

# PROPOSALS FOR A WATER RESOURCES DEVELOPMENT ACT OF 2010, PART II

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(111-102)

HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
WATER RESOURCES AND ENVIRONMENT  
OF THE  
COMMITTEE ON  
TRANSPORTATION AND  
INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED ELEVENTH CONGRESS  
SECOND SESSION

April 15, 2010

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**U.S. House of Representatives  
Committee on Transportation and Infrastructure**

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Chairman

Washington, DC 20515

**John L. Mica**  
Ranking Republican Member

David Heymsfeld, Chief of Staff  
Ward W. McCarragher, Chief Counsel

April 13, 2010

James W. Conn II, Republican Chief of Staff

**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Subcommittee on Water Resources and Environment  
**FROM:** Subcommittee on Water Resources and Environment Staff  
**SUBJECT:** Hearing on "Proposals for a Water Resources Development Act of 2010, Part II"

**PURPOSE OF HEARING**

The Subcommittee on Water Resources and Environment will meet on Thursday, April 15, 2010, at 10:00 a.m., in room 2167 of the Rayburn House Office Building to receive testimony on proposals for the Water Resources Development Act of 2010. Testimony is expected from Theodore Brown, Chief of Planning, U.S. Army Corps of Engineers (Corps); Steve Fitzgerald, National Association of Flood and Stormwater Management Agencies; Barry Holliday, Dredge Contractors of America; Steve Little, Crouse Corp.; Bob Bendick, The Nature Conservancy; and Kirk Fordham, Everglades Foundation.

**BACKGROUND**

The Subcommittee on Water Resources and Environment has jurisdiction over the Corps' Civil Works program, the nation's largest water resources program. The Corps constructs projects for the purposes of navigation, environmental protection and restoration, flood damage reduction, hurricane and storm damage reduction, shoreline protection, hydroelectric power, water supply, recreation, and aquatic plant control.

**I. General Procedures**

The first step in a Corps' water resources development project is a study of the feasibility of the project. If the Corps has done a study in the area before, the new study can be authorized by a resolution of either the Committee on Transportation and Infrastructure or the Senate Committee on Environment and Public Works. If the area has not been previously studied by the Corps, then

an Act of Congress is necessary to authorize the study. The majority of studies are authorized by Committee resolution.

Once authorized, the Corps first performs a reconnaissance study at Federal expense, traditionally at a cost of \$100,000, and typically takes one year to complete. A reconnaissance study determines whether there is a Federal interest in pursuing a given water resource problem or opportunity. In addition, it identifies the non-Federal interest that will participate in cost-sharing of the project. If a reconnaissance study indicates that there may be a viable Federal project and that a more detailed study should be undertaken, the Corps prepares a feasibility report, the cost of which is shared 50 percent by the Federal Government and 50 percent by the non-Federal interest.

After a feasibility study is completed, the results and recommendations of the study are submitted to Congress, usually in the form of a report of the Chief of Engineers. If such results and recommendations are favorable, the next step is authorization. Project authorizations are contained in water resources development acts, which are traditionally enacted on a biennial schedule.

After a project is authorized, it would still require an appropriation of Federal funds to proceed to construction.

## **II. Continuing Authority Programs for Small Projects**

The Corps also has certain authorities to construct small projects without specific authorization by the Congress. These authorities, collectively known as the "continuing authorities program," include: (1) beach erosion control projects with a Federal cost of not more than \$3 million; (2) navigation projects with a Federal cost of not more than \$7 million; (3) flood control projects with a Federal cost of not more than \$7 million; (4) streambank and shoreline protection for public facilities projects with a Federal cost of not more than \$1.5 million; (5) projects to mitigate shoreline damages from Federal navigation projects with a Federal cost of not more than \$5 million; (6) projects of snagging and clearing for flood control with a Federal cost of not more than \$500,000; (7) projects modifying the structure and operation of existing projects for improvement to the environment with a Federal cost of not more than \$5 million; and (8) projects for the restoration and protection of aquatic ecosystems and estuaries (including dam removal) with a Federal cost of not more than \$5 million. Each of these continuing authorities programs has an annual program cost limit.

Since the continuing authorities program entails an abbreviated approval process, it offers an attractive alternative to specifically authorized work when project costs are relatively small. As a result, many Corps continuing authorities have been oversubscribed relative to annual appropriations.

## **III. Cost Sharing**

The Water Resources Development Act of 1986 (P.L. 99-662), as amended, contains the cost sharing provisions, which are generally applicable to Corps' water resources projects.

*Harbor navigation projects*

For harbor navigation projects, non-Federal interests are required to pay 10 percent of project construction costs to depths 20 feet or less; 25 percent of project construction costs for depths greater than 20 feet but not more than 45 feet; and are 50 percent of project construction costs for depths greater than 45 feet. Since 1996, project construction costs include costs associated with dredged material disposal facilities. In addition, the non-Federal interest must pay 10 percent of the cost of general navigation features over a period not to exceed 30 years with interest as well as provide all lands, easements, rights of way, and relocations necessary for project construction and maintenance. The cost of the lands, easements, rights of way, and relocations is credited against the additional 10 percent repaid following construction.

Operation and maintenance costs are 100 percent Federal for work associated with depths not greater than 45 feet and 50 percent Federal for additional costs of maintaining depths greater than 45 feet. The Federal share of operation and maintenance is appropriated from the Harbor Maintenance Trust Fund. That fund was created in 1986 and consists of receipts from a 0.125 percent tax imposed on the value of cargo loaded or unloaded at U.S. ports. On March 31, 1998, the U.S. Supreme Court ruled that the tax on cargo that supports the Harbor Maintenance Trust Fund is unconstitutional insofar as it applies to exports. The tax on imports and domestic cargo continues to be collected. The balance in the Harbor Maintenance Trust Fund has been growing in recent years and estimated to total \$6.34 billion at the end of fiscal year 2010.

*Inland waterways transportation projects*

The construction and major rehabilitation of inland waterways transportation projects is funded 50 percent from the Inland Waterways Trust Fund, with the balance from general revenues. This trust fund consists of revenues generated from a tax on inland waterways fuel. The tax rate for this trust fund has been 20 cents per gallon since January 1, 1995. Operation and maintenance of the inland waterways system are 100 percent Federal from general revenues.

The Inland Waterways Trust fund has become depleted over recent years and the administration has proposed phasing out the existing tax on waterways fuel and establishing a lock user fee.

*Flood damage reduction projects*

For flood damage reduction projects (previously called flood control projects), structural alternatives require a minimum non-Federal share of 35 percent (25 percent for projects authorized before October 12, 1996) and a maximum of 50 percent. Non-structural projects require a fixed 35 percent non-Federal share. The non-Federal interest must pay at least five percent in cash of the costs of each project assigned to flood damage reduction during construction and provide lands, easements, rights of way, relocations, and disposal areas necessary for flood damage reduction. Additional cash is required to be paid during construction if the local non-cash contribution of lands, easements, rights of way, relocations, and disposal areas and the mandatory five percent cash contribution do not equal 35 percent (or 25 percent, depending on the date of project authorization), but the non-Federal contribution is always limited to 50 percent of project costs assigned to flood damage reduction.

Generally, operation and maintenance of flood damage reduction projects are a non-Federal responsibility.

*Hurricane and storm damage reduction and shoreline protection projects*

The cost of initial construction for hurricane and storm damage reduction and shoreline protection projects that protect public lands or privately owned lands with appropriate public access is cost-shared at 35 percent from non-Federal interests. The cost of construction on non-Federal public lands used for parks and recreation is cost shared at 50 percent, and on Federal lands, the cost is 100 percent Federal.

The costs of periodic nourishment of projects on privately owned lands ranges from 35 percent non-Federal costs for projects authorized on or before December 31, 1999 to 50 percent non-Federal costs for projects authorized after this date where the periodic nourishment is carried out after January 1, 2003.

*Environmental restoration and protection projects*

For projects whose purpose is environmental (ecosystem) restoration and protection, the non-Federal share of construction is 35 percent of total project costs. Operation and maintenance of such projects is a non-Federal responsibility.

*Water supply, recreation, and aquatic plant control*

For municipal and industrial water supply (drinking water), the non-Federal share of project costs is 100 percent, repaid over the life of the project, but not to exceed 30 years. For agricultural water supply (irrigation), the non-Federal share is 35 percent, repaid over time. For recreation features, the non-Federal share of the cost of construction is 50 percent of the separable costs allocable to recreation, and for recreational navigation 50 percent of joint and separable costs. Operation and maintenance of water supply and recreation projects are a non-Federal responsibility.

The Corps may also participate with other Federal and non-Federal agencies for aquatic plant control of major economic significance. The costs of site-specific aquatic plant control efforts are shared with non-Federal interests responsible for 30 percent.

*Environmental infrastructure*

Since 1992, the Corps has been involved in the planning, design, and construction of environmental infrastructure projects for drinking water and wastewater. Environmental infrastructure projects constructed by the Corps are cost-shared with the non-Federal interest responsible for 25 percent of the total costs.

**IV. Credit**

During the development of prior water resources bills, the Committee received numerous requests for project-specific credit for individual projects. While requests for credit typically received favorable consideration, the Committee concluded that a general provision allowing credit

under specified conditions would minimize the need for future project-specific provisions and, at the same time, assure consistency in considering future proposals for credit.

Section 2003 of the Water Resources Development Act of 2007 (P.L. 110-114) amended section 221 of the Flood Control Act of 1970 (P.L. 91-611), and was intended to statutorily authorize the Secretary of the Army to provide credit towards the non-Federal share of the cost of a project, including a project implemented without specific authorization in law (i.e., continuing authorities program), equal to the value of in-kind contributions made by the non-Federal interests that the Secretary determines are integral to the project but not to exceed the non-federal share of the project. Examples of in-kind credit include the costs of planning, design, management, mitigation, construction and construction services, and the value of materials and services provided before or after the execution of partnership agreement with the non-Federal interest.

Section 2003 also required that eligible credit be limited to those materials or services outlined, in writing, within the partnership agreement with the non-Federal interest.

#### **WATER RESOURCES DEVELOPMENT ACT OF 2010**

On November 6, 2009, Chairman James L. Oberstar and Ranking Member John L. Mica sent a "Dear Colleague" requesting proposed Corps project and study submissions for the formulation of a Water Resources Development Act of 2010. The deadline for project submissions was December 3, 2009.

Staff are presently reviewing Member project requests.

The Committee places a high priority on developing and enactment of a Water Resources Development Act of 2010.

WITNESSES

**Mr. Theodore Brown**  
Chief of Planning and Policy  
United States Army Corps of Engineers

**Mr. Steve Fitzgerald, PE**  
Chief Engineer  
Harris County Flood Control District

**Mr. Robert Bendick**  
Director, U.S. Government Relations  
The Nature Conservancy

**Mr. Barry Holiday**  
Executive Director  
Dredge Contractors of America

**Mr. Kirk Fordham**  
Chief Executive Officer  
Everglades Foundation

**Mr. Steve Little**  
President  
Crouse Corporation



**HEARING ON PROPOSALS FOR A WATER RE-  
SOURCES DEVELOPMENT ACT OF 2010,  
PART II**

---

**Thursday, April 15, 2010**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON WATER RESOURCES AND  
ENVIRONMENT,  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 2167, Rayburn House Office Building, the Honorable Eddie Bernice Johnson [Chairwoman of the Subcommittee] presiding.

Ms. JOHNSON. The Subcommittee on Water Resources and Environment will come to order.

Today, our Subcommittee continues working toward the creation of a Water Resources Development Act of 2010. This bill, last enacted in 2007, is most productive when it is passed every two years. Adhering to this schedule allows Congress to evaluate and modify Army Corps of Engineers projects and policy in a timely manner.

As you know, the Committee on Transportation and Infrastructure began crafting a Water Resources Development Act last year to consider any project requests that have arisen since 2007. It is crucial that we maintain a regular schedule by passing a bill this year. Currently, the Committee is evaluating over 2,200 project requests from both Democratic and Republican Members of Congress for consideration in this year's bill.

I remain committed to this Committee's tradition of transparency as was evident in the formulation of the Water Resources Development Act of 2007. I expect to uphold that tradition through a similar process in the formulation of a new water resources bill and will work to ensure public disclosure of all projects that are included in the upcoming bill. I look forward to continuing to work with the Ranking Member, Mr. Boozman, on this legislation.

Historically, water resources bills have been drafted and debated in a cordial and bipartisan manner. These flood control, navigation, environmental restoration, and other water related projects are critically important to our constituents, our local economies, and the American people's lives and livelihoods.

The purpose of today's hearing is to hear from various interest groups on their ideas for any policy considerations that they would like us to take into account when drafting the bill. I look forward

to hearing the thoughts and ideas that our witnesses will be putting forward today.

Additionally, let me say that this Committee's oversight hearings regarding implementation of the American Recovery and Reinvestment Act have demonstrated that the Army Corps of Engineers is a crucial entity that is capable of driving economic and environmental success in our Country. The sooner we advance legislation directing and guiding them into the future, the better.

I now yield to the Ranking Member, Mr. Boozman, for any comments you have.

Mr. BOOZMAN. Thank you, Madam Chair. I think, in the interest of time, I will have a statement that we are going to put into the record, but I really appreciate the Chair having this very important Committee hearing. The infrastructure of our Nation's water projects is so important, and this is something that needs to be discussed and we need to figure out how we can move forward and address the challenges that we have, not only in the new infrastructure that we need to create, but also in the big picture of all of this, maintaining what we have.

So, again, like I said, I look forward to the testimony today and getting your input. We appreciate your being here, and hopefully we can have a good discussion today and really figure out how we can go forward and, again, continue to work on improving the Nation's waterways and all of the projects that are involved as we discuss the WRDA bill.

So thank you very much, Madam Chair.

Ms. JOHNSON. Thank you very much.

Before we go to opening statements and to the witnesses, I ask unanimous consent that the statements from American Rivers and Water Resources Coalition be entered into the record. Without objection, so ordered.

[The referenced information follows:]



April 14, 2010

The Honorable Eddie Bernice Johnson  
 Committee on Transportation and Infrastructure  
 Subcommittee on Water Resources and the Environment  
 U.S. House of Representatives  
 2165 Rayburn House Office Building  
 Washington, DC 20515

The Honorable John Boozman  
 Committee on Transportation and Infrastructure  
 Subcommittee on Water Resources and the Environment  
 2163 Rayburn House Office Building  
 U.S. House of Representatives  
 Washington, DC 20515

**Re: Hearing on “Proposals for a Water Resources Development Act of 2010, Part II”**

Dear Chairwoman Johnson and Ranking Member Boozman:

On behalf of our 65,000 members and supporters across the country, we write in support of the testimony by Mr. Robert Bendick of The Nature Conservancy (TNC) to the Subcommittee on Water Resources and the Environment of the Committee on Transportation and Infrastructure on April 15, 2010. We fully support Mr. Bendick’s recommendations in the following four areas:

- 1) improving the management of Federal reservoirs;
- 2) regional approaches to ecosystem restoration;
- 3) comprehensive management of water resources; and
- 4) criteria for improving ecosystem restoration authorities.

We believe that the water resources challenges that we face today require a “system-scale” approach to ensure the protection and restoration of our Nation’s rivers and streams. We would like to underscore the notion that the authorization of the Sustainable Rivers Program will help facilitate river basin-scale cooperative efforts that the Army Corps of Engineers (Corps) has already agreed to do. On March 24, 2010, the U.S. Department of Energy (DOE), the Department of the Interior (DOI), and the Department of the Army (DOA), signed a Memorandum of Understanding (MOU) between the federal agencies to promote a new approach to hydropower development that will ensure the enhancement of the viability of ecosystems.

Three goals of the energy partnership that are particularly relevant to TNC’s recommendations include:

1. Collaborate with Indian tribes, the environmental community, the owners of non – Federal hydropower facilities, Federal and state agencies, and other stakeholders to identify river basins where integrated basin-scale hydropower opportunity assessments

could help facilitate the move to a low-carbon future, including both environmental sustainability and the delivery of renewable energy.

2. Promote environmentally responsible approaches to enhancing hydropower development that recognizes the need to preserve biological diversity, ecosystem function, our natural and cultural heritage, and recreational opportunities, and also recognizes that some geographic locations are not appropriate for new hydropower development.
3. Work to integrate energy and water policies at the Federal level not only to address the development of hydropower resources, but also to evaluate the use of non-hydropower renewable resources with water management operations, and promote water conservation as a means to realize species conservation, environmental and energy efficiency goals.

We strongly agree that the Corps should be taking a broader approach to river management beyond their own dams by incorporating a river basin-scale approach. Although the Corps is a capable restoration specialist, it is generally constrained to working in a “black box”, that is to say on a project-by-project basis. This type of approach suffocates the Corps’ ability to understand, plan, and act in a comprehensive, coordinated, and cost effective manner on challenges and impacts to environmental health.

Therefore, we would add that the Corps must participate as a cooperating agency in every FERC licensing where there is a Corps dam in the same river basin. This type of approach is essential so that the Corps can address cumulative impacts properly and have more flexibility to find more efficient solutions to mitigating those impacts. This approach means that the Corps must coordinate better with all other non-Corps operators and state-regulated dams within the same basin to improve environmental outcomes.

At a minimum, we recommend that the Corps begin applying a river basin-scale approach immediately on dams contributing to 303(d) listed waters or on dams blocking species of concern, for example. In addition, we strongly encourage the Corps to evaluate the inclusion of fish passage at all Corps dams. The basin-scale approach proposed by TNC is an innovative idea to managing water projects and one that is long over due.

We appreciate your leadership on the Water Resources Development Act and we look forward to working with you and the Committee to protect the health of the Nation’s rivers.

Sincerely,



Andrew Fahlund  
Senior Vice President for Conservation  
American Rivers

cc Chairman James L. Oberstar  
Ranking Member John L. Mica

## REAUTHORIZE THE WATER RESOURCES DEVELOPMENT ACT IN 2010



WATER RESOURCES COALITION

### BACKGROUND

*Our nation's water resources are critical to our economy, our infrastructure, public safety, and the preservation and enhancement of our environmental resources. Much of our water infrastructure is aging, compromising its ability to meet the needs for which it was created.*

### WRC MESSAGE

**The Water Resources Development Act Should be Enacted on Schedule to Meet the Nation's Economic, Safety, and Transportation Needs.** WRDA reaffirms the government's pledge to authorize, modify, and improve projects, programs, and policies protecting the nation from floods and keeping our waterways open to navigation. Regular authorizations of water resources development projects fulfill these important missions. Accordingly, **Congress must regularly authorize and invest in new waterways projects to secure our nation.**

**Waterways Projects Grow the Economy.** Waterways programs foster economic development, facilitate trade and commerce, aid international competitiveness, stimulate employment, provide water recreation opportunities, enhance agricultural and industrial productivity, and augment our national defense.

**Flood Control Projects Protect at Risk Communities.** Failure to properly invest in flood protection efforts, which have been underway since the late 1800's, would leave hundreds of thousands of homes, businesses and other critical infrastructure vulnerable to devastating floodwaters. Flood damage reduction projects alone have prevented an estimated \$706 billion in damages – an eight-to-one return on the Federal government's investment.

**Return "Trust" to the Harbor Maintenance Trust Fund.** The Harbor Maintenance Tax (HMT) and Harbor Maintenance Trust Fund (HMTF) were established in 1986 to fund the operation and maintenance of Federal ports and harbors. Since 2002, there has been a growing gap between the annual amount of HMT collected and the annual amount of appropriations from the HMTF. The cumulative HMTF surplus exceeded \$5 billion in FY08 and grows each year. Enough HMT is collected each year to meet all of the nation's authorized harbor maintenance needs, but only a little more than half of it is appropriated for harbor maintenance. Put trust back in the HMTF by enacting legislation setting the obligation limitation each year equal to projected revenues in HMTF.

**Congress and the Administration Should Create and Fund a Program to Rehabilitate the Nation's Aging Dams to Ensure Public Safety.** Dams are a critical part of the nation's infrastructure and provide vital benefits such as flood protection, water supply, hydropower, irrigation and recreation. The Association of State Dam Safety Officials (ASDSO) estimates that \$36.2 billion is needed to rehabilitate dams across the nation, with \$10.1 billion to address the most critical dams that pose a direct risk to human life should they fail. Needed repairs to publicly owned non-federal dams are estimated at \$5.9 billion.

**Create a National Levee Safety Program.** Congress should enact legislation to establish a national levee safety program that builds on the recommendations of the National Committee on Levee Safety and modeled on the successful National Dam Safety Program. The federal government must accept the responsibility for the safety of all federally funded and regulated levees. The act should require the federal and state governments to conduct mandatory safety inspections for all levees and establish a national inventory of levees.

**Limit Liability for Levee Design and Construction.** Congress should provide liability protection to entities directly involved in the evaluation, design, engineering, or construction of

## REAUTHORIZE WRDA IN 2010

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levees built according to plans specified and approved by the federal government. Unless the liability risks to the design and engineering community are limited, resources will become unavailable to verify that levees throughout the United States comply with FEMA safety guidelines.

**Increase and Facilitate Support for Greater State, Tribal, and Local Water Resources Planning.** Section 22 of the Water Resources Development Act of 1974 provided the basis for comprehensive water resources planning. Congress made improvements to the program in WRDA 2007. Additional adjustments would provide state, tribal, interstate organizations and local leadership tools to establish and sustain Corps/non-Federal partnerships for integrated and coordinated planning, design and management. Congress should facilitate the partnership by specifying that Corps assistance be available as the non-Federal partner may request except the cost of Federal assistance may not exceed a state's expenditure on a state water resources plan. The annual appropriation ceiling for the program should be increased to help meet the water resource challenges of the 21st Century.

**Regional Sediment Management.** Section 2037 of WRDA 2007 made a major step in the right direction by providing the Corps of Engineers with a regional sediment management authority to accomplish the objectives of coordinating projects and their impacts. However, it is severely limited in that it only applies (a) where there is a Federal navigation project, and (b) where there is sufficient sand available from the dredging of that project to meet the regional water resource planning and management needs. This restriction hamstring non-Federal interests and the Corps in making sure the multiple purposes of reducing coastal hazards, using adaptive management for existing projects, coordinating new and existing water resource projects to save significant taxpayer costs, and assuring that the impacts of planned or existing projects have a beneficial, rather than a harmful, impact on environmental resources. The restriction contained in Section 2037 also limits affected stakeholders from having input into the planning and management of Federal water resource projects.

**Increase Funding for Beach Nourishment.** Reduced funding for beach nourishment projects forces some Members of Congress to make requests to add funding for projects in their districts based on requests from their constituents. While there is a process in place to assure that these requests are within the "capability" of the Corps of Engineers, there is no process that enables the Corps to provide Congress with information that would prioritize beach nourishment projects based on factors such as public safety, sea level rise, environmental resources, etc. Congress should mandate a report from the Corps that recommends a science-based method of prioritizing beach nourishment projects, and urges support from the Committee.

**Climate Adaption Partnerships.** As part of helping state and local governments address the effects of climate change, the Corps should be authorized to receive a significant proportion of the state/local carbon allowances for adaptation initiatives. Revenues from the allowances should be dedicated to preparing water resources projects for the impacts of climate change. Expected sea level rises, increased droughts, and extreme weather effects will have a particular influence on Corps projects and programs, and protecting those investments should be a key consideration.

*The **Water Resources Coalition** was established in 2007 to promote the development, implementation and funding of a comprehensive national water resources policy. With member organizations representing state and local governments, conservation, engineering and construction, ports, waterways and transportation services, the Coalition works to ensure that a comprehensive, national water resources policy is developed, implemented and funded to provide a sustainable, productive economy; a healthy aquatic ecology; and public health and safety. For more information, visit the Water Resources Coalition Web site at [www.waterresourcescoalition.org](http://www.waterresourcescoalition.org).*

Ms. JOHNSON. Congressman Brown?

Mr. BROWN OF SOUTH CAROLINA. Thank you, Madam Chair and Ranking Member Boozman, for holding this hearing today. I applaud your leadership in moving forward with the efforts to get Congress back on track and regularly passing a WRDA bill. I look forward to working with my colleagues as we develop this critical piece of legislation.

Unfortunately, most of the projects authorized in 2007 WRDA remain unfunded due to lack of appropriations. I do not fault my colleagues on the Appropriations Committee; I know they have done their best to allocate any available funding towards water resource projects. However, it is hard not to blame those who submit budgets that cut the core construction account by \$341 million, or almost 17 percent, and the investigative account by \$56 million, or 35 percent.

I applaud the Administration for making a commitment to fiscal responsibility. For far too long both Republicans and Democrats have forsaken our fiscal duties. However, it appears that in the Administration's effort to rediscover fiscal order, we have lost our priorities. Just as we cannot leave a monetary debt to our children, we also cannot leave an infrastructure debt to future generations.

I hope that as we write the next WRDA bill, the Administration does not continue this adversarial relationship with the Corps of Engineers and, instead, collaborates with us on a WRDA bill that balances fiscal restraints and funding for projects that provide an economic benefit.

I also hope to collaborate with the Administration on the update of the principles and guidelines. I am concerned that the Administration's draft principles forces the Corps to recommend a nonstructural alternative, regardless if the nonstructural option actually accomplishes the goals of the project. How does the Administration plan to rectify this nonstructural bias with the need to conduct important projects such as harbor deepening? This is important to my district because South Carolina is dependent upon the Port of Charleston. This resource is responsible for \$44.8 billion in total economic output and over 260,000 jobs across our State.

A key component in the Port of Charleston's success is its harbor depth. However, even its 45-foot depth is only able to accommodate deep draft ships under the most optimal conditions. This will have a negative impact on South Carolina's economy, as these larger ships are set to dominate world trade routes.

I hope that Mr. Brown from the Corps of Engineers will explain to the Committee how the update to the principles and guidelines will not encumber projects such as the Charleston Harbor upgrade during his testimony.

Thank you, Madam Chair. I yield back.

Ms. JOHNSON. Thank you very much.

We will now move to our witnesses. We have the following witnesses present today:

Mr. Theodore Brown, the Chief of Planning and Policy of the United States Army Corps of Engineers in Washington; Mr. Steve Fitzgerald, the Chief Engineer of Harris County Flood Control, Houston, Texas; Mr. Robert Bendick, Director of U.S. Government Relations of The Nature Conservancy, Arlington, Virginia; Mr.

Barry Holliday, Executive Director of the Dredging Contractors of America, in Washington; Mr. Kirk Fordham, Chief Executive Officer of the Everglades Foundation, Palmetto Bay, Florida; Mr. Stephen Little, President of Crouse Corporation, Paducah, Kentucky.

I will now recognize you in the order that I called your names, and we will start with Mr. Theodore Brown.

**TESTIMONY OF THEODORE BROWN, CHIEF OF PLANNING AND POLICY, UNITED STATES ARMY CORPS OF ENGINEERS, WASHINGTON, D.C.; STEVE FITZGERALD, PE, CHIEF ENGINEER, HARRIS COUNTY FLOOD CONTROL DISTRICT, HOUSTON, TEXAS; ROBERT BENDICK, DIRECTOR, U.S. GOVERNMENT RELATIONS, THE NATURE CONSERVANCY, ARLINGTON, VIRGINIA; BARRY HOLLIDAY, EXECUTIVE DIRECTOR, DREDGING CONTRACTORS OF AMERICA, WASHINGTON, D.C.; KIRK FORDHAM, CHIEF EXECUTIVE OFFICER, EVERGLADES FOUNDATION, PALMETTO BAY, FLORIDA; AND STEPHEN LITTLE, PRESIDENT, CROUNSE CORPORATION, PADUCAH, KENTUCKY**

Mr. BROWN. Madam Chair, distinguished Members of the Committee, I am Theodore Brown, Chief of Planning and Policy Division, and I am honored to be testifying before you today. My testimony will briefly describe three proposed projects that have received favorable completion of Executive Branch review since the enactment of WRDA 2007. These proposals include Topeka Flood Risk Management Project, the Mississippi Coastal Improvement Program, and the West Onslow Beach Hurricane and Storm Damage Risk Reduction Project, all falling within the major mission areas of the U.S. Army Corps of Engineers, which are commercial navigation, flood and storm damage risk reduction, and aquatic ecosystem restoration, and all will provide net benefits to the Nation.

Also, I will address two other proposed projects that have reports to the Chief of Engineers but are still under review.

First, my testimony covers the Mississippi River Gulf Outlet Deep Draft Deauthorization Project that has favorably been completed Executive Branch review and has been implemented. In January 2008, the Chief of Engineers signed a report on deauthorization of the Mississippi River Gulf Outlet, known as MRGO, deep draft navigation in Louisiana.

The report is a final response to the authority provided in the Emergency Supplemental Appropriations Act for Defense, for the Global War on Terror, and Hurricane Recovery 2006 and Section 4304 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act 2007. Public Law 109-234 authorized a comprehensive plan at full Federal expense to deauthorize deep draft navigation on the MRGO extending from the Gulf of Mexico to the Gulf Intracoastal Waterway. Public Law 110-28 directed accelerated completion of the final report of the Chief of Engineers. Construction to close the MRGO was completed in July 2009.

Topeka Flood Risk Management Project. In August 2009, the Chief of Engineers signed a report on flood risk management improvements on the Kansas River in the vicinity of Topeka, Kansas.

The report is in response to the authority contained under Section 216 of the Flood Control Act of 1970.

The report recommends modifications to four existing levee units, as follows: the South Topeka Unit, a control berm and modifications to the Kansas Avenue Pump Station and three manholes, and replacement of 2,000 linear feet of floodwall; for the Oakland Unit, a control berm, a stability berm, and pump station modifications; North Topeka Unit, a control berm, a series of pump relief wells, and the removal of an unused pump station; for the Waterworks Unit, a stability berm.

The levee improvements will provide greater than 90 percent reliability against damages from the base flood, which has a 1 percent chance of occurrence in any year, formerly known as the 100-year flood. Based on October 2008 price levels, the estimated first cost of the project is about \$21.2 million and will be shared 65 percent Federal and 35 percent non-Federal. At a 4.625 percent discount rate, the benefit-cost ratio is 13.2 to 1.

Mississippi Coastal Improvements Program. In September 2009, the Chief of Engineers signed a report on comprehensive water resources improvements associated with hurricane and storm damage reduction, flood damage reduction, and ecosystem restoration in the three coastal counties of Mississippi. The report is in response to the authority under the Department of Defense Appropriation Act.

The comprehensive Mississippi Coastal Improvements Program, known as MsCIP, is a systemwide approach linking structural and nonstructural risk reduction appropriates and environmental restoration features. To address the most critical needs, the report recommends 12 near-term elements which would restore over 3,000 acres of coastal forest and wetlands, restore about 30 miles of beach and dunes, and flood proof or acquire about 2,000 tracks within the 100-year floodplain. Based on October 2008 price levels, the estimated first cost of the project is just over \$1 billion, to be cost shared 65 percent Federal and 35 percent non-Federal. However, in Public Law 111-32, the Supplemental Appropriations Act for 2009, Congress appropriated all the funds for the barrier island element in the amount of \$439 million at Federal expense.

West Onslow Beach and New River Inlet, Topsail Beach. In September 2009, the Chief of Engineers signed a report on hurricane and storm damage reduction along a five mile reach of Atlantic Ocean shoreline at Topsail Beach, North Carolina. This report is a final response to the Energy and Water Development Act of Fiscal Year 2001, which included funds for a General Reevaluation Report for West Onslow Beach and New River Inlet, Topsail Beach, Shore Protection Project and the remaining shoreline at Topsail Beach.

The Report recommends a locally preferred 26,200-foot long dune and a berm system including a dune three feet lower than the National Economic Development Plan and extends 400 feet southwest to include additional properties that are vulnerable to coastal storm damage. The Assistant Secretary of the Army for Civil Works approved a policy exception in May 2008 allowing the Corps to recommend the locally preferred project. The 400-foot extension costs an additional \$320,000 and would be funded entirely by the non-Federal sponsor.

Based upon October 2008 price levels, the initial cost of the recommended project is \$42.6 million, to be cost shared 65 percent Federal and 35 percent non-Federal. It also includes 50 years of periodic nourishment to be shared equally at \$113.9 million based on October 2008 price levels. At a 4.625 percent discount rate, the benefit-cost ratio was 3 to 1.

In accordance with Executive Order 12322, OMB has found these projects consistent with policy and programs of the President.

There are two other proposed projects with Chief reports that are still under review: the Mid-Chesapeake Bay Island Ecosystem Restoration Project, signed in August 2009, and the C-43 West Basin Storage Reservoir Project for the Everglades, signed in March 2010.

This concludes my statement. Again, I appreciate the opportunity to testify today and would be pleased to answer any questions you might have.

Ms. JOHNSON. Thank you very much.

One of the things I failed to say earlier is that all of your testimony will be placed in the record, and if you could keep your remarks to five minutes, we would appreciate it.

Thank you. Mr. Fitzgerald.

Mr. FITZGERALD. Thank you, Madam Chairwoman and Committee Members. On behalf of the National Association of Flood and Stormwater Management Agencies, or NAFSMA, we want to thank you for your leadership and efforts to move a Water Resources Development Act forward this year. Not only does this necessary legislation provide an opportunity to review and shape the policies and programs of the Corps of Engineers, it is needed to strengthen the partnerships necessary to achieve the flood damage reduction goals of this Nation.

Our members are on the front line every day reducing loss of life and property damage from floods, improving the quality of the Nation's surface waters, and helping guide the design and construction of low flood risk and affordable communities. Many of our members are non-Federal partners on flood damage reduction and ecosystem restoration projects with the Corps of Engineers.

During these tough economic times, it is important that we all find ways to reduce costs, expedite studies, and minimize review and permitting so we can build and maintain projects that reduce loss of life and property from floods, while at the same time using public dollars to put people to work.

Now I am going to present our recommendations.

Many non-Federal sponsors and their congressional delegations held back new projects or amendments to existing projects from consideration in WRDA 2007 at the request of Committee leadership and staff in an effort to move that bill forward. These projects now need to be considered as they are necessary to protect lives and critical infrastructure and reduce flood damages.

Next, we have five suggestions related to the recommendations of the National Committee on Levee Safety.

First, provide the necessary authorizing language to expand and complete the national levee inventory to include non-Federal, as well as Federal, levees.

Second, authorize the Corps of Engineers, when requested, to carry out levee certifications for federally partnered projects. We believe the Corps has the expertise and a shared responsibility to actively participate in FEMA's certification process with non-Federal partners.

Third, establish a national levee rehabilitation, improvement and flood mitigation program to address critical levee situations and make funding available on a cost-shared basis to owners and operators of levee systems.

Fourth, explore expanding incentives for flood levee repairs or strengthening of levees by non-Federal partners. In some instances the non-Federal partner needs the ability to start work prior to the next flood threat and have the opportunity to work with the Corps and Congress to receive needed and appropriate credits or reimbursements for the Federal share.

Fifth, develop and implement measures to more closely harmonize levee operation and maintenance activities with environmental protection requirements. Non-Federal partners want to maintain the integrity and strength of existing levees without significantly impacting the environment. There are situations where inconsistencies between Federal regulators and environmental agencies in the permitting and guidance of levee maintenance are resulting in unpredictable requirements and delays.

Our specific recommendations for WRDA are: require the Corps to report to Congress within 180 days of passage on the impediments and suggested changes required to improve environmental permitting for operation and maintenance of federally partnered flood damage reduction projects, and authorize the updating of existing operation and maintenance manuals for federally partnered projects to include Section 404 permits, if necessary, or otherwise allow local sponsors to perform the required maintenance without the need to obtain Federal permits and without requiring costly mitigation measures.

Our remaining recommendations apply to all flood damage reduction projects, not just levees.

First, make Section 214 of WRDA 2000 permanent, which allows non-Federal public entities to contribute funds toward additional permit staff for the Corps. Permit process times are reduced not only for the funding entity, but for all other applicants as well.

Next, provide sound floodplain management incentives to non-Federal sponsors for federally partnered flood damage reduction projects. For example, where a community is carrying out sound floodplain management activities, as reflected in FEMA's Community Rating System or similar system, you could reduce the 35 percent local cost share accordingly.

And, finally, NAFSMA requests the Committee to support any and all means to expedite the planning process, including authorization changes, if needed. It will take a considerable and collaborative effort from local sponsors, the Corps, and Congress to make any significant and worthwhile changes.

In closing, NAFSMA urges Congress to enact WRDA 2010 to move needed water resources policies, programs and projects forward for the benefit of the communities we serve. Thank you.

Ms. JOHNSON. Thank you very much.

Mr. Bendick.

Mr. BENDICK. Madam Chairwoman and Members of the Subcommittee, thank you for the opportunity to testify on proposals for the Water Resources Development Act of 2010, and particularly the need to protect our Nation's rivers, lakes, and coastal areas, and the benefits they provide to people.

I am Bob Bendick, Director of U.S. Government Relations at The Nature Conservancy. Prior to coming to my current job in our Arlington office, I worked on water resources issues for State government and the Conservancy's field programs for more than 30 years.

A 2009 bipartisan public opinion survey found that 78 percent of American boaters are seriously concerned about the health of our Nation's rivers and lakes. The Conservancy shares their concerns and we offer here five specific recommendations that will help improve our waters and benefit communities across the Country.

As the Conservancy has increased its engagement in a variety of restoration projects, the U.S. Army Corps of Engineers has become an important and valued conservation partner. By number of projects, the Conservancy is now the Corps' largest non-Federal sponsor of ecosystem restoration projects.

The Conservancy's objective in this is to help protect and restore the key physical and ecological processes that sustain freshwater systems, including the flow of water through these systems, the movement of nutrients and sediments within these systems, and the function of floodplains and river corridors that maintain these processes. We believe that by focusing public management on returning these processes to within the range of natural variability, it will help ensure the long-term viability of the Nation's freshwater systems to meet the needs of people and nature.

By definition, protection and restoration of these processes requires a system-scale, watershed-scale approach to provide the framework for short-and long-term decision-making.

With this as background, here are our five priorities for building upon the important ongoing restoration work of the Corps:

First, support the request of a new authority to establish a national sustainable rivers program within the Corps to implement science-based environmental flow requirements and the protection and restoration through easements and acquisition of floodplains downstream from Corps dams. This program, now a pilot partnership with the Conservancy and the Corps in eight watersheds, can improve community flood protection, restore environmental health, including water quality and fish and wildlife habitat, and enhance resiliency to climate change. Of course, new SRP projects need not be with the Conservancy; there could be many, many partners. The initial projects have simply been moved forward to demonstrate the viability of this concept.

Second, authorize regional restoration authorities that allow the Corps to engage stakeholders across watersheds, river basins, and coastal regions to set priorities and implement projects that will result in the most ecological return on Federal dollars invested. Specifically, we ask that you support requests to authorize the North Atlantic Division Marine and Coastal Program and reauthorization of the Ohio River Ecosystem Restoration Program. Particularly in this area of climate change and sea level rise, isolated project-by-

project decisions are not likely to produce the best long-term results.

Third, as you review WRDA projects overall, identifying and approving projects that serve multiple needs across whole ecosystems is an effective way to meet water resource goals. Examples of this approach already authorized include in the Mississippi Basin the Navigation and Ecosystem Sustainability Program, or NESP, in the upper Mississippi, and the Hamilton City Combined Flood Risk Reduction and Ecosystem Restoration Project in California.

Fourth, support changes in the continuing authority programs to further emphasize those projects that result in the greatest ecological return on the dollar invested by setting clear science-based criteria for allocating program funds. In practice, this means concentrating limited funding on the best Section 1135 and 206 projects, getting them done in a timely way, and deferring action entirely on other projects.

And, finally, support the request to amend Section 234 of the Water Resources Development Act of 1996 to enable the Corps to partner with and accept funds from the non-Corps elements of the Department of Defense and to partner with nongovernmental organizations outside the U.S. This authority enables the Corps to participate with Federal or international organizations and foreign governments to address problems of national significance related to water resources in other countries. Such actions can be an important element of national security and international stability. The amendment also ensures that any use of this authority would require the approval of the Secretary of State.

Thank you for the opportunity to testify today on behalf of the Conservancy.

Ms. JOHNSON. Thank you very much.

Mr. Holliday.

Mr. HOLLIDAY. Madam Chairman, Ranking Member Boozman, and Subcommittee Members, I am Barry Holliday, Executive Director of the Dredging Contractors of America. Thank you for providing me this opportunity to testify today.

I would first like to discuss the positive results from the American Recovery and Reinvestment Act work accomplished by the U.S. Army Corps of Engineers and the dredging industry. I would like to take this opportunity to acknowledge the outstanding cooperation and leadership by the Corps of Engineers in managing the execution of the additional dredging work funded by the ARRA. As a result of preliminary regional discussions with the Corps, the dredging industry was able to effectively ensure equipment and resources were available to get the job done. In my written testimony, I have included a full listing of all the new equipment and the new dredges that were acquired as a result of the ARRA.

The Corps and the dredging industry have effectively demonstrated that they can execute on rather short notice. During fiscal year 2009, the dredging industry accomplished an additional \$117 million of dredging work as a result of ARRA and an additional \$212 million as a result of hurricane supplemental and other emergency dredging work in the Gulf of Mexico. But this additional work is only a short-term band-aid against larger long-term dredging needs.

There continues to be a major shortfall of funds appropriated to adequately maintain our ports and harbors. For this purpose, I speak not only for the Dredging Contractors of America, but also as Chairman of the Harbor Maintenance Trust Fund Fairness Coalition. In that capacity, I would like to address the current situation regarding the Harbor Maintenance Trust Fund and our Nation's ports and harbors.

The Coalition many of you also know as RAMP, Realize America's Maritime Promise, formed in March 2008 and represents a very broad spectrum of maritime interests. In 2009, the harbor maintenance tax collected approximately \$1.3 billion from shippers for the purpose of funding dredging projects. However, only \$808 million of the dredging and related maintenance costs were reimbursed from the fund through regular appropriations. At this funding level, most ports and harbors were unable to be dredged to their authorized project dimensions.

Our ports and harbors are gateways to domestic and international trade. Connecting the United States to the world, U.S. ports and harbors handle more than 2.5 billion tons of domestic and international trade annually and are responsible for moving more than 99 percent of the Nation's overseas cargo. That volume is projected to double within the next 15 years. With the expansion of the Panama Canal in 2015, many of our ports should realize substantial volume growth if these ships can get into our harbors.

Without a navigation channel dredged to its authorized width and depth, a port's economic viability is threatened. The United States will lose existing business and potential new business to foreign ports, and history has shown that, once lost, it is rarely regained.

During this time of economic stress on our Nation, we cannot afford to threaten these water highways that are so important to our Nation's commerce. A fully funded dredging program would keep our Nation's maritime commerce flowing and ensure that the Corps could properly plan and manage dredge material for potential beneficial uses and environmental restoration applications.

Similar problems with Highway Trust Fund and Airports and Airways Trust Fund were addressed by past Congresses by enacting legislation to more closely tie trust fund expenditures and revenues through a guarantee and a point of order. The RAMP Coalition is extremely pleased that Congressman Charles Boustany and Congressman Bart Stupak and Congressman Laura Richardson have introduced H.R. 4844 to do the same for the Harbor Maintenance Trust Fund. Since this bill addresses program-wide funding, not specific projects, it is not considered earmark legislation. Also, as with the AIR-21 provision, after which it is modeled, H.R. 4844 should not score as violating pay-go rules.

All of the members of the Harbor Maintenance Trust Fund Fairness Coalition respectfully request that this Subcommittee use this unique opportunity to enact legislation that is needed now so that future port navigation channel capacity affecting trade, American jobs, and our national defense, will not be compromised. We urge you to pass a Water Resources Development Act this year, with the H.R. 4844 language included, and restore the trust to the Harbor Maintenance Trust Fund.

Thank you very much.

Ms. JOHNSON. Thank you very much.

Mr. Fordham.

Mr. FORDHAM. Thank you. Chairman and Members of the Committee, thanks again for having us here today to testify on this important bill. For those of you who aren't familiar with The Everglades Foundation, we are a collection of individuals, families, businesses, all folks that depend on the Everglades for our livelihood and just who enjoy the natural resources that make it such a spectacular place.

Needless to say, all of us here at this table are counting on speedy passage of WRDA this year. But I want to speak a little bit today about the Florida Everglades, an ecological wonder that is found nowhere else in the world.

For over two decades, this interconnected series of parks and wildlife refuges has been limping along in critical condition. As Members of this Committee know well, the Everglades have been diked, drained, divvied up, developed, and degraded through years of poorly conceived government and private sector schemes. We have lost over half of the original Everglades, and scientists estimate that over 90 percent of the wading birds are now gone. The few remaining Florida panthers, Southern Bald Eagles, and other great American wildlife species are struggling to survive.

But there is actually good news to report today. We have actually turned a corner. Over the last two years, we have witnessed more progress on Everglades restoration than we have seen since the passage of the bipartisan Comprehensive Everglades Restoration Plan back in 2000. Thanks to the work of this Committee, a bipartisan support in Congress, and several major restoration projects are now underway.

For instance, the first phase of bridging along Tamiami Trail, that is, a bridge that will raise that road the highway that acts as an artificial dam, is under construction. It will allow the flow of fresh water to move into the Everglades, which is now parched and struggling to survive.

In Southwest Florida, an astounding 55,000 acres of wetlands and wildlife habitat are currently being restored in an area known as the Picayune Strand.

The Kissimmee River restoration project, at the headwaters of the Everglades, is nearly a third complete and has been a tremendous success story. Wetlands are rebounding, wildlife is returning, and fishing, boating, and recreational opportunities are multiplying in the restored Kissimmee River Basin.

With this newfound momentum, there has never been a better time to continue advancing the world's largest ecosystem restoration initiative. But this isn't just an initiative about restoring the environment. The Everglades are a powerful economic engine that sustain one of our most populous States and provide economic benefits throughout the Nation.

Most people don't realize this, but over 7 million Americans living in the region directly depend on the Everglades for their supply of fresh drinking water. Without the Everglades, one in three Floridians would have to look elsewhere for their water supply.

At the same time, some of our most critical industries have a major presence in Florida and depend directly on the Everglades for their survival. Think about our tourism, our boat manufacturing, dockage and marine services industries, all providing tens of thousands of jobs to our region. A \$5 billion commercial and recreational fishing industry supplies Americans with an abundant food supply and really some of the best angling opportunities in America. But all of these businesses are threatened as fishing populations of grouper, snapper, stone crab, bonefish, and tarpon have all continued to plummet.

Today I am asking you, on behalf of a wide range of national business conservation, civic, sporting, and fishing groups to authorize four key projects, all part of the Comprehensive Everglades Restoration Plan.

First is the C-111 Canal project. It will help recover portions of Florida Bay and Everglades National Park, both of which have been starved of their normal supply of fresh water. If you have ever visited the Florida Keys, you know all the folks that live along those communities depend on the water for their livelihood and their survival, as the water flows from the southern peninsula into the bay.

Second, we urge the Committee to authorize the Biscayne Bay Coastal Wetlands project, to save a great national park that sits alongside one of our largest metropolitan areas, the City of Miami.

Another key Everglades restoration, the C-43 West Basin Storage Reservoir, is a project geared toward the protection of the tremendous ecological and economic resources of the Caloosahatchee River and all the communities along the Gulf of Mexico.

Finally, the successful Kissimmee River Restoration project I mentioned earlier is in need of an increase in its authorized level of funding since its initial approval in 1992.

By authorizing these projects, Congress has the opportunity to build on these early successes and demonstrate that we can in fact restore ecosystems of high economic value to the Nation.

Folks, the Everglades encompass some of America's most treasured special places. Just as we value great national treasures like Yosemite, the Grand Canyon, and the Rocky Mountains, Americans recognize the Everglades as a place worth protecting.

Mr. Chairman and Members of the Committee, I thank you for this opportunity to speak to you today.

Ms. JOHNSON. Thank you very much.

Our last witness, Mr. Stephen Little.

Mr. LITTLE. Thank you, Madam Chairwoman, for providing me with this opportunity to testify concerning the Water Resources Development Act of 2010. We are encouraged by the Committee's efforts to begin to develop this year's bill. Water Resource Development Acts, or WRDAs, as many of us have come to refer to them, are very important to both the economy and the environment of the Nation, a reality that is even more important today as we struggle to emerge from the worst economic downturn since the Great Depression.

I am Stephen Little, President and CEO of Crouse Corporation. Crouse is a leader in the river transportation industry. In addition to my position with Crouse, I also serve as a member of the

Board of Directors and on the Board's Executive Committee of Waterways Council, the national public policy organization advocating in support of a modern and well maintained national system of ports and inland waterways.

Madam Chair, I also have the distinct honor and privilege of being the current Chairman of the Inland Waterways Users Board. The Users Board is a Federal advisory committee established by Congress in Section 203 of the Water Resources Development Act of 1986, one of this Committee's many significant legislative achievements.

On behalf of Crouse Corporation, I am pleased to appear before the Subcommittee this morning to testify in strong support of the recommendations developed by the Inland Marine Transportation System's Capital Investment Strategy Team, or, as we refer to it, the CIS Team. These recommendations have been approved unanimously by the Users Board. They also have the broad and growing support of the waterways industry, as evidenced by unanimous endorsement by the Board of Directors of Waterways Council, the American Waterways Operators, and National Waterways Conference, and by similar expressions of support from more than 150 other associations and companies throughout the Nation.

At this time, Madam Chairwoman, I would ask that the entire IMTS report, as approved by the Users Board just two days ago, be included in the record of this hearing.

Mr. BAIRD. Madam Chair, if I may.

What is the length of that, Mr. Little?

Mr. LITTLE. It is about—the report itself is about 75 pages.

Mr. BAIRD. I actually am well familiar with the report; I think it is a great piece of work. I just don't want to have the printing office have to retype that, with no disrespect to the report.

Mr. LITTLE. If I may, we also have an Executive Summary. I don't have it with me. It is obviously shorter, if that pleases the Committee.

Mr. BAIRD. I would be more comfortable with that. I know the report. I was going to ask you about it, but there is sort of a limit for UC requests on length of reports to get entered into the record.

Ms. JOHNSON. Without objection, so ordered.

[The referenced information follows:]

**INLAND WATERWAYS USERS BOARD  
23<sup>rd</sup> ANNUAL REPORT  
TO THE  
SECRETARY OF THE ARMY  
AND THE  
UNITED STATES CONGRESS  
WITH APPENDIXES**

**AUGUST 2009**

*"Prompted by these observations, I could not help taking a more contemplative and extensive view of the vast inland navigation of these United States, from maps and the information of others; and could not but be struck with the immense diffusion and importance of it, and with the goodness of that Providence, which has dealt her favors to us so profuse a hand. Would to God we may have wisdom enough to improve them."*

George Washington  
From his letter to the Chevalier de Chastellux  
ca 1783

**Inland Waterways Users Board Members**

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Crouse Corporation  
Paducah, Kentucky

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CONSOL Energy, Inc.  
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Mr. Mark K. Knoy  
AEP River Operations LLC  
Chesterfield, Missouri

Mr. Tim Parker  
Parker Towing Company, Inc.  
Tuscaloosa, Alabama

Members continued

Mr. John Pigott  
Tidewater Barge Lines  
Vancouver, Washington

Mr. Michael P. Ryan  
American Commercial Lines LLC (ACL)  
Jeffersonville, Indiana

Mr. W. Matthew Woodruff  
Kirby Corporation  
Houston, Texas

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**Inland Waterways Users Board  
23<sup>rd</sup> Annual Report  
August 2009**

The Inland Waterways Users Board (the Board) is a Federal advisory committee established by Congress under Section 302 of the Water Resources Development Act of 1986 (WRDA of 1986), Public Law 99-662 dated November 17, 1986, to make recommendations on construction and rehabilitation projects on the inland waterways of the United States. This is the annual report for 2009.

Excerpts from President Barack Obama's Memorandum for the Heads of Executive Departments and Agencies, January 21, 2009.

*Government should be participatory. Public engagement enhances the Government's effectiveness and improves the quality of its decisions. Knowledge is widely dispersed in society, and public officials benefit from having access to that dispersed knowledge. Executive departments and agencies should offer Americans increased opportunities to participate in policymaking and to provide their Government with the benefits of their collective expertise and information. Executive departments and agencies should also solicit public input on how we can increase and improve opportunities for public participation in Government.*

*Government should be collaborative. Collaboration actively engages Americans in the work of their Government. Executive departments and agencies should use innovative tools, methods, and systems to cooperate among themselves, across all levels of Government, and with nonprofit organizations, businesses, and individuals in the private sector. Executive departments and agencies should solicit public feedback to assess and improve their level of collaboration and to identify new opportunities for cooperation.*

The Inland Waterways Users Board is currently working with representatives of the U. S. Army Corps of Engineers (the Corps) in an intensive ongoing effort to identify ways to improve the Corps project delivery model. This working group is known as the Inland Marine Transportation System Investment Strategy Team (IMTS Team). Broadly speaking, the IMTS Team will seek to:

- 1) Identify ways to improve the project delivery system (more reliable estimates, better contracting practices, improved project management, etc) in order to ensure that future projects can be completed on time and within budget;
- 2) Develop a list of long-term capital needs for the inland navigation system, including an objective methodology to prioritize those needs;
- 3) Develop reliable estimates for the costs of those system needs; and
- 4) Develop and jointly recommend a strategy to help ensure that those funding requirements can be met with reasonable certainty and efficiency.

It is the Board's expectation that the IMTS Team's final consensus-based recommendations will reflect the team's best thinking, unencumbered by any existing Corps policies or practices nor constrained by current or past Administration positions.

#### Broken Business Model

The comprehensive review by the IMTS Team is necessitated because the present business model is broken. As highlighted in previous Board reports and elsewhere:

- The design life of our locks and dams is generally 50 years. The majority of our locks have exceeded that – many are more than 70 years old.
- The United States Maritime Administration projects dramatic growth of domestic freight volumes, which will compound the congestion problems on the nation's already overcrowded highway system.
- Enormous project cost overruns and delays in project schedules have greatly strained the Inland Waterways Trust Fund balance. Meanwhile, the benefits foregone (by virtue of not having the use of completed projects) continue to escalate.
- Project completion delays result, (at least in part) from a Federal budgeting and appropriations model that provides funding in annual and often-insufficient increments rather than a more reliable multi-year funding mechanism that would provide the certainty needed to more efficiently contract and build these capital projects.
- In the not-too-distant past, projects (such as those authorized by the Water Resources Development Act of 1986, P.L. 99-662) were completed within an average of 6.3 years and with an average increase of 32.5% of authorized costs; compared to the present day projects under construction that are more than double authorized amounts and require more than 17 years to complete.
- Another truly startling example of the contrast between today's project delivery performance and yesteryear's, is McAlpine Locks and Dam (Louisville, KY). The recently dedicated 1200' lock chamber took 10 years to complete. The virtually identical lock chamber sitting next to it was constructed in just 3 years (1958-1961).

#### Inland Navigation Stakeholders Call For A Review (The Selected Case Studies)

In June 2007, the inland navigation stakeholders requested the Corps undertake a review and comparison of the cost escalation and schedule delays associated with three of the then-current cost-shared inland navigation construction projects (Marmet Locks and Dam, Lower Monongahela Locks and Dams 2, 3, and 4 and Olmsted Locks and Dam). The Corps agreed to conduct such a review and completed and delivered the Selected Case Studies to the Board in July 2008. The study revealed a number of principal reasons to help explain the enormous cost

escalation. They include delay-caused inflation, government design changes, design omissions, re-estimates and differing site conditions encountered during construction. The Corps estimates the non-inflationary reasons account for about 61% of the cost growth on the Lower Monongahela project and about 69% of the cost growth on the Olmsted project. The Corps agrees that these findings highlight the need for process improvements in engineering, construction and project management. The Board notes that in general, the private sector spends far less time studying and building potential projects and completes their evaluation process with a far more accurate assessment of the scope of work, site conditions and project cost. While the Board is mindful that the Corps faces constraints and limitations not found in the private sector, to the extent these constraints and limitations are costing the nation money without providing offsetting value, they should be eliminated.

There is an inherent inequity in a process where two “partners” split project costs based on one partner’s estimate, yet the other partner pays half of the escalating costs if the estimate proves faulty. This inequitable arrangement provides no incentive to develop accurate cost estimates. In fact, it may encourage lower estimates that improve project cost benefit ratios, which in turn may cause one partner (in this case those paying the inland waterway fuel tax, not to mention the general taxpayer) to proceed with projects that might otherwise have not advanced if a more accurate cost estimate had been available.

The Selected Case Studies report also concluded that “less than optimal funding” accounted for about 32% of the cost growth for two projects (Lower Monongahela and Olmsted). While the Board applauds the Corps for its review, we believe that their estimated cost increases (while dramatic) nevertheless understate the total cost of these increases. The Corps report identifies the increases in terms of 2007 constant dollars. However, if the projects had been completed earlier, as estimated, then the total construction costs would have been much lower because the cost of construction materials was much cheaper. There were certainly ample Inland Waterways Trust Fund dollars available in the mid-to-late 1990’s and early 2000’s. Earlier completion of Olmsted and the Lower Monongahela projects would have produced significant construction cost savings in addition to the fact that the nation would have benefited from the transportation cost savings that were originally projected to be provided by the finished projects.

#### ARRA Funding: Welcome, but Short-Term, Band-Aid

President Obama signed into law the American Recovery and Reinvestment Act of 2009 on February 17<sup>th</sup>. The stated intent of the legislation was to stimulate recovery of the U. S. economy.

For the Corps Civil Works Program, the Act included \$4.6 billion in funding. Of that, \$2.0 billion is for construction projects and \$2.075 billion is for operations and maintenance activities nationwide. Appropriations are also included for the Mississippi River and Tributaries (MR&T) account and other accounts. Within the construction project category, at least \$403.1 million is allocated to inland waterway system lock and dam modernization projects. Significantly, the ARRA funding provided for the inland waterway lock and dam construction and major rehabilitation projects does not require cost-sharing from the Inland Waterways Trust Fund.

The Board took an active role in expressing its strong belief to Congress and to the Corps that the inland navigation system's projects deserved to be considered as high priorities as decisions were being made regarding the development of stimulus legislation and the subsequent allocation of funds (see attached letters in Appendix 3). The Board is heartened by the ARRA funding that is already allocated for inland construction projects. Although much more spending could be justified, this is a significant sum that will further some much needed work. We commend the Corps for their successful efforts within the Administration to demonstrate the urgent need for these funds. We urge the Corps to continue to expedite the expenditure of these funds in such a fashion that will advance the completion dates of the projects.

#### The Path Forward

During the July 2008 Board Meeting Number 58 in Walla Walla, Washington, the Corps reported on the findings contained in the Selected Case Studies report. The Corps acknowledged shortcomings in a number of their current processes and the need for improvements. Mr. Gary Loew (Chief, Programs Integration Division, Corps Civil Works Directorate), also recommended the Board should be more directly involved in the development of an improved project delivery model. Thus, the IMTS Team was formed and it began the present effort.

The Board wishes to commend the Corps for its candor in acknowledging that changes are needed, as well as for its vision to initiate the collaborative effort of the IMTS Team to develop a long term, comprehensive, consensus-based strategy to better prioritize, manage and fund the capital construction needs of our nation's inland navigation system.

While the Board is acutely aware that the present low balance in the Inland Waterways Trust Fund has slowed down needed work on projects, we are also certain that the failure of our present project delivery model is not solely caused by a lack of sufficient Inland Waterways Trust Fund dollars. Essential systemic and policy changes must be addressed as we move forward. Some of these needed changes will require shifts in the way government (Executive Branch and Congress) operates. We will not resolve today's project delivery problems by merely increasing the industry's tax burden. If all we do is raise the industry's taxes, then we are destined to repeat today's mistakes, albeit perhaps at a faster, more expensive pace. We are also very mindful of the fact that history has shown that available trust fund balances have not always translated into greater investments in desperately needed projects. In the recent past, projects have languished while the trust fund balances increased. Even today, the balance continues to grow in the Harbor Maintenance Trust Fund which was established to pay for maintenance of port and harbor channels, even though many needed harbor maintenance projects remain unfunded. This suggests to the Board that merely raising more revenue is not the answer, unless it is coupled with dramatic process change at all levels of government.

Unfortunately, the constructive efforts which began with the initiation of the Selected Case Studies and then followed by the IMTS Team efforts have been complicated by the distraction of the Administration's ill-conceived lockage fee proposal. This concept is devoid of any persuasive basis in rational economic theory. Further, it contradicts a basic tenet held for the

past 200 years by nation's waterways policy, which has long recognized that the benefits of the entire system are not just local in nature, but inure to the nation as a whole.

The Board could point out more shortcomings of the lockage fee concept. However, to do so might have the unintended effect of suggesting that it is an idea worthy of serious consideration. It is not.

The Board is quite mindful of the stressed economic situation faced by many of the carriers on the inland waterways who are the payers of the taxes supporting the Inland Waterways Trust Fund. The economic downturn has impacted virtually all carriers to some degree, many to a profound degree. Many companies have boats and barges tied up and employees laid off due to the worst national economic conditions in seven decades. Doubling or tripling their tax burden, however the tax is assessed, is not a good way to ensure the survival of these companies and preserve the employment of their remaining workforces. Compared to rail and truck, inland marine transportation is the most fuel efficient, clean and greenhouse gas friendly way to move the nation's cargo. We should be looking for ways to incentivize more shippers to take advantage of our existing waterways capacity rather than considering an inequitable tax regime that will drive cargo to less efficient modes.

Collectively, the inland barge industry is a small industry whose ability to pay for the nation's lock and dam system is limited. Much of the industry is privately held, making financial comparisons difficult, but an extrapolation of the operating revenues of the publicly traded barge lines suggest that overall industry operating revenue is but a small fraction of the \$54.6 billion that the American Association of Railroads reported for America's Class I railroads in 2007. A question policymakers must address is whether it even makes sense to expect this industry to fund half the cost of new construction and major rehabilitation projects on our nation's inland waterways, much less bear half the price of the cost overruns resulting from inefficient construction and funding practices on the part of the government. While our inland waterways certainly benefit navigation and it is fitting for navigation to contribute to their future, there are a host of non-navigation beneficiaries who benefit from the existence of this infrastructure. Funding decisions must recognize the reality of the industry's small size and limited resources and appreciate the significant economic and social benefits that accrue to the nation because of barge transportation.

#### Recommendations

The Board strongly urges the development of a long term public policy that truly recognizes the importance of our navigation system and adopts an investment policy that reflects that vision. A comprehensive approach is urgently needed to outline the compelling national interest in the funding and construction of our most environmentally friendly and economically efficient mode of transportation. The Board believes that the efforts of the IMTS Team offer the best path to this goal and that the Congress and the Administration should support the work of this team and take no action until the team has had a reasonable opportunity to complete its work and make its recommendations.

As Congress and the Administration (as well as the IMTS Team) continue to reflect on how best to fashion a workable policy that furthers these national goals, the Board respectfully offers the following observations and ideas for consideration.

- Congress must provide adequate, uninterrupted funding for waterways projects to eliminate the inefficiencies of start-and-stop construction that result from the current “annual” appropriation method which often provides less-than-optimal amounts for individual projects and is generally punctuated with continuing resolutions and other uncertainties. Once we decide to commence a project, we cannot hope to complete it in on time or on budget if adequate funding is not assured.
- There must be continual improvement to the Corps project delivery model. The focus should be on productive project management through full and efficient funding.
- Projects currently under construction or almost ready to begin construction will require approximately \$7.0 billion to complete. If one assumes current Inland Waterways Trust Fund projected revenue levels, plus the current matching federal appropriation levels, it will take more than 40 years to complete these projects.
- In order to adequately address these capital needs, we must take a more creative approach. Similarly, the Corps must take creative steps to efficiently manage the construction process – on time and within budget.
- By even the most generous of interpretations, construction costs and schedule delays for some of the navigation projects (principally Olmsted and Lower Monongahela) are staggering. To date, 50 percent of these excessive costs have been borne by the industry. That is enough. Going forward for both ongoing and future projects, the Inland Waterways Trust Fund cost shared project share should be limited to 50 percent of the projects’ original Congressionally authorized amount. This will provide an incentive for accurate cost estimating.
- In recognition of the multiple non-commercial navigational beneficiaries of the inland waterways system and the many benefits of barge transportation, the allocation of costs between the inland towing industry and the Federal government should be adjusted. For example, the dam portion of project costs should be excluded from the Inland Waterways Trust Fund cost sharing formula. Also, Inland Waterways Trust Fund cost sharing of lock and dam major rehabilitation projects provides a financial incentive to defer maintenance to the point a “major rehabilitation” is required for continued operation of a facility. The decision to allow Inland Waterways Trust Fund contributions for major rehabilitation projects should be rescinded.
- Policymakers should re-evaluate current cost sharing requirements. Is it sensible to rely upon one very small industry to match dollar-for-dollar the Federal government’s capital investment in our Nation’s inland waterways infrastructure, given the vast environmental and societal benefits provided by the inland waterways system?

Because this annual report is being issued as Congress progresses towards a conference on the FY 2010 Energy and Water Development Appropriations bill, the recommendations contained in Table 1 were formulated with a view towards the status of Congress' action to date. These recommendations also reflect the Board's recognition that significant funding is being provided through FY 2010 for inland waterways modernization projects pursuant to the ARRA funding.

Table 1. Inland Waterways Users Board Priority Projects

Name	Recommended Funding FY 2010 (\$million)	States Directly Impacted	Economic Impact To Each State
<b>PRIORITY CONSTRUCTION and MAJOR REHABILITATION PROJECTS</b>			
Olmsted Locks and Dam, Illinois and Kentucky (Const)	\$109.79	LA, KY, OH, WV, IL, IN, PA, TN, MO, AR, TX, MS, AL, FL, IA, OK, MN, WI, KS, NE	90 million tons, valued at \$18.8 billion serving 20 states
Monongahela River Locks and Dams 2, 3, and 4, Pennsylvania (Const)	\$6.21	PA, WV, OH, KY, IN, IL, MO, TN, LA, AR, MS, AL, TX, OK, IA	20 million tons valued at \$1.6 billion serving 15 states
Kentucky Locks and Dam, Kentucky (Const)	\$1.0	TN, KY, IL, LA, WV, PA, IN, OH, MO, AL, MS, AR, IA, TX, MN, WI, OK, FL, NE, KS	32 million tons valued at \$4.5 billion serving 20 states
Markland Locks and Dam, Kentucky (Major Rehab)	\$1.0	KY, LA, OH, WV, IL, IN, PA, TN, MO, AR, TX, MS, AL, FL, IA, OK, MN, WI	53 million tons valued at \$13.2 billion serving 18 states
Emsworth Locks and Dam, Ohio River, Pennsylvania (Dam Safety Static Instability)	\$25.0	PA, WV, OH, KY, IN, IL, MO, TN, LA, AR, MS, AL, TX, OK, IA	21 million tons valued at \$2.3 billion serving at least 15 states
Inner Harbor Navigation Canal Lock, Louisiana (Const)	\$0.0	LA, MS, AL, FL, TX, AR, TN, MO, KY, IL, IN, OH, WV, PA, IA, MN	13 million tons valued at over \$8.4 billion for 16 states
Chickamauga Lock and Dam, Tennessee River, Tennessee (Const)	\$15.0	TN, KY, AL, IN, WV, PA, LA, AR, TX, MO, IL, OK	1 million tons valued at \$373 million serving 12 states

Name	Recommended Funding FY 2010 (\$million)	States Directly Impacted	Economic Impact To Each State
Lower Monumental Lock, Lower Snake River, Washington (Const)	\$6.74	WA, OR, ID, MT, ND	3.3 million tons valued at \$880 million serving 5 states
John T. Myers Locks and Dam, Ohio River, Indiana and Kentucky (Const)	\$0.0	TN, KY, IL, LA, WV, PA, IN, OH, MO, AL, MS, AR, IA, TX, MN, WI, OK, FL	70 million tons valued at \$15.5 billion serving 18 states
<b>PRIORITY PED PROJECTS and STUDIES</b>			
Upper Mississippi River and Illinois Waterway Navigation, Illinois, Iowa, Minnesota, Missouri, and Wisconsin (NESP) (PED)	\$9.0	LA, MO, IL, IA, MN, WI, KY, AL, TN, TX, WV, IN, PA, OH, MS, AR, KS, NE	117 million tons valued at \$27 billion serving 18 states
Greenup Locks and Dam, Ohio River, Kentucky and Ohio (PED)	\$1.0	TN, KY, IL, LA, WV, PA, IN, OH, MO, AL, MS, AR, IA, TX, MN, WI, OK, FL	60 million tons valued at \$13.5 billion serving 18 states
Bayou Sorrel Lock, Intracoastal Waterway, Louisiana (PED)	\$1.24	TX, LA, MS, AR, OK, TN, KY, MO, IL, IN, OH, WV, PA, IA, MN	23 million tons valued at \$15.7 billion serving at least 15 states
Calcasieu Lock, Intracoastal Waterway, Louisiana (Study)	\$1.0	TX, LA, MS, AL, FL, AR, OK, TN, KY, MO, IL, IN, OH, WV, PA, IA, MN	38 million tons valued at \$30.6 billion serving at least 17 states
Upper Ohio River Navigation, PA (Study)	\$1.7	PA, WV, OH, KY, IN, IL, MO, TN, LA, AR, MS, AL, TX, OK, IA	21 million tons valued at \$2.3 billion serving at least 15 states
Gulf Intracoastal Waterway (GIWW) High Island Realignments, Texas (Study)	\$0.2	TX	28.5 million tons valued at \$25.3 billion
<b>Total for All Projects</b>	<b>\$178.88</b>		

**Acknowledgements**

The Inland Waterways Users Board wishes to express its sincere appreciation to Major General Merdith "Bo" Temple, the U.S. Army Corps of Engineers Deputy Commanding General for Civil Works and Emergency Operations, and Executive Director to the Board, Mr. Mark R. Pointon from the Corps Directorate of Civil Works, the Executive Secretary to the Board, and Messrs. Kenneth E. Lichtman and David V. Grier from the Corps Institute for Water Resources for all the support they provide. Also, the Corps' division and district staffs and the staffs at Corps Headquarters and the Institute for Water Resources have provided thorough and timely information for the Board's use and have always tried to best answer the Board's tough questions.



Appendix A**History**

The Inland Waterways Fuel Tax was established to support inland waterway infrastructure development and rehabilitation. Commercial users are required to pay this tax on fuel consumed in inland waterway transportation. Revenues from the tax are deposited in the Inland Waterways Trust Fund and fund 50% of the cost of inland navigation projects each year as authorized. The amount of tax paid by commercial users is \$.20 per gallon of fuel. This tax rate generates approximately \$85 million in contributions annually to the Inland Waterways Trust Fund.

Reflecting the concept of "Users Pay, Users Say", the Water Resources Development Act of 1986 (Public Law 99-662) ("WRDA '86") established the Inland Waterways Users Board (the "Board"), a federal advisory committee, to give commercial users a strong voice in the investment decision-making they were supporting with their cost-sharing tax payments. The principal responsibility of the Board is to recommend to the Congress, the Secretary of the Army and the U.S. Army Corps of Engineers the prioritization of new and replacement inland navigation construction and major rehabilitation projects.



**Appendix B****List of the Fuel Taxed Inland and Intracoastal Waterways and System Map****Statutory Definitions of Inland and Intracoastal Fuel Taxed Waterways of the United States**

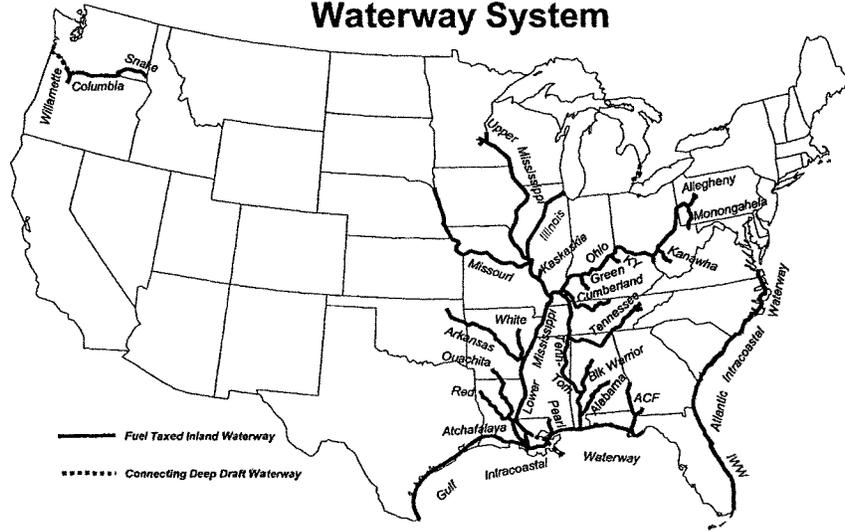
SOURCES: Public Law 95-502, October 21, 1978, and Public Law 99-662, November 17, 1986.

1. Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.
2. Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.
3. Apalachicola-Chattahoochee and Flint Rivers (ACF): Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chattahoochee and Flint Rivers at RM 107.8. Chattahoochee River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia at RM 155 and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.
4. Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to Port of Catoosa, Oklahoma, at RM 448.2.
5. Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.
6. Atlantic Intracoastal Waterway: Two inland waterway routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albemarle and Chesapeake Canal and Great Dismal Swamp Canal routes.
7. Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374-411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).
8. Columbia River (Columbia-Snake Rivers Inland Waterways): From the Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330, Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho

9. Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.
10. Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.
11. Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.
12. Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago Harbor at Lake Michigan, approximately RM 350.
13. Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.
14. Kaskaskia River: From junction with Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.
15. Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.
16. Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.
17. Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.
18. Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.
19. Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.
20. Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.
21. Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.
22. Pearl River: From junction of West Pearl River with the Rigolets at RM 0 to Bogalusa, Louisiana, RM 58.
23. Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

24. Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.
25. White River: From RM 9.8 to RM 255 at Newport, Arkansas.
26. Willamette River: From RM 21 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.
27. Tennessee-Tombigbee Waterway: From its confluence with the Tennessee River to the Warrior River at Demopolis, Tennessee

### The Fuel-Taxed Inland and Intracoastal Waterway System



**Appendix C**

**Letters from the Board to Senator James M. Inhofe and Mr. Gary A. Loew**





**INLAND WATERWAYS USERS BOARD**

Washington, D.C. 20314-1000 (CECW-F)

November 1, 2008

The Honorable James M. Inhofe  
 Ranking Member  
 Environment & Public Works  
 United States Senate  
 Washington, D. C. 20505-6256

Dear Ranking Member Inhofe:

I am writing as acting Chairman of the Inland Waterways Users Board, a 9 member independent federal advisory committee appointed by the Secretary of the Army. The message I bring to you today is that now is the time to invest in America's inland navigation infrastructure.

The Waterways Users Board prioritizes major lock and dam projects for construction on the inland waterways of the United States. Fortunately for the citizens of the United States our predecessors had the courage and foresight to support the original construction of locks and dams. The return to the country has far exceeded expectations. The bottom line is this has been a good investment.

The challenge to Board members is to prioritize projects for construction that yield the greatest return to the citizens of the United States of America. By nature these projects are massive construction projects. Many projects are replacing older structures that have outlived their originally engineered design lifetime of 50 years. Many factors are considered when prioritizing, such as economic return, critical failure consequences, environmental concerns, safety to the public and the navigation industry, pre-engineering and design time, and construction time, to name a few.

There are 257 navigation lock chambers at 212 sites that are operated by the federal government. Fortunately, depending on the criteria chosen, there are 16 to 18 projects authorized by Congress and vetted by the Corps of Engineers that only await an appropriation to begin or continue the construction process. For example, lock studies have been completed and authorization has occurred for the construction of modernized locks on the Upper Mississippi and Illinois Rivers. There are many other existing lock and dam modernization projects already underway waiting in the appropriations queue to be completed.

The May 2008 Inland Waterways Users Board 22<sup>nd</sup> Annual Report To The Secretary of the ARMY and the United States Congress the Board stated:

A Federal Advisory Committee Established by the Water Resources Development Act of 1986



**INLAND WATERWAYS USERS BOARD**

Washington, D.C. 20314-1000 (CECW-P)

*"Although issues, such as trust funds and lock and dam construction, are not attractive they can be influential in economic recovery. Jobs are being created as a result of the projects being adequately funded. Investment means jobs and stimulates an economy."*

Congress and the Administration recognize the importance of the inland waterways transportation system and the need to sustain and increase the reliability of this system, now and for our future. In its FY2009 budget request, the Administration asked Congress to fund 14 inland waterway system lock and dam modernization projects, including major rehabilitation projects, throughout the Nation. In the individual FY 2009 Energy and Water Development Appropriations bills that were approved by the House and Senate Appropriations Committees, but were not considered on the floor of either chamber prior to the pre-election recess, funding for all the Administration-requested lock and dam modernization projects was supported by either the House or Senate Appropriations Committees. Two additional modernization projects were added in one or the other Committee marks, bringing the total of Congressionally-supported lock and dam modernization projects to 16.

Estimates for expenditures on these 16 lock and dam modernization projects could productively and quickly use approximately \$1-\$1.5 billion above previously-anticipated FY2009 appropriations levels to expedite job-creating construction work associated with the projects. In addition another \$500 million above previously-anticipated FY2009 appropriations levels can be utilized immediately towards operations & maintenance ("O&M") work throughout the system. The total economic stimulus amount: \$1.5-\$2.0 billion for inland navigation. The full \$1.5-\$2.0 billion amount of stimulus funding needed for both lock and dam modernization and O&M should be provided in the economic stimulus bill at full federal expense to expedite this important inland waterway navigation system job-creating work.

We respectfully request that stimulus spending in the amount of \$1.5-\$2.0 billion for inland waterways infrastructure projects immediately be appropriated at full federal expense in the economic stimulus bill to generate tens of thousands of jobs along our nation's river system.



**INLAND WATERWAYS USERS BOARD**

Washington, D.C. 20314-1000 (CECW-P)

**Inland Waterways Users Board Members  
2008**

Members:

Chairman

Mr. Royce C. Wilken  
American River Transportation Company  
Decatur, Illinois

Mr. Rick Calhoun  
Cargill Marine and Terminal, Inc.  
Minneapolis, Minnesota

Mr. Stephen D. Little  
Crouse Corporation  
Paducah, Kentucky

Mr. W. Deane Orr  
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Ursa Farmers Cooperative  
Ursa, Illinois

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Nashville, Tennessee

Mr. Tim Parker  
Parker Towing Company,  
Tuscaloosa, Alabama



**INLAND WATERWAYS USERS BOARD**  
Washington, D.C. 20314-1000 (CECW-P)

February 24, 2009

Mr. Gary A Loew  
Chief, Program Integration Division  
Directorate of Civil Works  
U.S. Army Corps of Engineers  
441 G Street, N.W.  
Room 3192  
Washington, DC 20314-1000

Dear Gary:

Thank you for your presentation to the Users Board on Friday in Vicksburg, MS. We appreciate all of your hard work during the development of the stimulus legislation and your candor throughout the process. The stimulus money that has been allocated to the Corps of Engineers program represents a great opportunity to address some of the construction backlog that faces the inland navigation system. We believe that notwithstanding the five criteria enumerated in the conference report (and alluded to in your presentation), the legislation also directs the Corps to "maximize national benefits without regard to the business line..." It is our strongly held belief that the legislation provides the Corps of Engineers with ample authority to address the needs of our Inland Navigation System and the Corps of Engineers should seize that opportunity.

The Users Board stands ready to accept the invitation we heard in Vicksburg to participate in the review of these projects as the Corps determines its final allocation of resources. We interpret this invitation as a signal that the Corps is ready to work with the Users Board in a substantive and not just perfunctory manner.

Very truly yours,

cc: General Temple

A Federal Advisory Committee Established by the Water Resources Development Act of 1986

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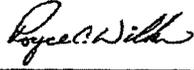
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Inland Waterways Users Board Members  
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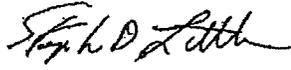
Chairman



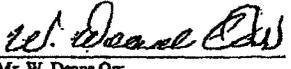
Mr. Royce C. Wilken  
American River Transportation Company  
Decatur, Illinois



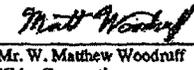
Mr. Rick Calhoun  
Cargill Marine and Terminal, Inc.  
Minneapolis, Minnesota



Mr. Stephen D. Little  
Crouse Corporation  
Paducah, Kentucky

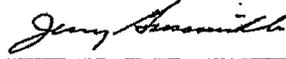


Mr. W. Deans Orr  
CONSOL Energy Inc.  
Elizabeth, Pennsylvania

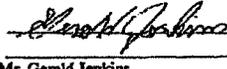


Mr. W. Matthew Woodruff  
Kirby Corporation  
Houston, Texas

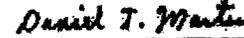
Vice Chairman



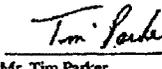
Mr. Jerry Grossnickle  
Bemert Barge Lines  
Portland, Oregon



Mr. Gerald Jenkins  
Ursa Farmers Cooperative  
Ursa, Illinois



Mr. Daniel T. Martin  
Ingram Barge Company  
Nashville, Tennessee



Mr. Tim Parker  
Parker Towing Company,  
Tuscaloosa, Alabama

Mr. LITTLE. Okay. Thank you.

Resuming my statement, for roughly a year and a half, approximately 50 key Corps of Engineers and industry representatives have worked diligently to develop together a comprehensive solution to the challenges facing our inland waterways system, a solution that improves the project delivery system, that dimensions the most critical physical needs of the system, and figures out what it will cost to address those needs and addresses how to pay for it.

The CIS Team proposes a \$7.6 billion 20-year inland waterway Capital Investment Program. The Program would entail an average annual investment of about \$380 million, \$320 million of which would go for new construction, \$60 million would go for major rehabilitation projects. The CIS Team's proposal would preserve the existing 50 percent industry/50 percent Federal cost-sharing formula for new lock construction and major rehabilitation projects costing \$100 million or more.

The plan would adjust the current model to provide 100 percent Federal funding for dam construction and major rehab projects and for smaller lock rehab projects.

The proposal also includes a cost-sharing cap to provide some protection to the industry from unreasonable cost escalation and project delays.

After reviewing alternative options for generating additional revenue for the Trust Fund, the CIS Team proposes a 30 percent to 45 percent increase, which is about 6 cents to 9 cents per gallon, in the current diesel fuel tax, to a level between 26 cents and 29 cents a gallon.

A fundamental assumption of the Team's recommendations, in fact, the Team's underlying premise, is that the Federal Government will provide funds envisioned in the plan in an efficient manner.

In conclusion, Madam Chair, the Corps has conservatively estimated that this plan is expected to avoid cost growth between \$600 million and \$2.1 billion over the next 20 years, and there will be other economic benefits as well, in addition to the environmental and societal benefits to the Nation.

Finally, and lastly, Crouse Corporation and the Users Board urges the Committee to include into the next WRDA bill the provisions that are necessary to fully implement this comprehensive inland waterway system modernization plan, and I thank you for this opportunity to testify today.

Ms. JOHNSON. Thank you very much.

Now we will go right to questions and I will begin the first round.

Mr. Holliday mentioned that funds from the American Reinvestment and Recovery Act advanced important dredging projects, and I would like to know if there were other beneficial advances in the projects that any of you might be aware of, such as the Everglades or any waterways.

Mr. FORDHAM. I could tell you that over the last year and a half we have seen significant infusion of dollars from the American Recovery Act and regular appropriations in Everglades restoration. Frankly, you have put over 600 folks back to work in Florida due to those restoration funds. Frankly, the Recovery Act has jump-

started this project and it has built a new sense of momentum in Florida, and I think we are now seeing a renewed focus in the State legislature because of that.

Mr. FITZGERALD. Madam Chairwoman, there is also some of our members, local sponsors, doing flood damage reduction projects with the Corps, there was some ARRA money that was designated for flood damage reduction projects, and they were very important to promoting reduced flood damages in the United States, and that was very much appreciated by our members.

Ms. JOHNSON. Thank you very much.

Mr. Fordham, will construction of the C-43 project have immediate benefits to the Everglades and the people surrounding it?

Mr. FORDHAM. Absolutely, Madam Chairwoman. We expect that when that project is online, that it will help reduce the flow of polluted water from Lake Okeechobee into the Caloosahatchee River Basin. As you know, those communities on the west coast of Florida—in Fort Meyers, Bonita Springs, Naples—all of their economies suffer when those freshwater releases basically blow out their estuaries, they produce fish kills, algal blooms, red tide on our beaches. If you talk to our tourism authorities down there, back in 2004, 2005, when we saw these very significant and damaging releases, it had a profoundly negative impact on their economies. So this project is really critical to saving not just the ecosystem, but also protecting some vital industries on the west coast.

Ms. JOHNSON. Thank you.

Now I will call on Mr. Boozman for his questions.

Mr. BOOZMAN. Thank you, Madam Chair. With your permission, I would like to go to Mr. Brown first, and then we will come back to me.

Ms. JOHNSON. Mr. Brown is recognized.

Mr. BROWN OF SOUTH CAROLINA. Thank you, Madam Chair, and thank you, Mr. Boozman, for yielding.

This has been a good discussion. I represent the coast of South Carolina, and we have a lot of needs down there as far as the harbor deepening the Intracoastal Waterway, keeping it from filling in, and I am glad that one of you alluded to the fact that the shipping channels will change when the Panama Canal is going to be deepened and widened, so those ships that stop over in Los Angeles will be coming to Charleston. But every year we have to compete to get funding to keep that harbor either from silting in or from deepening in.

Mr. Holliday, I was interested in hearing your testimony about the reserve fund that is created by the shipping community yourself. I noticed that you said that there was a deficit last year—not a deficit, but a surplus, I guess, created by some half a billion dollars, and I guess just last year. I would be interested to know how much has accumulated in that fund through the years.

Mr. Brown, do you have an answer to that? Because it seems like to me it is a user fee that is not being spent.

Mr. BROWN. According to the information I have right now, Congressman, at the end of the last fiscal year, fiscal year 2009, the balance in the Harbor Maintenance Trust Fund was \$5.1 billion.

Mr. BROWN OF SOUTH CAROLINA. Every year we have to extend our credibility, I guess. A lot of the folks around the Nation believe

that earmarks are some kind of bad word, so we have to appeal to the appropriators to try to get funding to deepen the harbor in Charleston, and also in Georgetown, which is not as active a harbor, but the authorized depth is 27 feet, and we have a depth of about 22 feet.

And we have industry that would like to come in and use that harbor, but they can't get in because of the depth of the harbor. So the Corps tells us, well, if you don't have the tonnage coming in, then you can't justify spending the funds. But apparently there are funds available.

Mr. Brown, how does the Corps go about allocating those funds? Why would we have such a deep reserve with such a great amount of need out there?

Mr. BROWN. Well, obviously, there are Administration priorities that get laid out. The specifics in terms of the Harbor Maintenance Trust Fund, I probably would have to get back to you in terms of the details, sir, just so we have the record clear. I would be happy to do that.

Mr. BROWN OF SOUTH CAROLINA. Okay. Because there must be some reason for the Corps to accumulate those funds. Somebody, maybe OMB or whoever it is, is reserving those funds for some other purpose, and in South Carolina, we have probably over 200,000 jobs depending on that port, and if we are not going to be ready—in fact, we had to put an authorization request in.

I know our conference Republicans said we are not going to request any earmarks, and we had to put in a \$2.5 million request to do a study to deepen that harbor from 45 feet to 50 feet that would be able to accommodate those larger container ships when the Panama Canal does come open, even the ones that come in now from the other ports. But we certainly would appreciate any consideration for that.

Also, the Intracoastal Waterway, I know Mr. Little alluded to that, and that is a big issue for us. I noted some of the stimulus funds were used to deepen the Intracoastal Waterway, so we will go on record and state we appreciate those funds, because we had some parts of that Intracoastal Waterway that were probably 4 feet deep, and it was authorized at 12 feet.

I know there are some user fees even used in the Intracoastal Waterway. What happens to those user fees, Mr. Little, do you have any idea on that?

Mr. LITTLE. Are we referring to the fuel tax the inland waterways pay?

Mr. BROWN OF SOUTH CAROLINA. Right.

Mr. LITTLE. Yes, sir. The inland waterways industry pays a fuel tax of 20 cents a gallon currently, and that goes into not the Harbor Maintenance Trust Fund, but it goes into the Inland Waterways Trust Fund, and those dollars are supposed to be used to build new projects on the inland waterways. For years we saw a surplus in that trust fund as well, and that concerned the industry. Even though it was not as large of a surplus as the Harbor Maintenance Trust Fund, it was still big dollars to us. We saw about \$400 million of surplus build up in our trust fund for several years.

Mr. BROWN OF SOUTH CAROLINA. Why would it just be restricted to new construction? Why wouldn't it be used for maintenance of the dredging of the Intracoastal Waterway?

Mr. LITTLE. Well, the Inland Waterways Trust Fund was set up by Congress to address the inland waterways only, and the fuel tax collected from the users of the inland waterways went into the trust fund, still continue to go into the trust fund, for those inland waterways which we consume fuel on. So it was dedicated to the inland waterways.

Mr. BROWN OF SOUTH CAROLINA. I understand. But why would it just be construction, and why not be able to used for maintenance of the Intracoastal Waterway?

Mr. LITTLE. Well, that is the way Congress prescribed the program at the time, so that we could rehabilitate and add to the structures we have out there.

Mr. BROWN OF SOUTH CAROLINA. Well, maybe we ought to go back and amend it, what you recommend.

Mr. OBERSTAR. Would the gentleman yield?

Mr. BROWN OF SOUTH CAROLINA. Yes, sir.

Mr. OBERSTAR. Thank you.

Madam Chair, I ask unanimous consent the gentleman's time be extended.

Mr. Brown has touched on a very critical issue in the valuation by the Corps of Engineers of waterway projects in saying the Corps has made a determination that your port doesn't have the cargo to justify deepening of the harbor, maintenance dredging or improvement to new depth.

Mr. BROWN OF SOUTH CAROLINA. Yes, sir. Well, not the new depth, but just the current—the one port does, Mr. Chairman, I am sorry.

Mr. OBERSTAR. Or even the current. Yes, but it is both. It is both that the Corps has a problem with. This is a fundamental issue that we have had to deal with for many years, and not only in recent times, but going back to 1848, when President James K. Polk proposed a fee for the development of canals, that a fee would be imposed on goods, and the fee collected and the canals dredged and dug.

And a first term Member of Congress rose in the House to object to that fee, saying that we must first build the canal so that the cargo can be in it for a while and generate the revenue from which a toll can then be extracted. That Member of Congress was Abraham Lincoln, and his speech—rarely does a speech change votes, but his speech changed the whole course of canal development and construction, and the Congress refused to proceed on President Polk's toll proposal and affirmed the principle of the free waterways going back to the Northwest Ordinance of 1787. And that continues to be a vexatious issue for us.

On the one hand, the Corps is directed by Office of Management and Budget. And this goes back over several administrations; Democrat, Republican, makes no difference. The same people over at OMB put on their green eyeshade and they treat things just as if presidents didn't exist and congresses are an afterthought, and they insist on showing that the cargo—well, you can't get the cargo if you don't develop the port and the capability. And we need, as

the gentleman has said, more clarity on this issue, and that is going to be the purpose of our deliberations in the future.

I thank the gentleman.

Mr. BROWN OF SOUTH CAROLINA. Thank you, Mr. Chairman.

Ms. JOHNSON. Thank you very much.

Mr. Baird.

Mr. BAIRD. I thank the Chair and I thank our witnesses. I want to start by noting the numbers of projects. I think, Mr. Holliday, you particularly talked about the things that had been done under the stimulus bill. The reason I raise that is twofold: one, it is not uncommon for certain pundits, and even Members of this body, to suggest that no jobs were created. Do you have an estimate, or does anyone on the panel have an estimate, of the numbers of jobs that were in fact created by stimulus spending within your industries? Created or preserved.

Mr. HOLLIDAY. I will address from the dredging perspective. We added additional dredges. In my written testimony I have a list of those. It would certainly have to be accrued. But more importantly—and I think this is may be one of the shortcomings of the accounting of the whole stimulus process—when you dredge a port, you create a tremendous amount of jobs on the docks, on the support facilities in that port. So the multiplier of that action is significant. And I think Congressman Brown alluded to the kind of economic engine that a port generates. Clearly, there were a lot more jobs than maybe the numbers really allude to.

Mr. BAIRD. That is an excellent point.

The other point I wanted to make is if the only metric we look at in terms of the benefit of the stimulus bill is jobs created, we forget that you actually did some work, that we actually have tangible results, things that needed to be done at some point. We have a huge infrastructure deficit, and by spending money on infrastructure, which the Chairman, Chairman Oberstar championed so vigorously in the stimulus bill, we not only put people to work; we accomplished tasks and created tangible good that will last for a very, very long time. And I want to get that on the record because I am actually pretty tired of hearing people say that the stimulus didn't create jobs, when it in fact clearly did create jobs; and, secondly, it created tangible infrastructure benefit.

I want to return to Mr. Little for a second. There was no discourtesy at all reflected in my comments that we have a process of how lengthy things can be before they are entered into the record. The fact is I think your report, from my knowledge of it, from the American Waterway Operators, is an outstanding piece of work. You have a long-termed time frame, you have a reasonable expenditure, a clear public benefit, and a mechanism to pay for it. It is actually, I think, a model, and I would hope we could actually use it.

And I want to give you a chance to elaborate a little bit on that, Mr. Little, but I want to also invite you, if you choose, to mention briefly something that is not before the Committee today, but it has to do with the matter of regulations concerning deck runoff from your vessels and some pending time frames that might create a problem that we need to address here.

So let me open that on both fronts for you.

Mr. LITTLE. Well, thank you very much, Congressman. No offense was taken at all. I fully understand and appreciate that, and I appreciate the fact that you have looked at the report and you are familiar with it. We are very proud of that. As I mentioned in my statement, I am Chairman of the Inland Waterways Users Board, a Federal advisory board that Congress created to look at issues like this.

I have personally spent a lot of time, in addition to trying to run my company, in working on this report for the past year and a half, and we are very proud of the work that has been done. The Users Board approved that report two days ago, as I mentioned. It outlines a plan for the next 20 years and how we get there with the funding.

I will refer to one page of my testimony just to try to respond to your question, and that is on page 10. I have included a chart which shows where we think we will be if we continue to do business the way we are doing it now, and that is projects will not be completed in an expeditious way. We think that with the plan that we have proposed we will see a significant improvement in the way that projects are completed because we will finish what we have started and then move on to the next project, finish it, move on to the next one. Unfortunately, we are spreading money around too thinly and we are not finishing projects the way we should.

Mr. BAIRD. Does the plan add to our deficit at all?

Mr. LITTLE. We actually think—and this is also pointed out on the same page—that we will save the Government money because we will be performing, under this program, more efficiently as a Nation than we currently are.

Mr. BAIRD. And it is paid for by the user fees.

Mr. LITTLE. That is right. It is paid in part by users fee and part by the Federal Government, the way it is now, with some adjustment in the cost sharing. But still it is user paid; users will be paying a part of it. And, in fact, there will be a fuel tax increase that the industry would be paying of about 6 cents to 9 cents a gallon. We recommend that fuel tax increase only as long as we get all of these other fixes.

Mr. BAIRD. A fair point. And I commend you for it.

Madam Chair and Chairman Oberstar, I hope we will look very seriously at this report; I think it is a fine piece of work. I don't think my time allows to deal with this runoff issue of the vessels, but it is of major importance. Can the gentleman have maybe 10 seconds to talk about that?

Mr. LITTLE. Well, and I won't need that much because I have spent so much time on this issue that I am not—

Mr. BAIRD. Okay.

Mr. LITTLE. But I would be glad to provide that for the record, a written response.

Mr. BAIRD. I would welcome that. Thank you.

[The referenced information follows:]

**CROUNSE CORPORATION**

400 MARINE WAY POST OFFICE BOX 360 PADUCAH, KENTUCKY 42002-0360

(270) 444-9611

RIVER TRANSPORTATION

April 26, 2010

The Honorable Brian Baird  
2350 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Baird:

Thank you for the support you expressed for the Inland Marine Transportation System's Report during the Water Resources Subcommittee hearing on April 15, 2010. I appreciate your strong words of endorsement for the plan.

During the course of the hearing, you also asked about a different issue that the marine industry is facing (vessel discharges). Time did not permit me to respond at the hearing so I am pleased to provide this response for the hearing record.

Vessel General Permit

The commercial maritime industry is struggling under a burdensome regulatory framework that undermines the efficiency of the interstate waterborne commerce vital to our national economy. In 2008, the Environmental Protection Agency promulgated the Vessel General Permit (VGP), which regulated ballast water and other vessel discharges under the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) program. EPA's action was the result of a court decision extending the NPDES program, designed for fixed, land-based facilities, to discharges from vessels, which are obviously mobile sources. The program allows states to add their own requirements to the VGP, and more than 20 have done so, creating a confusing patchwork of state-by-state requirements.

The problem is not that vessel discharges are regulated, it's how they are regulated. The current regulatory structure does not adequately protect the environment, nor does it facilitate the interstate waterborne commerce that is the foundation of our agricultural, manufacturing, and energy economies. However, there is a solution to this problem that benefits the environment and promotes industry compliance.

Congress can solve this problem by establishing a statutory federal framework that provides a uniform, national regulatory standard for vessel discharges. Such a framework can protect against the spread of invasive species, provide benefits to water quality, and promote compliance by all U.S. companies.

An opportunity for Congress to act will occur this summer. On July 31, 2010, a Congressional exemption from the VGP for fishing vessels and commercial vessels less than 79 feet will expire, leaving these vessels unable to discharge in U.S. waters without a Clean Water Act permit. There is not sufficient time for EPA to establish new

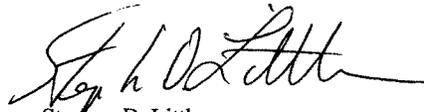
**CROUNSE CORPORATION**

PADUCAH, KENTUCKY

regulations governing these vessels by July 31, so Congressional action will be necessary to extend the temporary exemption. Congress should use this opportunity to take a broader look at the regulation of vessel discharges and solve the larger problem of an ill-fitting regulatory regime for all vessels. In fact, legislation to address this problem is currently under development in the House of Representatives. Last fall, on the House floor, a bipartisan group of House Transportation and Infrastructure Committee leaders, led by Chairman Jim Oberstar (D-MN) and Coast Guard and Maritime Transportation Subcommittee Ranking Member Frank LoBiondo (R-NJ), expressed the need for a bill establishing a uniform, national standard for vessel discharges. The industry strongly supports a bipartisan effort to draft and pass legislation to remove vessel discharges from the NPDES program, preempt the establishment of a state-by-state patchwork of vessel discharge measures, and establish effective national standards for the control of vessel discharges, including ballast water.

Thank you for the opportunity to provide this response for the record.

Very truly yours,



Stephen D. Little  
President

SDL/sk

Mr. BAIRD. Thank you, Madam Chair.

Ms. JOHNSON. Thank you very much.

Mr. Duncan.

Mr. DUNCAN. Thank you very much, Madam Chairwoman. And certainly always appreciate Chairman Oberstar's history. I always learn a lot not only of history, but also the current situation of things we are dealing with in this Committee from him.

Mr. Brown, I have to ask you about the Chickamauga Lock. That lock is in Congressman Wamp's district, but it is very, very important to my district and, indeed, to the entire southeast. Construction work on that lock has the best cost benefit analysis ratio of any of these locks that are budgeted for construction.

Also, by the Corps' own estimates, because that is one of the fastest growing areas in the Country, the estimates of the tonnage that is expected to come through, the growth in that expected tonnage is just tremendous. Yet, there is zero budgeted for construction for that lock, either from the Treasury or from the Inland Waterways Trust Fund, and I have to ask you about that.

It also has national security implications, because not too far above that lock is a major nuclear plant. There are concerns that if work isn't done on that—we have spent a tremendous amount of money over the last few years getting that lock ready for construction, the necessary construction that has been talked about or planned years, and there is concern that the TVA safety officials may have to close down the river if that construction work is not done in the very near future. Then you have all the Oak Ridge operations not too far from where that lock is.

So what is your report on that and why are we not having any money budgeted for construction on the Chickamauga Lock?

Mr. BROWN. Congressman, in my former life I was the Chief of Planning and Policy in the Lakes and Rivers Division, so I was very familiar with Chickamauga Lock and all the details. Matter of fact, came up here to defend it when we had to report in on it.

Unfortunately, right now, I don't know all the latest, and what I would be happy to do is get you—submit for the record kind of a detailed lay-down in terms of the status of the Chickamauga Lock with respect to the funding.

Mr. DUNCAN. Well, I have always supported the work of the Army Corps and the work that is being done on these various water projects around the Country, but I really don't know if you could find one that affects more people, more money, and that is more behind schedule or more necessary at this time than the Chickamauga Lock. Like I said, it is not in my district, but it is very close, and it is important to my district and it is important to that entire region. I think you would agree with that, wouldn't you?

Mr. BROWN. Yes, it is a very important construction and it has some significant issues with alkali-aggregate concrete, growing concrete; it is a reaction that is occurring.

Mr. DUNCAN. Well, I hope you will go back and talk to some of the higher-ups there in the Army Corps and have a discussion about this, because we need to move on that.

Thank you very much, Madam Chairwoman.

Ms. JOHNSON. Thank you very much.

Mr. Hare.

Mr. HARE. Thank you, Madam Chair.

Mr. Brown, thank you for coming today and for testifying and for your service. I appreciate your being here. Last November, this Subcommittee heard a bipartisan panel of Members of Congress on what their thoughts of the 2010 WRDA bill ought to look like, and I just wonder if you have had a chance to review that and, if you have, are there any particular aspects of their testimony that the Corps would really like the Subcommittee to consider that currently is not currently in law.

Mr. BROWN. I am somewhat familiar with that. I guess what I would say, Congressman, is that currently the Administration is—that WRDA proposal is under consideration. Obviously, the details of that would be subject to any Administration decisions. I can't speak on the particulars at this point in time, though.

Mr. HARE. I appreciate that. Well, I have the rare distinct privilege of having seven locks in my congressional district and have worked with the Corps, and the Chairman as well, and he has been incredibly good to work with me on this. But I encompass two Corps districts, Rock Island and St. Louis, and I have been supportive of the actions by both the districts and have been briefed on the projects that the Corps wants to complete.

But I am not sure I agree with the funding distribution for Corps projects and the shifting of necessary fundings for my two districts. It seems that the projects that are going to be completed, the money got shifted from the Rock Island district down into the Louisiana area, which I understand that, but funding is always an issue when we have to appropriate money. But in my district the annual funding appears to simply maintain the operations and not really take on new ones.

So I realize this isn't an oversight hearing, and I am not trying to nail you here, but I thought I would ask you if you could provide an update of what the Corps is doing regarding the new initiatives and existing priorities in the Rock Island and St. Louis districts. And, by the way, I have to tell you I am a strong supporter of the Corps of Engineers; they do wonderful work. And I know they need more money to do more wonderful work, but I am trying to figure out what the shifting of the resources, what affect that has or if you know what the status of that is.

Mr. BROWN. I would be more than happy to provide you the details for the record.

Mr. HARE. Thank you.

Mr. Fitzgerald, if I could, on the last page of your written testimony you called for a more improved planning process for the Corps, and I understand the need to ensure a thorough planning process when the Corps plans for flood reductions. Do you have any particular thoughts on how Congress could streamline the process in the next WRDA bill without losing the quality of work being done?

Mr. FITZGERALD. Yes. NAFSMA and our members, we have been studying that along with the Corps in the last couple year, primarily working with them on the update of the principles and guidelines, kind of a parallel process, and we have identified—we

wanted to identify the areas that needed to have attention first. What is the real problem, not what are the symptoms.

And we kind of isolated those to four areas—this is the NAFSMA group—the process itself, the people that are involved in making it work, and then the guidance. There has been a lot of guidance written over the years and a lot of new laws put in, and it has gotten pretty voluminous. And then finally funding, of course, the bottom line for all projects.

We haven't come up with things specifically for WRDA 2010, but I think what we are trying to look at is coming up with something that is simpler and more direct. What we have now has been accumulated over the years, for many, many, many years, and it is our opinion to step back and try to simplify. So I can see the opportunity for some authorization to help with that simplification.

Also, one of the ideas we initially talked about is trying to reduce the number of projects that go through the long planning process. If there is a way to evaluate them earlier and say is there a Federal interest or not earlier, and not have to go through the long several year process to do that, but do it on a fair basis and for everyone concerned.

Mr. HARE. Thank you. Just lastly, a few times in your testimony you mentioned how your national association works closely with the Corps and with FEMA. In my district, there has been, at times, a lack of efficient coordination between the two bodies regarding flood activities. From a national association standpoint, do you have any suggestions on how the next WRDA bill can better guide the working relationship between FEMA and the Corps?

Mr. FITZGERALD. I can't think of anything specifically off the top of my head. I think there has been an effort with NAFSMA and ASFPM to work with the Corps and FEMA together at the very high senior level, and those have been productive, and trying to find where that can be improved. I am not, right now, familiar with anything specifically that would have to do with authorization to help that.

Mr. HARE. Thank you very much.

Thank you, Madam Chair.

Ms. JOHNSON. Thank you very much.

The Chair now recognizes the Ranking Member, Mr. Boozman.

Mr. BOOZMAN. Thank you, Madam Chair.

Mr. Brown, what is the current backlog of unconstructed, yet authorized, Army Corps of Engineers projects?

Mr. BROWN. The total construction backlog for fiscal year 2011 for active projects is \$59.6 billion, sir.

Mr. BOOZMAN. How long would it take to complete the backlog if no new projects were authorized?

Mr. BROWN. I guess it would really be dependent upon the function of the funding levels on an annual basis. I don't know if I could give you a specific answer, but it would be dependent upon the funding levels on the annual appropriation bill.

Mr. BOOZMAN. Okay. So will you do that for us, will you answer the question based on the average funding that has been available in the past years?

Mr. BROWN. Sure.

Mr. BOOZMAN. Of the 46 Chiefs reports authorized in WRDA 2007, how many of those projects have received construction funding? Not preconstruction engineering and design; how many have initiated construction? Of those initiated, how soon after the enactment of WRDA 2007 were they begun?

Mr. BROWN. I am familiar that four of them have received construction funding or under construction. I have to get you the rest of the details in terms of the sequence of when they were funded. I can do that, though, provide that for the record.

[The referenced information follows:]

## CIVIL WORKS CONSTRUCTION BACKLOG

The viable portion of the backlog totals \$59.6 billion for active projects.

What is the definition of Backlog?

Overall, the Civil Works construction Backlog consists of the "Balance to Complete construction" of projects in the Construction, General account and the construction portion of the Flood Control, Mississippi River and Tributaries account. Also included in this Backlog, is the "Balance to Complete construction" of Planning, Engineering and Design (PED) projects, both in the Investigations account and the Flood Control, Mississippi River and Tributaries account. Usually these projects have either been funded for construction, been authorized by Congress or have been identified in a feasibility report and continued into PED. The Backlog represents the balance to complete construction for these specifically defined projects of known scope that local interests expect us to build.

The projects in the Backlog are normally divided into 3 categories, active, deferred, and inactive projects.

Active projects are usually funded and supported by the non-Federal sponsor and/or have been authorized. All of these projects are being actively pursued. Again, the Backlog for the Active projects is currently \$59.6B.

Deferred projects have doubtful economic justification and need restudy in order to determine their economic feasibility. Additionally, they are not generally opposed by the non-Federal sponsor, but the non-Federal sponsor is currently unable to provide required cooperation.

Inactive projects are not economically justified and it is anticipated that a restudy would not develop a justified plan. Additionally, some of these projects no longer meet current or original needs, or are opposed by the non-Federal sponsor.

The inactive and deferred projects backlog is about \$2B. Since it is unlikely that these projects will ever be built, that amount is of little consequence to the overall backlog.

Historically, this amount does not vary significantly from year to year.

Mr. BOOZMAN. Mr. Little, some have suggested—and, again, in light of that testimony, some have suggested that the Congressional appropriations process is focused too much on project construction, as opposed to project completion. In addition—and this is kind of a separate thing—some also have suggested we should treat the inland navigation system as a program, and not merely as a series of projects. Can you comment on those things?

Mr. LITTLE. Well, that is what the Users Board has tackled during the past year and a half, to try to look at the inland waterways system as a system and as an entire program, and that is why we developed the report we did and approved just two days ago. It is critical to the well-being of the Nation that we continue to move products efficiently through these locks and dams.

We have seen several projects continue at a snail's pace in the construction, and what we have done is tried to prioritize the work that is ongoing to make sure we can finish some of these projects. So that strikes at the heart of what we have been looking at for the last year and a half, yes, sir.

Mr. BOOZMAN. So you would agree, then, that you have concerns with project construction, as opposed to completion?

Mr. LITTLE. We need projects to be completed, and that is what we have been focused on, is trying to come up with a plan, and I think we have come up with a very strong plan to finish some of these projects. And when we do that, that allows the other projects to move up the line and, in time, and in a shorter period of time, they can also be completed, yes, sir.

Mr. BOOZMAN. Mr. Holliday, with regard to the navigation channels, one of the complaints that we hear in Congress is that that particular problem, as has already been mentioned, but if we enacted Mr. Boustany's legislation, is the private dredge fleet robust enough to ensure that, if adequate funds became available, there would be enough capacity to issue the contracts and complete the work in a timely manner?

Mr. HOLLIDAY. Yes, sir. As we demonstrated in response to the ARRA stimulus, our industry, working closely with the Corps of Engineers, was able to identify what the requirements were, what the resource needs were, and, quite frankly, stepped up to that plate, and we could do that again. The critical part of that is a tremendous organization within the Corps that recognizes that there has to be that constant dialogue and communication, and the Corps operations folks have done a great job with that.

Mr. BOOZMAN. Thank you, Madam Chair.

Ms. JOHNSON. Thank you very much.

Ms. Edwards. Thank you, Madam Chairwoman, and thank you to all of our witnesses today.

I think it is really important for the Corps to look at non-structural kinds of alternatives like green infrastructure, in addition to the big structural projects that we have, to best use the available climate science that is somewhat new to us and incorporate those ideas into project planning.

In December, I introduced H.R. 4202, the Green Infrastructure and Clean Water Act of 2009, to give incentives for green infrastructure and establish five centers of excellence for these kinds of techniques, because I do believe that it is time for us to look at

both new ways of thinking about water management, but also marrying those with traditional techniques; and I think that these things are compatible both for industry and for environmental protections.

Mr. Brown, I note with the Army Corps there are a long list of projects that are proposed for WRDA, and they are all under the current principles and guidelines, which focus a lot on economic development as a major goal for water resources management. But in the last WRDA, Congress instructed the Corps to revise the principles and guidelines to include protection and restoration of natural systems, and avoid the unwise use of floodplains as a national objective.

The rewriting process is currently being undertaken by the Administration, but I wonder, since you described the backlog of projects that have been done under the current principles, we know that those guidelines are going to be changed, and I wonder how the new principles will be reflected in the existing projects and planning processes. And as to the projects that are here presented today, I am curious as to whether you have begun to incorporate some of those things that we know are going to come down the pike in your own planning process.

So, Mr. Brown, I wonder if you could tell me how the Corps is planning to ensure that the projects under WRDA reflect the new national priorities and don't really work at cross-purposes to what will be the new priorities.

Mr. BROWN. As a general rule, Congresswoman, the existing projects that are under formulation would not necessarily be subject to the existing principles and guidelines. Remember, the Administration hasn't completed the analysis. The National Academy of Sciences is continuing to look at that and won't be done with their review until November of this year. Then there will be a subsequent review of the input from the National Academy of Sciences before they finalize the new P&G.

Just as an example, Mississippi Coastal—you talked about nonstructural. The Mississippi Coastal Improvement Program does factor in nonstructural alternatives and looks at some things. So there are other places that we have looked at nonstructural and we have incorporated nonstructural projects as a part of our existing planning process, but Mississippi Coastal is one right now where we have implemented nonstructural and structural measures to provide solutions.

Ms. EDWARDS. Mr. Fitzgerald, you hinted at this in part of your testimony as well, so I wonder if you have some thoughts about that, because I get worried that we are going to have to clear up, at some point or other, these projects are going to come online, but they are sitting kind of on a backlog, so it is not like they are coming any time soon. We will get to November and who knows for how long we will be operating under those old principles.

Mr. FITZGERALD. Yes. We, as local sponsors, believe that the nonstructural needs to be looked at equally to the structural. We think that a balanced look between economics and environment is very, very important, and many of our members have done quite a few nonstructural projects. Even in the same community, like in Harris County, we look at that and there are some areas where we do

nonstructural. That is the best answer. But not too far down the road a structural approach is the one that is selected.

People think the new principles and guidelines is going to be a lot different than the older one, but even in the older one or the one that is in existence now, nonstructural was required to be looked at. I think what the new principles and guidelines is doing is just emphasizing that, as well as looking at the environmental aspects of projects in a little bit more detail.

Ms. EDWARDS. Thank you very much.

With that, I yield.

Ms. JOHNSON. Thank you very much.

Mr. Cao.

Mr. CAO. Thank you very much, Madam Chair.

My first question is directed to Mr. Theodore Brown or anyone who might have an answer to the question, and the first question concerns the excessive delays exhibited by the Army Corps of Engineers to deepen and maintain a portion of the Mississippi River channel adjacent to the Napoleon Avenue container terminal at the Port of New Orleans. And my question is what are the Corps' plans to complete the small navigation project study and commence the required maintenance dredging near the terminal?

Mr. BROWN. Congressman, just for clarification, which project was this again?

Mr. CAO. There is a portion of the Mississippi River channel adjacent to the Napoleon Avenue container terminal that needs deepening. The small navigation project, or at least the project to deepen this portion of the river was authorized under the 2007 WRDA bill, and it has been two years since the project was authorized and the dredging has not been done to deepen the channel. So I am just wondering what plans does the Corps have to deepen that portion of the river.

Mr. BROWN. I will be happy to get back with you. I mean, obviously, anything is subject to appropriations prior to—it will require authorization and appropriations, but I will provide a detailed answer back to you for the record.

Mr. CAO. And I would like to ask a question concerning the Inner Harbor Navigation Canal Lock, which was built in 1921 in New Orleans, and the lock is well beyond its design life and needs to be replaced in order to accommodate the high level of maritime traffic in the area of the Port of New Orleans.

The replacement of the Inner Harbor Canal Lock was authorized by Congress in the Rivers and Harbors Act of 1956 and reauthorized in 1986 and 1996. Congress has appropriated approximately \$100 million to date for this project, but major construction has not yet commenced. My question is what efforts are being taken by the Corps to ensure the timely execution and completion of this extremely important water project in the 2nd District.

Mr. BROWN. I believe this is the one, Congressman, that is right now under litigation?

Mr. CAO. I believe that the litigation has completed. The judge cleared the Army Corps the way to start the construction of the canal lock.

Mr. BROWN. I would be happy to provide a detailed answer for the record. I thought this is the one that is still subject to litigation from the environmental impact statement.

Mr. CAO. My next question I am not sure who I would direct it to, but it deals with Asian carp. Now, I guess the States of Illinois or Michigan, they are asking for the lock to be closed because of the fear of Asian carp that goes into the lake, and potentially it could cost the waterway commerce close to \$5 billion. Now, I have a couple of recipes for Asian carp if anybody is interested.

[Laughter.]

Mr. CAO. Is there a better way for us to address this?

Mr. BROWN. I think those alternatives are underway. There is an efficacy study that is ongoing. There are some temporary measures that are also ongoing, being looked at to be implemented. So I think the efficacy study will address some of those questions, Congressman.

Mr. CAO. Thank you very much.

Ms. Johnson. Thank you very much.

The distinguished Chairman of the full Committee, Mr. Oberstar.

Mr. OBERSTAR. Thank you, Madam Chair. Thank you for this hearing, this review of Corps programs and policies, and getting this very distinguished panel together, and thank you for risking your voice to undertake this hearing.

Chairwoman Johnson has been through a very long ordeal with the most precious commodity that we Members of Congress have, our voice. Her voice is very strong, but the decibels have been reduced because she has been through a long rehabilitation, and we are glad to have her here and glad to have her out of that collar that was necessary. Thank you for your perseverance here. You are a treasure for our Committee and for the work of the Corps of Engineers.

Now, I want to follow up on a few things. Mr. Boozman very properly, very pointedly inquired, Mr. Brown, of the construction backlog of the Corps and the ongoing program, and that \$59 billion construction need, and the list that he requested of you. I want to be sure that you also submit for the Committee where the funding has gone by Corps district over the last five years.

Mr. BROWN. Certainly, Mr. Chair.

Mr. OBERSTAR. I think it is going to show that there is quite a disparity in the allocation of funding from district to district, and that there is a very substantial allocation to at least one district for a variety of reasons. But I want the facts out and I want them in that document you submit.

Mr. BROWN. Mr. Chair, just for clarification, so I have it right.

Mr. OBERSTAR. Yes.

Mr. BROWN. You are looking at appropriations over the last five years by district?

Mr. OBERSTAR. Yes. The investments that the Corps has made. Not the authorization, but the investments actually made under the appropriations provided over the last five years.

Mr. BROWN. Okay.

[The referenced information follows:]

Funding History of Districts  
(\$000)

FY	District	REGULAR				SUPPLEMENTAL				ARRA			
		Investigations	Construction	Operation & Maintenance	Mississippi River and Tributaries	Investigations	Construction	Operation & Maintenance	Mississippi River and Tributaries	Investigations	Construction	Operation & Maintenance	Mississippi River and Tributaries
2006	Buffalo, NY	1,561	10,828	17,857	39,836				315				
	Chicago, IL	1,141	86,414	11,432	2,068				253				
	Ohio	25	367	10,047					679				
	Detroit, MI	2,118	18,959	48,470	5,082				439				
	Huntington, WV	1,978	124,727	67,838	2,769				774				
	Louisville, KY	1,273	189,086	58,845	3,101				1,300				
	Nashville, TN	847	50,837	69,610	2,987				315				
	Pittsburgh, PA	1,556	74,272	60,018	3,023				10,669				
	Mississippi			211	9,078				5,875				
	Vicksburg, MS	1,660	51,733	49,094	229,069	3,016			1,000	1,000			
	Memphis, TN	1,321	21,935	3,682	109,934	1,645			95				
	New Orleans, LA	22,694	81,926	96,890	92,482	5,504			10,040	61,700	82,500	125,750	2,091,700
	St. Paul, MN	1,446	57,607	58,288	5,913				1,514				
	Rock Island, IL	12,570	47,070	82,240	2,539				-3,352				
	St. Louis, MO	969	33,658	73,730	5,086	49,183			381				
	Baltimore, MD	3,371	61,657	41,617	6,136				1,350				
	New York			10	9,150				239				
	Boston, MA	1,264	9,054	56,017	12,233				677				
	New York, NY	4,553	140,563	31,185	51,287				5,098				
	Norfolk, VA	3,434	19,077	25,179	5,769				454				
	Philadelphia, PA	1,762	55,945	45,161	5,034				2,917				
	Oregon	67		323	8,295				398				
	Kansas City, KS	1,611	64,908	39,188	3,230				761				
	Omaha, NE	1,632	65,341	61,484	6,369				7,714				
	Portland, OR	1,372	67,343	106,646	3,016				945				
	Seattle, WA	2,511	33,635	42,632	4,622				3,496				
	Walla Walla, WA	624	51,723	73,354	1,819				596				
	Anchorage, AK	7,088	46,329	19,025	7,100				339				
	Hawaii			230	2,695				139				
	Honolulu, HI	2,592	20,149	3,422	1,078				2,976				
	Charleston, SC	463	11,111	19,794	3,811				8,543				
	Georgia			56	9,319				331				
	Jacksonville, FL	1,387	245,218	51,621	13,444				20,083				
	Mobile, AL	2,051	38,436	185,144	3,346				81,249				
						10,000	21,000	38,600					

FY	District	Net Allocation (\$000)					AIRA								
		REGULAR		SUPPLEMENTAL		Other		Investigations		Other					
		Investigations	Construction	Operation & Maintenance	Mississippi River and Tributaries	Other	Investigations	Construction	Operation & Maintenance	Mississippi River and Tributaries	Other	Investigations	Construction	Operation & Maintenance	Mississippi River and Tributaries
	Savannah, GA	1,695	25,100	48,997	3,991	3,991									
	Wilmington, NC	1,228	47,014	53,852	5,486	5,486	300	10,900	14,615	551	551				
	Albuquerque, NM	3,201	20,554	31,476	1,834	1,834				262	262				
	California			521	10,907	10,907				527	527				
	Sacramento, CA	7,157	112,746	28,311	4,829	4,829				3,890	3,890				
	Los Angeles, CA	13,570	134,739	19,910	3,756	3,756				-1,154	-1,154				
	San Francisco, CA	6,022	71,327	49,520	3,756	3,756				1,163	1,163				
	Texas			117	8,345	8,345				90	90				
	Fort Worth, TX	3,332	31,691	72,287	2,090	2,090			10,800	837	837				
	Galveston, TX	6,011	84,543	88,729	5,539	5,539			6,717	69,002	793				
	Little Rock, AR	885	42,013	74,246	2,120	2,120				378	378				
	Tulsa, OK	1,417	25,150	60,191	1,440	1,440				295	295				
	Water Resources														
	Coalition	4,421	208	7,218	7,159	7,159				545	545				
	Eng'g Res Dev Ctr	28,194	3,529	26,708	2,778	2,778				32,764	32,764				
	Huntsville														
	Engineering Support Center	28,312	565,665	81,089	1,340	-4,164				75	75				
	Finance & Acctg	368	5	4,884	72,672	72,672				6,659	6,659				
	Headquarters														
	Humphreys Center														
	<b>2006 TOTALS</b>	<b>190,734</b>	<b>2,917,045</b>	<b>2,130,162</b>	<b>446,993</b>	<b>458,006</b>	<b>20,340</b>	<b>133,517</b>	<b>248,438</b>	<b>126,750</b>	<b>2,398,236</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>2007 Buffalo, NY</b>	<b>2,306</b>	<b>6,569</b>	<b>29,783</b>	<b>35,975</b>	<b>35,975</b>				<b>495</b>	<b>495</b>				
	Chicago, IL	1,571	107,190	11,142	1,853	1,853				268	268				
	Cincinnati, OH	46		650	9,747	9,747				1,087	1,087				
	Detroit, MI	1,859	11,060	46,736	5,207	5,207				456	456				
	Huntington, WV	1,221	103,960	63,159	3,060	3,060				551	551				
	Louisville, KY	2,049	113,171	62,009	3,338	3,338				620	620				
	Nashville, TN	824	102,847	67,105	3,111	3,111				395	395				
	Pittsburgh, PA	2,348	99,254	64,739	2,609	2,609				7810	7810				
	Mississippi			200	7,000	10,863				1,091	1,091				
	Wicksburg, MS	874	5,835	43,398	185,514	3,998				-174	-174				
	Memphis, TN	1,317	8,037	2,184	103,924	1,655				386	386				
	New Orleans, LA	8,685	20,930	111,246	95,163	6,435				4,314,027	4,314,027				
	St Paul, MN	1,865	40,331	57,738	5,797	5,797				6,316	6,316				
	Rock Island, IL	16,452	48,503	75,662	2,536	2,536				846	846				
	St Louis, MO	842	30,653	71,556	6,303	47,407				63	63				

FY	District	REGULAR				SUPPLEMENTAL				ARRA			
		Investigations	Construction	Operation & Maintenance	Mississippi Research and Tributes	Investigations	Construction	Operation & Maintenance	Mississippi Research and Tributes	Investigations	Construction	Operation & Maintenance	Mississippi Research and Tributes
	Baltimore, MD	3,506	41,564	402,203	6,131								
	New York			510	9,327								
	Boston, MA	2,291	10,003	48,706	22,546								
	New York, NY	3,947	112,569	36,985	583,111								
	Norfolk, VA	4,977	15,197	23,836	5,796								
	Philadelphia, PA	2,229	36,973	46,598	5,238								
	Oregon	71	723	723	8,556								
	Kansas City, KS	1,942	92,190	43,606	3,312								
	Omaha, NE	2,514	88,768	71,934	6,483								
	Portland, OR	1,803	102,105	104,544	3,068								
	Seattle, WA	3,661	30,939	42,973	4,710								
	Walla Walla, WA	1,504	52,704	65,179	1,831								
	Anchorage, AK	6,660	32,730	20,151	7,664								
	Hawaii			10	3,147								
	Honolulu, HI	2,436	19,766	2,760	1,083								
	Charleston, SC	818	6,648	17,582	3,608								
	Georgia			44	10,073								
	Jacksonville, FL	1,276	279,877	52,885	12,361								
	Mobile, AL	1,628	21,859	151,302	4,130								
	Savannah, GA	1,824	27,103	49,919	4,013								
	Wilmington, NC	1,833	30,107	51,133	7,002								
	Albuquerque, NM	2,230	12,314	20,692	1,902								
	California			175	10,301								
	Sacramento, CA	6,093	169,301	32,511	6,732								
	Los Angeles, CA	12,480	125,684	24,199	6,178								
	San Francisco, CA	5,768	66,258	46,862	3,213								
	Texas			135	8,175								
	Fort Worth, TX	3,761	25,247	70,099	2,102								
	Galveston, TX	5,497	83,445	90,910	5,570								
	Little Rock, AR	1,338	47,853	72,757	4,132								
	Tulsa, OK	1,688	13,397	65,791	3,446								
	Water Resources Coalition	3,044	300	9,493	5,203								
	ENR's Res Dev Ctr	32,122	3,565	28,547	4,157								
	Finance & Acctg	-20,057	-466,000	-92,305	-1,339								
	Headquarters	538		22,550	80,243								
	Humphreys Center			-2	13,380								
	<b>2007 TOTALS</b>	<b>141,711</b>	<b>1,676,866</b>	<b>1,971,624</b>	<b>396,665</b>	<b>21,935</b>	<b>-539,673</b>	<b>86,779</b>	<b>0</b>	<b>1,561,181</b>	<b>0</b>	<b>0</b>	<b>0</b>



FY	District	REGULAR				SUPPLEMENTAL				AREA						
		Investigations	Construction	Operation & Maintenance	Mississippi Research & Tributaris	Other	Investigations	Construction	Operation & Maintenance	Mississippi Research & Tributaris	Other	Investigations	Construction	Operation & Maintenance	Mississippi Research & Tributaris	Other
	California			79	9,538				759							
	Sacramento, CA	10,345	132,315	30,858	6,080			3,639	-4,364							
	Los Angeles, CA	10,235	101,687	29,697	6,135			6,271	802							
	San Francisco, CA	2,329	62,305	59,275	3,970				781							
	Texas			127	7,973				225							
	Fert Worth, TX	4,516	45,503	70,450	2,617			15,650	878							
	Galveston, TX	2,533	53,901	109,641	6,294			29,910	1,820							
	Little Rock, AR	1,155	47,175	83,545	2,409			16,886	1,563							
	Tulsa, OK	1,200	23,005	74,521	1,563			11,306	7,677							
	Water Resources Coalition	5,436	221	9,335	4,975			6,000	960							
	Eng'g Res Dev Ctr Huntsville	33,787	6,307	24,078	7,873				869							
	Engineering Support Center			99	97											
	Finance & Acctg	2,466	69,271	7,331	5,149				-22,294							
	Headquarters	3,123		22,748	81,897				9,695							
	Humblytree Center				14,906											
	<b>2008 TOTALS</b>	<b>167,067</b>	<b>2,346,901</b>	<b>2,346,125</b>	<b>352,402</b>	<b>512,290</b>	<b>100</b>	<b>75,350</b>	<b>291,414</b>	<b>17,590</b>	<b>261,864</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
	2009 Buffalo, NY	1,769	11,547	28,885	36,211				313			752	4,043	18,178		18,641
	Chicago, IL	2,154	91,259	16,125	1,732				248			682	5,520	23,680		
	Ohio	50		1,409	10,023				734							
	Detroit, MI	1,827	27,565	71,248	7,583				355			654	2,636	44,567		745
	Huntington, WV	2,538	64,516	80,715	5,840			800	486			283	50,748	32,973		745
	Louisville, KY	847	135,981	87,859	3,451				733			100	112,100	68,245		582
	Nashville, TN	710	164,051	75,000	3,462				202			514	86,834	28,980		100
	Pittsburgh, PA	4,347	47,897	92,806	5,560				-393			128				24
	Mississippi	90		345	10,207				182							
	Vicksburg, MS	551	33,155	41,016	188,090	4,171		400	3,485	40,786	426		17,408	26,446	107,402	
	Memphis, TN	954	4,981	3,217	166,792	1,788			3,068	470			13,445	86,591	95	
	New Orleans, LA	15,429	12,855	125,057	99,478	6,237		4,335,000	192,699	38,500	3,041,350		10,735	91,908	83,147	810
	St Paul, MN	2,321	22,102	50,359	7,310				1,406			500	91,219	18,101		990
	Rock Island, IL	10,607	54,949	102,893	2,421			2,000	48,300	19,544		2,991	103,906	29,431		367
	St Louis, MO	810	39,499	66,048	9,567				3,503			910	76,256	150,703	20,812	235
	Baltimore, MD	4,008	25,548	37,947	10,228				667				14,847	22,893		175
	New York	250		142	15,484				365							
	Boston, MA	2,159	11,485	45,682	17,258			423	361			225	5,258	26,325		5,675
	New York, NY	5,229	121,077	35,080	45,721			300	465			620	20,102	19,128		36,407

FY	District	Net Allocations (\$000)									
		REGULAR		SUPPLEMENTAL		AREA					
		Investigations	Construction	Operation & Maintenance	Mississippi Inhabitants	Other	Investigations	Construction	Operation & Maintenance	Mississippi Inhabitants	Other
	Norfolk, VA	1,573	5,179	20,595	6,547						
	Philadelphia, PA	2,178	32,144	45,009	5,085		1,270			448	773
	Oregon	18		478	10,252					629	175
	Kansas City, KS	3,088	58,695	43,838	3,642					513	318
	Omaha, NE	5,424	95,537	56,607	7,220					1,039	659
	Portland, OR	618	107,460	124,283	3,504					595	900
	Seattle, WA	5,239	20,855	52,401	5,181					1,526	458
	Walla Walla, WA	476	36,703	71,038	1,617					460	458
	Anchorage, AK	2,134	10,674	21,186	8,081					1,775	400
	Hawaii			305	3,698					475	717
	Honolulu, HI	3,704	1,757	3,694	1,700					791	200
	Charleston, SC	406	11,292	17,083	4,564					1,121	539
	Georgia			120							
	Jacksonville, FL	3,019	274,770	99,990	15,190					581	2,726
	Mobile, AL	1,369	16,957	177,976	4,583		14,000			470	524
	Savannah, GA	730	7,578	49,679	4,515					89,269	618
	Wilmington, NC	1,748	19,468	51,788	6,454					3,000	837
	Albuquerque, NM	1,727	37,123	16,521	2,016		10,137			31,853	250
	California			321	9,752					403	
	Sacramento, CA	10,280	129,747	33,366	7,688					973	2,066
	Los Angeles, CA	12,036	68,941	31,151	6,572					755	1,925
	San Francisco, CA	5,040	47,780	46,535	4,233					745	1,700
	Texas			46	9,234					232	
	Fort Worth, TX	4,367	32,427	76,957	3,417					1,250	780
	Galveston, TX	2,351	51,297	103,533	7,295					1,318	1,470
	Little Rock, AR	1,412	47,131	80,302	2,409		9,000			252,631	700
	Tulsa, OK	1,423	23,887	76,080	1,561					30,220	500
	Water Resources			9,288	6,769					26,109	
	Engine Ops Dev Cr	31,077	4,475	33,415	7,164					572	
	Business Support										
	Engineering Support										
	Center			147	135					96,239	
	Finance & ACIE	-2,615	-16,895	12,786	48					9,735	
	Headquarters	5,693		30,669	76,120						
	Minnesota Center				13,790						
2009 TOTALS		168,090	1,991,461	2,108,818	383,973		0	4,370,837	765,537	81,384	3,148,760
2010 Buffalo, NY		1,776	6,886	27,111	27,225					955	
										24,983	375,003
										2,000,008	1,074,988
										-19	-4,457
											3,386

FY	District	REGULAR					SUPPLEMENTAL					ARRA				
		Investigations	Construction	Operation & Maintenance	Mississippi Research and Tributes	Other	Investigations	Construction	Operation & Maintenance	Mississippi Research and Tributes	Other	Investigations	Construction	Operation & Maintenance	Mississippi Research and Tributes	Other
	Chicago, IL	1,972	77,742	13,098	2,284	2,284										
	Ohio	75	8,266	66,661	10,470	10,470										
	Detroit, MI	3,262	142,267	93,302	3,890	3,890										
	Huntington, WV	3,112	181,402	84,890	4,035	4,035										
	Louisville, KY	655	181,402	84,890	3,482	3,482										
	Nashville, TN	1,532	15,278	79,239	14,310	14,310										
	Pittsburgh, PA	6,500	22,034	42,714	166,292	3,748										
	Mississippi	793	8,130	2819	85,537	1,931										
	Vicksburg, MS	442	17,387	137,156	88,175	6,993										
	Memphis, TN	19,133	17,387	137,156	88,175	6,993										
	New Orleans, LA	4,652	25,776	51,144	7,793	7,793										
	St Paul, MN	7,544	18,648	98,600	1,710	1,710										
	Rock Island, IL	786	19,553	71,398	5,332	50,307										
	St Louis, MO	3,609	21,078	89,457	6,718	6,718										
	Baltimore, MD	1,409	11,153	61,360	14,876	14,876										
	New York	5,456	126,688	32,924	45,808	45,808										
	Boston, MA	1,304	5,069	25,396	7,180	7,180										
	New York, NY	2,090	25,800	65,888	4,981	4,981										
	Norfolk, VA	6	575	10,565	3,933	3,933										
	Philadelphia, PA	2,192	22,857	47,731	8,090	8,090										
	Oregon	5,869	71,633	74,808	1,000	1,000										
	Kansas City, KS	1,239	62,897	152,105	3,514	3,514										
	Omaha, NE	4,058	26,309	46,760	5,362	5,362										
	Portland, OR	463	23,454	79,572	1,697	1,697										
	Seattle, WA	1,245	8,289	26,333	7,730	7,730										
	Walla Walla, WA	3,834	2,575	1,389	4,143	4,143										
	Anchorage, AK	380	4,383	17,710	4,662	4,662										
	Hawaii	2,303	371,657	57,564	10,583	10,583										
	Honolulu, HI	549	11,613	174,485	16,481	16,481										
	Charleston, SC	814	4,419	48,941	4,945	4,945										
	Georgia	910	22,174	59,054	7,035	7,035										
	Jacksonville, FL	594	10,121	24,930	2,137	2,137										
	Jacksonville, FL	2,303	371,657	57,564	10,583	10,583										
	Mobile, AL	549	11,613	174,485	16,481	16,481										
	Savannah, GA	814	4,419	48,941	4,945	4,945										
	Wilmington, NC	910	22,174	59,054	7,035	7,035										
	Albuquerque, NM	594	10,121	24,930	2,137	2,137										
	California	11,609	140,328	36,162	6,262	6,262										
	Sacramento, CA															



Mr. OBERSTAR. That Corps budget has averaged under \$4.8 billion a year, and in the Recovery Act the Congress allocated \$4.6 billion, one whole year in addition, which was more than the previous year funding, for projects to be completed within the spirit of the Recovery Act. Now, here we have the \$5.1 billion held up in the Harbor Maintenance Trust Fund and about \$1.1 billion, \$1.3 billion collected annually, and it is not being invested. That is intolerable.

I just discussed with Mr. Boozman the disadvantage Midwest soybean, corn, other grain farmers—just to take those commodities—have compared to Brazil. If you look at a map of South America, that point of Brazil that sticks out in the South Atlantic Ocean, right at that point is the Port of Recife. Under the direction of Mr. Shuster, Mr. Duncan led a delegation, which I participated, inquiry into port activities and competition from Central and South America.

So we went to Recife and the Port of Santos is the point of export for the soybeans and other agricultural commodities that Brazil exports to the same West and East African port ranges, and to the Asia Pacific Rim ports to which we ship our commodities.

They have a 2,500 mile advantage. They have at least a four day sailing advantage over the Port of New Orleans. And we have, on top of that, a three week disadvantage in moving those goods.

Now, agricultural commodities move in international markets on as little as an eighth of a cent a bushel. If we are adding a transportation cost in delay and delivery, we are noncompetitive in the world marketplace. We have to make those investments in the expansion of the locks on the Mississippi and Illinois Rivers authorized in the WRDA 2007.

There is only one lock of 1,200 feet; that is Lock and Dam 26, north of the confluence of the Missouri and Mississippi Rivers. That was authorized in 1978 and construction was completed in 1994. We waited for years to authorize the construction of the 7 additional 1,200 foot lock structures on the Mississippi and Illinois rivers; finally we got all those authorizations together, put them in the WRDA 2007. We had to override a veto in order to do that. This was a bipartisan initiative. Congress together said we have waited seven years; we haven't done these things, we haven't made the investments. And now they are still not being done. Why? Because those costs have escalated.

I see Mr. Doyle sitting in the audience, John Doyle, my successor as Committee administrator, later the Assistant Secretary for the Corps, and he is nodding in concurrence. Let it be known for the record. He knows.

[Laughter.]

Mr. OBERSTAR. Excuse me for my frustration and my enthusiasm for this subject, but this just drives me crazy that we don't make these investments which are in—they are not just for the waterways, not just for the barge tow operators, not just for the ports; it is for all the farmers, all the farm communities that are served by the whole watershed of the Mississippi River. It is our international competitiveness.

You improve those locks; America does better in the world marketplace. We can't sit back and just twiddle our thumbs and say,

oh, well, it is big cost, we have a budget deficit. Baloney. If you don't export, you don't compete, you don't have the duties; you don't have the duties, we are not competitive in our domestic economy, we are not creating jobs, and we are not competing in the international marketplace. That is what this is all about. Let's get our focus fixed right.

Every one of those Chairman portraits on the wall there has been an advocate for investment in the works of the Corps of Engineers and in our inland waterways and our saltwater and freshwater ports. We have to continue doing that.

So we are going to proceed with the Water Resources Development Act of 2010, but I have to observe that I am troubled by an unfortunate decision made by our friends across the aisle on Corps projects. At the outset of the 110th Congress, I got together with Mr. Mica, the Ranking Member of the full Committee, and Mr. Boozman. We worked out a new approach for designation of projects in which Members would sign a statement verifying, stating clearly they have no personal or family financial interest in the project which they are sponsoring. Second, we put those projects on the internet. Third, we included those statements in the Committee report on the bill and submitted it during Floor consideration for the Congressional Record.

So in the interest of transparency and accountability, we charted a whole new chapter for a project authorization in WRDA 2007. It was novel. While there were other changes made in House rules, we were way ahead of the curve. So every project was accompanied by that certification, that neither the Member nor his or her spouse had a personal or family financial interest in the project. We included that also in the conference report on the bill, and it is now part of the public law history.

Now, that transparency and accountability principle continues to be the Committee's policy as we proceed with the WRDA 2010. We have received over 2,000 individual requests from both Republican and Democratic Members for projects to be included in the upcoming bill. All projects in WRDA 2010 will be accompanied by a signed no financial interest certification from the Member who requests the proposed project. The Committee report will list all sponsors of project authorizations and, as in the past, the certifications will be made publicly available prior to consideration of the bill in the House.

Now, I know that that decision by the House Republican Conference has created a problem. I have discussed this with Mr. Mica; I have discussed it with many individual Members on the Republican side who are torn by the policy of their conference and the needs of their district. One hundred twenty Republican Members submitted project requests for WRDA 2010. So far, I have received a handful of letters transmitted from Mr. Mica, as directed by the Republican conference, to me from Republican Members requesting that their project proposals be withdrawn.

Now, in each case where a Member requests his or her project to be withdrawn, I regret we will not be able to consider the project for inclusion in WRDA 2010. We are not just going to give a blank check.

Now, I also understand, one by one, sort of like Nicodemus in the night, Republican Members coming to say, look, I don't intend to comply with the directive because of the importance of these projects to my district, including flood control, navigation, environmental restoration projects.

Never in the history—I want to make it very clear. Never in the history of the House have Corps authorizations been considered earmarks. That is a unique term applied to the appropriation process. From the very first Congress works of the Corps of Engineers have been designated individually and specifically by the House of Representatives and the United States Senate.

That is the process. From authorization for the Corps to do a survey, called a survey resolution, to evaluate the needs, report back, recommending for or against a project. If it is for, then we authorize the feasibility study. When that is completed, then we authorize justified projects for construction. And the whole process is governed by a benefit cost analysis, all transparent, open to the public.

That is the way the Congress and this Committee have conducted this business from the very first Congress in 1789. We have never, Congress has never authorized a blank check to the Corps of Engineers to invest where they choose. It is not like giving funding to the Department of Education or Health and Human Services and said, well, go ahead and use this funding as you think best. The works of the Corps are unique; they are project by project, harbor by harbor, lock by lock, levee by levee, dam by dam, recreation lake by recreation lake. Every one of these is done specifically in a clear, open, transparent process in Committee and on the record.

So I think it is unfortunate that while there have been problems in the appropriation process, the work of this Committee, under Democratic and Republican leadership for 225 years, has been above-board and open and transparent, and we are going to continue that process. And I welcome Members who submit projects and sign the certification. Their projects will be included. And those that don't, I will respect the process chosen by the Republican party and we will just take it from there.

Thank you, Madam Chair.

Ms. JOHNSON. Thank you, Mr. Chairman.

Mr. Olson.

Mr. OLSON. Thank you, Madam Chairwoman.

Welcome to all the witnesses. Thanks for coming here today. We greatly appreciate it.

Good to see you again, Mr. Fitzgerald. And I am sure it is good to be out of Houston with the way our Astros have started their baseball season.

[Laughter.]

Mr. OLSON. The only team in the major leagues who have not won a game, if anybody is concerned about that.

Mr. Fitzgerald, I direct one question towards you concerning Section 214 of the 2000 WRDA, which, as you know, allows the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits through the Army Corps of Engineers.

Many benefits to this. By funding additional staff work on permit evaluation, existing Corps staff are able to process significant back-

logs more quickly. Hiring additional staff results in a reduction of permit waiting times not only for the local funding entity, but also for any individual organization that makes an application within that Corps district.

I just want to get your take on how valuable Section 214 has been to your organization and how valuable would it be to making that permit, so you don't have to go through this process and concern of it being reauthorized every year or so.

Mr. FITZGERALD. Yes. We recently have funded a position at the Galveston district and we immediately saw some benefits to our organization with the backlog of permits and jurisdictional determinations. It has really helped a lot. But we also get word back from the local Corps district that it is really helping other projects as well. Like we said, it doesn't help just the funding entity.

And there are several other local entities in the northwest part of the United States, in particular, that are taking advantage of this same opportunity, and making it permanent would kind of keep us from being on edge about whether it would be extended each year. But there is value to this in all the things that Mr. Oberstar was talking about, in getting things done and getting this position in the Corps district offices.

Mr. OLSON. Thank you very much. That is what we are here for, getting things done.

Any other members of the panel like to comment on Section 214?  
[No audible response.]

Mr. OLSON. Going, going, gone. Thank you very much for your time.

I yield back my time, Madam Chairwoman.

Ms. JOHNSON. Thank you very much.

Mr. Garamendi.

Mr. GARAMENDI. Thank you very much, Madam Chair.

My question goes to the Corps of Engineers. We have had a lot of discussion on things that are east of the Mississippi. Let's focus a little bit on things that are west of the Mississippi, specifically, the California area, the Sacramento-San Joaquin Delta, a rather important part of the largest population in this Nation. It is where the water for 25 million people flow; it is where it is really the incubator for much of the Pacific coast fisheries; and it is in deep trouble.

I don't think we are going to have time to get into all of this, but a brief comment, if you would, on the Corps' general attitude about the Delta, the Sacramento-San Joaquin Delta, what you are doing; and then I have some specific things I would like you to prepare and to deliver.

Mr. BROWN. Certainly. We have a substantial effort that is ongoing in that part of the world, in California and the Bay Delta, not only on the environmental side, but as well as the flood risk management side. We have scheduled a potential report before the end of the calendar year that is a general reevaluation report on Natomas that would be looked at for reauthorization.

Mr. GARAMENDI. I appreciate the brevity of it because that pretty much states the brevity and the lack of enthusiasm by the Corps in dealing with it. I had a conversation with the regional operation out there and found, to my surprise, that there was almost nothing

going on; very few projects and very, very limited. Perhaps that was my own inability, after 35 years of understanding what the Corps was up to, but it seemed to me to be woefully inadequate given the challenge that the State faces, and the citizens of the State and the environment of the State face.

Specifically, I would like you to deliver, at the earliest possible moment, a comprehensive review of all of the Corps of Engineers' projects in the Delta that are currently underway; those that are planned in the immediate future, that is, within the next one to three years. These projects should include the water issues as they relate to the programs that are currently being discussed in California; flood issues in the Delta, levee protection and the like; environmental issues, restoration of the environment in the area; and the funding associated with each of those three. If there is no funding, so state. If there is a program that is envisioned but not funded, I need to know.

We had a discussion from the Chairman a moment ago about earmarks. Let it be known that I am a full and strong believer in earmarks for this part of the State because this is the most critical part of California's water future, and if we don't provide the funding for the Corps and the other Federal agencies that are involved, it is going to be really bad.

Can you do that for me?

Mr. BROWN. Yes, sir.

[The referenced information follows:]

## Question 1:

Mr. GARAMENDI. Specifically, I would like you to deliver, at the earliest possible moment, a comprehensive review of all of the Corps of Engineers' projects in the Delta that are currently underway; those that are planned in the immediate future, that is, within the next one to three years. These projects should include the water issues as they relate to the programs that are currently being discussed in California; flood issues in the Delta, levee protection and the like; environmental issues, restoration of the environment in the area; and the funding associated with each of those three. If there is no funding, so state. If there is a program that is envisioned but not funded, I need to know.

## Answer:

**U.S. Army Corps of Engineers (USACE)  
Studies and Projects Currently Underway in the Delta**

**Sacramento-San Joaquin Delta, Delta Islands and Levees Feasibility Study**

Partners: California Department of Water Resources (DWR), Corps of Engineers (USACE) Sacramento District.

Purposes: Flood Risk Management and Ecosystem Restoration.

Description: This feasibility study is USACE's mechanism to participate in a cost-shared solution to a variety of water resources needs for which we have the authority. Results of the California Department of Water Resources' (DWR) Delta Risk Management Strategy (DRMS) studies will be used to help define problems, opportunities, and specific planning objectives. The feasibility study will address flood risk management, ecosystem restoration, water quality, water supply, and a variety of other related issues. The USACE and DWR signed a Feasibility Cost Sharing Agreement (FCSA) in May 2006.

Funding: FY10 Allocation - \$394,000; FY11 Budget - \$468,000; FY11 House Subcommittee - \$468,000; FY11 Senate Committee - \$750,000.

**CALFED Coordination Account**

Partners: N/A.

Purposes: Federal coordination funds only.

Description: This coordination account supports SPD in coordinating all efforts in the Delta. These efforts include Interagency coordination on the prioritization and implementation of existing projects benefitting the Bay-Delta and Developing innovative ways to streamline the planning and implementation process..

Funding: FY10 Allocation - \$90,000; FY11 Budget - \$100,000; FY11 House Subcommittee- \$100,000; FY11 Senate Committee - \$100,000

**CALFED Levee Stability Program**

Partners: DWR and up to 40 Reclamation Districts, USACE Sacramento District.

Purposes: Flood Risk Management.

Description: The goal of the Levee Stability Program is to provide short term "quick fixes" on fragile Delta levees. The CALFED Act (PL 108-361) directed the USACE

to deliver a report that identified and prioritized potential levee stability projects in the Delta that could be carried out with the authorized \$90 million in Federal funds. An additional \$106 million was authorized to be appropriated by Section 3015 of WRDA 2007. To quickly identify critically needed projects with active non-Federal support, the USACE invited Delta stakeholders to submit project proposals with letters stating their willingness to participate as cost-sharing sponsors. In response, Delta area Reclamation Districts and flood management agencies submitted 68 project proposals totaling more than \$1 billion in estimated costs. Proposals were evaluated and potential projects prioritized according to how well they met USACE environmental, economic, and other implementation criteria. The short-term strategy is to move quickly to construction on high priority levee reconstruction projects identified in that report. The long-term strategy will be developed through the Delta Islands and Levees Feasibility Study process. Bethel Island Project – The Project Management Plan and draft Feasibility Cost Sharing Agreement for Bethel Island were approved by the Board of Directors of the Bethel Island Municipal Improvement District (BIMID) on October 15, 2009.

Emergency Response Planning – A Memorandum of Agreement was signed between USACE and DWR, allowing the USACE-DWR to initiate GIS Flood Contingency Mapping and Phase 1 of an Emergency Response Plan for 5 Delta counties and the Delta region.

Funding: FY10 Allocation - \$4,814,000; FY11 Budget - \$0; FY11 House Subcommittee - \$2,000,000; FY11 Senate Committee - \$5,000,000

#### **Central Valley Integrated Flood Management Study**

Partners: DWR, the Central Valley Flood Protection Board and the USACE Sacramento District.

Purposes: Flood Risk Management, Ecosystem Restoration, and other water resources purposes.

Description: This is a multi-objective study that will balance flood risk management, ecosystem restoration, and other water resource purposes and provide a long-range management program to improve the flood carrying capacity, while restoring and protecting environmental features. It will provide a framework for a management plan that can be effectively implemented and supported by local, state, and Federal agencies.

The study area includes the entire Sacramento River Basin, San Joaquin River and the Delta Basin in Central California. It encompasses about 43,000 square miles, 1,613 miles of federal levees, 1,200 miles of floodways, 56 flood control features, and 1/3 of the state water supply. Numerous projects are within the study area including the Sacramento River Flood Control Project, Sacramento River Bank Protection Project, Folsom Dam, West Sacramento, and the Lower San Joaquin River and Tributaries Project.

Funding: FY10 Allocation - \$820,000; FY11 Budget - \$0; FY11 House Subcommittee --\$ 0; FY11 Senate Committee - \$500,000.

**Lower San Joaquin Feasibility Study**

Partners: San Joaquin Area Flood Control Association and USACE Sacramento District. DWR has expressed interest in joining this partnership.

Purposes: Flood Risk Management and Ecosystem Restoration.

Description: The purpose of this feasibility study is to determine if there is Federal interest in providing flood risk management and ecosystem restoration improvements along the Lower (northern) San Joaquin River. The Lower San Joaquin River study area includes the San Joaquin River from the Mariposa Bypass downstream to, and including, the city of Stockton. The study area also includes the channels of the San Joaquin River in the southernmost reaches of the Delta: Paradise Cut and Old River as far north as Tracy Boulevard and Middle River as far north as Victoria Canal. The floodplains of the lower San Joaquin River and its tributaries are also included in the study area.

Funding: FY10 Allocation - \$897,000; FY11 Budget - \$0; FY11 House Subcommittee - \$600,000; FY11 Senate Committee - \$500,000.

**Sacramento River Deep Water Ship Channel**

Partners: Port of West Sacramento and USACE San Francisco District

Purposes: Navigation

Description: The Sacramento River Deep Water Ship Channel Project (SRDWSC) is a congressionally authorized project. Currently, USACE and the Port are conducting a Limited Reevaluation Study to recommend navigation improvements for Federal funding and preparing a joint Supplemental Environmental Impact Statement/Subsequent Environmental Impact Report to evaluate the action of resuming construction of navigational improvements to the SRDWSC. Technical studies that are in progress include, hydrodynamic and salinity modeling, beneficial reuse survey, and ship simulation studies.

Funding: FY10 allocation - \$2,200,000; FY11 Budget - \$12,500,000 ; FY11 House Subcommittee - \$12,500,000 ; FY11 Senate Committee- \$12,500,000

**San Francisco Bay to Stockton JF Baldwin Ship Channel**

Partners: Port of Stockton and the Contra Costa County Water Agency and USACE San Francisco District.

Purposes: Navigation.

Description: The SF Bay to Stockton Deep Water Ship Channel Project is a Congressionally authorized project. A joint Environmental Impact Statement/Environmental Impact Report will evaluate the action of navigational improvements to the John F. Baldwin and Stockton Deep Water Ship Channels. A General Reevaluation Report is being prepared to determine the feasibility of modifying the current dimensions of the West Richmond, Pinole Shoal, Suisun Bay, and Stockton Ship Channels, which are currently maintained to -35 feet MLLW and provide access to oil terminals, industry in Pittsburg, and the Port of Stockton. Hydrodynamic, salinity and dissolved oxygen modeling continue. Potential dredged material placement sites have been partially identified and additional capacity is being sought.

Funding: FY10 allocation - \$0; FY11 Budget - \$0; FY11 House Subcommittee - \$0; FY11 Senate Committee - \$500,000.

**Pinole Shoal (Delta Dredged Sediment Long Term Management Strategy)**

Partners: USACE San Francisco and Sacramento Districts, U.S. Environmental Protection Agency, California Department of water Resources, California Bay Delta Authority, and the Central Valley Regional Water Quality Control Board.

Purposes: Sediment Management.

Description: The Delta Long-Term Management Strategy (LTMS) is a cooperative effort to coordinate, plan, and implement beneficial reuse of sediments in the Sacramento and San Joaquin River Delta (Delta). The partners are examining dredging, reuse, and disposal needs in the Delta. The Delta LTMS will explore ways to coordinate and manage dredging, planning, regulatory approval, and implementation to protect and enhance Delta functions, ecosystem, and water quality. The goals of the LTMS are to manage dredging activities to:

- Support and maintain Delta channel functions for navigation, flood control, water conveyance, and recreation.
- Maintain and stabilize Delta levees that protect land-based activities, water conveyance, and terrestrial ecosystems; and
- Protect and enhance water quality for Delta water supply and ecosystem function.

Funding: FY10 Allocation - \$249,000; FY11 Budget - \$0; FY11 House Subcommittee - \$0; FY11 Senate Committee - \$2,500,000.

**Within the next 1-3 years: Studies and Projects in the Delta**

**San Pablo Bay, California Watershed and Suisun Marsh Ecosystem Restoration**

Partners: USACE, Contra Costa, Solano, Napa, Sonoma, and Marin Counties, The Bay Institute, Suisun Marsh Resource Conservation District and others.

Purposes: The study purpose is to restore, preserve, and protect the San Pablo Bay watershed and Suisun Marsh.

Description: Suisun Marsh is the largest remaining contiguous brackish water marsh on the west coast of North America. Authorized by WRDA 2007--Section 5053, this Feasibility Study would identify opportunities to restore preserve, and protect the Suisun Marsh.

Funding: \$0 to date. Authority is for \$40,000,000

**Daguerre Point Dam, Yuba River Project, Yuba River, CA.**

Partners: Potentially DWR.

Purposes: Multipurpose with emphasis on Ecosystem Restoration.

Description: Study potential fish passage improvements at Daguerre Point Dam, Yuba River, CA. The study area is the lower Yuba River Channel from Englebright Dam downstream to the Feather River and the adjacent groundwater basin. Daguerre Point and Englebright Dams are located on the Yuba River a tributary of the Feather River about 11 miles upstream of the City of Marysville, Yuba County, CA. Goals to improve upstream and downstream fish passage for native

anadromous fish species at the Dams.

Authorization: Rivers and Harbors Act of 1902; H.Doc. 431. This act authorized the construction of Daguerre Point Dam. Costs were to be shared 50/50 between the United States (originally the California Debris Commission, subsequently USACE) and the State of California (through the DWR). Flood Control Act of 1970, Section 216 provides the study authority.

Funding: \$0 to date. A reconnaissance study would be \$100,000.

Question 2:

Mr. GARAMENDI. Thank you. Secondly, I live in the Delta, I live on the Sacramento River, and I have watched with amazement, two years ago, a major effort to provide some enhancement of the levees on the Sacramento River, including a very significant amount of money spent on vegetation on the side of the levee; followed almost immediately by an edict from Washington, D.C. Corps offices that the levees are to be stripped of all vegetation. And it doesn't surprise me, but it sure angers me. What is going on here? This issue has yet to be resolved. I know that there are studies underway and I would like a status report on - what the Corps' position is with regard to vegetation on the levees. Are you going to, one year, plant vegetation; the next year strip it off? If so, I guess that is a good make-work project, but doesn't fulfill the kinds of long-term investment that has been discussed here. So if you would provide that update on what the Corps' position is with regard to vegetation on the levees in the San Joaquin-Sacramento Delta or the entire Central Valley.

Answer:

Following the flooding due to Hurricane Katrina and the flood events that occurred in the Midwest in 2006 and 2008, the Corps of Engineers has taken a close look at its vegetation variance policy, first issued in 1997, that allows for vegetation on levees that does not meet its published standards and guidelines. As a result of this policy review, the Corps has published a draft policy guidance letter revising the current vegetation variance process to ensure application of consistent procedures and documentation on a national basis. The Corps wants to ensure that for the areas where levee sponsors would like to retain non-compliant vegetation on the levees, the safety, structural integrity, and functionality of the levee, in addition to accessibility for inspection and flood-fighting purposes, has not and will not be compromised. The vegetation variance policy will be the process used to make this determination. Release of the final vegetation variance policy has been postponed to ensure a thorough review and consideration of the public comments received on the policy; further coordinate with the resource agencies at the national level; and correspond with release of levee vegetation research being performed by the U.S. Army Corps of Engineers Engineering Research and Development Center.

More specifically in the State of California, USACE and key stakeholders developed and signed a California Levee Improvement Framework in March 2009. A key element of the Framework is the requirement to develop a mutually agreeable transition plan

through which the State of California would bring the levees into compliance, over time, either by meeting the USACE minimum levee vegetation standards or submitting vegetation variance requests where feasible. The transition plan will be embedded in the 2012 Central Valley Flood Protection Plan being developed by the State. The Framework contains interim vegetation maintenance criteria proposed to be implemented by the State until the 2012 plan is developed and approved. In addition, a regional team including the resource agencies, is being established to develop potential solutions that can meet both USACE levee vegetation standards and environmental considerations, such as the Endangered Species Act. As the State is developing the 2012 plan, USACE has granted the State a temporary extension for P.L. 84-99 eligibility for levees that will undergo system-wide improvements, such as addressing serious deficiencies dealing with stability, seepage, and erosion. The granted temporary extension requires the Central Valley Flood Protection Board to submit a yearly report documenting its progress in addressing those deficiencies and meeting the State's interim vegetation maintenance criteria.

Question 3:

Mr. GARAMENDI. Finally, the issue of habitat restoration in the Delta is of utmost importance, and nothing will happen and no project will move forward without the Corps of Engineers' involvement in that habitat restoration. We understand the permitting process and the necessity for Corps of Engineers' involvement for in other areas. So I would like a status report on how the Corps of Engineers is engaged with the State of California's agencies recently established by law and what the needs may be for the Corps to fully engage.

Answer: USACE, in particular the South Pacific Division and Sacramento and San Francisco Districts, is engaged with the state and local agencies on many activities including those entities created or impacted by the recent legislation. Specifically, USACE is participating on the Bay Delta Conservation Plan Steering Committee as an Exofficio Member, the Delta Conservancy as a Federal Liaison Advisor, and on the Delta Stewardship Council Federal Interagency Team.

Mr. GARAMENDI. Thank you. Secondly, I live in the Delta, I live on the Sacramento River, and I have watched with amazement, two years ago, a major effort to provide some enhancement of the levees on the Sacramento River, including a very significant amount of money spent on vegetation on the side of the levee; followed almost immediately by an edict from Washington, D.C. Corps offices that the levees are to be stripped of all vegetation.

And it doesn't surprise me, but it sure angers me. What is going on here? This issue has yet to be resolved. I know that there are studies underway and I would like a status report on what the Corps' position is with regard to vegetation on the levees. Are you going to, one year, plant vegetation; the next year strip it off? If so, I guess that is a good make-work project, but doesn't fulfill the kinds of long-term investment that has been discussed here.

So if you would provide that update on what the Corps' position is with regard to vegetation on the levees in the San Joaquin-Sacramento Delta or the entire Central Valley.

Mr. BROWN. I will do so.

Mr. GARAMENDI. Finally, the issue of habitat restoration in the Delta is of utmost importance, and nothing will happen and no project will move forward without the Corps of Engineers' involvement in that habitat restoration. We understand the permitting process and the necessity for Corps of Engineers' involvement for in other areas. So I would like a status report on how the Corps of Engineers is engaged with the State of California's agencies recently established by law and what the needs may be for the Corps to fully engage. That is a little more than in the first that I suggested.

And I will put all this in writing to you so that your notes are complete. Thank you very much.

Mr. BROWN. Thank you.

Ms. JOHNSON. Thank you very much.

There are no other requests for time. Let me thank the panel for being here. We appreciate your testimony, and we will look forward to asking you questions in the future or getting further information.

The Committee is adjourned.

[Whereupon, at 11:52 p.m., the Subcommittee was adjourned.]

**OPENING STATEMENT OF  
THE HONORABLE RUSS CARNAHAN (MO-03)  
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE  
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT**

**Hearing on  
Proposals for a Water Resources Development Act of 2010, Part II**

Thursday, April 15, 2010  
2167 Rayburn House Office Building

Chairwoman Johnson and Ranking Member Boozman, thank you for holding this hearing on proposals for a Water Resources Development Act.

Every part of my district is touched by a river, including the Mississippi, the Meramec, and the Big River. Additionally, my district is affected by the confluence of the Missouri, Illinois, and Mississippi Rivers just north of the St. Louis Metropolitan Region.

I share both Chairman Oberstar and Subcommittee Chair Johnson's dedication to seeing Congress move a Water Resources Development Act (WRDA) this year. In 2007, Congress passed the first, and long overdue, reauthorization of the Water Resources Development Act in seven years. Passage of WRDA has allowed my home state of Missouri to move forward with critical water infrastructure projects, including \$35 million to eliminate combined sewer overflows in the City of St. Louis and St. Louis County as well as the reconstruction of the St. Louis Floodwall.

Passage of WRDA in 2007 was an important first step to authorizing a backlog of water infrastructure projects. However, it is critical for Congress to return to a more regular schedule of passing WRDA bills so that these critical water-related infrastructure projects can be authorized.

As we continue our economic recovery efforts, it is critical for us to invest in our infrastructure. This investment is critical to creating well-paid jobs here at home. We can all tell the story of crumbling infrastructure in their Congressional district. Fortunately, due to the investments made by the Recovery Act we can also tell the story of critical investments made to repair this crumbling infrastructure. In my district, I was very happy to see the Army Corps of Engineers use Recovery Act funding to work to eliminate combined sewer overflows.

In closing, I want to thank our witnesses for joining us today and I look forward to their testimony.



**Statement on Section 214**

Mr. Chairman, thank you for holding this hearing. I would like to take this opportunity to speak in favor of including a permanent extension of the Section 214 program in the Water Resources Development Act of 2010.

Section 214 of the Water Resources Development Act of 2000 (P.L. 106-541) allows the Secretary of the Army to accept and expend funds contributed by non-Federal public entities and to expedite the processing of permits. Section 214 has allowed local governments to move forward with vital infrastructure and ecosystem restoration projects. By funding additional staff to work on specific, time-intensive permits, existing Corps staffers are able to process significant permit backlogs more quickly. Section 214 is currently being used by over 41 public agencies in 20 Corps districts.

Section 214 is currently authorized through December 31, 2010. There have been six extensions for Section 214 since it was originally authorized in WRDA 2000. Lapses and short term extensions of the authority are detrimental to the planning and predictability necessary for successful agreements between the Corps and funding entities. Each time the authority approaches sunset, Corps districts are unable to enter into new Section 214 contracts. When the future of the authority is uncertain, districts make term appointments rather than full-time hires for Section 214 agreements. The shorter the term appointment, the fewer qualified job candidates apply.

Section 214 agreements between Corps districts and non-federal entities are subject to public review and comment, and Corps decisions on these permit applications are subject to increased scrutiny to assure impartiality and transparency. The Corps updated their guidelines for Section 214 in October 2008. This update represented an improvement in oversight and reporting with regard to the authority.

I strongly support making Section 214 permanent in the next WRDA bill.



Statement of Rep. Harry Mitchell  
House Transportation and Infrastructure Committee  
4/15/10

--Thank you Mr. Chairman.

--As you know, with such a limited water supply, Arizona's economy depends on our ability to reliably and efficiently control our precious resources.

-- In this regard, the Army Corps of Engineers is absolutely critical to Arizona.

--Take the Rio Salado project in my home town of Tempe. It has already become an essential engine of economic development, as well as a signature recreation destination.

--At the same time, the Army Corps is working to restore fragile desert ecosystems lost to development and urbanization.

--In the last Congress, the House approved authorization for the Va Shlyay Akimel (Va Shi-lay Ah-ki-mel) ecosystem restoration project in the Water Resources Development Act of 2007.

--The project will restore and improve approximately 1,487 acres of habitat, including 200 acres of wetlands, and 24 acres of Sonoran desert scrub shrub.

--Restoration in this kind of urban setting is important because riparian areas represent only 1 percent of the Southwestern landscape, yet 75-90 percent of Western wildlife depends on them.

--In Arizona, over 90 percent of riparian areas have been lost due to impacts from European settlement and urbanization.

--I look forward to today's hearing, as well as our work on a Water Resources Development Act for 2010. At this time, I yield back.



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**WRITTEN TESTIMONY OF  
 ROBERT BENDICK  
 DIRECTOR OF U.S. GOVERNMENT RELATIONS  
 THE NATURE CONSERVANCY**

**FOR A HEARING ON "PROPOSALS FOR A WATER RESOURCES DEVELOPMENT ACT OF  
 2010, PART II"**

**BEFORE THE  
 SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT  
 COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
 U.S. HOUSE OF REPRESENTATIVES**

**APRIL 15, 2010**

Madame Chairwoman and members of the Subcommittee, thank you for the opportunity to testify on Proposals for the Water Resources Development Act (WRDA) of 2010, and in particular, the ecosystem restoration needs of our country. I am Bob Bendick, Director of US Government Relations for The Nature Conservancy. My comments today will focus on five areas:

- improving the management of Federal reservoirs;
- regional approaches to ecosystem restoration;
- comprehensive management of water resources;
- criteria for improving ecosystem restoration authorities;
- enhancing Corps partnerships on international water resource efforts.

The Nature Conservancy is an international, nonprofit organization dedicated to the conservation of biological diversity. Our mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. Our on-the-ground conservation work is carried out in all 50 states and in more than 30 foreign countries and is supported by approximately one million individual members. The Nature Conservancy has protected more than 117 million acres of land and 5,000 miles of river around the world. Our work also includes more than 100 marine conservation projects in 21 countries and 22 US states.

The Conservancy owns and manages approximately 1,400 preserves throughout the United States—the largest private system of nature sanctuaries in the world. We recognize, however, that our mission cannot be achieved by core protected areas alone. Therefore, our projects increasingly seek to accommodate compatible human uses, and especially in the developing world, to address sustained human well-being.

As the Conservancy has increased its engagement in a variety of restoration projects ranging from large-scale efforts in the Upper Mississippi River and Everglades to smaller scale projects under the Continuing Authorities Program, the US Army Corps of Engineers (Corps) has become an important conservation partner. By number of projects, the Conservancy is now the Corps' largest non-federal sponsor of ecosystem restoration projects. This expanding partnership is reflected in our Sustainable Rivers Project, a joint effort focusing on dam re-operations in 8 ecologically significant river systems across the country.

At another 39 sites, we are collaborating with the Corps under the Section 1135 and 206 authorities of the Continuing Authorities Program (CAP), and other Corps authorities, to protect and restore areas of critical ecological concern.

The Conservancy is focused on protecting and restoring the key physical and ecological processes that sustain freshwater systems, including the flow of water through these systems, the movement of nutrients and sediments within these systems, and the functions of floodplains and river corridors that maintain these processes. It is our belief that focusing public management on returning these processes to within their range of natural variability will help ensure the long-term viability of the Nation's freshwater systems to meet the needs of people and of nature.

By definition, protection and restoration of these processes require a system-scale approach because the outcome at any particular site depends on what happens upstream and downstream. Whole system management of key processes can be enabled through changes in key federal and state programs, including innovative new approaches proposed for WRDA 2010. Ecosystem restoration is a critical component of the Corps' Civil Works mission. Its purpose is to reverse the decline in the ecological health of many of our nation's rivers and streams, some of which was the unintended consequence of federal water development projects.

With this as background, I would like to share with you what the Conservancy believes are high priorities for building upon the important restoration work of the Corps. We believe that these ideas will move the nation's environmental health forward while at the same time meeting the needs of our citizens for navigation, flood control and water supplies.

#### **I. Improving Management of Federal Dams**

While the American people have benefitted from the billions of dollars in public investments in dams throughout much of the 20<sup>th</sup> century, these same projects have also caused a range of adverse impacts, two of which I'll highlight here for their importance and relevance to the proposed authorization.

First, it is now widely recognized that dams have extracted a large toll on the ecological health of the nation's rivers and contributed to the diminishment of socially-valued goods and services they provide, such as sustaining fisheries productivity. Today, in spite of noteworthy improvements in water quality since enactment of the Clean Water Act, 40% of our fish species and 70% of our freshwater mussel species are extinct or imperiled. Moreover, trends in the health of our freshwater ecosystems are unequivocally negative. The most recent comprehensive assessment – published in 2008 – reports that 89% of the fish and mussels listed as imperiled in 1989 are in the same or worse condition today. One critical reason for this is that freshwater, floodplain, and estuarine plants and wildlife have evolved in concert with and are sustained by the natural variations in water flow that occur seasonally, annually, and over the course of many years. For example, the natural seasonal patterns of high and low river flows shape aquatic and riparian habitats, provide cues for migration and spawning, distribute seeds and foster their growth, and enable these highly productive natural systems to function properly. Dams alter these natural flow patterns – at times drastically – and by doing so they have taken a serious toll on the plants and animals that depend on them.

The second – and perhaps unanticipated – impact of dam construction in the United States is the considerable development in downstream floodplains following their construction, which continues today. This is directly destructive of floodplains, which are among the nation’s most biologically-rich and economically-productive habitats.

Moreover, this encroachment has occurred to such a degree as to significantly constrain the operational flexibility of many dams, placing people and infrastructure at risk from catastrophic events and reducing the ability of water managers to adjust to changes such as evolving social demands for water or shifts in precipitation patterns. This diminishing latitude in water management has contributed to the upward climb in economic losses due to flood damage, which now stands at between \$30 billion and \$50 billion per decade. Efforts to alleviate the constraints in floodplains that limit dam operations can create substantial opportunities to restore more natural river flows, and thereby restore the health and services provided by our nation’s rivers; reduce flood damages and improve ecological and social resiliency to climate change.

The U.S. Army Corps of Engineers plays a unique and central role in managing the nation’s rivers for multiple purposes. The agency operates more than 600 dams that help reduce flood risk, produces one-third of the country’s hydroelectric power, and oversees water supply storage for 85 million people. The Corps also is extensively involved in floodplain management through structural and non-structural flood risk reduction and ecosystem restoration.

The Conservancy supports a new authorization that would build upon the Corps’s long history of river and floodplain management, including more than a decade of collaboration through the Sustainable Rivers Project with The Nature Conservancy and dozens of other federal and state agency, academic, and non-governmental partners. The Sustainable Rivers Project has successfully developed, tested, and refined innovative methods and tools for determining and implementing environmental flow requirements.

This work is advancing across the nation in eight river basins that contain 36 of the Corps’ dams. These demonstrations include the Green River in Kentucky, where the Corps and its partners collaborated to identify changes in dam operations that not only are better for the environment, but also improve flood protection and enhance recreational access to the reservoir. Biologically, the Green is one of the richest rivers in the nation, and the partners now want to expand their work to other dams in the basin.

At another demonstration site, the Willamette River in Oregon, the Corps and its partners have made great progress in implementing environmental flows on tributaries of the Willamette that are most affected by dams. Historically, the Willamette supported rich Pacific Northwest salmon runs. The partners now want to expand their work to the entire river basin, their work basin-wide, as this is the scale at which environmental improvements can be achieved in tandem with measures that maintain, and potentially even improve, flood protection, recreational access and hydropower generation.

The necessary partnerships, scientific knowledge, and innovative methods and tools are all in place to advance and expand this work, but hindrances remain. First, the Corps lacks explicit authority to implement environmental flows at all its projects and to do so with equal consideration as that given to other project purposes. Moreover, the floodplain encroachment mentioned above constrains not only environmental flow implementation, but also limits the options available to Corps water managers for meeting current and future demands, such as water supply and flood protection. The proposed

authorization for a National Sustainable Rivers Program will address these current limitations and help position the Corps to better meet the 21<sup>st</sup> century water management needs of the nation, and tens of thousands of river miles and the people who depend on the ecological services those rivers provide will benefit in the process.

Recommendation: Support request for new authority to establish a National Sustainable Rivers Program within the Corps to implement science-based environmental flow requirements, and to support the protection and restoration -- through easements and acquisition -- of floodplains downstream of Corps dams in order to improve community flood protection; restore environmental health including water quality and fish and wildlife habitat; and enhance resiliency to climate change.

## **II. Regional Science-based Approach to Restoration**

Many federal agencies, states and other non-profits have joined with The Nature Conservancy in completing comprehensive science-based conservation plans for the US. These plans, called ecoregional assessments, are intended to provide foundational data and information that allows agencies and organizations to make better resource allocation decisions on restoration projects and other conservation projects. Often stretching across multiple states, these collaborative ecoregional assessments bring together information needed to support effective large-scale, regional conservation strategies. Integration of data on habitats, species and water resource use can reveal unexpected connections, providing fresh insight into long-standing problems.

Based on our experience with ecoregional planning, we believe similar approaches must be employed if we are to maximize the federal investment in ecosystem restoration. With limited federal dollars and extensive restoration needs, we can no longer settle for or afford an isolated project by project approach. Instead, we must invest in efforts to determine how multiple needs in a watershed, river basin or coastal area can best and most effectively and efficiently be met while protecting and restoring our natural resources.

There are already successful authorities to draw on in developing regional approaches to ecosystem restoration. For example, the Puget Sound and Adjacent Waters Program was designed to implement critical projects for the protection and restoration of ecological processes, habitats and functions in the Puget Sound basin. Selection of projects is informed by ongoing basin-wide studies and through engagement of regional stakeholders with scientific and restoration expertise. Similarly, the Upper Mississippi River Environmental Management Program, which was first authorized in the Water Resources Development Act of 1986, has been implementing ecosystem restoration projects across the Upper Mississippi River System for over 20 years. Through the Environmental Management Program, a unique federal-state partnership was formed to identify, plan and implement projects that has resulted in the restoration of over 72,000 acres of habitat to date. If we are to maximize our investment in ecosystem restoration, replicating regional approaches that are informed by sound science and that engage appropriate stakeholders like the examples described above will be critical.

Another regional authority, the Ohio River Ecosystem Restoration Program, has the potential to provide the same partner commitments, but it needs to be reauthorized for this potential to be realized. The Ohio River drainage contains at least 350 species of fish ranging from endemic darters and dace in the headwaters to a suite of great river fish (e.g., paddlefish, blue sucker, lake sturgeon, and shovelnose

sturgeon) and more than 120 mussel species, including a number that are federally listed. These figures approach half of the freshwater fishes and over a third of all mussel species found in the United States. A number of the rivers in the Ohio River Basin also support outstanding smallmouth or spotted bass angling. However, fish and mussel habitat within the Ohio River Basin is imperiled by a number of historic impacts and continuing threats. Reauthorization of the Ohio River Ecosystem Restoration Program, with extension to the entire basin, would support critical actions to improve the ecological health of the Ohio River Basin in Illinois, Kentucky, Indiana, Ohio, West Virginia, Pennsylvania, and New York. Specifically, reauthorization of this program would support actions to address loss of floodplain function, barriers to paddlefish and sturgeon movement, loss of in-stream rearing and reproductive habitat for fish and mussels, and altered stream flows, providing societal benefits such as improved recreational opportunities and flood assimilation capacity.

The regional approach to ecosystem planning and restoration can also be applied to coastal environments. The Conservancy also supports a new authority that would provide the Corps with the ability to plan and implement projects within the context of the North Atlantic coast from Maine south to Virginia. We believe that this new authority can serve as a model for region-wide coastal planning throughout the Corps.

The Eastern U.S. Atlantic coast is home to some of the world's most productive and bio-diverse areas of the World. It includes the Gulf of Maine, the Southern New England seas and sounds, and the Mid-Atlantic Bight which includes major estuarine systems like the Chesapeake Bay and Delaware Bay. It encompasses the shorelines of 11 states and is the most populated coastal region in the U.S., where more than 65 million people live. The coastal and marine ecosystems of the Eastern U.S. Atlantic, which support the major population centers and port cities of the industrialized Northeast corridor, face significant threats.

Development, climate change impacts and human uses are impacting the health of the ocean and coastal ecosystems in the Eastern U.S. Atlantic region. The impacts of these valuable ecosystems include degraded water quality, nutrient enrichment, harmful algal blooms, loss of important habitat such as migration corridors and fish spawning areas, the spread of invasive species and depleted fish species. Increased storm frequency and intensity and sea level rise, as a result of climate change, will only exacerbate the situation and increase the need for coastal restoration and hazard mitigation efforts.

The Army Corps of Engineers play a critical role in facing these threats to the Eastern U.S. Atlantic. To be successful, there is an urgent need for clear authority for the Corps' North Atlantic Division (Corps NAD) to engage in a more comprehensive, regional approach to coastal assessment, planning and ecosystem restoration. This includes enabling the Corps to consider the region's coastal and marine ecosystems as interconnected and interdependent and to plan, prioritize and implement projects accordingly. Although it is a capable restoration specialist, the Corps is generally constrained to working on a project by project basis. This constraint seriously limits its ability to understand, plan and act in the most coordinated and cost effective manner on threats and environmental issues which are multi-state in nature.

The Coastal and Marine Management Plan to be completed through this proposal would consider the impacts of these threats and issues on the region as a whole. It would consider the ecological connections and interdependencies between areas within the region, and identify the importance of a given project not

just to its immediate location but also to other areas and priorities and/or to broader ecological processes that affect the region as a whole. For example, the integrity of a given estuarine embayment or salt marsh system may be particularly important for certain marine species. The lateral connectivity of a given coastal river system may be particularly important for supporting diadromous fish populations which also depend on the marine environment. Planning with attention to these types of regional-scale connections provides an example of the basis for an effective prioritization process. The Plan would also identify ecological restoration projects that need to be broader in geographic scope than the typical localized, site specific project.

In order to complete this type of plan, there is a need for ecological data and science that is integrated into a form which allows that data to be interpreted, connections and trends to be seen – in a word – a user friendly vehicle for being able to use biological and ecological data for wise planning. Such an assessment – the “North Atlantic Marine Ecoregional Assessment” – is a joint effort of The Nature Conservancy and multiple federal (including the Corps), state, university and non-governmental organization partners (NGO) and is nearing completion. One of the compelling features of this proposal is that it would facilitate the Corps’ use of this assessment and in so doing, enable an unprecedented opportunity for the Corps to utilize advanced and integrated scientific information on the marine and coastal environment.

All together, the proposed plan would provide the ability to identify the most ecologically important and cost effective projects for the North Atlantic Division. It would allow the Corps to better plan for hazard mitigation, ecosystem restoration and natural shorelines management. It would also facilitate collaboration and implementation of coastal and benthic habitat restoration projects, shellfish restoration, dam removal and other habitat improvements for fish. It would help restore stream stability, protect and restore coastal salt marshes and wetlands, create water quality improvements and restore beach dune complexes in an ecologically sustainable manner. In addition to helping produce a state-of-the-art regional plan, it will enhance the Corps’ North Atlantic Division’s abilities in marine spatial planning and ecosystem-based management.

Completion of the proposed Corps Plan will prepare the agency to face challenges and make smart and efficient investment decisions on the Eastern U.S. Atlantic Coast—from adapting to sea level rise along the shores of Long Island, to improving diadromous fish migration and habitats in and out of the Gulf of Maine, to effectively responding to coastal hazards and system resiliency along the coast and beaches of Maryland and Virginia. It will provide the Corps the authority to work together with multiple federal agencies and states and move beyond a project by project approach to a more efficient regional program.

In addition to providing authority to complete the Coastal and Marine Management Plan for the North Atlantic region (Maine to Virginia), the proposed authority would provide for on-going funding for priority restoration projects. The proposal is similar to the Continuing Authorities Program in that the proposal would authorize the Corps to pursue multiple site-specific projects if such projects are *identified under the Plan* and within the overall Coastal and Marine Plan for the Division. As such the new authority would serve in an ongoing manner even though it would not officially be a “Continuing Authority.” Instead, the proposed legislation would come under the General Investigations program as is the case for individual projects which start with a Reconnaissance phase. Although the proposal is more than a single project, its implementation would entail the General Investigations program process and the

“project” would be the overall Coastal and Marine Plan. It is anticipated that identified projects would be part of the Corps’ annual budget submittal under the authorization created by the proposal. A separate partnership agreement with an eligible non-Federal sponsor would be required for each individual project.

Recommendation: Authorize regional restoration authorities that allow the Corps to engage stakeholders across watersheds, river basins and coastal regions to set priorities and implement projects that will result in the most ecological return on Federal dollars invested. Specifically, support requests to authorize North Atlantic Division Marine and Coastal Program and support reauthorization of the Ohio River Ecosystem Restoration Program.

### **III. Comprehensive Management of Water Resources**

As we emphasized in testimony before the Subcommittee in 2008, in addition to providing authority for the Corps to undertake regional or watershed approaches to restoration, we must also ensure that the Corps has the appropriate authority to balance multiple demands on our water resources. Planners must be able to incorporate disparate interests such as navigation, flood control, water supply and protection of the environment into all projects. In particular, we must integrate the role of healthy and functioning ecosystems into our river management. For example, restoring natural floodplain areas for the purpose of storing floodwaters is one important strategy for meeting flood control needs and increasing the flexibility in the management of our reservoirs and other water infrastructure. By allocating flood storage to the floodplain instead of the reservoir, space currently allocated to flood control can be converted into storing water to supply cities and farms, generating hydro-electric power, and releasing improved environmental flows into downstream ecosystems. Moreover, floods that are allowed to return to their natural floodplains recharge underlying aquifers, which slowly release groundwater back to the river as cool, steady base flows. Similar approaches are needed that evaluate all needs in a watershed or river basin and seek to incorporate the value of intact ecosystems into meeting human needs.

The Nature Conservancy and our partners are taking just such a basin-wide approach in the Mississippi River Basin. Our Great Rivers Partnership program, the Corps of Engineers, Mississippi River Commission and other federal partners are cooperating on a long term sustainable vision to collectively chart a course toward future of integrated resource management. This year, we engaged the Meridian Institute to survey forty three key river stakeholders from commercial navigation, agriculture, tourism, natural resources, non-government and government organizations, to assess the need for a long-term sustainable vision for the Mississippi River. Early results indicate that the answer to improving the Mississippi River’s health and economic vitality lies in a more integrated approach to address the issues challenging the river and basin. We must also be aware that ecological, social and economic factors need to be considered in the development of priorities for the river. Using the survey information as a base, TNC and the Corps will co-sponsor the Inner Coast Summit early this summer, in an effort to continue working for a compatible future for the Mississippi River. We hope this collaborative process will provide tangible results and serve as a model for this type of work both nationally and internationally.

Another basin-scale restoration approach is the Upper Mississippi River Restoration – Environmental Management Program (EMP), authorized in WRDA 1986. EMP has enabled the Corps of Engineers and other river management partners to successfully restore more than 85,000 acres through 45 habitat projects as well as gather information on Upper Mississippi River health by collecting data on important

river parameters. This program is really the first large river ecosystem restoration program of its kind and the success of this program grows with each successive year.

To build and expand upon this success, WRDA 2007 included a new provision for Upper Mississippi River ecosystem restoration through the Navigation and Ecosystem Sustainability Program (NESP). The ecosystem restoration portion of the NESP significantly expands the possibilities for ecosystem restoration with more dollars and more restoration options. It is the right mechanism to move into the next stage of large river ecosystem restoration, particularly with the strong emphasis on adaptive management. We thank the committee for supporting development of the Navigation and Ecosystem Sustainability Program, which is a good example of blending multiple objectives around the concept of sustainability into an adaptive management approach. We recommend this approach be supported and advanced in WRDA 2010.

Despite the strength of this approach, however, transitioning between these two programs will be complicated, especially with provisions that require EMP projects to be fully-transferable to NESP within two years of program implementation. With this in mind, EMP must remain a strong and viable program until such time as NESP receives a new start and adequate appropriations to maintain the capacity of ecosystem restoration during program transition. EMP may also require a more flexible program implementation to transition smoothly into this next generation of large river restoration projects.

On the lower Mississippi River, another comprehensive approach, the Lower Mississippi River Resource Assessment, has provided vital initial steps to balance the multiple uses of this vast resource. The Final Reconnaissance Report is complete and was approved on March 5<sup>th</sup>, 2010, by the Mississippi Valley Division U. S. Army Corps of Engineers (MVD). Results from this initial step have led numerous partners to request a Watershed Study and a change in the implementation guidance for the Watershed Study to a 75/25 cost share, as was recently changed for other watershed studies in the last WRDA. This cost share provision would more fully allow the diverse, multi-state partners to work toward a common goal of completing a comprehensive lower basin Watershed Study. This next phase should also help to provide long term restoration provisions that are compatible with the multiple uses of the river resources in this area of the river.

Achieving multiple water resource goals can be a hallmark of site-specific projects as well. The Hamilton City Flood Damage Reduction and Ecosystem Restoration project in California is a model in this respect. Hamilton City is located on the Sacramento River -- the largest river in California, draining approximately 24,000 square miles and supplying 80 percent of the freshwater flowing into the Sacramento-San Joaquin Delta. Historically, the river was lined by 800,000 acres of riparian habitat. Over 95 percent of this habitat has been lost.

Meanwhile, Hamilton City and surrounding agricultural lands are only marginally protected from flooding by a degraded private levee (circa 1904) called the "J" Levee. The "J" Levee does not meet any formal engineering standards and provides only a 66 percent chance of passing a 10-year flood. As a result, Hamilton City has mounted flood fights and has been evacuated due to flooding six times in the last 25 years. After years of unsuccessful efforts to secure federal engagement in their efforts to reduce the risk of flooding, project partners, including the city, the Conservancy, and the state of California, collaborated to develop a project that would both reduce the town's flood risk and restore the river

floodplain by constructing a new set-back levee and reconnecting over 1,400 acres of floodplain to the river.

This dual purpose project has the potential to be a true "win-win" scenario by meeting the flood-control needs of the local community while restoring riparian habitats and natural river processes. Unfortunately, although the benefits of the project have been recognized within the Corps, it has run into multiple hurdles at various stages along the way because it does not fit into the traditional single-purpose project model. For projects like this to become the norm instead of the exception, the Corps would benefit from specific authority enabling them to more easily implement nontraditional projects that truly meet multiple goals.

Recommendation: Authorize and strengthen regional authorities that allow the Corps to balance multiple needs, e.g. flood control, ecosystem restoration, and navigation, and implement projects across a basin to meet multiple water resource goals.

#### **IV. Improving Restoration Authorities**

As one of the Corps' largest cost-share partners, the Conservancy has worked extensively with the Corps under the Section 1135, Project Modifications for Improvement of the Environment, and Section 206, Aquatic Ecosystem Restoration programs. Through these Continuing Authorities Program (CAP) authorities, the Conservancy has been the lead non-federal sponsor on 17 projects. These projects seek to achieve an array of ecosystem restoration goals ranging from coastal shoreline stabilization to fish passage and floodplain reconnection. For example, the Conservancy and the Corps have completed the removal of dams on the Cahaba River in Alabama and Neversink River in New York opening up important habitat for fish and other aquatic species. We have also completed a project on the Green River in Kentucky to restore hydrology and floodplain habitat.

CAP 1135 and 206 projects are producing many success stories around the country, and as a result, demand far exceeds the annual authorized limits for these programs. Unfortunately, the oversubscription of these programs has halted a number of projects that enjoy strong support from their local communities and Corps Districts. In an attempt to address this problem, the Appropriations committees have implemented various prioritization schemes focused on funding only projects currently in the construction phase, but these measures have left many projects languishing without funding despite significant investment of both Federal and non-Federal resources in feasibility studies and project design.

Because demand for Corps restoration projects will always exceed available funding, it is important that the 1135 and 206 programs are administered in a way that focuses on the projects resulting in the highest return, both ecologically and financially, for the Federal dollars invested. To do this, there must be strong science-based ecological criteria used for allocating scarce resources. A number of other Corps programmatic authorities, like the Navigation and Ecosystem Sustainability Program for the Upper Mississippi River and the Estuary Restoration Program, are already doing this by setting objective and transparent ecological criteria to evaluate projects that are proposed for funding. Existing plans that identify ecological and restoration priorities can also be useful tools for determining where to spend restoration dollars.

Recommendation: Support changes to the Continuing Authority Programs to further emphasize those projects that result in the greatest ecological return on the dollar invested by setting clear science-based ecological criteria for allocating program funds.

#### **V. Corps Partnerships on International Water Resources Efforts**

Successful management of freshwater resources on an integrated, watershed level is vital now, and will become even more so as fragile and threatened systems are stressed further by development, deforestation and other land use changes, and the impacts of climate change. This is true in the United States, and even truer in the developing world.

The Conservancy recommends an amendment to increase the utility of section 234 of the Water Resources Development Act of 1996 (33 U.S.C. 2323a). This authority addresses interagency and international support, and enables the Corps to participate with Federal or international organizations and foreign governments to address problems of national significance related to water resources, infrastructure development, and environmental protection. Actions pursuant to this authority have been valuable in bringing the expertise of the Corps to projects addressing freshwater management issues in a variety of circumstances, including, for example, a project funded by USAID for the Magdalena River in Colombia.

The proposed amendment would further enhance this important authority by enabling the Corps to partner with and accept funds from the non-Corps elements of the Department of Defense and to partner with nongovernmental organizations. The amendment would also ensure that any use of this authority in conjunction with international organizations or foreign governments would be only with the concurrence of the Department of State.

Recommendation: Support request to amend section 234 of the Water Resources Development Act of 1996 (33 U.S.C. 2323a) to enable the Corps to partner with and accept funds from the non-Corps elements of the Department of Defense and to partner with nongovernmental organizations.

I thank the Chairwoman and the entire Subcommittee for the opportunity to share this testimony with you today.

**DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS**

**COMPLETE STATEMENT OF**

**Theodore A. Brown  
CHIEF, PLANNING AND POLICY DIVISION**

**BEFORE THE**

**Committee on Transportation and Infrastructure  
Sub-Committee on Water Resources and Environment**

**UNITED STATES HOUSE OF REPRESENTATIVES**

**On**

**“Proposals for a Water Resources Development Act of 2010, Part II”**

**April 15, 2010**

Madam Chair and distinguished members of the Committee, I am Theodore A. Brown, Chief of the Planning and Policy Division. I am honored to be testifying before you today. My testimony will provide a brief description of three proposed projects that have favorably completed Executive Branch review since enactment of WRDA 2007.

These are the Topeka Flood Risk Management Project, the Mississippi Coastal Improvements Project, and the West Onslow Beach Hurricane and Storm Damage Risk Reduction Project. These project proposals fall within the three main mission areas of the U.S. Army Corps of Engineers (commercial navigation, flood and storm damage risk reduction, and aquatic ecosystem restoration) and will provide net benefits to the Nation. In addition, the testimony will address the two other proposed projects that have reports by the Chief of Engineers but are still under review. First, my testimony covers a project that has favorably completed Executive Branch review and which has been implemented.

**Mississippi River Gulf Outlet, St. Bernard Parish, Louisiana Deep Draft Deauthorization Study**

In January 2008, the Chief of Engineers signed a report on the deauthorization of the Mississippi River - Gulf Outlet (MRGO) deep draft navigation channel in Louisiana. The report is a final response to the authority provided in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234) and Section 4304 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28). Public Law 109-234 authorized a comprehensive plan at full Federal expense to deauthorize deep draft navigation on the MRGO extending from the Gulf of Mexico to the Gulf Intracoastal Waterway. Public Law 110-28 directed accelerated completion of the final report of the Chief of Engineers.

In accordance with Executive Order 12322, the Office of Management and Budget has found that this project was consistent with the policy and programs of the President. Construction to close the MRGO was completed in July 2009.

**Topeka Flood Risk Management Project, Topeka, Kansas**

In August 2009, the Chief of Engineers signed a report on flood risk management improvements on the Kansas River in the vicinity of Topeka, Kansas. The report is a response to authority contained in Section 216 of the Flood Control Act of 1970 (Public Law 91-611).

The Report recommends modifications to four existing levee units within the Topeka Flood Risk Management Project. A control berm is recommended for the South Topeka Unit, as are modifications to the Kansas Avenue Pump Station and three manholes, and replacement of about 2,000 linear feet of floodwall. A control berm, a stability berm, and pump station modifications are recommended for the Oakland Unit. A control berm, a series of pumped relief wells, and the removal of an unused pump

station are recommended for the North Topeka Unit. A stability berm is recommended for the Waterworks Unit. The levee improvements would provide greater than 90 percent reliability against damages from the base flood, which has a 1 percent chance of occurrence in any given year (formerly referred to as the "100-year flood"). Based on October 2008 price levels, the estimated first cost of the project is about \$21.2 million and will be shared 65 percent Federal (\$13.8 million) and 35 percent non-Federal (\$7.4 million). At a 4.625 percent discount rate, the benefit to cost ratio for this project is 13.2 to 1.

In accordance with Executive Order 12322, the Office of Management and Budget has found that this project is consistent with the policy and programs of the President.

**Mississippi Coastal Improvements Project, Hancock, Harrison, and Jackson Counties, Mississippi**

In September 2009, the Chief of Engineers signed a report on comprehensive water resources improvements associated with hurricane and storm damage reduction, flood damage reduction, and ecosystem restoration in the three coastal counties of Mississippi. The report is in response to the authority provided in the Department of Defense Appropriation Act, 2006 (Public Law 109-148), dated December 30, 2005.

The comprehensive Mississippi Coastal Improvements Program (MsCIP) is a system wide approach linking structural and nonstructural risk reduction approaches and environmental restoration features. The report recommends 12 near-term elements to address the most critical needs. Implementation of these elements will restore over 3,000 acres of coastal forest and wetlands and about 30 miles of beach and dunes, and flood proof or acquire approximately 2,000 tracts within the 100-year floodplain. Based on October 2008 price levels, the report estimated the total first cost of the project to be just over \$1 billion, and recommended that it be shared 65 percent Federal (\$657 million) and 35 percent non-Federal (\$353 million). However, in Public Law 111-32 (Supplemental Appropriations for the Fiscal Year ending September 30, 2009), the Congress appropriated all of the funds for the barrier island element of the project (\$439 million), at Federal expense.

In accordance with Executive Order 12322, the Office of Management and Budget has found that this project is consistent with the policy and programs of the President.

**West Onslow Beach and New River Inlet (Topsail Beach), North Carolina**

In September 2009, the Chief of Engineers signed a report on hurricane and storm damage reduction along a five-mile reach of Atlantic Ocean shoreline at Topsail Beach, North Carolina. The report is a final response to the Energy and Water Development Appropriations Act for Fiscal Year 2001 (Public Law 106-377), which

included funds for the U.S. Army Corps of Engineers to initiate a General Reevaluation Report of the West Onslow Beach and New River Inlet (Topsail Beach) Shore Protection Project and the remaining shoreline at Topsail Beach.

The Report recommends a locally-preferred 26,200-foot long dune and berm system that has a dune three feet lower than the National Economic Development Plan and extends 400 feet southwest to include additional properties that are vulnerable to coastal storm damage. The Assistant Secretary of the Army (Civil Works) approved a policy exception in May 2008 allowing the Corps of Engineers to recommend the locally preferred project. The 400-foot extension costs an additional \$320,000 and would be funded entirely by the non-Federal sponsor. The total initial cost of the recommended project is estimated at \$42.6 million, based on October 2008 price levels, and includes the sunk costs for pre-construction engineering and design and completion of the General Reevaluation Report. The pre-construction engineering and design was shared 75 percent Federal and 25 percent non-Federal, the General Reevaluation Report shared equally, and the construction cost will be shared 65 percent Federal and 35 percent non-Federal. The \$42.6 million initial cost would be shared \$27.5 million Federal and \$15.1 million non-Federal. The project also includes 50 years of periodic nourishment at \$113.9 million based on October 2008 price levels. This cost would be shared equally with the non-Federal sponsor. At a 4.625 percent discount rate, the benefit to cost ratio for this project is 3 to 1.

In accordance with Executive Order 12322, the Office of Management and Budget has found that this project is consistent with the policy and programs of the President.

There are two other proposed projects with reports by the Chief of Engineers that are still under review. These are the Mid-Chesapeake Bay Island Ecosystem Restoration Project (signed in August 2009) and the Caloosahatchee River (C-43) West Basin Storage Reservoir Project (signed in March 2010).

This concludes my statement. Again, I appreciate the opportunity to testify today. I would be pleased to answer any questions you may have.



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**Testimony of the National Association of Flood  
And Stormwater Management Agencies**

Presented by Steve Fitzgerald, PE  
NAFSMA Director and  
Flood Management Committee Chair  
Chief Engineer, Harris County Flood Control District,  
Houston, Texas

**Water Resources Development Act of 2010**

U.S. House of Representatives  
Water Resources and Environment  
Subcommittee

Committee on Transportation and Infrastructure  
Rep. Eddie Bernice Johnson, Chairwoman

April 15, 2010

The National Association of Flood and Stormwater Management Agencies (NAFSMA) is very pleased to present this testimony addressing proposals for the Water Resources Development Act of 2010. On behalf of our membership, many of whom are non-federal partners on flood damage reduction and environmental restoration projects with the U.S. Army Corps of Engineers, we thank you for your leadership and efforts to move a Water Resources Development Act forward this year.

As noted in our testimony on the implementation on WRDA 2007 provided to the full Transportation and Infrastructure Committee in early March, we support many of the general provisions enacted in WRDA 2007 and have actively been involved in helping to implement many of those changes. We urge Congress to continue to work to keep WRDA on a biennial schedule and enacting legislation this year would help to move closer to that goal.

#### **Background on NAFSMA**

NAFSMA is a public agency driven organization based in the nation's capital, with a focus on effective flood and stormwater management in urban areas. Our mission for more than 30 years has been to advocate public policy and encourage technologies in watershed management that focus on flood protection, stormwater and floodplain management. Through this mission, NAFSMA enhances the ability of its member agencies to protect lives, property and economic activity from the adverse impacts of storm and flood waters.

Formed in 1978, NAFSMA works closely with the Corps of Engineers, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency, as well as other federal agencies and national water resource organizations to carry out its mission. NAFSMA members are on the front line protecting their communities and regions from loss of life and property and are responsible for flood mitigation, flood water and emergency management activities as well as the water quality protection.

Therefore, the organization is keenly aware that flood damage reduction activities and projects are a wise and necessary investment required to first reduce loss of life and ensure the safety of our citizens. In addition, our members are charged with reducing damages to peoples' homes and businesses and critical infrastructure, while also protecting the environment and preventing economic disruption. Flood management has proven to be a wise investment that more than pays for itself by preserving life and property, thereby reducing repeat requests for federal disaster assistance.

Especially since WRDA 1986, this protection has been provided through a strong and well-tested federal-nonfederal partnership which NAFSMA values and will continue to work to improve and strengthen as we move forward in such critical flood management discussions as WRDA 2010. As a result, we are dedicated to

ensuring that the nation's flood management systems can be operated and maintained properly and any needed inventory, assessments and repairs to flood damage reduction structures can be carried out smoothly.

Intergovernmental Flood Risk Management Efforts

Beginning in August 2005, just prior to Hurricane Katrina's devastating impact on the Gulf Coast, NAFSMA convened a discussion between our members, Corps leadership, FEMA, the Association of State Floodplain Managers, and other levee experts to discuss the need to inventory and assess the nation's levees due to issues that would definitely develop in this area as FEMA's flood map modernization process continued to move forward. This meeting and numerous later joint interagency discussions has led to a much stronger working relationship in the flood damage reduction arena between the Corps of Engineers and FEMA.

NAFSMA very much appreciates the strong initiatives of both agencies and their leaders to speak with one federal voice on these critical issues. Many strides have been made in this effort at the federal level and we hope that this continued commitment will result in better communications and partnerships at the District and regional levels of both agencies.

NAFSMA Recommendations for WRDA 2010

Enact WRDA 2010 –It is critical that a reauthorization of the Water Resources Development Act occur this year. Not only does this necessary legislation provide an opportunity to review and shape the policies and programs of the U.S. Army Corps of Engineers, it is needed to strengthen the partnerships necessary to achieve the flood damage reduction goals of this nation. Local, regional and state agencies depend on WRDA's reauthorization.

Needed flood damage reduction, environmental restoration and watershed planning projects face significant cost increases and missed opportunities for safety, economic, and environmental improvements while waiting for authorization. Since we last testified on the need for a WRDA in 2008, our local, regional, and state agencies, are facing severe economic hardships, many facing layoffs and furloughs within their own individual organizations. It is important during these tough economic times that we all find ways to reduce costs, expedite studies, and minimize reviews and permitting so we all can be proud in building projects that reduce the loss of life and property from the flood threat while at the same time using public dollars to put people to work.

While WRDA 2010 does not address appropriations, NAFSMA urges the Committee to work with others to see that appropriations are forthcoming for authorized projects. Further, NAFSMA urges Congress to separate authorizations needed under WRDA from the larger earmark funding debate.

Include New, and Amendments to, Flood Damage Reduction Projects - As you move forward with drafting WRDA 2010, it is important to remember that many existing and potential non-federal sponsors and their congressional delegations held critical projects back from consideration in WRDA 2007 at the request of committee leadership and staff in an effort to move that bill forward. These projects now need to be considered as they are necessary to protect lives, public safety and critical infrastructure, and provide new jobs critical to the economy. Some existing project authorizations need amendments to move forward, as well.

#### **Critical Levee Safety Recommendations**

Authorize Completion of the National Levee Inventory - NAFSMA urges Congress to provide the necessary authorizing language to expand and complete the national levee inventory to include non-federal, as well as federal levees.

Authorize Corps, When Requested, to Carry Out Levee Certifications - With many flood damage reduction projects built through partnerships with the Corps, the Corps District offices are in many cases uniquely suited to carry out levee certification activities. NAFSMA strongly believes that the original national interest that was determined to exist in order for federally-partnered flood damage reduction projects to move forward, still remains, and in most cases is even stronger. It follows then that there is a shared responsibility for the Corps to participate in FEMA's certification process. If the federal government is asking private engineering firms to take on this responsibility, the federal government's engineering branch should be willing and able to help perform these activities as well.

NAFSMA offers to work with the Committee to develop a workable approach to this issue. We urge this committee to consider some of the legislative proposals that have been recently introduced to allow the Corps to take on this needed certification work at the request of a local sponsor.

Establish National Levee Rehabilitation, Improvement, and Flood Mitigation Fund - In the spirit of shared responsibility, NAFSMA endorses the recommendation of the National Committee on Levee Safety and urges that a repair, rehabilitation and flood mitigation program be established to address critical levee repairs and that federal funding be available on a cost-shared basis to owners and operators of levee systems.

Explore Expanding Credit Incentives for Levee Safety Activities - NAFSMA urges that full credit for work performed by a non-federal sponsor, or cost sharing partner, for identified levee strengthening or retrofit activities not be limited to the nonfederal cost of the project. In instances where major activity is needed to repair federally-partnered flood management projects, the nonfederal sponsor needs the ability to get out in front of these activities with the knowledge that they may later work with the Corps and Congress to receive needed and appropriate credits. NAFSMA offers to work with the Committee and the Corps to amend these applicable sections.

Crediting for Ecosystem Restoration Activities Linked with Levee Safety Strengthening and Retrofits - NAFSMA urges that credit or reimbursement be allowable for environmental mitigation or restoration activities that may be needed as the result of work performed to repair or improve existing flood damage reduction systems.

Develop and Implement Measures to More Closely Harmonize Levee Operation and Maintenance Activities with Environmental Protection Requirements - This National Committee on Levee Safety recommendation is particularly important to NAFSMA members who are currently trying to maintain the integrity and strength of their existing levees so they provide the flood reduction capabilities expected by the public. Currently, there is a lack of consistency by federal regulators and environmental agencies in the permitting and guidance of levee maintenance that is resulting in unpredictable requirements and timelines. Specifically, the management of deep-rooted vegetation on levees has become controversial. The Corps is currently taking comments on its proposed process for obtaining a variance for its vegetation guidelines and NAFSMA thanks the Corps for its public outreach and comment period on this proposal.

Conflicting regulatory and environmental agencies' views are resulting in long delays or inability to perform needed infrastructure maintenance. NAFSMA concurs with the National Committee on Levee Safety that acceptable operation and maintenance practices need to be developed in conjunction with and coordination with state and federal environmental agencies so lives and property can be protected, and significant environmental and natural resources are not impacted. WRDA 2010 suggestions that apply to all types of flood risk management projects, not just levees, are listed in the first two recommendations below.

**Recommendations for All Flood Risk Management Projects**

Require Corps of Engineers to Improve the Process for Obtaining Environmental Permits for Operations and Maintenance Activities - NAFSMA strongly supports language for the Corps to report back to congress within 180 days of passage on the impediments and suggested changes required to improve environmental permitting process for federally-partnered flood damage reduction and ecosystem restoration project operation and maintenance activities.

Authorize Updating of Existing Operations and Maintenance Manuals to Provide Necessary Permits for Operations and Maintenance Activities - NAFSMA urges that provisions be included in WRDA 2010 that provide for updating federal operation and maintenance manuals for existing federally partnered projects, which would include needed Section 404 permits, if necessary, or otherwise allow local agencies to perform the required project maintenance without the need to obtain federal permits and without requiring costly mitigation measures.

NAFSMA urges the Committee to explore non-federal and federal concerns about issues related to federally-partnered projects once they reach or exceed their design life.

Make Section 214, WRDA 2000 Permanent - Section 214 of WRDA 2000 allows the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits. This has allowed local governments to move forward with vital infrastructure projects and maintenance with minimal or no impact to the environment that might have otherwise been held up while waiting for permits to be processed. By funding additional staff to work on permit evaluations, existing Corps staffers are able to process permits more quickly, resulting in a reduction of permit wait times not only for the funding entity, but for any individual or organization that makes an application with that Corps District.

Provide Sound Floodplain Management Incentives - NAFSMA urges that a sliding cost share formula for federally-partnered flood damage reduction projects be developed based on a community's rating in the Federal Emergency Management Agency's Community Rating System (CRS), or similar system. We would urge that the 35% local cost share be reduced for non-federal sponsors where the community is carrying out sound floodplain management activities and have, or would, achieve a strong rating from FEMA as part of the CRS program. Such incentives have been successful at the state level. Expanding the CRS program, or a similar approach, to reward sound floodplain management was a key recommendation developed at a Flood Risk Policy Summit held in December 2007, again in the summer of 2009, and most recently was raised at FEMA's Listening Session in December 2009 on the National Flood Insurance Program.

Improve the Corps Planning Process - The current planning process is a long, complex and costly planning exercise that does not necessarily yield better flood reduction projects. As "problems" developed over the years, the solution has often been the addition of more steps instead of addressing the real problem. The result is that the quality of work and accountability has declined. We are convinced that it will take a sincere, considerable, and collaborated effort from local sponsors, the Corps, and Congress in coordination with OMB and CEQ to make any significant and worthwhile changes. We now have the opportunity to make many of these needed changes in the updated Principles and Guidelines, and corresponding agency specific procedures. NAFSMA requests the Committee to support any and all means to expedite the planning process including authorization changes, if needed.

**Closing**

NAFSMA very much appreciates this opportunity to testify and looks forward to working with the Committee on WRDA 2010. Please feel free to contact me or NAFSMA Executive Director Susan Gilson at 202-289-8625 with questions.



**Testimony of Kirk Fordham, Chief Executive Officer  
The Everglades Foundation  
Subcommittee on Water Resources and Environment  
House Committee on Transportation and Infrastructure  
April 15, 2010**

**America's Everglades: A Powerful Ecological and Economic Engine**

I want to thank the Subcommittee for providing us with the opportunity to submit testimony. The Everglades Foundation represents a cross section of individuals, families and businesses--all of whom enjoy the economic and ecological benefits of this spectacular natural resource.

Needless to say, tens of millions of Americans who live near some of our most valuable natural resources are counting on speedy Congressional passage of WRDA.

America's Everglades, a one-of-a-kind ecosystem, is more than just another tourist destination for people from around the globe. It is a powerful economic engine that sustains one of our most populous states, and provides economic benefits to people throughout our nation.

Over 7 million Americans living in the region are directly dependent on the Everglades for their daily supply of fresh water. Without the Everglades, One in three Floridians would have to look elsewhere for their drinking water.

At the same time, some of our nation's most critical industries have a major presence in the region. They depend on a clean and healthy Everglades to supply good-paying jobs to support hundreds of thousands of families in the southeastern United States:

- Florida's \$5 billion recreational and commercial fishing industries lead the US in supporting over 500 seafood processing businesses and an additional 800 dockside fish buyers, wholesale brokers, importers and exporters. These businesses are threatened, as fish populations of grouper, snapper, stone crab, bonefish, tarpon and many other species continue to plummet. One of the leading reasons for this collapse is the declining quality and altered timing and distribution of fresh water through the Everglades, its estuaries, and into Florida Bay.
- Florida's marine industries--boat manufacturing, dockage and marine services, wholesale and retail trade--generate \$10.5 billion in direct economic output for our nation. Individuals and families have registered over 377,240 boats and watercraft in the sixteen southernmost Florida counties. All of these boat owners rely on waterways that are dependent on clean water flowing from our Everglades watershed.
- Finally, millions of tourists from around the globe visit the Everglades every year--boating, paddling and fishing in their waters. Scouting, school and church youth groups from across our nation journey into the Everglades, utilizing the rich and diverse ecosystem as a laboratory for learning and recreation.

**Building on Recent Everglades Restoration Progress**

The Everglades are known worldwide for its unique biodiversity. But, equally important, it cannot be overstated how dependent America is on the economic benefits the Everglades provide to so many.

Thus, it has never been more important to continue advancing the world's largest ecosystem restoration initiative.

Over the last two years, we've experienced accelerated progress since the bi-partisan passage of the Comprehensive Everglades Restoration Plan in 2000. Thanks to the support of this committee, the full Congress, and Republican and Democratic administrations alike, several major restoration projects are now underway:

- In Southwest Florida, an astounding 55,000 acres of wetlands and wildlife habitat are being restored in an area known as the Picayune Strand.
- The first phase of bridging is under construction on a key project to raise portions of the Tamiami Trail highway, allowing for the flow of fresh water into portions of Everglades National Park that are parched and in decline.
- The Kissimmee River restoration project, at the headwaters of the Everglades, and now nearly 1/3 complete, has been a tremendous success story. Wetlands are rebounding, wildlife is returning, and hunting, boating and other recreational opportunities are multiplying in the restored Kissimmee River Basin.
- Two other Comprehensive Everglades Restoration Projects, Site One Impoundment and Indian River Lagoon, were authorized in the last WRDA legislation and are poised for construction.

Now, Congress has the opportunity to build on these early successes and demonstrate that we can, in fact, restore ecosystems of high economic value to our nation.

**Future Success of Everglades Restoration Depends on Timely Passage of WRDA**

The success of Everglades restoration depends on the timely authorization and funding of the many components of this unprecedented ecosystem restoration plan. We must take this opportunity to authorize four CERP projects and make a necessary adjustment to enable the Kissimmee River project to move forward:

- ***C-111 Spreader Canal***--A project to reverse the harmful effects of the mid-century construction of the C-111 canal is necessary to restore the natural flow of water into Florida Bay. This project will directly improve fresh water flow into a national park and the economically valuable waters along the Florida Keys—supporting the multi-billion dollar tourism, marine and fishing industries I mentioned earlier.
- ***Biscayne Bay Coastal Wetlands***--Biscayne Bay is another vast estuary of economic significance. South of Miami, the Biscayne Bay Coastal Wetlands project is critical to the

health of this body of water which nurtures a productive, but struggling, habitat for shrimp and shellfish, including oyster reef communities. This is the only CERP project dedicated to benefiting Biscayne Bay and Biscayne National Park.

- ***C-43 West Basin Storage Reservoir***--The communities stretching along Southwest Florida are regularly plagued with the harmful impacts of large quantities of polluted water being flushed into the Caloosahatchee River. These unnatural water releases cause algae blooms and red tide to break out in the waterways and on the beaches of the populated coastal communities. The C-43 West Basin Storage Reservoir project is designed to retain some of this water, rather than discharging it through the Caloosahatchee. The people of these communities are eagerly awaiting WRDA authorization of this important CERP project.
- ***Broward County Water Preserve Area***--The Broward Water Preserve Areas are another key component of CERP that are in need of authorization. This project provides important system-wide benefits to the Everglades by increasing water storage and reducing phosphorus and other harmful nutrients from contaminating the ecosystem's fragile water quality balance.
- ***Kissimmee River Increase in Authorization***--Finally, the Kissimmee River Restoration Project I mentioned previously is in need of an increase in its authorized level of funding, first approved in 1992. This tremendously successful initiative has been hailed worldwide as a model for restoration projects in other regions.

Environmental restoration is an important part of our nation's economic recovery. Federally funded infrastructure projects related to Everglades restoration are projected to generate 3,000 jobs in construction, engineering, and manufacturing over the next three years. It is clear that investing in Everglades restoration can create both jobs and long-range environmental and economic benefits.

With passage of WRDA, we can begin to put Americans back to work in jobs that will save a treasured ecosystem, preserve key industries and protect our water supply.

#### **America's Everglades are Worth Protecting**

America's Everglades encompasses some of our most treasured protected places – Everglades and Biscayne National Parks, Big Cypress National Preserve, Florida Keys National Marine Sanctuary, Crocodile Lake, Loxahatchee and Florida Panther National Wildlife Refuges, and many state, local, and tribal owned lands.

Just as we value great natural treasures like Yosemite, the Grand Canyon and the Rocky Mountains, Americans recognize the Everglades as a place worth protecting. I invite members of this committee to visit the Everglades to discover its unique wildlife habitat, travel along its spectacular bodies of water and marvel in the experiences that tens of millions of other visitors have encountered.

You will return with a greater appreciation for this and many of our nation's other irreplaceable natural wonders. Again, thank you for this opportunity.

**TESTIMONY OF BARRY W. HOLLIDAY,  
EXECUTIVE DIRECTOR, DREDGING CONTRACTORS OF AMERICA  
AND CHAIRMAN, HARBOR MAINTENANCE TRUST FUND FAIRNESS COALITION**  
503 D Street, NW, Washington, D.C. 20001 (202) 737-2674  
**Before the Water Resources and Environment Subcommittee of the  
House Transportation and Infrastructure Committee**

**Proposals for a Water Resources Development Act of 2010, Part II  
April 15, 2010**

Madame Chairman and Subcommittee Members ---

I am Barry Holliday, Executive Director of the Dredging Contractors of America. Thank you for providing me the opportunity to testify today. I would first like to discuss the positive results from the American Recovery and Reinvestment Act work accomplished by the U. S. Army Corps of Engineers and the dredging industry.

I would like to take this opportunity to acknowledge the outstanding cooperation and leadership by the Corps of Engineers in managing the execution of the additional dredging work funded by the ARRA. The Corps and the Dredging Contractors of America initially coordinated a series of regional conference calls with the districts and dredging industry that ensured a comprehensive understanding of the work to be done and the specific dredge plant that would be needed. As a result of these discussions, the dredging industry was able to effectively ensure equipment and resources were available to get the job done.

In my written testimony, I have included a full listing of all the new equipment and new dredges that were acquired as a result of the ARRA. To synopsise, two large pipeline dredges were brought back from the Middle East, several new dredges were built, and substantial investments were made in discharge pipeline, barges, tugs, floating cranes and derricks, and other dredging support equipment for this additional dredging workload.

The Corps and the dredging industry have effectively demonstrated that they can execute and on rather short notice. During Fiscal Year 2009, the dredging industry accomplished an additional \$117 million of dredging work as a result of ARRA, and an additional \$212 million as a result of hurricane supplemental and other emergency dredging work in the Gulf of Mexico. But this additional work is only a short-term band-aid against larger long-term dredging needs. There continues to be a major shortfall of funds appropriated to adequately maintain our ports and harbors.

For this purpose, I speak not only for the Dredging Contractors of America, but also as Chairman of the Harbor Maintenance Trust Fund Fairness Coalition. In that capacity, I'd like to address the current situation regarding the Harbor Maintenance Trust Fund and our nation's ports and harbors. The Coalition, many of you also know us as RAMP – Realize America's Maritime Promise, formed in March 2008. RAMP represents a broad spectrum of maritime interests, including maritime labor unions, shippers, vessel operators, customs brokers, ports, and other users of ports and harbors.

RAMP represents jobs and seeks to protect and expand these family wage positions. RAMP represents keeping our ports and harbors viable and ensuring that we can efficiently export the products and commodities that we produce, and import the commodities and cargo that we need to keep this Nation strong and growing. RAMP represents a focused effort seeking full access for our ports to the annual revenues generated by the ad valorem Harbor Maintenance Tax deposited into the Harbor Maintenance Trust Fund for operations and maintenance dredging in the United States.

In 2009, the Harbor Maintenance Tax collected approximately \$1.3 billion from shippers for the purpose of funding dredging projects. However, only \$808 million of dredging and related maintenance costs were reimbursed from the fund through regular appropriations. At this funding level, most ports and harbors were unable to be dredged to their authorized project dimensions.

Our ports and harbors are gateways to domestic and international trade, connecting the United States to the world. U.S. ports and harbors handle more than 2.5 billion tons of domestic and international trade annually. These ports are responsible for moving more than 99 percent of the country's overseas cargo, and that volume is projected to double within the next 15 years. With the expansion of the Panama Canal in 2015, many of our ports will realize substantial volume growth and it will be essential to ensure consistent maintenance of the navigation channels. In 2007, there were 13.3 million port-related jobs – 9% of all jobs in the US that account for \$649 billion in personal income. A \$1 billion increase in exports creates an estimated 15,000 new jobs.

The U.S. military depends on numerous ports that have agreements with the federal government to serve as bases of operation to deploy troops and equipment during national emergencies and this role is more evident and important than ever.

As modern vessels increase in size, navigation channel depths must increase accordingly if we are to continue to play a major role in the international marketplace. A recent U.S. Army Corps of Engineers study reports that almost 30 percent of the 95,550 vessel calls at U.S. ports are constrained due to inadequate channel depths. At current funding levels, our navigation channels and harbors are becoming shallower and narrower each year as nature deposits more sediment than is removed.

Without a navigation channel dredged to its authorized width and depth, a port's economic viability is threatened. The United States will lose existing business and potential new business to foreign ports - and once lost, history shows it is rarely regained.

An example of the need for increased funding through the Harbor Maintenance Trust Fund can be found on the Mississippi River. According to the Army Corps of Engineers, the Baton Rouge to the Gulf of Mexico project regular appropriations process provides approximately \$100 million less than what is needed each year for adequate dredging. The annual shortfall in the Great Lakes region is approximately double that amount.

There are many other examples of dredging problems in ports and harbors across the nation. In many cases, vessels must “light load” because of dredging shortfalls. The economic implications of light loading are enormous, especially to our exports. A ship that is light-loaded reduces its efficiencies and can reduce its economic edge to a point where it is no longer able to compete in the world marketplace.

America’s deep-draft navigation system is at a crossroads. The ability of our ports and harbors to support the nation’s continuing growth in trade and in the defense of our nation, hinges on much-needed federal attention to unresolved funding needs that are derailing critical channel maintenance and deep-draft construction projects of the water highways to our ports.

During this time of economic stress on our Nation, we cannot afford to threaten these water highways that are so important to our nation’s commerce. Today, the Harbor Maintenance Trust Fund has a balance of approximately \$5.1 billion. Each year, hundreds of millions of dollars collected for this purpose are not being used to address the backlog of necessary maintenance dredging needed to sustain this vital infrastructure. A fully funded dredging program would ensure that the Corps could properly plan and manage dredged material for potential beneficial uses and environmental restoration applications.

Similar problems with Highway Trust Fund and Airports and Airways Trust Fund were addressed by past Congresses by enacting legislation to more closely tie trust fund expenditures and revenues through a guarantee and a point of order. The RAMP Coalition is extremely pleased that Congressman Charles Boustany and Congressman Bart Stupak have introduced H.R.4844 to do the same for the Harbor Maintenance Trust Fund. Since this bill addresses program-wide funding, not specific projects, it is not considered earmark legislation. Also, as with the AIR-21 provision after which it is modeled, H.R.4844 should not score as violating “pay go” rules.

This bill is supported by a large coalition of ports, shippers, manufacturers, exporters, maritime businesses, and labor organizations (including the Maritime Trades Department of the AFL-CIO). All of the members of the Harbor Maintenance Trust Fund Fairness Coalition respectfully request that this Subcommittee use this unique opportunity to enact legislation that is needed now— so that future port navigation channel capacity affecting trade, jobs and our national defense will not be compromised. We urge you to pass a Water Resources Development Act this year with the H.R. 4844 language included and restore the TRUST to the Harbor Maintenance Trust Fund.

The Dredging Contractors of America (DCA) reports, that by all accounts, the recent uptick in Corps of Engineers funding for dredging projects as a result of the American Recovery and Reinvestment Act of 2009 (ARRA) and supplemental appropriations spending is resulting in additional dredge capacity being deployed in the US market.

- Great Lakes Dredge & Dock Company recently brought back two of its large cutter dredges (the dredge Texas and the dredge California) from the Middle East to projects in Florida and Louisiana.
- Manson Construction Company has invested more than \$6 million in equipment improvements and additions.
- Weeks Marine, Incorporated anticipates investments in excess of \$25 million for repowering three of their workhorse dredges, \$3.5 million for a new idler barge, and they have recently invested in additional scows, and repowering other dredges and boosters.
- Cottrell Contracting Corporation has invested approximately \$4 million to totally overhaul one of their 16" dredges, build 2 new twin-screw 40 ft dredge tenders, build a new 25 ton derrick and a 2000 hp 20" floating booster.
- Mike Hooks Incorporated has recently purchased two Amphibious Excavator Marsh Buggies, 14,000 feet of plastic 30" pipe, two CAT dozers, and a Manitowoc 3900 Viacon barge mounted crane.
- Orion Marine Group has invested \$35 million to expand its operations on the East Coast, and has invested \$13 million in capital expenditures to enhance and upgrade their dredging equipment and capacity.
- Marine Tech, LLC has invested over \$200,000 in upgrades and certifications to a crane barge, and they anticipate purchase of an additional hydraulic dredge this winter.
- The Luedtke Engineering Company has purchased/chartered a 14" hydraulic dredge "Sue Lyon", discharge pipe and ancillary equipment, an 8 CY clamshell crane for the dredge Wellston, (2) 1,800 CY hopper scows, a 2,000 HP tug boat, and a 6 CY clamshell crane for their Dredge #12 to perform dredging projects in 2009.
- L.W. Matteson Incorporated has purchased 15,000 feet of additional pipeline, two 600 hp tugs, pontoons for pipeline, and constructed additional support barges.
- Dredge America has recently made an investment of just over \$2 million in new plant and support equipment in anticipation of future dredging work. This includes a 16" x18" cutter suction dredge, booster pump, 10,000 feet of 20" HDPE discharge line, a tugboat and other support equipment.
- Ellicott reports they have delivered 5 new dredges this year to four dredging contractors, and are discussing construction of two more dredges to two other contractors. Support equipment such as booster pumps, power barges, and pipeline stockpiles have also seen recent heavy investment.

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Statement of Stephen D. Little

On behalf of

Crouse Corporation

Before the

Subcommittee on Water Resources and Environment

Committee on Transportation and Infrastructure

U.S. House of Representatives

April 15, 2010

Thank you, Madam Chairwoman, for providing me with this opportunity to testify concerning the Water Resources Development Act of 2010. We are encouraged by the Committee's efforts to begin to develop this year's bill. Water Resources Development Acts, or WRDA's as many of us have come to refer to them, are very important to both the economy and the environment of the nation, a reality that is even more important today as we struggle to emerge from the worst economic downturn since the Great Depression.

I am Stephen Little, President and CEO of Crouse Corporation (Crouse). Crouse is a leader in the river transportation industry. A little more than 60 years after its first towboat was placed into service in 1949, today Crouse Corporation employs more than 350 people and, with its

fleet of 35 towboats and 1,000 barges, it transports more than 30 million tons of cargo each year along the U.S. inland waterways.

In addition to my position with Crouse, I also serve as a member of the Board of Directors and on the Board's Executive Committee of Waterways Council, Inc. (WCI), the national public policy organization advocating in support of a modern and well-maintained national system of ports and inland waterways. WCI's more than 200 members include waterways carriers, shippers, port authorities, shipping associations, labor unions, shipyards, and waterways advocacy groups from all regions of the country.

Madam Chair, I also have the distinct honor and privilege of being the current Chairman of the Inland Waterways Users Board (IWUB or Users Board). The Inland Waterways Users Board is a federal advisory committee established by Congress in Section 203 of the Water Resources Development Act of 1986 (Public Law 99-662, November 17, 1986), one of this Committee's many significant legislative achievements. Reflecting the concept of "Users Pay, Users Say", Congress created the Users Board to give commercial users a strong voice in the investment decisions those users are supporting with their diesel fuel tax payments. At full strength, the Users Board is comprised of eleven voting members, who are appointed to staggered two-year terms by the Secretary of the Army and are selected to represent the various regions of the country as well as a spectrum of commercial users and shippers of the inland marine transportation system. The Board currently has one vacancy. As envisioned in Section 302, the Secretaries of Army, Agriculture, Transportation, and Commerce each appoint a non-voting representative to act as an observer of the Users Board. The principal responsibility of the Users

Board is to make recommendations regarding construction and rehabilitation priorities and spending levels on the commercial navigational features and components of the inland waterways and inland harbors of the United States.

On behalf of Crouse Corporation, I am pleased to appear before the Subcommittee this morning to testify in strong support of the recommendations developed by the Inland Marine Transportation System (IMTS) Capital Investment Strategy Team (CIST or CIS Team). These recommendations have been approved unanimously by the Inland Waterways Users Board. They also have the broad and growing support of the waterways industry as evidenced by their unanimous endorsement by the boards of directors of Waterways Council Inc., the American Waterways Operators (AWO), and National Waterways Conference (NWC) and by similar expressions of support from more than 150 other associations and companies throughout the nation. (See Attachment A).

As I'll discuss in more detail in my testimony, the CIS Team has produced a comprehensive, consensus-based, joint industry/Corps of Engineers set of proposals to address the capital investments that should be made over the next 20 years in order to preserve and enhance the performance of our nation's inland waterway transportation system. In sum, those recommendations present a proposed plan to:

- Identify ways to improve the Corps project delivery system,
- Implement a capital investment strategy that balances reliability and affordability
- Prioritize specific capital investments needed over the next 20 years, and

- Define a revenue and cost sharing approach that can be met with reasonable certainty and efficiency.

The need for a long-term capital investment plan for the inland waterways has been apparent for a number of years, and the Users Board has attempted to highlight this issue in its annual reports. For example, I have included as an attachment to my testimony a copy of our most recent report, which goes into some detail on the subject. (Attachment B).

Our inland waterway system challenge has changed somewhat over the past 10 years or so. Ten years ago, the inland waterway industry and the nation were faced with the same kind of problem that all of the transportation trust funds had been experiencing: a growing surplus in the Inland Waterways Trust Fund as year after year more revenues were collected from the commercial users of the system than were withdrawn from the Trust Fund to make needed capital investments in the system. Those delays in expenditures resulted in preventable and greatly increased costs of projects. If the Trust Fund dollars had been spent properly in a timely fashion, we would have avoided much of the adverse impact from the dramatic rise in material prices like steel and concrete that occurred at that time.

Fortunately, with the help of this Committee and others, that challenge now has been met and the surplus has been invested in modernization projects. Today the Trust Fund is operating, as originally intended when it was created, with virtually all of its resources being spent quickly to modernize the system. As of the end of February, just six weeks ago, the balance in the IWTF

stood at \$75.9 million, with \$35.6 million of that amount already obligated by the Corps for ongoing project construction work.

The inland waterway modernization challenge going forward is the need to create and implement an improved program for the future. We have an aging system that needs recapitalization. We have a project funding and delivery system that is too inefficient, resulting in much wasted time and money. While we now have invested the unnecessary surplus in the Inland Waterways Trust Fund, that has resulted in too few finished projects. And all of this comes in the face of an unprecedented economic crisis that is severely stressing our waterway industry and the nation.

Work has been underway for some time to address this situation. Almost three years ago, in a meeting at Corps headquarters with leaders of industry and the Corps gathered to discuss the going-forward challenge, the Corps committed to undertake an internal review of then-current inland waterway construction project performance to help identify and understand opportunities to improve project delivery results. During the summer 2008 meeting of the Inland Waterways Users Board, after presentation by and discussion with Corps leaders of the report that chronicled the results of that review (titled "Inland Navigation Construction, Selected Case Studies"), the Corps acknowledged shortcomings and the need for improvements and, to their credit, recommended that the Board should be more directly involved with Corps personnel in the development of an improved project delivery model. That led to formation of the industry/Corps CIS Team.

For roughly a year and a half, approximately 50 key Corps and industry representatives have worked diligently to develop together a comprehensive solution to the future-oriented challenges facing our inland waterways infrastructure, a solution that improves the project delivery system, dimensions the most critical physical needs of the inland waterway system, figures out what it will cost to address those needs, and addresses how to pay for it and how to allocate funding responsibility. Included among industry's representatives were the presidents of seven major inland waterway companies and senior representatives from a number of other companies. On the Corps side were senior leaders and technical experts from virtually every level of the Corps hierarchy: headquarters, divisions, districts and technical support centers. A series of multi-day face-to-face meetings was held throughout the country. Between those meetings, countless additional hours were spent in further discussions, phone conferences, and preparatory sessions.

This effort has required an enormous commitment from all involved but, speaking for myself and also reflecting the views of the entire Inland Waterways Users Board, it was a most important endeavor and a completely worthwhile commitment. At the end of the day, the CIS Team was able to meet the challenge it was given to develop the consensus recommendations I am now honored to testify in support of today.

The CIS Team proposes a \$7.6 billion 20-year inland waterway Capital Investment Program. The Program would entail an average annual investment level of \$380 million, comprised of two sub-component average annual program levels: \$320 million for "construction" projects and \$60 million for major rehabilitation projects. On average, of the \$380 million total, \$110 million

would be contributed by the Inland Waterways Trust Fund and \$270 million would come from general revenues.

The CIS Team's proposal would preserve the existing 50% industry/50% federal cost-sharing formula for new lock construction and major rehabilitation projects costing \$100 million or more.

The plan would adjust the current model to provide 100% federal funding for dam construction and major rehabilitation projects and for smaller lock rehabilitation projects. The proposed funding for dams was made in recognition of the enormous value derived by other beneficiaries from the dams and the pools created by those dams. As the report points out, "such large and varied segments of the U.S. population benefit from the presence of dams on the (inland waterway) system that it is most appropriate for general revenues to fully fund dam construction and major rehabilitation costs". Categories of those non-navigation beneficiaries of the dams include municipal water supply, hydropower, recreation, industrial water supply, national defense and security, flood damage prevention, agricultural water supply, environmental restoration, local and regional economic development, property value enhancement, and international competitiveness.

The proposal also includes a project-by-project cost-sharing cap to provide some protection to industry from unreasonable cost escalation and project delays and to place additional emphasis on the need to produce more reliable project cost estimates in the underlying decision document and manage projects within the identified cost estimates and schedules. The cap would be set at

the Feasibility or Rehabilitation Evaluation Report base cost, including contingencies reflected in the relevant decision document, escalated to the new construction start date based on the IMTS capital investment program schedule.

After reviewing alternative options for generating additional revenues for the IWTF, the CIS Team proposes a 30% to 45% increase---between 6 and 9 cents per gallon ---in the current diesel fuel tax (i.e., to a level between 26 and 29 cents per gallon). The Team reached this conclusion based on its sense that the current diesel tax revenue-raising system is fair and equitable and is a “workable, understood, acceptable, and auditable system for collecting the waterways industry’s share of the IMTS capitalization costs”. While the industry representatives of the CIS Team clearly would have preferred to avoid this increase, it is a measure of the seriousness and spirit of compromise that they brought to the CIS Team effort that they were willing to agree in an unprecedented way to this increase as part of the total comprehensive package.

Under the Team’s proposal, project construction funding would be provided to complete a prioritized list of specific projects. The projects were prioritized through use of a ranking system that was based on two broad categories: structural and operational risk and reliability and economic return. Project-by-project information was used that sought to assess the project’s current condition, the likelihood of diminished project performance, the consequence of diminished performance, and how the proposed investment would improve the project’s and the system’s performance. Prioritization occurred in three categories---authorized and under construction, authorized but not yet under construction, and other potential projects most of which were completely unstudied. In making its recommendations, the Team emphasized

completing work that was already underway or was un-started but had already been approved by Congress.

To address the opportunity to improve internal Corps project delivery performance, the CIS Team makes a number of recommendations. Some of these recommendations are already in the process of being implemented. Others will require additional review within the Corps before they can be implemented. At least one project delivery recommendation, relating to the use of continuing contracts in the construction of inland waterways system modernization projects, may require Congressional action before it can be implemented. The project delivery improvement recommendations cover items such as:

- Highly-reliable risk-based cost estimates,
- Independent external peer reviews,
- Certification requirements for project managers,
- Development of an IMTS Capital Investment Program regulation,
- Increased participation by the Inland Waterways Users Board,
- Use of Military Construction Program efficiency approaches,
- Acquisition strategy advances,
- Virtual design and review centers of expertise, and
- Standardization of designs.

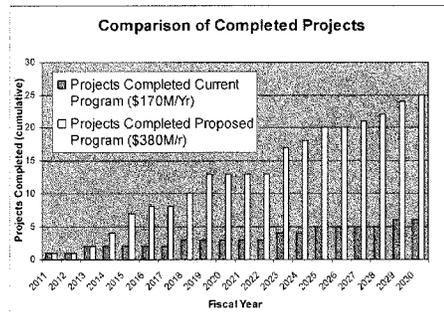
The Team's report covers each of these and others in more detail.

A fundamental assumption of the Team's recommendations, in fact the Team's underlying premise, is that the federal government will provide the funds envisioned in the plan in an

efficient manner. Inefficient funding will significantly impair the ability to implement this program. This point cannot be over-emphasized. It is critically important.

Madam Chair, the Corps has conservatively estimated that the CIS Team’s proposed plan is expected to avoid cost growth of between \$600 million and \$2.1 billion over the defined 20-year program. Other economic benefits include avoiding far more than \$2.8 billion in additional national economic development benefits foregone. The \$2.8 billion figure was calculated looking only at projects currently under construction and does not include, as it should in order to more completely reflect the entire plan, the value of beginning other projects under the proposed program much earlier than otherwise would be possible. And, of course, the plan would also deliver the additional non-economic environmental, societal, safety and energy benefits that accrue to the nation because of the inland waterway system’s use.

Under the proposed CIS Team plan, significant modernization of the inland waterway system will occur. Without the plan, necessary achievable progress completing lock and dam and channel improvement projects will languish, dangerously threatening our nation’s well being. The following chart, taken from the Team’s report, starkly illustrates that reality.



The CIS Team concludes its report with these words: "While unlikely that any set of recommended improvements could completely eliminate cost increases and schedule delays, these recommended improvements---in combination with the development of the capital investment strategy and with the underlying premise that the funding will be provided in an efficient manner---will achieve the goal of an improved capital projects business model". Crounse Corporation and the Inland Waterways Users Board believe that statement to be true and urges the Committee to include in its next Water Resources Development Act the provisions that are necessary to fully implement this comprehensive inland waterway system modernization plan. We also believe that, when the Committee acts in this fashion, it will be following the incredible, almost-prayerful insight of our first President, George Washington, who wrote 217 years ago:

*"Prompted by these observations, I could not help taking a more contemplative and extensive view of the vast inland navigation of these United States, from maps and the information of others; and could not but be struck with the immense diffusion and importance of it, and with the goodness of that Providence, which has dealt her favors to us so profuse a hand. Would to God we may have wisdom enough to improve them."*

**ATTACHMENT A**

**STAKEHOLDERS WHO HAVE ENDORSED THE RECOMMENDATIONS  
CONTAINED IN THE IMTS CAPITAL INVESTMENT STRATEGY TEAM'S  
PROPOSED CAPITAL PROJECTS BUSINESS MODEL (APRIL 12, 2010)**

The American Waterways Operators  
National Waterways Conference, Inc.  
Waterways Council, Inc.  
National Association of Manufacturers (NAM)  
CHS Inc.  
Marquette Transportation Company, LLC  
The Waterways Journal, Inc.  
Inland Rivers Ports & Terminals, Inc.  
Mississippi Water Resources Association  
Upper River Services LLC  
Channel Shipyard Companies  
Crouse Corporation  
Deloach Marine  
Tulsa Port of Catoosa  
GROWMARK  
Turn Services, LLC  
Bayou Fleet Inc.  
MARMAC, LLC d/b/a McDonough Marine Service  
Transportation Research Board/Marine Board  
Valero Energy  
Colusa Elevator Co.  
Tidewater Barge Lines, Inc.  
Little Rock Port Authority  
Natures Way Marine, LLC  
American River Transportation Company  
New Orleans Shipyard  
Artco Fleeting Service  
TradeWinds Towing LLC  
AEP River Operations  
Paducah Area Chamber of Commerce  
McNational Inc.  
Illinois Farm Bureau  
National Corn Growers Association  
Tennessee River Valley Association

Illinois Corn Growers Association  
Association of Tennessee Valley Governments  
Upper Mississippi Waterway Association  
Alabama State Port Authority  
American Commercial Lines  
Huntington District Waterways Association  
Volunteer Barge & Transport Inc.  
Iowa Corn Growers Association  
Missouri Corn Growers Association  
Ohio Corn Growers Association  
American Soybean Association  
Grain & Feed Association of Illinois  
National Council of Farmer Cooperatives  
Holcim (US) Inc.  
Tennessee-Tombigbee Waterway Development Authority  
Will County Farm Bureau  
CGB Enterprises, Inc.  
Nucor Steel Tuscaloosa, Inc.  
Kingdom of Callaway Chamber of Commerce  
Tri Rivers Waterway Development Assoc.  
North American Equipment Dealers Association  
Louisiana Association of Waterway Operators and Shipyards  
Cargill, Inc.  
Illinois Fertilizer & Chemical Association  
Kentucky Chamber of Commerce  
Canal Barge Company, Inc.  
Thomson, Rhodes & Cowie P.C.  
Parker Towing Company  
Port of Pittsburgh Commission  
Twomey Company  
Campbell Transportation Company  
C&C Marina Maintenance Company  
Blue Danube Incorporated  
Brennan Marine, Inc  
Minnesota Grain and Feed Association  
CITGO Petroleum Corporation  
Alter Barge Line, Inc.  
T & T Marine Salvage, Inc.  
Bludworth Marine LLC  
Sause Bros.Inc.  
Ingram Barge Company

Pacific Northwest Waterways Association (PNWA)  
CONSOL Energy  
Magnolia Marine Transport Co.  
Warrior-Tombigbee Waterway Association  
B&G TOWING LLC/ACME MARINE LLC  
Marquette Transportation Company, LLC  
Coosa-Alabama River Improvement Association, Inc.  
Coalition of Alabama Waterway Associations, Inc`  
Kirby Corporation  
International Liquid Terminals Association  
Illinois Biotechnology Industry Organization  
Steel Manufacturers Association  
Advantus Strategies, LLC  
Tennessee Cumberland Waterways Council  
Port of Portland (Oregon)  
Rentech Energy Midwest  
Indiana Soybean Alliance  
Indiana Corn Growers Association  
American Land Conservancy  
Buffalo Marine Service, Inc.  
J.A.M. Marine Services, LLC  
Red River Valley Association  
Carpenters' District Council of Greater St Louis and Vicinity  
Marathon Petroleum Company LLC  
Grain Processing Corporation  
K-Sea Transportation Partners LP  
CF Industries Holdings, Inc.  
Illinois Soybean Association  
Chemical Industry Council of Illinois  
Osterholt Farms  
Hartsburg Grain Company  
Missouri Levee & Drainage District Association  
FirstEnergy Solutions  
NORTHERN PARTNERS COOPERATIVE  
Waterways Association of Pittsburgh  
Mercer County Farm Bureau  
Lafayette Workboat Rentals, LLC  
California Marine Affairs & Navigation Conference (CMANC)  
Trinity Marine Products, Inc.  
Smurfit Stone Container Corporation  
Dredging Contractors of America

United Ocean Services  
The Integra Group, Inc.  
Cincinnati Bulk Terminals, LLC/Port of Cincinnati, LLC  
Stark County Farm Bureau  
PIKE AND SCOTT COUNTY FARMS BUREAUS  
MidCentral II. Regional Council of Carpenters  
Sangamon County Farm Bureau  
Ogle County Farm Bureau  
Clark County Farm Bureau  
Jasper County Farm Bureau  
Mason County Farm Bureau  
Menard County Farm Bureau  
Agriservices of Brunswick, LLC  
DeWitt Drainage and Levee District  
Brunswick River Terminal, Inc.  
Calhoun County Farm Bureau  
DeWitt County Farm Bureau  
Will County Farm Bureau  
Knox County Farm Bureau  
Minnesota Chapter of ASFMRA  
Stephenson County Farm Bureau  
Kane County Farm Bureau  
McDonough County Farm Bureau  
LaSalle County Farm Bureau  
Whiteside County Farm Bureau  
Bond County Farm Bureau  
Clarkson Grain Company, Inc.  
American Inland Ports, LLC  
Board of Commissioners Port of New Orleans



**ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.**

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**Executive Director**  
Larry A. Larson, P.E., CFM

**Deputy Director**  
George Riedel, CFM

April 29, 2010

Honorable James L. Oberstar  
Chairman  
House Committee on Transportation and Infrastructure  
2165 Rayburn House Office Building  
Washington D.C. 20515

Honorable Eddie Bernice Johnson  
Chairman  
Subcommittee on Water Resources  
House Committee on Transportation and Infrastructure  
B-376 Rayburn House Office Building  
Washington D.C. 20515

Dear Mr. Chairman and Madam Chairman,

The Association of State Floodplain Managers is pleased to have the opportunity to provide written testimony associated with the hearing held on April 15, 2010 titled "Proposals for a Water Resources Development Act of 2010, Part II".

We would very much appreciate your including our testimony in the written hearing record.

Sincerely,

Larry A. Larson  
Executive Director  
Association of State Floodplain Managers

***Dedicated to reducing flood losses in the nation.***

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**Testimony for the Record**

April 15, 2010 Hearing on  
**Proposals for a Water Resources Development Act of 2010, Part II**

House Committee on Transportation and Infrastructure  
Subcommittee on Water Resources and Environment

Submitted by  
Larry Larson, Executive Director  
**Association of State Floodplain Managers**  
April 29, 2010

The Association of State Floodplain Managers is pleased to submit our thoughts on elements of a Water Resources Development Act of 2010. This testimony will focus on

- 1) inclusion of a Title on a National Flood Risk Management program which would include a component on levee safety,
- 2) clarification that the National Levee Inventory should include federal, non-federal and private levees and that timely completion of the inventory is important and
- 3) expansion of Army Corps of Engineers programs to facilitate technical assistance to communities in developing and implementing flood risk management options.

**1) Inclusion of Title on National Flood Risk Management**

A new national flood risk management policy is needed to establish a fresh, more effective approach to addressing risks associated with existing levees, while also evaluating emerging flood risk to developed areas.. Flood risk needs to be investigated and addressed on a watershed or basinwide level with the participation of all potentially affected property owners and jurisdictions up and down-stream. Protection of existing investment at risk requires consideration of the full range of possible solutions including structural measures such as levee system improvement or reconfiguration, and nonstructural measures such as strategic relocation from areas at risk.

As the public grows to recognize the risks associated with levees, communities are working to evaluate the various actions they can take in response to those risks: levees can be repaired and improved or set back from the river to relieve pressure and erosion on the levee; homes, businesses, and infrastructure at risk can be relocated to reduce risk and restore floodplain function; waters can be detained upstream; and measures can be combined to achieve the most effective results with scarce public dollars.

Incentivizing State & Local Practices

To assure the success of a national flood risk management initiative, the federal government will need the participation and commitment of states, local governments, and the private sector. Communities and states will need to commit to robust and inclusive planning processes, reaching beyond their jurisdictional boundaries and traditional partners, many for the first time. They will also need to review and integrate existing plans for land use, hazard mitigation,

infrastructure, and other responsibilities. Finally, important data will need to be acquired or generated, maintained, and used to populate the National Levee Database, including levee location, level of protection, general information on the condition of the levee, and the number of structures in residual risk areas for all levees regardless of provenance, ownership, and responsibility for operations and maintenance.

Inclusion of a diverse menu of incentives can help motivate state and local governments in their efforts to plan and manage flood risk associated with levees. Incentives can cost the federal taxpayers less than continuing to pay disaster relief for flood damages if the incentives encourage states and locals to manage development wisely to avoid creating tomorrow's disaster. Additionally, technical assistance programs such as the U.S. Army Corps of Engineers (USACE) programs for Planning Assistance to States (PL 93-251) and Floodplain Management Services (PL 86-645) support innovative management of flood risk along with other water resources challenges. Existing federal law in environmental and other policy areas provide useful examples of incentives beyond simple monetary inducements to reward states for robust programs. In addition to the data and planning contributions outlined above, incentives should be designed to encourage and reward States that meet and exceed minimum standards on a sliding scale; the more rigorous or innovative the program, the greater the rewards.

#### Levee Safety Component

The National Committee on Levee Safety (NCLS), established by the Water Resources Development Act of 2007, developed a legislative proposal based on its report and recommendations to Congress in January 2009. ASFPM participated on the NCLS in the development of the legislative proposal and recommends inclusion of the ideas contained in the NCLS proposal as an important component of a Flood Risk Management program for the nation. ASFPM views the following recommendations as particularly critical to reducing the loss of life and property in future levee failures:

- Expansion and completion of the National Levee Inventory to include all levees across the nation;
- National mapping and mandatory flood insurance in residual risk areas associated with levees;
- Development of national levee safety standards and a levee hazard classification system;
- Inclusion of structures along canals and other structures such as highway and railway embankments that are relied upon as levees in the definition of what is a levee;\* and
- Public engagement regarding residual risk areas associated with levees.

\*ASFPM recommends that any national levee program address levees and embankments in the floodplain that modify flooding, and include them in the oversight and regulation applicable to the traditional definition of what is a levee.

A more complete list of ASFPM's suggestions for a Flood Risk Management Program is included at the end of this testimony.

**2) Clarification that the National Levee Inventory should include federal, non-federal and private levees and that timely completion of the inventory is important**

A complete inventory of all of the nation's levees – federal, nonfederal, and private – is the first step to conduct the levee triage that will be necessary so that everyone, including Congress, understands the scope of the crisis we face. A national levee inventory was provided for in the Water Resources Development Act of 2007 (WRDA '07) and the inventory of federally built, owned and maintained levees is nearing completion. In order to evaluate and address the size and scope of the nation's levee issues, it is essential that the inventory include federally built but locally owned and maintained levees as well as agricultural and private levees. Full engineering evaluation of levee condition is not necessary for this purpose. A general, preliminary assessment of condition is sufficient for this purpose.

It is critical that this information be compiled as expeditiously as possible to facilitate plans and initiatives to address the needs. Public safety is at stake.

ASFPM recommends that a WRDA 2010 (or its accompanying report language) clearly express the expectation that the National Levee Inventory should include not only federal levees, but non-federal, agricultural (to the extent possible) and private (to the extent possible) levees. Additionally, we recommend that the Congress state clearly the importance of all deliberate speed in completion of the inventory.

**3) Expansion of Army Corps of Engineers Programs to Facilitate Technical Assistance to Communities in Developing and Implementing Flood Risk Management Options**

Technical assistance programs such as the U.S. Army Corps of Engineers (USACE) programs for Planning Assistance to States (PL 93-251) and Floodplain Management Services (PL 86-645) support innovative management of flood risk

ASFPM strongly believes that the USACE can contribute significantly to better informed flood hazard reduction decisions in our nation's communities through providing technical advice and assistance. As the Corps moves toward helping states and local governments with a comprehensive approach to flood risk management the Flood Plain Management Services (FPMS) and Planning Assistance to States (PAS) programs are essential. These are small Corps programs, yet their impact can make a significant contribution to development of solutions to flood risk problems which fit well with a community's priorities and preferences.

Many towns and communities in our nation do not have either the staff capacity or the financial capacity to secure professional consultation to identify and analyze options for reducing their flood risk. The choice could be a structural project (levee), a non-structural project (diversion of water up-stream to a retention pond, property elevation or buy-out as examples), or a combination of the two. FPMS, in particular, can be used to

support a community assistance initiative at the Corps called “Silver Jackets”. The initiative has already been quite successful in several locations and is being expanded. The expertise of the Corps of Engineers in assisting state and local officials and their citizens would provide technical guidance to many areas where such assistance is very much needed. Significant expansion of the authorities for PAS and FPMS would certainly contribute to reduction of losses as well as to reduction of costs to the nation’s taxpayers in the form of disaster relief.

### **More Detailed Recommendations for a Flood Risk Management Program**

Following are the more detailed recommendations for a Flood Risk Management Program referenced earlier in this testimony:

#### **ASFPM Recommendations**

Although ASFPM supports much of the NCLS proposal, we identified important gaps that will need to be addressed for a levee program to be sustainable and effective. Since NCLS has completed its report and recommendations to Congress, NCLS could be tasked with further exploration of the following issues.

1. **Development of a National Flood Risk Management Program, to address levee safety among the broader range of risk management challenges and opportunities.** We cannot address levees as an entity unto themselves without consideration of land use decisions and the full range of flood risk management tools. Additionally, effective state and local programs need to operate within a unified National Flood Risk Management Program that guides decision-making at all levels. If a program only addresses the levee structure and not the responsibility of local communities to control and guide the development behind the levee, the ability to reduce the risk is lost. Finally, a National Flood Risk Management Program should identify the federal interest in preventing and reducing catastrophic flood losses considering the full range of risk management options – not just levees:
  - a. A national policy should be adopted to prevent federal participation in the construction of new levees except to protect existing development where a full range of options, including all nonstructural options have been considered and included in a multifaceted approach. This new national policy should be embodied in future Water Resources Development Acts, Principles & Standards, and other statements of broad national policy,
  - b. A complete inventory of all of the nation’s levees – federal, nonfederal, and private – is the first step to conduct the levee triage that will be necessary to understand the scope of the nation’s exposure, and to ensure that public dollars are spent wisely.

- c. A National Levee Hazard Classification System should be adopted that serves as the basis for risk identification, prioritization, management, and other requirements for eligibility for federal funds. Since levees can fail with catastrophic consequences, even if for only a few people, ASFPM recommends the following system:

HIGH	Potential for any loss of life
SIGNIFICANT	Potential for damage to property
LOW	No potential for loss of life or damage to property

- d. Federal funds to support construction of new levees in urbanized areas must provide protection for no less than the 0.2%-chance flood.
- e. Eligibility for funds for levee work on pre-existing structures, including under the Flood Control and Coastal Emergency Act (P.L. 84-99, 33 U.S.C. 701n), must include requirement that levee structure provide no less than 100-year level of protection.
- f. Within 5 years of enactment, federal funds for new housing, transportation, and infrastructure in non-urbanized residual risk areas associated with levees is available only in areas with at least 1%-chance protection; urbanized areas and critical facilities will require at least 0.2%-chance protection to be eligible for Federal funds in such residual risk areas.
- g. All new levees, be setback from the waterway to allow natural systems to provide natural flood reduction benefits, relieve the erosion and hydraulic pressure on the levee, and allow the waterway's natural ecosystem and resources to function. This should be considered when evaluating options for repair of existing levees as well.
2. **Residual risk areas behind levees must be mapped and all properties therein insured for flood at full risk premiums.** . Property owners in residual risk areas must be required to obtain risk-based flood insurance coverage to help manage economic loss of what for many of them is their only capital asset, assure equitable distribution of responsibility, incentivize levee maintenance & risk mitigation, and to help manage potential legal liabilities associated with levees for levee owners, program managers, and providers of engineering services.
- a. Affordability of flood insurance must not be an impediment for those who need coverage but cannot afford it. Property owners at risk who cannot afford insurance are those who most need it, as well as knowledge of their risk and support to help them undertake mitigation of their structure. Family safety should not be a luxury available only to those who can afford it. Congress should investigate development of a means-based voucher, premium rebate, or similar system to provide interim relief for those who cannot afford to pay flood insurance premiums. —

- b. A new federal program to address flood insurance affordability should be managed through an agency that deals with income supplemental programs, such as the Department of Housing and Urban Development. The National Flood Insurance Program is not an appropriate vehicle for means-based programs. Moreover, measures such as premium subsidies, delaying insurance requirements, and other measures intended to reduce financial burdens serve only to distort risk perception and undermine the fiscal soundness and other aspects of the flood insurance program that promote individual responsibility.
- c. In addition to measures to address affordability, the following innovations in insurance warrant exploration as stand-alone approaches and in combination, such as long-term group insurance behind levees that is attached to the property:
  - 1) Group flood insurance obtained by the levee district provided to property owners throughout the residual risk area through premiums combined with existing district fees. This measure is attracting attention as a benefit for everyone involved, since levee owners' liability is reduced, property owners' financial risk is managed, and everyone shares a common stake in the ongoing maintenance of that levee and other risk reduction measures that keep premiums down.
  - 2) Group flood insurance obtained by the community provided to property owners throughout the residual risk area through premiums which can provide coverage for all properties, not just those with federally backed mortgages, thus the community can recover when the levee is overtopped or fails. The community is also the entity that has control over future development and redevelopment, and can use its development plan and mitigation plan to reduce flood insurance premiums.
  - 3) Long-term flood insurance based on the length of any federally-backed loan, to reduce the rate of policy nonrenewal and provide continued financial security to citizens.
  - 4) Flood insurance attached to the property rather than to the insured, to ensure continuity of coverage even if property is transferred;
  - 5) Legislation requiring that all property insurance policies in the nation cover all natural hazards; and
  - 6) Privatization of flood insurance.

**3. Minimum performance standards for communities to qualify for federal funding to construct new levees, rehabilitate or repair existing levees, and develop infrastructure in residual risk areas.** Although land use planning is a local and state function, the federal government plays an important role in helping communities guide development through conditions on the availability of federal dollars and through policy and regulatory guidance. In addition to minimum standards proposed by the NCLS, to qualify for federal funding to construct new levees, rehabilitate, or repair existing levees, and develop infrastructure in residual risk areas, communities must be required to:

- a. Participate in the National Flood Insurance Program;

- b. Adopt a FEMA approved Hazard Mitigation Action Plan that includes emergency action planning (EAP) for residual risk areas associated with all levees and residual risk areas in their jurisdiction;
- c. Prevent the construction of critical facilities (CFs) in areas subject to inundation in the 0.2%-chance floodplain, and that requires that all CFs be protected, accessible, and operable in the 0.2%-chance flood;
- d. Evaluate the full array of nonstructural measures to reduce risk, implement effective nonstructural measures in combination with any structural measures that are selected, and adopt standards to prevent any post-project increase of risk, prior to any commitment of public funds toward levee work;
- e. Demonstrate binding and guaranteed financial capacity and commitment to long-term operations and maintenance, rehabilitation, and management of all levee structures and system components in the community's jurisdiction;
- f. Adopt short- and long-range flood risk reduction planning as part of the community's mitigation, development and land use planning, including comprehensive planning and zoning that:
  - 1) Reflects and addresses flood hazards, levees, and other relevant flood damage reduction structures, and articulates the community's objectives in managing flood risk;
  - 2) Incorporates and references data, including maps, that shows current conditions, trends, and likely future conditions, and addresses each hazard that may confront or impact the community in any material way;
  - 3) Identifies areas of highest risk of flooding in which new development and redevelopment are not permitted due and which, if damaged in a future flood, are appropriate for buyout of properties and floodplain restoration;
  - 4) Identifies existing properties that pre-date current zoning regulations or development codes, and that are appropriate for buyout when the property is next available for transfer;
  - 5) Identifies vulnerable structures, lifelines (such as water, sewer, power, critical roadways), and critical facilities (such as emergency operations centers, fire stations, hospitals, evacuation centers, and hazardous materials storage areas); and
  - 6) Articulates property owner rights and responsibilities in flood risk and residual risk areas.
- g. Participate in regional/watershed planning to identify and manage risk that crosses jurisdictional boundaries;
- h. Notify levee owners and provide opportunity to comment on all proposed development in that owner's residual risk area; and

- i. Communicate annually with property owners in residual risk areas to notify them of their risk, update them on emergency action plans, report on levee operations and maintenance over the past year, and for other public notification and engagement activities.

ASFPM and its 29 Chapters represent over 14,000 state and local officials and other professionals who are engaged in all aspects of managing and mitigating flood risk to address the loss of life and property from natural hazards. These aspects include land management, hazard mitigation, mapping, engineering, planning, building codes and permits, community development, hydrology, forecasting, emergency response, water resources and insurance. Most of our members work with the Nation's 21,000 flood prone communities to reduce losses from all flood related hazards. The ASFPM website is: [www.floods.org](http://www.floods.org).

Thank you for this opportunity to share our recommendations with you as you develop WRDA 2010. If there are questions or interest in further discussion of these thoughts, please contact Larry Larson at (608) 274-0123 or [larry@floods.org](mailto:larry@floods.org).