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Mr. Ken Kopocis
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Mr. Dave Barnett
President-Elect Biden Transition Team
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U.S. Department of Commerce
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Dear Ms. Simms, Mr. Kopocis, Mr. Washington and Mr. Barnett:

The National Utility Contractors Association (NUCA) represents represent construction contractors, manufacturers, and distributors who build and maintain a wide range of underground facilities and transportation infrastructure. Since its establishment in 1964, NUCA's member companies have provided the manpower and equipment needed to build, repair, and maintain the infrastructure needed for water and wastewater infrastructure, gas distribution, broadband, electric and as well as the nation's surface transportation system.

As the transition team prepares for the incoming Biden Administration to take office later this month, NUCA offers perspective on issues and policies related to underground utility construction that we hope will be considered before the administration begins to implement its policy priorities in January.

Financing Programs for Water and Wastewater Infrastructure Improvements
While NUCA members engage in construction activities related to all underground utilities, water and wastewater infrastructure is our primary market. NUCA members see and address the impacts of neglected American infrastructure up close in their everyday work. Our nation's dilapidated water, sewer and stormwater systems require hundreds of billions of dollars in needed improvements, and although there are several existing programs that finance these critical projects, all are woefully underfunded.

NUCA has long supported the view that the funding needs facing America's environmental infrastructure invite participation by both the public and private sector in addressing them. Over the past several years, NUCA has supported a wide range of legislative proposals that would:

- Reauthorize and increased appropriations for the Environmental Protection Agency's (EPA) Drinking Water State Revolving Fund and Clean Water State Revolving Fund (SRF) programs. These highly efficient financing vehicles provide needed resources to the states through revolving loans for local communities to help refurbish their water and wastewater infrastructure.
- Increase funding for the Water Infrastructure and Innovation Act (WIFIA), which provides long-term, low-cost credit assistance for regionally and nationally significant water and wastewater projects. The WIFIA program has

proven successful since its establishment, but continues to suffer from a lack of funding. WIFIA's current funding levels will enable it to serve as a sustainable funding source.
- Authorize municipal grants for construction and planning/design of treatment works to address overflows of combined sewers, sanitary sewers, or stormwater systems, as well grants to promote workforce development in the water utility sector.

In addition, NUCA fully supported the Water Resources Development Act (WRDA) of 2020, which authorized federal dollars to improve the infrastructure that supports America's ports, harbors, inland waterways. WRDA also supports flood damage reduction and ecosystem restoration projects overseen by the U.S. Army Corps of Engineers. While NUCA supports passage of WRDA legislation when it is considered every few years, we continue to encourage greater attention to the water and sewer infrastructure used by Americans every day. While there was significant funding for the SRF programs included in previous versions of the most recent WRDA legislation, these provisions were removed late last year to allow for inclusion of the legislation in the year-end omnibus package passed last month. These resources are often rescinded from larger legislative measures, but the need for them continues to grow across the country.

Although our underground environmental infrastructure is indispensable to the health of our country, federal spending accounts for only a small percentage of investments in water infrastructure over the past several years. EPA assessments cite funding needs at approximately a half a trillion dollars – a figure which will only grow as long as necessary improvements are neglected. The incoming Biden Administration has the opportunity to make rebuilding water and sewer systems a true priority rather than a convenient political soundbite.

Inviting Private Investment

NUCA has long maintained that while increased public investment in our environmental infrastructure is needed, there is certainly a role for investment from the private sector. Tax exempt facility bonds are a very effective tool for financing long-term, capital-intensive infrastructure projects. Also known as "private activity bonds," exempt facility bonds provide tax-exempt financing that encourages state and municipal governments to collaborate with sources of private capital to meet a public need, such as building a water treatment facility through a public-private partnership. This approach makes infrastructure construction more affordable for municipalities and ultimately for end users.

Exempt facility bonds utilize private capital instead of public debt and shift the risk and long-term debt from the municipality to the private partner. The lower cost financing often translated to lower costs for the customer. Unfortunately, exempt facility bonds have historically been issued to fund more politically attractive, short-term initiatives such as housing projects and providing student loans. This is in part because of the annual volume cap subject to exempt facility bonds which hinder their use for water and wastewater infrastructure. As a result, on average less than five percent of exempt facility bonds are issued to water and wastewater projects annually.

Last year, the Moving Forward Act (HR 2), an enormous coronavirus relief bill, included a provision that would have revised the Internal Revenue Code to provide that wastewater infrastructure would no longer be subject to state volume cap limits subject to exempt facility bonds. Although HR 2 was not considered in the Senate last session, this provision has bipartisan support and would take significant steps to open the door to private investment in water and wastewater infrastructure projects. NUCA looks forward to working with the new administration on advancing a comprehensive infrastructure package that includes language that would remove both wastewater *and* water infrastructure from state volume cap limitations.

Water Infrastructure Construction as a Job Creator

While investment in water and wastewater infrastructure enhances public health and environmental protection, it also creates high-paying jobs, generates significant economic activity and expands the local tax base. Industry studies have indicated that every $1 billion invested in water and wastewater infrastructure creates up to some 28,000 new jobs with average annual earnings of more than $50,000 and increases demand for products and services in other industries by more than $3 billion. Due to the economic ripple effect that construction employment offers, investment in water

infrastructure generates measurable employment in hundreds of standard industry classifications recognized by the U.S. Census Bureau. Moreover, a $1 billion investment also results in tens of millions of dollars in state and local tax revenue at a time when they unarguably need it most.

Essential Workforce, Essential Services

As NUCA members continue to provide essential services while the nation battles the Covid-19 pandemic, we suggest considering those repairing and replacing water and wastewater infrastructure to be a priority in receiving approved vaccines because of the nature of their work.

When the Cybersecurity and Infrastructure Security Agency (CISA) provided initial guidance to help state and local officials protect their communities in the initial response to the coronavirus, NUCA worked to ensure that contractors, manufacturers, and all service providers who collectively assure water, wastewater, and other underground utility services were included on the list of those providing essential services. We were pleased when CISA included "[w]orkers repairing water and wastewater conveyances," and "contractors for construction and engineering of water and wastewater systems" on its list of Essential Critical Infrastructure Workers.

The Centers for Disease Control and Prevention (CDC) has addressed the risks of contamination associated with those working at wastewater treatment facilities. Although CDC indicates that the risk of transmission of the coronavirus "through properly designed and maintained wastewater systems is thought to be low," it does report that the "ribonucleic acid from the virus that causes COVID-19 has been found in untreated wastewater."

In December of 2020, the CDC's Advisory Committee on Immunization Practices released guidance to help states identify higher priority groups for receiving a Covid-19 vaccine. NUCA respectfully suggests that while risks of contamination to *staff* working at wastewater treatment facilities may be relatively low, the risk of contamination to contractors who are in direct contact with the infrastructure that supports wastewater treatment may be considerably higher. We have encouraged state authorities to consider those involved in the repair and rebuilding of wastewater infrastructure to be considered a high priority to receiving a Covid-19 vaccine due to the nature of their work, and we ask for consideration of this matter during discussions about prioritizing vaccine distribution.

Keeping America Connected through Fiber Optic Infrastructure

Since the coronavirus hit the nation in earnest last year, the need to ensure for highspeed broadband service has been and continues to be a national priority. Countless hospitals are near or at full capacity, many schools and other critical buildings remain closed or have significantly reduced access, and remote-work directives intended to slow the spread of the coronavirus all underscore the importance of keeping America connected. At a time when the country is "social distancing" and face-to-face conversations are increasingly limited, ensuring Americans across the country have access to broadband service is more important than ever.

Providing for robust broadband construction will likely remain a high-profile issue when the 117th Congress moves on a future Covid-19 relief bill or other legislation intended to address infrastructure needs. However, carriers eligible to receive federal dollars for broadband deployment should utilize the only technology proven to meet current and future demand. This requires installation of fiber optic technology, and criteria for receiving federal broadband dollars should include requirements for providing higher broadband speeds to encourage fiber installation.

The lack of internet service in many areas of the country when we need it most has made it clear that the target speeds of 25/3 Mpbs maintained by the Federal Communications Commission (FCC) are already obsolete. Therefore, as the construction entities who install these systems, NUCA supports policy that targets broadband speeds of 100/100 Mpbs, which would provide broadband systems that are as "future proof" as possible.

Continued Role of Natural Gas

NUCA members also work to build and rebuild gas distribution systems across the country, and it's unfortunate to see the increasing hostility regarding the important role that clean-burning natural gas plays in providing a sustainable

source of American energy. While we understand intentions to increase use of renewable energy sources, the concept of having to choose between using natural gas or other traditional energy sources presents a false choice. In fact, use of abundant, clean-burning natural gas actually *enables* the use of renewable fuels.

America will not be able to achieve its clean energy ambitions without substantial growth of natural gas production and an expansion of our natural gas pipeline network. The new administration's energy platform includes a large expansion of the availability of electric vehicles. The bottom line is if we are looking for a significant increase in the number of natural gas vehicles on the roads and substantial increases in the use of renewable energy, we'll need natural gas to make that happen.

Sharing Responsibility in Damage Prevention

NUCA was pleased to see pipeline safety reauthorization included in the omnibus/Covid-19 relief package that was enacted into law at the end of 2020. As an avid supporter of "shared responsibility" in efforts to protect underground facilities during excavation activity, NUCA supported provisions in the pipeline safety bill that requires operators of gas distribution pipelines to "identify and manage traceable, reliable, and complete records, including maps and other drawings," and language that will ensure that this documentation is "accessible to all personnel responsible for performing or overseeing relevant construction or engineering work."

As a leader in the excavation construction industry, NUCA supports what we consider "pillars" of underground facility damage prevention to underground facilities during excavation activities. These pillars include mandatory participation in the one-call process (both one-call notification and membership); accurate and timely locating of underground facilities prior to excavation; and "potholing" by excavators so that underground facilities are exposed in order to determine their exact location. The recordkeeping requirements described it the pipeline safety provisions will take important steps towards pipeline safety and provide for safer excavation sites.

However, NUCA members continue to experience situations where responsibilities to locate and accurately mark subsurface facilities are not met, which undoubtably compromises safety. In many of these cases, state authorities responsible for enforcing damage prevention law undermine the spirit of these laws through meaningless fines or a lack of any legitimate enforcement action. This amounts to more than failing to enforce the law – insufficient fines essentially incentivizes the neglect of meeting fundamental responsibilities. Damage prevention needs to be built around safety – not based on business decisions regarding what infrastructure gets marked, and when.

As policies that will be included in a comprehensive infrastructure bill are debated, NUCA supports consideration of language that would strengthen state enforcement of damage prevention law. This would increase the safety of all underground utility infrastructure projects, from water and sewer to broadband to gas distribution and electric power. Providing for damage prevention during excavation fundamentally impacts all underground construction.

NUCA appreciates the opportunity to provide to the Biden Administration the perspective from the businesses at the forefront of our nation's utility construction projects. Consistent with the President-elect's "Build Back Better" initiative, NUCA members stand ready to do their part in rebuilding a wide range of essential American infrastructure. We hope your team will call on our association as a resource as these policy decisions are developed.

Thank you for your consideration.

Regards,

Doug Carlson
Chief Executive Officer