



**Ecological Restoration Business Association**  
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April 22, 2021

The Honorable Charles Schumer, Majority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Nancy Pelosi, Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Mitch McConnell, Minority Leader  
U.S. Senate  
Washington, D.C. 20510

The Honorable Kevin McCarthy, Minority Leader  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Leader Schumer, Minority Leader McConnell, Speaker Pelosi and Minority Leader McCarthy:

On behalf of the Ecological Restoration Business Association (ERBA), we thank you for your commitment to advance a comprehensive infrastructure package that stimulates the economy while accelerating our nation's response to climate change. Federal infrastructure investments will produce long-term value for the American public if directed towards bolstering our communities' resiliency, building sustainable infrastructure, and supporting skilled jobs in growing green sectors.

America's ecological restoration industry, at 225,000 jobs and growing, stands ready to deliver on these goals. ERBA member companies consult with public utilities and agencies daily on construction and improvements for our country's roads, bridges, and dams, making us acutely aware of their unique regulatory challenges, and ready to respond with expedited permitting solutions. We are increasingly collaborating with localities and states to restore coastal and floodplain services that mitigate the impacts of natural disasters, and our industry generates diverse job opportunities, often in rural areas, on purposeful work with large scale positive community impacts. With targeted policy incentives, this industry can deliver infrastructure and ecological services that provide extensive public benefits, all while stimulating economic growth and jobs creation.

Based on ERBA members' extensive experience, we offer the following specific recommendations for an infrastructure package. These actions will expedite high priority infrastructure, incentivize investment in natural infrastructure, ensure environmental safeguards are met, and spur job growth. Generally, we recommend that the final bill: i) clearly authorizes and incentivizes engagement of the ecological restoration industry for natural infrastructure and resiliency outcomes; ii) expedites approvals for environmental offsets that service high priority infrastructure; and iii) recognizes compensatory mitigation and ecological services markets as key tools in addressing our country's infrastructure needs.

**Fund and Support Advanced Mitigation for Large Infrastructure Impacts to Expedite Permitting**

- Direct agencies to consider all authorities for offsetting the impacts of infrastructure development. Traditional gray infrastructure typically entails large scale, permanent impacts to natural resources providing resiliency functions. Agencies overseeing implementation of infrastructure should consider all of their authorities for requiring mitigation of these impacts. Robust mitigation enforcement will ensure that our built infrastructure is not in conflict with the pressing need to build resilient communities that are prepared for natural disasters.

- Direct use of mitigation bank and in-lieu fee (ILF) credits for Clean Water Act 404 regulated impacts consistent with the preference for advanced mitigation in the 2008 Compensatory Mitigation Rule (the Rule). Use of mitigation credits cuts permitting time by 50% and reduces delays because the Corps has already reviewed and approved the mitigation. This means that mitigation credits can expedite major infrastructure priorities, while maintaining high environmental standards. Support of major credit purchases from these mitigation projects will incentivize further investment in large scale mitigation projects with proven success.
  - When mitigation bank or ILF credits are not readily available, the Corps should consider use of flexible service areas, ratios and other tools as appropriate. These approaches maximize the flexibility provided under the Rule that allows permittees to accomplish high quality mitigation while also expediting their permits for mitigation.
- Direct Corps Regulatory to prioritize and expedite approval of mitigation projects proposed to support infrastructure utilizing stimulus funding. Districts should prioritize and fast track the review timelines of mitigation project proposals if the project sponsor can demonstrate that the mitigation would service a high priority infrastructure project utilizing economic stimulus funding.
  - The Rule outlines 225 Regulatory Review days for the District to review and approve a mitigation proposal, however in practice this timeline is rarely met - the Corps' performance data from this past year indicates that the Corps is currently at a national average of 35% for meeting a 550 day review timeline. Under a fast track approach, Districts should redirect staff priorities to, at a minimum, meet the 225 day timeline, limit the number of time extensions granted to Interagency Review Team (IRT) members, and implement best practices for streamlined communication between the District, IRT members and project sponsors. ERBA can provide suggested language to facilitate streamlined mitigation project reviews.
  - To support these accelerated actions by the Corps, ERBA recommends a targeted and substantial increase in the Corps' Regulatory Program budget.
- For Corps Civil Works' project impacts, direct the Corps to outsource mitigation needs to experienced third party providers for faster delivery of ecological services and reduction of temporal loss. Engage the private sector through procurement that ensures the efficient, timely delivery of ecological outcomes, e.g. pay for performance or outcome based contracting. Mitigation is a legally binding project requirement yet it is often not fully funded upfront, which contributes to mitigation oversights and delays that erode our natural defenses and community resiliency. Funding for Civil Works mitigation should be corrected and the Corps should be directed to abide by the same mitigation laws and policies as other permittees, including the preference for advance or concurrent mitigation.

**Prioritize Landscape-Scale Restoration Infrastructure: Resiliency, Flood & Water Quality Benefits**

- Identify and provide full funding for high priority dam removal and/or reservoir improvement projects. Recent research and Corps' guidance (RGL 18-01) acknowledges the value of dam/culvert removal/improvement projects for generating stream restoration and broader watershed uplift, as well as aquatic species and community recreational benefits. The removal of many small, run-of-river dams would also eliminate a public hazard to recreational river users. These critical barrier removal projects offer substantial economic, safety, water quality, and water supply benefits, but often suffer from limited annual funding.
- Fund or promote creative financing options for shovel ready resiliency projects at the local level. Funding should be made available to support 1) Hazard Mitigation Plans and other pre-disaster/resiliency focused plans and 2) post-disaster recovery efforts.

- Many states and communities develop Hazard Mitigation Plans in accordance with FEMA guidance to document strategies and projects that will enhance state and community resilience, yet they lack resources to make those investments.
  - Expand funding for FEMA’s Building Resiliency Infrastructure and Communities Program, with extra incentives for projects that deliver multiple benefits, i.e. resiliency and water quality. Applications to the program are consistently higher than the funding available, e.g. in 2018 the program was funded at \$250M, but received \$512M in applications. FEMA should also consider implementation of project review streamlining recommendations to expedite approval of grant-awarded projects.
 

For example, the Louisiana Coastal Protection and Restoration Authority, which developed a state Master Plan of high priority projects, lacks necessary funding for comprehensive implementation.
- Additionally, communities post-disaster may have access to federal disaster funds that could be applied towards rebuilding grey and green infrastructure with resiliency practices and designs built in, yet lack the resources to provide the necessary match to access federal funds for this much needed work. These resiliency projects often include repairing erosion to coastal wetlands, restoring coastal wetlands within damaged areas to their full ecological and storm protection potential, or even water quality focused projects that also expand a system’s capacity to handle large quantities of flood or stormwaters. To better incentivize application of these funds to urgently needed projects, the funding match requirement should be lowered or waived for high priority regions/communities.
- Fully fund restoration of waters identified on the Clean Water Act 303(d) impaired waters list. These waters are also often in economically disadvantaged regions and would bring immediate water quality and other environmental benefits to critical regions and communities. Funding for these restoration projects should include a directive to deploy the funds through market-mechanisms and Requests For Proposals (RFP) that engage specialized industry providers, including the private sector and NGOs.
- Direct the Corps to collaboratively and transparently engage the private sector and community partners for beneficial use of dredged material toward restoration projects. ERBA recommends an RFP process that works through any ownership, incremental costs and other administrative issues to quickly apply dredged materials in a beneficial manner for communities’ resiliency needs.

Thank you for your consideration of our industry and the role we can play to support your public goals. Please do not hesitate to reach out on the recommendations we present here. ERBA would welcome the opportunity to work with your Congressional offices on identifying where these ideas would best fit within the bill text and collaborating on legislative language.

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