alliance (2019), last accessed February 4, 2020, [https://tapin.waternow.org/wp-content/uploads/sites/2/2019/11/WaterNowAlliance\\_Innovation-In-Action\\_FINAL-1.pdf](https://tapin.waternow.org/wp-content/uploads/sites/2/2019/11/WaterNowAlliance_Innovation-In-Action_FINAL-1.pdf).