

March 7, 2007

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20510

The Honorable John Boehner
Minority Leader
United States House of Representatives
Washington, DC 20510

Dear Speaker Pelosi and Minority Leader Boehner:

As the U.S. House of Representatives prepares to vote on the “*Water Quality Financing Act of 2007*”, H.R. 720, we would like to 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 contained in the legislation.

In order to obtain the highest construction value for the taxpayers’ dollar on these critical projects, it is imperative that this legislation not include any federal Davis-Bacon Act provisions. During past consideration of this legislation, debate 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 the U.S. House of Representatives in order to bring much needed water infrastructure to the American people.

We perceive any application of the Davis-Bacon Act into this legislation as 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. If this legislation passes in current form it 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.

Lastly, a series of audits by outside agencies as well as the Department of Labor's (DOL) own Office of Inspector General (OIG) have revealed substantial inaccuracies in Davis-Bacon Act wage determinations and suggested that they are vulnerable to fraud. In addition, DOL's OIG released three reports highly critical of the wage determination program. In fact, one of the reports found one or more errors in 100 percent of the wage surveys they reviewed.

We, the undersigned organizations, are vehemently opposed to any re-application of Davis-Bacon requirements to this loan program and ask you to please vote **against** the "*Water Quality Financing Act of 2007*", H.R. 720, due to the harmful expansion of the Davis-Bacon Act contained within.

Respectfully submitted,

Associated Builders and Contractors, Inc. (ABC)
Chuck Muth, President, Citizen Outreach Project
Council for Citizens Against Government Waste
Grover Norquist, Americans for Tax Reform (ATR)
Independent Electrical Contractors, Inc. (IEC)
Miller & Long Concrete Construction
National Association of Minority Contractors
National Association of Women in Construction
Tim Phillips, President, Americans for Prosperity
Ryan Ellis, Alliance for Worker Freedom
United States Chamber of Commerce
Will Fine, Executive Director, National Alliance for Worker and Employer Rights
Women Construction Owners and Executives

Cc: Members of the U.S. House of Representatives