

# ENVIRONMENTAL FINANCIAL ADVISORY BOARD

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## Members

June 14, 2017

Honorable Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
Washington, DC 20460

Dear Mr. Pruitt:

On behalf of the Environmental Financial Advisory Board (EFAB), congratulations on your appointment by President Trump and your confirmation by the United States Senate as the 14<sup>th</sup> Administrator of the United States Environmental Protection Agency (EPA). Our purpose in writing to you is to bring to your attention the valuable mission of EFAB as expressed in the body of the Board's Charter (enclosed for your reference), and to highlight the critical role that EPA financing programs have in helping state and local governments address their water infrastructure funding challenges. We also want to directly express our commitment to supporting your leadership efforts in this area and to highlight some opportunities for federal action that can improve prospects for delivering effective and resilient infrastructure to our local government partners.

### *Financial Advice and Counsel for Infrastructure Investment*

The EFAB is chartered under the Federal Advisory Committee Act, 5 U.S.C. App. 2 and operates under applicable EPA policies. In accordance with the Board's Charter, it is our duty to provide policy advice and recommendations to the EPA Administrator through the Office of Water with regard, but not limited, to the following:

- "Reducing the cost of financing sustainable environmental facilities, discouraging polluting behavior, and encouraging stewardship of national resources" (Charter, Section 3.a);
- "Creating incentives to increase private investment in the provision of environmental services and removing or reducing constraints on private involvement imposed by current regulations" (Charter, Section 3.b);
- "Developing new and innovative financing approaches and supporting and encouraging the use of cost-effective existing approaches" (Charter, Section 3.c);
- "Assessing government strategies for implementing public-private partnerships, including privatization and operations and maintenance issues, and other alternative financing mechanisms" (Charter, Section 3.e); and
- "Increasing the total investment in environmental protection and stewardship of public and private environmental resources to help ease the environmental financing challenge facing our nation" (Charter, Section 3.h).

The Board is currently comprised of 30 volunteer members, including experienced senior finance professionals from a cross section of private businesses (15 members), state and local government (8 members), major universities (3 members), and the non-profit sector, including the nation's leading water industry trade association (4 members).

Our last biannual meeting was held on February 21-22, 2017, coinciding with your first day as Administrator. As a recent and relevant example of the Board's contributions, the Public Private Partnership Working Group provided input throughout the development of a March 15, 2017 report and companion perspective on public-private partnerships in the water and wastewater sector entitled, "The Financial Impact of Alternative Water Project Delivery Models."<sup>1</sup>

### ***National Need for Water and Wastewater Infrastructure Investment***

The depth and breadth of the EFAB members' subject matter expertise, particularly in infrastructure finance and private-sector options, make the Board a unique resource to you as Administrator as you face our nation's daunting needs in the water and wastewater infrastructure sector:

- Approximately \$1 trillion will be needed over the next twenty years for the repair, replacement, and expansion of drinking water systems.<sup>2</sup>;
- An additional \$30 billion would be required to replace every lead service line in the nation<sup>3</sup>;
- An estimated \$271 billion in needs have been documented by the states as necessary to meet current and future demands for wastewater treatment infrastructure over a twenty-year period<sup>4</sup>. (because of difficulties in documenting long-term needs, nearly all of these needs fall within the five-year period, 2012-2017)

Investing in water and wastewater infrastructure is essential for public health and safety and also good for our nation's economy, including job creation and retention. The U.S. Bureau of Economic Analysis ("BEA") in the Department of Commerce estimates that for every dollar invested in public water infrastructure; \$2.63 is generated in the private sector<sup>5</sup>. For every job added to the water workforce, as many as 3.68 jobs are added to the national economy<sup>6</sup>. Finally, the essentiality of water infrastructure also strengthens the sector's credit profile; historically the default rate for water utilities is only 0.04%<sup>7</sup>.

### ***Leveraging State Revolving Funds by Accessing the Capital Markets***

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<sup>1</sup> Prepared by the EPA Water Infrastructure and Resiliency Finance Center in partnership with the West Coast Infrastructure Exchange and through the University of North Carolina Environmental Finance Center. <http://www.efc.sog.unc.edu/project/alternative-water-project-delivery-models>

<sup>2</sup> John J. Donohue, American Water Works Association ("AWWA"), March 16, 2017, Congressional Testimony, p. 2

<sup>3</sup> Donohue, AWWA, p. 2

<sup>4</sup> EPA Clean Watersheds Needs Survey 2012 Report to Congress

<sup>5</sup> Donohue, AWWA, testimony, p.2

<sup>6</sup> BEA; Donohue AWWA, p.2

<sup>7</sup> Donohue, AWWA, p.2

We recognize the President's commitment to funding water and wastewater infrastructure; his proposed 2018 budget includes \$2.3 billion for EPA's State Revolving Funds (SRFs), a \$4 million increase over the 2017 annualized continuing resolution (CR) level<sup>8</sup>. The budget clearly reflects the administration's/your understanding that the Agency's SRF programs successfully and effectively contribute to state and local investment in drinking water and wastewater infrastructure.

As you also know, federal grants and state contributions provide equity to largely self-sufficient state-run SRF programs that provide low cost funding to public and private utilities throughout the country. The states and EPA have worked together effectively to expand the capacity of these low-cost financing programs and save taxpayer funds by finding ways to effectively deploy private capital. The programs are viewed very favorably by the credit rating agencies. The EPA estimates that by working with the private capital markets, the SRF programs have expanded low-cost assistance capacity by more than \$134 billion since their inception. The EFAB members believe that leveraging public support with private capital, when properly structured and overseen, can be an economical method to finance essential water and wastewater infrastructure and to deliver safe water to all Americans, with a high return on investment.

### ***Water Infrastructure Finance and Innovation Act ("WIFIA")***

Recognition that America's water and wastewater infrastructure challenge requires new approaches led to the creation of a five-year pilot program, the Water Infrastructure Finance and Innovation (WIFIA) program. The WIFIA program is based on the successful U.S. Department of Transportation loan program of similar name, the Transportation Infrastructure Finance and Innovation Act program. In response to this mandate, EPA launched the new WIFIA program to leverage federal support and increase private investment in significant water and wastewater infrastructure projects. With 43 letters of interest from sponsors of potential projects received to date, the EFAB members anticipate that this pilot will demonstrate that WIFIA is an effective tool for water infrastructure financing.

Utilizing the 2017 funding, the WIFIA program estimates that the credit subsidy could potentially support \$1.5 billion in direct federal loans. The President's 2018 budget would fund the WIFIA program at a level that would allow for an additional \$1.0 billion in credit assistance in a time of significant government-wide austerity.<sup>9</sup> The Board stands ready to inform and assist you on matters related to WIFIA as you deem needed and/or appropriate.

### ***Tax-Exempt Bonds for Financing Water and Wastewater Infrastructure***

As Congress moves to focus on federal tax reform, we recognize the proven power and potential of federally tax-exempt bonds to support private-sector investment in water and wastewater infrastructure, as currently allowed by the federal tax code and state law. During calendar year 2016, tax-exempt bonds financed or refinanced more than \$44 billion in water and wastewater infrastructure projects across the United States<sup>10</sup>.

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<sup>8</sup> EPA 2018 Budget Document, p. 41

<sup>9</sup> EPA 2018 Budget Document, p. 41

<sup>10</sup> Securities Data Corporation

As federal tax reform proceeds, we want to highlight some of the issues that you may encounter that would beneficially impact water and wastewater infrastructure financing in addition to the preservation of the municipal bond tax exemption generally:

- Potential elimination of the private activity bond “volume cap” for water and wastewater infrastructure projects, or the provision of an additional volume cap that could be authorized and administered by EPA (similar to USDOT’s volume cap);
- Potential elimination of arbitrage rebate restrictions associated with water and wastewater-related tax-exempt bonds to increase funding capacity for utility and SRF issuers; and
- Potential expansion of safe harbor flexibility for private operators of publicly owned water or wastewater facilities beyond the recently released Revenue Procedure 2017-13 management contract rules.

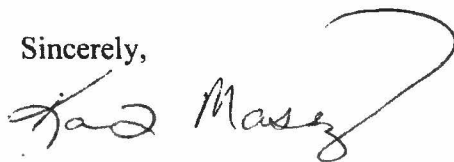
The Public Private Partnerships Workgroup along with the entire Board will be focusing on these issues as well as other potential statutory or policy proposals that may affect water and wastewater financing opportunities. The Board’s objective will be to develop a series of findings and recommendations for your consideration based on our review of the issues and proposals.

### ***Conclusion***

The EFAB supports a range of approaches to investment in America’s water and wastewater infrastructure – investment that is vital to protect human health and the environment and grow our nation’s economy. These approaches include leveraging public and private capital through innovative financing, debt instruments, and tax policies. We appreciate the Administration’s focus on infrastructure and believe that the EPA should continue to play a valuable role with respect to investment in the water sector.

Finally, we stand ready to provide our expertise as you work through these critical issues and to provide you with any information you might need to further initiatives that promote sound investment in our nation’s water and wastewater infrastructure.

Sincerely,



Karen L. Massey, Chair  
Environmental Financial Advisory Board

Enclosure

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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## ENVIRONMENTAL FINANCIAL ADVISORY BOARD

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### 1. **Committee's Official Designation (Title):**

Environmental Financial Advisory Board

### 2. **Authority:**

This charter renews the Environmental Financial Advisory Board (EFAB) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 and relevant Agency policies. The EFAB is in the public interest and supports EPA in performing its duties and responsibilities.

### 3. **Objectives and Scope of Activities:**

There are many critical environmental financing issues facing our nation. Environmental legislation places significant additional resource requirements on all levels of government, increasing their infrastructure and administrative costs. At the same time, limited budgets and economic challenges have constrained traditional sources of capital. Growing needs and expectations for environmental protection, as well as increasing demands in all municipal service areas, make it difficult for state and local governments to find the resources to meet their needs. The resulting strain on the public sector challenges the quality and delivery of environmental services.

The major objectives are to provide policy advice and recommendations on:

- a. Reducing the cost of financing sustainable environmental facilities, discouraging polluting behavior, and encouraging stewardship of natural resources;
- b. Creating incentives to increase private investment in the provision of environmental services and removing or reducing constraints on private involvement imposed by current regulations;
- c. Developing new and innovative environmental financing approaches and supporting and encouraging the use of cost-effective existing approaches;
- d. Identifying approaches specifically targeted to small community financing;

- e. Assessing government strategies for implementing public-private partnerships, including privatization and operations and maintenance issues, and other alternative financing mechanisms;
- f. Improving governmental principles of accounting and disclosure standards to help improve sustainability of environmental programs;
- g. Increasing the capacity of state and local governments to carry out their respective environmental programs under current Federal tax laws;
- h. Increasing the total investment in environmental protection and stewardship of public and private environmental resources to help ease the environmental financing challenge facing our nation; and
- i. Removing barriers and increasing opportunities for the U.S. financial services and environmental goods and services industries in other nations.

**4. Description of Committee's Duties:**

The duties of the EFAB are solely to provide advice to EPA.

**5. Official(s) to Whom the Committee Reports:**

The EFAB will submit advice and recommendations and report to the EPA Administrator, through the Office of Water.

**6. Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Water.

**7. Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the EFAB is \$400,000 which includes 4 work years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

EFAB expects to meet approximately two (2) times a year. Meetings may occur approximately once every six (6) months or as needed and approved by the Designated Federal Officer (DFO). EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the EFAB will hold open meetings unless the Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with 5 U.S.C. 552b(c). Interested persons may attend meetings, appear before the committee as time permits, and file comments with the EFAB.

**10. Duration and Termination:**

EFAB will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After the initial two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The EFAB will be composed of approximately thirty five (35) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by specific organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from all levels of government, the finance, banking, and legal communities; business and industry; and local, national and non-governmental organizations.

**12. Subgroups:**

EPA, or the EFAB with EPA's approval, may form subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the chartered EFAB for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, will be handled in accordance with NARA General Records Schedule 6.2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records will be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

March 3, 2016

Agency Approval Date

March 3, 2016

GSA Consultation Date

March 7, 2016

Date Filed with Congress