



February 6, 2007

The Honorable James Oberstar
Chairman, House Transportation and Infrastructure Committee
United States House of Representatives
Washington, DC 20510

The Honorable John Mica
Ranking Member, House Transportation and Infrastructure Committee
United States House of Representatives
Washington, DC 20510

Dear Chairman Oberstar and Ranking Member Mica:

As your committee prepares to markup the “*Water Quality Financing Act of 2007*”, the undersigned organizations would like to take this opportunity to express our support for this needed legislation. However we strongly oppose all Davis-Bacon Act provisions contained in the language. We recognize the important role of the federal government in addressing our nation’s water infrastructure needs, but strongly disagree with including egregious, precedent-setting expansions of the federal Davis-Bacon Act to non-federal funds.

In order to obtain the highest construction value for the taxpayer’s dollar on these critical projects it is imperative that this legislation not include any federal Davis-Bacon Act provisions. During past Congresses this important legislation has been crippled by harmful Davis-Bacon Act expansions and we implore you to let a clean bill, absent of Davis-Bacon provisions, pass through your subcommittee in order to bring much needed water infrastructure to the American people who so desperately need it.

Any application of the Davis-Bacon Act into this legislation is expansion. Section 602(b) (6) of the Clean Water Act of 1987 clearly states that Davis-Bacon requirements on such loans were to sunset in FY 1995. Since October 1, 1994, the clean water state revolving funds have operated efficiently without Davis-Bacon requirements.

The Building and Construction Trades Department of the AFL-CIO sued to impose Davis-Bacon on CWSRF after the sunset date. In a letter dated October 29, 1998, the

EPA took issue with every argument made by the building trades. In fact, the EPA stated that even without section 513 in section 602 (b) (6), the EPA “would reasonably have concluded that the CWA’s Davis-Bacon Act provisions did not apply in the SRF program at all”.

On June 22, 2000, the EPA, under the Clinton Administration, reversed its previous statements and issued a “settlement agreement” with organized labor to repeal the statutory sunset date of October 1, 1994, and expand Davis-Bacon to CWSRF for programs after July 1, 2001. Clearly, this “settlement agreement,” which contradicted the earlier arguments made by the EPA itself, was a statutory violation of the Clean Water Act. It has not been enforced by the Bush Administration, and would undoubtedly be subject to litigation if enforced.

Given that Davis-Bacon requirements were sunset in 1995 and have not since applied, nor would such requirements apply unless expressly provided for by Congress, any re-application of Davis-Bacon to CWSRF would clearly be expansion of this flawed Act.

Furthermore, if Davis-Bacon is applied, local residents should have the opportunity to work on their local community’s construction projects. Yet projects operating under federal Davis-Bacon requirements are prohibited from hiring local “helpers” to work on these infrastructure projects. These are valuable entry-level jobs for low-skilled workers who want job access and experience working under the direct supervision of higher-skilled journey-level workers. In today’s welfare-to-work environment, coupled with the importance of revitalizing disadvantaged communities, it is imperative that the federal government not hinder state and local efforts to provide entry-level jobs. Unnecessarily inserting the federal government’s bureaucracy into the local construction process will limit job opportunities for many low-skilled workers who would otherwise have the chance to gain valuable experience on a project in their own neighborhood.

We, the undersigned organizations, are vehemently opposed to any re-application of Davis-Bacon requirements to this loan program and ask you to omit any harmful Davis-Bacon Act provisions from the “*Water Quality Financing Act of 2007*”.

Respectfully submitted,

Associated Builders and Contractors, Inc.

National Association of Minority Contractors

Cc: Members of the House Transportation and Infrastructure Committee
Minority Leader John Boehner
Congressman Roy Blunt