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A REVIEW OF UNITED STATES ARMY CORPS OF ENGINEERS REPORTS TO CONGRESS ON FUTURE WATER RESOURCES DEVELOPMENT AND CHIEF'S REPORTS

(114–34)

HEARING

BEFORE THE

SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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CONTENTS

Page

Summary of Subject Matter vi

TESTIMONY

Hon. Jo-Ellen Darcy, Assistant Secretary of the Army (Civil Works) 6
Lieutenant General Thomas P. Bostick, Chief of Engineers, U.S. Army Corps of Engineers 6

PREPARED STATEMENTS SUBMITTED BY MEMBERS OF CONGRESS

Hon. Grace F. Napolitano of California 43

PREPARED STATEMENTS SUBMITTED BY WITNESSES

Hon. Jo-Ellen Darcy and Lieutenant General Thomas P. Bostick, joint statement 45

SUBMISSIONS FOR THE RECORD

Hon. Jo-Ellen Darcy, Assistant Secretary of the Army (Civil Works), and Lieutenant General Thomas P. Bostick, Chief of Engineers, U.S. Army Corps of Engineers, joint responses to questions for the record from the following Representatives:
- Hon. Todd Rokita of Indiana 56
- Hon. Blake Farenthold of Texas 56
- Hon. Mike Thompson of California 58
- Hon. Lois Frankel of Florida 59
- Hon. Jared Huffman of California 61
- Hon. Sean Patrick Maloney of New York 63

Hon. Ann Kirkpatrick, a Representative in Congress from the State of Arizona, request to submit the following:
- Letter of February 19, 2016, from Jim Bradley, Vice President, Policy and Government Relations, American Rivers, to Hon. Bill Shuster, Chairman, and Hon. Peter A. DeFazio, Ranking Member, House Committee on Transportation and Infrastructure 66
- Joint letter of February 19, 2016, from Cara Capp, National Cochair, and Jason Totoiu, State Cochair, Everglades Coalition, to Hon. James M. Inhofe, Chairman, and Hon. Barbara Boxer, Ranking Member, Senate Committee on Environment and Public Works, and Hon. Bill Shuster, Chairman, and Hon. Peter A. DeFazio, Ranking Member, House Committee on Transportation and Infrastructure 83
- Statement of Melissa Samet, Senior Water Resources Counsel, National Wildlife Federation 85
- Joint letter of February 23, 2016, from American Sportfishing Association, et al., to Hon. Bill Shuster, Chairman, and Hon. Peter A. DeFazio, Ranking Member, House Committee on Transportation and Infrastructure 99
- Joint statement from American Rivers, et al., to Hon. Bill Shuster, Chairman, and Hon. Peter A. DeFazio, Ranking Member, House Committee on Transportation and Infrastructure, and Hon. Bob Gibbs, Chairman, and Hon. Grace F. Napolitano, Ranking Member, House Subcommittee on Water Resources and Environment 102

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

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Washington, DC 20515

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February 19, 2016

SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Water Resources and Environment
FROM:	Staff, Subcommittee on Water Resources and Environment
RE:	Water Resources and Environment Subcommittee Hearing on "A Review of United States Army Corps of Engineers Reports to Congress on Future Water Resources Development and Chief's Reports"

PURPOSE

The Subcommittee on Water Resources and Environment will meet on Wednesday, February 24, 2016, at 10:00 a.m. in 2167 Rayburn House Office Building to receive testimony from the United States Army Corps of Engineers (Corps) on Reports to Congress on Future Water Resources Development and Chief's Reports.

This hearing is intended to provide Members with an opportunity to review the Reports to Congress on Future Water Resources Development and the Chief's Reports, particularly the 23 pending Chief's Reports submitted to Congress since enactment of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and the process the Corps undertakes when developing its projects and activities that benefit the Nation.

BACKGROUND

The Corps is the federal government's largest water resources development and management agency. The Corps began its water resources program in 1824 when Congress, for the first time, appropriated funds for improving river navigation. Since then, the Corps' primary missions have expanded to address river and coastal navigation, reducing flood damage risks along rivers, lakes, and the coastline, and projects to restore and protect the environment. Along with these missions, the Corps generates hydropower, provides water storage opportunities to cities and industry, regulates development in navigable waters, assists in national emergencies, and manages a recreation program. Today, the Corps is comprised of 38 District offices within 8 Divisions and manages nearly 1,500 water resources projects.

The Corps plans, designs, and constructs projects for the purposes of navigation, flood control, beach erosion control and shoreline protection, hydroelectric power, recreation, water supply, environmental protection, restoration and enhancement, and to mitigate for fish and wildlife impacts. The Corps planning process seeks to balance economic development and environmental considerations as it addresses water resources challenges. This process is intended to approach the Nation's water resources needs from a systems perspective and evaluate a full range of alternatives in developing solutions.

The first step in the Corps water resources development process is a study of a potential project. If the Corps has previously conducted an evaluation in the geographic area, the new study can be authorized by a resolution of either the House Committee on Transportation and Infrastructure or the Senate Committee on Environment and Public Works. Generally, studies are authorized by Committee resolution, although the Transportation and Infrastructure Committee has not approved a new study by resolution since 2010. The Committee authority to carry out study resolutions is vested in Section 4 of the Rivers and Harbors Act of 1913. If the area has not been previously studied by the Corps, then an Act of Congress is necessary to authorize the study.

Typically, the Corps enters into a cost-sharing agreement with the non-federal project sponsor to initiate the feasibility study process. The cost of a feasibility study is shared 50 percent by the federal government, subject to appropriations, and 50 percent by the non-federal project sponsor.

During the feasibility study phase, the appropriate Corps District Office prepares a draft study report containing a detailed analysis on the economic costs and benefits of carrying out the project and identifies any associated environmental, social, or cultural impacts. In some cases, dozens of project alternatives are identified and reviewed. The feasibility study typically describes with reasonable certainty the economic, social, and environmental benefits and detriments of each of the alternatives, and identifies the engineering features, public acceptability, and the purposes, scope, and scale of each. The feasibility study includes any associated environmental impact statement and a mitigation plan.

The feasibility study also contains the views of other federal and non-federal agencies on the project alternatives, a description of non-structural alternatives to the recommended plans, and a description of the anticipated federal and non-federal participation in the project.

Following completion of the feasibility study phase, the document is transmitted to the appropriate Corps Division for review, and, if approved, is then transmitted to the headquarters of the Corps for final policy and technical review. After a full feasibility study is completed, the results and recommendations of the study are submitted to the Congress, usually in the form of a report approved by the Chief of Engineers (commonly referred to as a "Chief's Report.") If the results and recommendations are favorable, the final step is Congressional authorization of the project. Project authorizations are contained in Water Resources Development Acts (WRDA's), the most recent of which was enacted in 2014.

The Corps is subject to all federal statutes, including the National Environmental Policy Act (NEPA), the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, previous Water Resources Development Acts, Flood Control Acts, and Rivers and Harbors Acts. These laws and associated regulations and guidance provide the legal basis for the Corps of Engineers planning process.

For instance, when carrying out a feasibility study, NEPA requires the Corps to include: identification of significant environmental resources likely to be impacted by the proposed project; an assessment of the project impacts; a full disclosure of likely impacts; and a consideration of a full range of alternatives, including a No Action Alternative. Importantly, NEPA also requires a 30-day public review of any draft document and a 30-day public review of any final document produced by the Corps.

Additionally, when carrying out a feasibility study, the Clean Water Act requires an evaluation of the potential impacts of a proposed project or action and requires a letter from a state agency certifying the proposed project or action complies with state water quality standards.

The Corps also has to adhere to the "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies" (P&G) developed in 1983 by the United States Water Resources Council. The Principles and Guidelines were updated in 2013, with the intention that water resources projects reflect national priorities, encourage economic development, and protect the environment. No funds have been provided through the appropriations process for the Corps to carry out the updated P&G. The P&G is intended to ensure proper and consistent planning by all federal agencies engaged in the formulation and evaluation of federal water resources development projects and activities, and has defined federal objectives for pursuing water resources development projects, including contributions to national economic development consistent with protection of the environment. Typically, the plan recommended by the Corps is the plan with the greatest net economic benefit consistent with protecting the Nation's environment. For projects that have multiple purposes, the P&G recommends that such projects maximize, to the greatest extent practicable, economic development and ecosystem restoration outputs. Additionally, the Secretary of the Army has the discretion to recommend an alternative if there are overriding reasons based on other federal, state, or local concerns.

Consistent with NEPA requirements, the P&G requires the formulation of alternative plans to ensure all reasonable alternatives are evaluated, including plans that maximize net national economic development benefits, and incorporate federal, state, and local concerns. Mitigation for adverse project impacts is to be included in each of the alternative plans reviewed in the study. The Corps is responsible for identifying areas of risk and uncertainty in the study, with the goal that decisions can be made with a degree of reliability on the estimated costs and benefits of each alternative plan.

Since enactment of WRRDA 2014, 23 Chief's Reports have been submitted to Congress. The 23 Chief's Reports may be reviewed at the link below:

http://transportation.house.gov/UploadedFiles/Chiefs_Reports.pdf

WRRDA 2014 also established a new mechanism for projects to be considered by Congress for authorization. Section 7001 of WRRDA 2014 requires the Secretary of the Army to annually publish a notice in the Federal Register requesting proposals from non-federal interests for new project authorizations, new feasibility studies, and modifications to existing Corps projects. Further, it requires the Secretary to submit to Congress and make publicly available a "Report to Congress on Future Water Resources Development" (Annual Report) of those activities that are related to the missions of the Corps and require specific authorization by law.

The section 7001 requires that the Corps provide information about each proposal that is in the Annual Report submitted to Congress. This information is meant to guide Congress to set priorities regarding which proposed studies, projects, and modifications will receive authorization in future WRDA legislation.

Additionally, section 7001 contains a provision that requires the Corps to submit to Congress an appendix containing descriptions of those projects requested by non-federal interests that were not included in the Annual Report. Inclusion of those projects in the appendix provides an additional layer of transparency that allows Congress to review all non-federal interest submittals to the Corps. This allows Congress to receive a more complete spectrum of potential project studies, authorizations, and modifications.

Since enactment of WRRDA 2014, two Annual Reports have been delivered to the Committee. The Annual Reports may be reviewed at the link below:

http://transportation.house.gov/UploadedFiles/Annual_Reports.pdf

CONCLUSION

As the Committee on Transportation and Infrastructure moves forward in developing the next WRDA legislation, this hearing is intended to provide Members with an opportunity to review the Reports to Congress on Future Water Resources Development and the Chief's Reports, including the 23 Chief's Reports submitted to Congress since enactment of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and the process the Corps undertakes when developing its projects and activities that benefit the Nation.

Witness List

Jo-Ellen Darcy
Assistant Secretary of the Army-Civil Works

Lieutenant General Thomas Bostick
Chief of Engineers
United States Army Corps of Engineers

A REVIEW OF UNITED STATES ARMY CORPS OF ENGINEERS REPORTS TO CONGRESS ON FUTURE WATER RESOURCES DEVELOPMENT AND CHIEF'S REPORTS

WEDNESDAY, FEBRUARY 24, 2016

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

The subcommittee met, pursuant to notice, at 10:03 a.m. in room 2167, Rayburn House Office Building, Hon. Bob Gibbs (Chairman of the subcommittee) presiding.

Mr. GIBBS. Well, good morning. The Subcommittee on Water Resources and Environment will come together. Welcome. Today we're having a review of the United States Army Corps of Engineers reports to Congress on future water resources development and the Chief's Reports.

Almost 2 years ago, a strong bipartisan message was sent by Congress and the President with the enactment of the Water Resources Reform and Development Act of 2014. Congress made a conscious effort in WRRDA 2014 to enhance America's competitiveness by strengthening the investment in the Nation's water resources and infrastructure.

While we're turning the page and beginning the next WRDA [Water Resources Development Act] process, the Corps still has an issue. More than 40 percent of the implementation guidance of WRRDA 2014 needs to be completed.

WRRDA 2014 contained many important provisions to improve the function of the program. However, the Corps seems to be slow-walking the implementation guidance. While the WRRDA law is transformative and in some places complicated, we remain disappointed at the pace and the prioritization in which the Corps of Engineers is carrying out the drafting of the implementation guidance. After all, WRRDA is the law of the land. It's not a suggestion for the administration to casually disregard.

Today we are holding a hearing to review the Army Corps of Engineers Chief's Reports and two reports to Congress on future water resources development, commonly called the annual report. We intend to review these critical documents to ensure they balance critical investments in infrastructure along with environmental protections.

Since the first annual report of 2015 did not meet the committee's expectations, in June of 2015, the subcommittee held a hearing on the implementation of WRRDA 2014 and provided guidance to the Corps, especially on how the annual report process should be carried out. The annual report delivered several weeks ago is an indication that the Corps heard our message and the 2016 annual report is an improved product.

I want to especially highlight the fact that the Corps reevaluated many of the projects rejected in the 2015 annual report. It has included them for consideration as we move forward into WRDA 2016. We intend to move a smaller WRDA bill this Congress. This bill will be consensus-driven, bipartisan, and address several clarifying and technical changes to WRRDA 2014. And we will hopefully authorize some of the projects that are included in the 2015 and 2016 annual reports.

The Corps of Engineers constructs projects for the purposes of navigation, flood control, shoreline protection, hydroelectric power, recreation, water supply, environmental protection, restoration and enhancement, and fish and wildlife mitigation. The Corps of Engineers planning process considers economic development and environmental needs as it addresses water resources challenges. The planning process address the Nation's water resources needs by exploring a full range of alternatives and developing solutions that meet both national and local needs.

The 24 Chief's Reports we are discussing today are the result of a rigorous planning process. These projects are proposed by non-Federal interests in cooperation and consultation with the Corps. All these Chief's Reports, while tailored to meet the locally developed needs, have national, economic and environmental benefits.

These Chief's Reports address all three missions of the Corps: navigation, flood damage reduction and aquatic ecosystem restoration. And they balance economic development and environmental considerations equally.

I want to welcome Secretary Darcy and General Bostick to the hearing today, and I also want to recognize sitting in for Representative Napolitano is Mrs. Kirkpatrick from Arizona.

Welcome, and the floor is yours.

Mrs. KIRKPATRICK. Thank you, Mr. Chairman. I welcome our two witnesses to this hearing, the Assistant Secretary of the Army for Civil Works, the Honorable Jo-Ellen Darcy and the Chief of Engineers, Lieutenant General Bostick. Welcome.

I want to thank you for your service and help with the passage of the WRRDA reauthorization bill. I know how challenging it was for all involved. This subcommittee convened a roundtable of stakeholders and interest groups to discuss priorities for a new water resources bill. Individuals at the roundtable highlighted the importance of a robust civil works program for the protection of communities, infrastructure, public health and safety.

Equally important was a workable process for the Corps to partner with local communities to address local water resources challenges. In the 2014 Water Resources Reform and Development bill, Congress established a new process, the 7001 annual report to Congress process for the development of local Corps projects and studies.

Today's hearing will examine how the 7001 process will work. First, while it seems that the administration improved its process for including projects in the 2016 annual report, the fact is that many projects and study requests were screened out by administration priority calls rather than using the exact criteria in section 7001 of WRRDA 2014. I believe there are communities who are still confused by this new process. Most likely a number of communities with traditional water resources challenges simply do not know about or understand this new process and may find themselves on the outside as Congress considers a new water resources bill for 2016.

Their needs are probably no less deserving than many of the projects and studies included in the annual report. However, because these communities are not included in the annual reports or have been included in the appendix, is our response going to be "you don't have the right paperwork so you simply have to wait until the next water resources bill"? I have a number of low-income communities and tribal communities in my district that lack the financial means of other larger communities.

We should not have a process so complicated that communities are forced to hire outside individuals to run the traps of both congressional committees and administration officials. Today's hearing will discuss an array of pending Chief's Reports and potential projects and studies that did clear the annual report process. These will form the basis of a new water resources bill for later this year. Both Congress and the Corps need to provide some reasonable direction to communities and their elected officials to address their local needs. I look forward to your testimony.

And Mr. Chairman, I have two unanimous consent requests. I ask unanimous consent that the statement of the ranking member of the Subcommittee on Water Resources and Environment be made part of today's hearing record.

Mr. GIBBS. So ordered.

Mrs. KIRKPATRICK. I ask unanimous consent that the statement of a list of organizations included in the packet be made part of today's hearing record.

Mr. GIBBS. So ordered.

[The written statement of Ranking Member Grace F. Napolitano can be found on pages 43–44 and the statements from the organizations can be found on pages 66–103.]

Mrs. KIRKPATRICK. Thank you, Mr. Chairman.

Mr. GIBBS. I recognize the chairman of the T&I [Transportation and Infrastructure] Committee, the gentleman from Pennsylvania, Chairman Shuster.

Mr. SHUSTER. Thank you, very much, Chairman Gibbs. Thank you for holding this very valuable hearing. It will help us in the development in the next water resources bill.

Secretary Darcy, welcome, and, General Bostick, welcome. As I said when I first became chairman, I think it's critical that we get back to regular order, get back to going through this water process every Congress so that Congress maintains its role in overseeing the Corps work and improving your infrastructure. So, Secretary Darcy and General Bostick, here we go again.

We've got a number of members on the committee who care deeply about these issues, a number of new members. I see Congressman Rouzer from North Carolina and Bost from Illinois who have, through their districts, tremendous interest in what's going on with beach restoration or within the waterway system, flood protection.

Congressman Graves is here, and he's from the Louisiana coast. Nobody knows better than him what happens in the waterways in coastal restoration. And on that side of the aisle from Mr. DeFazio down, you have a lot of people very interested. So we're looking forward to working with both sides of the aisle to produce a bipartisan water resources act for 2016.

The Chief's Reports that have been delivered were 23, I've been tapped on the shoulder and told now it's 24, so two dozen. These reports have undergone rigorous economic and environmental analysis and many may be included in the next WRDA reauthorization. The annual report required under WRRDA 2014 allows the Corps the opportunity to provide Congress with a list of non-Federal project-sponsored priorities that reflects the needs of the Nation, and that report was intended to reflect the broad spectrum of activities for Congress to consider rather than just the administration's priorities.

While the first annual report delivered last year did not meet our expectations—quite frankly we were very disappointed in it—I think there was a major improvement on the second annual report, and I thank you for stepping up your game and we continue to work to improve that. We appreciate that the Corps reevaluated projects rejected in the 2015 report, but more work needs to be done for the Corps to comply with the law. I expect the Corps will address these and other concerns as we, in Congress, look to the next Water Resources Development Act.

So again, looking forward to working with you, and I know many members on the committee are eager to get started on crafting this legislation.

And with that, I yield back.

Mr. GIBBS. Next I want to recognize the ranking member of the full Committee on T&I, the gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Welcome, Ms. Darcy, General Bostick, and thanks for what you do.

I'm going to return to a theme I've brought up for years which is that Congress is not adequately funding the Corps of Engineers. We have a backlog of somewhere between $48 billion and $54 billion for ongoing budgeted projects, for instance, spillways for the dams on the Willamette River, which restrict our capability of flood control, and this might be a year when we're going to need full flood control, and we won't have it.

The Corps has a plan to reduce—replace these spillways which have far exceeded their lifespan. But it's drawn out over years because of a lack of resources. And that's—that occurs all around the country. I have jetties that are failing and if they go to full failure, they're more expensive than if we get in there and do maintenance work. Again, for Coos Bay, we've begun at least on the Columbia River on the critical jetty there in the forest harbor entrance in North America.

But that's a huge backlog. And we began to deal with at least one side of it. Obviously the Corps jurisdiction goes far beyond things that are eligible for moneys out of the Harbor Maintenance Trust Fund, but when they have to balance between harbor maintenance issues and inland issues or dams or whatever, it makes their job all the more difficult.

So I congratulate the chairman on what we did and other Members who were involved in that a couple years ago. I actually started working on the idea of capturing the Harbor Maintenance Trust Fund with Bill's dad, Bud, back in the mid-1990s, and it took us a long time to get there, but Bill delivered.

Now the administration, unfortunately, I don't know what was submitted by the Corps, but after the green eyeshade trolls at OMB [Office of Management and Budget] got done with it, you didn't meet our goal, which was 71 percent in the President's recommended budget of the harbor maintenance taxes.

Now this is something that should resonate on both sides of the aisle. We assess a tax, a minuscule tax. It's 1.25 mils, that is .125 cents on the value of products moving through our ports. It raises about $1.5 billion a year, yet for years Congress has diverted those funds elsewhere, who knows where or for what, as opposed to the intended purpose. We have begun to move toward full allocation of those funds for their intended purpose, I hope, in the next WRDA reauthorization. We can move that process even more definitively and more quickly.

But I would also second Representative Kirkpatrick's concerns about the difficulty of the application process when we only had 61 communities that submitted. Back in 2007 we had 3,000 project and policy proposals that were vetted as we developed WRDA 2007. And now there's only 61 projects across the whole United States that might be eligible? I think, as she said, the process is too complicated, and it needs some additional work on the administrative side.

But then also to chastise the majority a little bit, you know, this wacky ban on earmarks where you say, gee, we don't want elected representatives of the people to determine where their tax dollars are spent; we want the bureaucrats in Washington, DC, to decide where that money will be spent. And this—we've tied our hands. We used to do study resolutions all the time. We don't do study resolutions anymore because they're considered earmarks. I mean how stupid is that?

So I would hope that we could also confront the—our in-house crippling of the—that has been put in place under misbegotten rules and we could challenge that also in this next WRDA bill. But in the interim, we're stuck with the workaround process, and that does need to be simplified so that more communities who have needs will apply.

With that, Mr. Chairman, I yield back the balance of my time. Thank you.

Mr. GIBBS. Thank you.

At this time, I want to welcome the Assistant Secretary of the Army for Civil Works, Secretary Darcy and Lieutenant General Thomas Bostick, who is Chief of Engineers of the U.S. Army Corps of Engineers. And, Secretary, the floor is yours. Welcome.

TESTIMONY OF HON. JO-ELLEN DARCY, ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS); AND LIEUTENANT GENERAL THOMAS P. BOSTICK, CHIEF OF ENGINEERS, U.S. ARMY CORPS OF ENGINEERS

Ms. DARCY. Thank you, Mr. Chairman, Chairman Shuster, ranking members. Thank you very much for the opportunity to testify today to discuss the 2016 report to Congress that was submitted in response to section 7001 of the Water Resources Reform and Development Act of 2014, the Chief's Reports as well as the Post-Authorization Change Reports.

I'd like to outline the process by which the annual report to Congress in response to this section was developed and the requirements and criteria of projects meet for inclusion in the report. Section 7001 of WRRDA 2014 requires an annual notice to be published in the Federal Register requesting proposals from non-Federal interests for proposed feasibility studies and proposed modifications to authorize water resources development projects and feasibility studies.

Section 7001 then requires that the Secretary of the Army annually submit to Congress a report that includes feasibility reports, proposed feasibility studies and proposed modifications to authorized water resources projects or feasibility studies that satisfy five specific criteria. The notice for the 2016 report submission was published on May 26th of 2015. The deadline for non-Federal interests to submit their proposals to the Corps was September 23rd of 2015.

We evaluated proposals strictly based on the five statutory criteria.

Mr. GIBBS. Secretary, can you pull the mic a little closer to you? We're having—some of us are having trouble hearing you. Thank you.

Ms. DARCY. Is that better? We evaluated the proposals strictly based on the five statutory criteria. In order to provide more transparency to non-Federal interests, we sought to clarify in the public notice the process and the criteria under which the proposals would be evaluated. We did this in developing this 2016 report.

We also implemented a Web-based proposal submission process ensuring greater consistency in the content used for the evaluation of the proposals. We accounted for all Chief's Reports completed since the enactment of WRRDA 2014 and increased our outreach to non-Federal interests throughout the process. We also undertook a one-time reevaluation of proposals submitted in 2014 which were included in last year's appendix in light of this revised process.

The proposals were reviewed at the district, at the division and at the headquarters level. The five criteria that the proposals must meet are they must be related to missions and authorities of the Corps; require specific congressional authorization, including an act of Congress; the proposal must not have been congressionally authorized; it must not have been included in the report table of any previous annual report; and if authorized, the project could be carried out by the Corps of Engineers.

There are requirements that all water resources development projects must meet before the Corps can request Federal funds to proceed to construction. These requirements are included in our

joint written testimony that you have before you. As was stated earlier, a total of 61 proposals were received; 25 were for new feasibility studies, 34 were for modifications to existing projects or changes to legislation, and 2 were proposals for a study modification. Of these proposals 30 met the criteria and are listed in the annual report table. The 31 proposals that did not meet the criteria are in the appendix.

The two primary reasons for proposals that were included in the appendix are that either authority already exists to perform the requested work or the proposal did not fit within the identified Corps core mission areas. Where authority already exists to undertake the efforts described in the proposals, inclusion in the appendix to the 2016 annual report does not preclude the Army from carrying out either the study or construction.

Mr. Chairman, this concludes my statement, and we, again, appreciate the opportunity to testify today and look forward to answering questions as well as working with you on a WRDA 2016.

Mr. GIBBS. Thank you.

General Bostick, the floor is yours. Welcome.

General BOSTICK. Chairman Gibbs, Chairman Shuster and distinguished members of the subcommittee, thank you for the opportunity to testify on the annual report due to Congress and the summary of Chief's Reports completed since the passage of WRRDA 2014.

First, I want to thank this committee for your great support of the Civil Works program. Your work has been essential in all of the progress that has been made over the years. The details about the Chief's Reports submitted to Congress are contained within my written statement. I would like to provide a brief update on the progress we've made with our four campaign goals and provide some of my perspectives on water resources challenges facing the Nation.

First, support national security. We like to talk about the investment in the Civil Works project, not the cost. It is an investment in the work that we do to provide protection to the American people. But it's also an investment in our people. And whether they serve in Iraq, Afghanistan, Pakistan, India or in over 100 countries, our people are making a difference.

As part of Civil Works transformation, we continue to improve and modernize the project planning process. Since the inception of Civil Works transformation in 2008, 59 Chief's Reports have been completed with recommendations of over $30 billion in water resources investments.

During the first 4 years of Civil Works transformation, 19 Chief's Reports were completed. In the last 4 years, the number is 40, more than doubling our progress. We're on schedule to complete another 12 reports by the end of the fiscal year. One Chief's Report I just signed yesterday; it is the Princeville, North Carolina, Flood Risk Management project. This brings the number of reports signed but which have not completed executive branch review to 10.

While we may have made great progress, we can and must continue to improve. The third area of our campaign goals is to reduce disaster risks. We had historic floods in 2011, 2015 and again in

2016. And because the systems performed as designed, many Americans do not even realize the magnitude of these floods. In addition to the fact that no one died in these events, the return on investment is $45 for every $1 invested in the Mississippi River and Tributaries system.

Approximately $234 billion of damages have been prevented over time due to these investments. As you know, our Nation's infrastructure is aging. The American Society of Civil Engineers rates the Nation's overall infrastructure at a D-plus. The Corps is managing 225 billion dollars' worth of that infrastructure. Funding across the Federal Government remains challenging. In order to complete the construction of projects that we are currently budgeting, we would require $19.7 billion. With construction funding at just over $1 billion per year, it would take us nearly 20 years to complete the current projects.

As a Nation we must continue to think creatively and innovatively about how we gain support beyond the Federal Government in areas such as public-private partnerships so that we can complete these projects and future projects in a more reasonable amount of time.

Finally, our last goal is prepare for tomorrow. It's about our people. In the nearly 4 years I have been in command, I've traveled to all 43 districts in the 9 divisions to see the vital work that we conduct at home and abroad. I remain convinced that we have an exceptionally skilled and talented workforce. I'm very proud of the people who serve in the Army Corps of Engineers and our fellow teammates including military, civilian, local, Federal, and of course our contractors.

As we have done for over 240 years, the U.S. Army Corps of Engineers remains focused on engineering solutions to our Nation's toughest challenges. Thank you again for the opportunity today, and I look forward to your questions.

Mr. GIBBS. Thank you, General.

And there's time, Chairman Shuster, for questions.

Mr. SHUSTER. Thank you, Chairman Gibbs.

And General Bostick, I just want to echo your same sentiments here. The men and women that serve in our military in whatever capacity, we certainly appreciate what they do for our Nation to keep us safe and hopefully we keep them out of harm's way. So thank you for that.

I just want to respond to the ranking member talking about the funding levels which he's correct. I think the congressional budget, we hit those targets. The administration did not hit those targets, and in the last WRRDA, WRRDA 2014, we tried to move in a direction to take those trust funds, the Harbor Maintenance Trust Fund and the Inland Waterways Trust Fund, off budget. That's going to be something that we need to work together across the aisle to eventually do because I think that just like we did with the Highway Trust Fund, those dollars are put into a fund, and the American people trust we're going to spend them in an appropriate way, the way they were intended.

And of course that hasn't happened. And if we were able to do that, take them off budget, take them, make sure they only go for those purposes that they were intended, we'd be able to solve a lot

of our problems when it comes to our harbors and waterways in this country. So that's something I want to continue to work to do.

First question, Secretary Darcy. Copies of completed Chief's Reports are sent to Congress prior to executive branch review. I wonder why doesn't the administration furnish Congress copies of Post-Authorization Change Reports prior to executive branch review?

Ms. DARCY. We currently are reviewing the Post-Authorization Change Reports within the administration before we send them to Congress. They're sort of a different animal than the Chief's Reports.

Mr. SHUSTER. Sure.

Ms. DARCY. The Chief's Reports, once they are signed by the Chief, come directly to Congress; and that's in the statute.

Mr. SHUSTER. And so that may be something we've got to look at putting in the statutes so that when you do post a change report, it comes to us, too, so that we can begin that review process. That is something you would recommend?

Ms. DARCY. It's not something I would recommend; I understand why the Members would want to see those.

Mr. SHUSTER. Thank you.

General Bostick, in October of 2014, the Corps of Engineers Civil Works Review Board met and approved a Chief's Report related to three replacement navigation locks on the Upper Ohio River. While at one point the draft schedules show the Chief's Report being signed January of 2015, no Chief's Report has been submitted at this time to Congress. And since the Corps has suggested that the failure of only one of the three existing locks would be catastrophic to the inland navigational system, I'm told over $1 billion in economic harm would occur. Could you update us on the status of that Chief's Report?

General BOSTICK. We expect that the report will be completed in October of this year, Mr. Chairman. What happened in this particular case was that the independent external peer review identified that, during the duration of a closure following a significant incident without project condition, there would be significant issues. And based on that, we had to delay the State and agency review, rerun our models and then make an assessment of their concerns. So we've done that in the Pittsburgh district. That effort has taken the better part of a year. The review is ongoing, and we expect the report to be completed by October.

Mr. SHUSTER. You're highly confident in——

General BOSTICK. I'm confident that it will be.

Mr. SHUSTER. OK. Because, as you might know, I'm deeply concerned about that. That project means an awful lot to the economy of western Pennsylvania. And of course with our shale play, while the gas we produce there is down, we believe it's coming back and that water system is absolutely critical to getting product in and product out of that—of the Marcellus gas play. So I'll be following it very closely and I appreciate you keeping us updated on that.

General BOSTICK. Mr. Chairman, I just do need to clarify. I meant to say the economic review that we're doing will be completed in October. We still then need to do State and agency review to complete the Chief's Report.

Mr. SHUSTER. So we're not even close to a Chief's Report then?

General BOSTICK. The Chief's Report would come sometime after the State and agency review assuming there are no significant issues. But based on the independent review, and this one issue that we've resolved, I would assume that most of the issues have been identified. But we still have to do a State and agency review. So I can't really estimate when the Chief's Report would be complete.

Mr. SHUSTER. Taking a look at 2017 maybe.

General BOSTICK. I really couldn't give you a date on that.

Mr. SHUSTER. OK, well, again, that's very concerning because this has been going on for I think 8 to 9 years. And again, the good news is we put it into law, and again your folks worked with us and really it was your idea, the 3x3x3 concept. Again, this one's been out there forever.

So any way you can accelerate that, any way we can help you to accelerate that we certainly would because it means an awful lot to the economy, as I said, of western Pennsylvania and, in fact, to the economy of the United States when gas prices go up a bit and they're able to get it out of the ground. Getting product in to develop it and getting product out is going to be critical. So again, I'm going to be watching very, very closely how this proceeds. So thank you very much.

General BOSTICK. And we'll follow up with you on that.

Mr. SHUSTER. Yield back. Thank you.

Mr. GIBBS. Mrs. Kirkpatrick.

Mrs. KIRKPATRICK. Thank you, Assistant Secretary Darcy and General Bostick, for your help with three Corps projects in my district. I have concerns about two of these projects, and that is the Rio de Flag and the Winslow levee.

So my first question has to do with the Rio de Flag. And while I appreciate the allocating funds in the fiscal year 2016 workplan to complete the LRR [land resource regions], can you assure me and this committee that the LRR will be completed expeditiously? Can you commit to a concurrent review with headquarters and your office to reduce the amount of time for completion? My goal is to see this project receive a new, higher authorization number in WRDA 2016.

Assistant Secretary Darcy and General Bostick, can I get your assurance that you will help with this endeavor?

Ms. DARCY. Yes.

General BOSTICK. Absolutely.

Mrs. KIRKPATRICK. General Bostick?

General BOSTICK. Absolutely. We're working all three levels concurrently now, and we're aggressively moving forward to complete it.

Mrs. KIRKPATRICK. OK. Thank you. My second question has to do with the Winslow levee. Regarding the Little Colorado River in Winslow, what can you tell me about completion of their Chief's Report? Being listed in the 7001 report does not—does this cover authorization for construction once the Chief's Report is complete, or does it need to be resubmitted?

General BOSTICK. I don't have the answer to that. We'll have to follow up with you.

Mrs. KIRKPATRICK. Secretary Darcy?

Ms. DARCY. It is in the report, in the 7001 report.

Mrs. KIRKPATRICK. But my question is: Does that authorization include construction once the Chief's Report is complete?

Ms. DARCY. No, it would need to have a completed Chief's Report and get authorized for construction.

Mrs. KIRKPATRICK. And then does it have to be resubmitted for construction?

Ms. DARCY. No.

Mrs. KIRKPATRICK. OK. Thank you for clarifying that. I yield back.

Mr. GIBBS. Thank you. So I yield to myself.

Secretary Darcy, since WRRDA 2014 was enacted, no general reevaluation reports have been delivered to Congress. Since these documents are analogous to Chief's Reports, how many are currently under development, and then can you provide us a schedule of when they will be completed?

Ms. DARCY. Yes, I'd be happy to provide that—I don't know exactly how many, but I will provide that to you.

Mr. GIBBS. But there are some, because that's——

Ms. DARCY. Yes, there are. I think——

Mr. GIBBS. These are really—reevaluating prior Chief's Reports seems like it's pretty important.

Ms. DARCY. It is, and I want to say three, but I want to check to make sure, and then we'll get you that number.

Mr. GIBBS. OK. Secretary, in the proposed Chief's Report on the Los Angeles River ecosystem project, it was proposed there was going to be a cost of about $161 million, and now the completed Chief's Report, the Federal cost has increased to more than $200 million additional. So it puts the cost at about $375 million. What's going on with that project in Los Angeles River?

Ms. DARCY. The Los Angeles River ecosystem restoration project is what you're talking about? There are several alternatives that were considered in the development of that project, and the final alternative—that was the locally preferred alternative—would be more expansive than one of the other alternatives, and I think that's what's attributing to the cost, because there's more land involved, and it would be more real estate development or real estate purchasing that would need to be acquired by the city of Los Angeles.

Mr. GIBBS. Because I visited there a couple years ago, and—I referred to it as the cement trough, and I think the locals want to actually change some of that and make it more eco-friendly, right, restoration?

Ms. DARCY. Right. The project purpose is ecosystem restoration.

Mr. GIBBS. That wasn't part of the first Chief's Report, changing some of that to more environmentally friendly I guess?

Ms. DARCY. They were looking at more alternatives and more land—it was mostly for habitat, increased——

Mr. GIBBS. Yeah, that's what I mean.

Ms. DARCY. Right.

Mr. GIBBS. OK. So the scope did change some then?

Ms. DARCY. Right.

Mr. GIBBS. OK. Because I was understanding the scope wasn't changing. OK. That's good to know. I want to talk a little bit here

about the process, the annual report. I have a concern that maybe the Corps hasn't done a well enough job communicating down to the regional and especially the district levels of how the new process works, and I think Ranking Member DeFazio kind of raised the issue of 61 projects being submitted to the 2016 annual report, while in WRDA 2007 there were 3,000-plus.

So the questions, there is: what's the process, how are you verifying the process, how are you working with local project sponsors so they understand. Because I've had some local stakeholders in my office in the past year and they had no clue of what the new process was to submit these projects. So how is the Corps working to facilitate the new method so we get this working better?

Ms. DARCY. I think what we learned from last year—and I hope we can recognize that there's been an improvement made since last year's report—we've done a couple of things. One is in the public notice that goes out in the Federal Register, we've outlined the process for the local sponsors so that there's more of a template about what's required in order to submit your proposal. We also have put this all online so that it's Web-based so that everybody can see what the proposals are and everyone can see what's required in order to submit the proposals.

We also, at the district level, have engaged all of our District Commanders and staff there to help local sponsors in developing their proposals as well as submitting them because they work through the district, and then it goes to the division, then it comes to headquarters online so that we can evaluate them.

Mr. GIBBS. That communication, especially with the District Commanders, do you have a time of when that started? Because we've seen a lot of differences between districts in the interpretation of this and how they're handling that. We passed this bill in June 2014. When did you start implementing that conversation? Has it been fairly recent, or was it——

Ms. DARCY. It was in response to some of the concerns expressed by the committee last year as far as the fact that we needed to do more outreach. It was developed after the 2015 submittal of the report, so we're hoping that the 2016 report can show some signs of improvement in that communication.

Mr. GIBBS. General Bostick, do you want to comment on that, too, since——

General BOSTICK. Yes, we always are concerned about variability in how we approach things between our districts, so this is a constant effort from the leadership at every level to ensure that our District Commanders understand the policies and the laws and what we're trying to do. I would say even from the very beginning we tried to ensure that this was understood, that 7001 was understood. We work with stakeholders all the time.

Part of this is communications on our part from the headquarters, to ensure that our districts understood the guidance that needed to be provided. And once we were able to get that clarity, I think we've seen it take off. Even at our headquarters you saw in the reports that we provided to you last year we did not have the kind of fidelity and clarity which resulted in a report that was somewhat disappointing to the Congress. And as Secretary Darcy

said, immediately after that we were able to push out and set up more communication mechanisms to allow the districts to be——

Mr. GIBBS. That's why I brought up my first additional questions because I think we really need to hold that up because this process has to work, and it's just human nature, communications sometimes, it's just human nature that we always have to work at. It's a challenge, so I appreciate your comments. And this time, Mr. Garamendi, questions?

Mr. GARAMENDI. Thank you, Mr. Chairman.

A couple of issues. First of all, my district has some 1,100 miles of levees and some very serious flood control issues. Your Sacramento district office has been very aware of the issues and very in-tune with the local concerns, and I want to thank the Corps and particularly the Sacramento office and Colonel Farrell for their constant attention to the issues and their willingness and, in fact, their constant engagement with the various flood control districts, reclamation districts in the area. So basically doing a very good job all the way around.

There is one question just outside my specific district, but very much a part of the community, which is the West Sacramento issue. That question arises 53,000 residents in an area that is subject to significant flooding. And the question is: Will the Chief's Report, which I understand is in process, be available sometime this spring probably, possibly in April, so that we might include that project in the new WRDA bill?

Ms. DARCY. Yes.

Mr. GARAMENDI. Terrific answer. Thank you. [Laughter.] No elaboration needed. The rest of the programs are underway. Your district office is working very diligently, and I want to thank you for the headquarters and for the work that's being done. General, thank you for the service and for taking care of the issues in my district. Thank you.

Mr. GIBBS. Mr. Webster.

Mr. WEBSTER. Thank you, Mr. Chairman.

Secretary Darcy, the Port of Tampa is planning to move forward with authorized improvements to the Tampa Bay Big Bend Channel. And they had formed a public-private partnership that would cover up to over 70 percent of the cost of that project. The delegation applied and was part of correspondence dealing with getting Federal contributions to that public-private partnership, and the answer to that was that that project would have to compete as a——

Ms. FRANKEL. Excuse me, Mr. Webster. Could you talk a little louder?

Mr. WEBSTER. Sure.

Ms. FRANKEL. Thanks.

Mr. WEBSTER. That project needed to compete with Federal funds as a new start program, and the new start program is for construction. The Big Bend navigation project has been a significant part of the construction appropriations since 2003 when it got a designation of a new start and has been funded several times since then. Why did the categorizations change from continuing or ongoing to a new start?

Ms. DARCY. Congressman, unless the Chief knows the—I would have to get back to you, because I want to give you an answer, but I don't know the answer at this time.

General BOSTICK. I don't know the answer as well, but given what you've said, if it is going to a public-private partnership, that changes the project, and we would have to go back and look at it. We're looking at public-private partnerships now, and those would have to be a new start if we're moving in that direction. So I don't know the details of the Tampa public-private partnership, but we'll take a look at it and get back to you.

Mr. WEBSTER. Even though it had been approved as a new start in previous years and gotten funding for several years after that?

General BOSTICK. I believe so. It depends on what the public-private partnership or what the approval was for. If it was a Federal and a non-Federal sponsor working together on a project that was defined, clearly, based on the Chief's Report—and now we're going to turn it into a public-private partnership—that would be a different project. But I don't know the details of——

Mr. WEBSTER. I think our idea was to move up further on the ladder because we could get about 70 percent paid for by locals. And so we thought that would enhance our opportunity as opposed to sort of push it aside.

General BOSTICK. Well, as I said in my opening remarks, I do think that we have to look at opportunities like this as part of the solution for how we complete these projects faster and work in partnership with communities and private entities, so we'll take a look at this and get back to you.

Mr. WEBSTER. OK. I have one other question about the Kissimmee River project. One of the showcases for the Everglades restoration in our State, and I understand the State of Florida did critical engineering work for the project that would save money. However, because of that a legislative adjustment was necessary in order for the State to receive credit for the engineering work. And I understand the Corps supports us and that project and the change. But could you tell me or get for me the status of the Post-Authorization Change Report for this legislative remedy? If you could do that, that would be helpful. I don't know if that's a question or not, just either yes or no.

General BOSTICK. We'll get the answer, but my understanding of the Post-Authorization Change Report is expected to be completed in August of this year.

Mr. WEBSTER. OK. Thank you. Yield back.

Mr. GIBBS. Ms. Frankel.

Ms. FRANKEL. Thank you. Thank you both for your service. I know you always hear a lot of complaints from our offices, but I just—I want to thank you. We've had a very cooperative, excellent relationship with you all, and we're very appreciative of that.

I have a few local issues that I would just like to go over with you. In Palm Beach County, as you know, the—our Lake Worth Inlet is very important both to recreation and commerce there. And you have all—you have spent many millions of dollars over the years dredging that inlet. We have a project there called the sand transfer plant, which we believe reduces the need for some of the dredging and saves considerable expense to the Corps.

And so one of my—my question really is: What do you think about assisting local communities who find less expensive and more efficient operations to maintain the channels and inlets?

Ms. DARCY. Is the question whether we would be supportive of local interests taking on that——

Ms. FRANKEL. Well, no, the question is whether or not you would pay for it instead of it, for example, being considered an earmark. In other words, I think we discussed a little bit about this when we had our meeting on water a couple weeks ago is: If a local community has an alternative method that would reduce the expense of the Corps, but it may be unique to that particular area, why would that be considered an earmark and not something that the Corps could help fund?

Ms. DARCY. I guess from what I know of this in my view it wouldn't be considered an earmark.

Ms. FRANKEL. Well, OK, well, we're going to write that down. [Laughter.] OK, well, that's good. OK. I like that answer. Herbert Hoover dike which serves to protect the communities and farmlands surrounding Lake Okeechobee from flooding, this is a 143-mile dike. It's susceptible to erosion and considered one of the country's most at risk of failing. The FY [fiscal year] 2016 workplan included $64 million for construction and the President's FY 2017 budget included almost $50 million. My question is if you know: Is the amount of money that's now projected for the current budget, will it be enough for this year to fund what you can do? Because this—these repairs need to be moved forward as quickly as possible.

Ms. DARCY. We will be able to meet the needs of that project in this fiscal year.

Ms. FRANKEL. OK. Thank you very much. On the Port of Palm Beach, we actually finally have something that all the communities agree on, which is a welcome change, which is the full maintenance dredge that will hopefully alleviate safety issues for 2 to 3 years. It is my understanding, though, from the Corps that an additional $900,000 is needed to complete the dredge which the Corps has told my office they intend to find through reprogramming. Can you commit to that?

General BOSTICK. We would have to look at that. I couldn't commit to it here.

Ms. FRANKEL. OK. Well, will you get back to me on that. Yes?

General BOSTICK. We will.

Ms. FRANKEL. Next is just really a big thank you on Port Everglades. That expansion is a half a billion dollar economic impact to south Florida. I want to just thank you so much on including that in this report and for the cooperation we've been getting. Excellent. Thank you. That's easy. And next as you know, the restoration of Port—of the Everglades, different from Port Everglades, serves drinking water to over 9 million people in Florida, has great economic impact. There are a number of projects that you are working on. I just have some questions on them.

The Broward County Water Preserve Areas and the Biscayne Bay coastal wetlands are stuck in the PPA [project partnership agreement] negotiation phase. The Picayune Strand and Kissimmee River both require reports from the Corps. Would you be

able to provide us—obviously not right this second, but with an update on these particular projects?

Ms. DARCY. Yes, we will.

Ms. FRANKEL. And I had—just for the coastal communities—OK, very quick. The coastal communities just some questions on the beach restoration because the beaches are much more than just places for people to get sunburns as you know. The—a couple questions. Can you—our stakeholders are asking that you take some more time to work with them in terms of when you decide which projects to do. And next question they had on that was what the Corps is doing to ensure that all districts are using dredge sediment as a resource to improve coastal protection. If you could, just get back on those questions because I've taken my time.

Ms. DARCY. OK.

General BOSTICK. We will.

Ms. FRANKEL. OK. Thank you, Mr. Chair.

Mr. GIBBS. Mr. Graves.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman. And I want to thank you and Chairman Shuster, the ranking member, everyone who came down to New Orleans, for you all taking the time to come to south Louisiana to take a look at all the challenges we have going on in regard to balancing water resources.

Madam Secretary, I didn't want to ask this question, but Let Mon told me I should. [Laughter.] It's no secret that we have pretty strong frustrations in regard to the efficiency of the Corps of Engineers in regard to project delivery. We could talk about the Morganza project, been in study phase for 24 years now; the West Shore project that just issued a Chief's Report after being studied for 44 years about. Obviously if that same scenario were in the private sector, that construction company would have been shut down, appropriately, many, many decades ago.

Right now you're seeing an interesting trend within the Federal Government, and I'm not sure if anyone's really paying attention to it, but, Mr. Chairman, I think it's something we should be paying very close attention to in this committee. You're seeing Corps of Engineers budget numbers that are relatively stagnant. Yet you saw the President come out this year and announce that he was going to do a $2 billion coastal resiliency fund, which is your mission. You saw HUD [U.S. Department of Housing and Urban Development] last year, if I recall, was $1 billion resiliency, which is your mission. You've seen FEMA [Federal Emergency Management Agency] repeatedly awarding grants that under hazard mitigation grant program pre-disaster mitigation which effectively is your mission as well.

One difference with all of those other efforts that really distinguished them from the Corps of Engineers is that in many—in fact, in all cases, those are largely grant programs that cooperate with State and local governments to carry out the projects. And going back to Congresswoman Frankel's comments earlier about the efficiency of delivery, why is it that the Corps of Engineers remains stagnant and all of the funding and opportunities and actual progress is being done in these other agencies?

Ms. DARCY. Well, as you are aware, as you mentioned, these are granting agencies. The Corps of Engineers is not a granting agency. We're a project funding agency. So that's where——

Mr. GRAVES OF LOUISIANA. Should that change? I mean is a project in study phase for 40-something years, is that OK?

Ms. DARCY. No, that's why we've instituted smart planning and 3x3x3 so that we can be more efficient in our planning process. Because I think that 40 years is too long to be studying anything.

Mr. GRAVES OF LOUISIANA. Well, I just—I think that if you look at the numbers, I think some of the frustrations—incredible frustrations that we have are being verified in the budget process. And if I were any of the people sitting right there in the front row and at the table, I would take that threat very seriously and be thinking about whether—what changes you need to make in order to efficiently deliver projects.

And one thing that I think is really important to connect the dots on with some of the bigger waters—flood insurance reforms that happened in 2012 and then again in 2014, the Corps, by them choosing—by you choosing winners and losers in terms of which projects are going to proceed, which ones aren't, which ones are going to remain in this stagnant phase for decades, you're compounding the problem by leaving these people vulnerable with the belief that they have some authorized project that's going to pop up at some point. Yet they're subject to exponentially higher flood insurance rates. When you add in levee standards and other things, you're really causing exponential impacts on these communities. I mean there are real repercussions of these delayed projects, and I think it's something that needs to be thoughtfully considered by this committee as we proceed on the new WRDA.

I want to go to the HPS [hurricane protection system] in the greater New Orleans area. When President Bush was President, he issued a document saying that the repairs and recovery of the HPS was going to be completed in 2009. And I've had people at the Corps refute that. I've got a copy of the document. I'd be happy to share it with you. It was when he gave his Jackson Square speech. As you recall, in 2008, we signed a 30-year payback agreement—deferred payment agreement on the hurricane protection system recovery work. That work, again, was supposed to be completed in 2009.

The Corps came back and started issuing documents saying it was going to be completed in 2010. At some point, the Corps held a day of recognition ceremony or something, which I'm not real sure what that was. But here's the reality. The reality is we're still not at that finish line. Hurricane Katrina was in 2005, we're 11 years later or approaching 11 years. We haven't hit that deadline yet. What's happened during this time in a deferred payment agreement is that the principal has grown to where we're at the point now that the payments by the State whenever this project is finished, the payments are going to be almost double what they were supposed to be because of the accumulating interest by this delayed implementation or completion of the project. What do you say to that?

Ms. DARCY. The delay in implementation of which——

Mr. GRAVES OF LOUISIANA. Of the hurricane protection system, the SELA [Southeast Louisiana Urban Flood Damage Reduction Project], the New Orleans to Venice, the Lake Pontchartrain vicinity, Westbank, the HPS, which you all came up with the new acronym HSDRRS [Hurricane and Storm Damage Risk Reduction System] because that rolls off the tongue I think. So——

Ms. DARCY. That's the—what we considered with the $14 billion of Federal investment.

Mr. GRAVES OF LOUISIANA. Sure. Right.

Ms. DARCY. The completion of the other projects that you're referring to I think are all hopefully on some kind of glide path, the details of which I don't have at the ready at the moment.

Mr. GRAVES OF LOUISIANA. Does that concern you at all, though, that the State is facing a payback agreement of nearly double what it was before when that agency is the same agency that's supposed to be helping to restore the coast and do all the other things in terms of mitigating some of the impacts of Federal actions?

Ms. DARCY. It is concerning that that would be a doubling for the State's responsibility.

Mr. GRAVES OF LOUISIANA. Taking away money for ecosystem restoration to other important priorities? Thank you——

General BOSTICK. And one of the things that I would offer is that when you talk about civilian organizations and that folks might be fired if they took this long and you talk about different agencies and what they do, there's probably no other organization that has to integrate like the Corps across all Federal agencies. If you look at something like the 3x3x3 that was put into law, that applies to the Corps, yet we have to work with all Federal agencies, we have to work with locals, and they don't necessarily need to buy into the 3x3x3.

If you look at BRAC [Base Realignment and Closure] 2005, $12½ billion in construction completed in 7 years, you look at the large proportion of the hurricane storm damage risk reduction, again, completed in 7 years, there's no other organization in the world that could accomplish this. I brought the Chinese Minister of Water Resources here. He said no other organization in the world could have done what the Corps did. And part of that is bringing all the parties together, communicating and agreeing that in a crisis we're going to get this done. BRAC was a great example of the Congress and the American people all coming together and saying here's the priority, we're going to get it done, and the Corps can deliver. The challenge we have is we don't have that burning platform in many of these other projects.

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman.

I just—pointing out the comparison of this other delivery mechanism compared to what we're using right now, you're doing projects like that in 7 years compared to what we're taking decades to do. There needs to be fundamental change in the project development and delivery systems.

Mr. GIBBS. That's obviously a good point, which sometimes we study stuff to death.

Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Secretary Darcy, General Bostick, the entire country has been awakened by the lead in the water crisis in Flint, Michigan. There was something of a similar crisis here, and of course the Corps produces drinking water for this Capital, for the Federal complex, for several adjoining counties in Virginia. And DC Water in particular purchases almost three-quarters of the water from the aqueduct, and of course we drink that water here in the Capital.

Now does the Corps operate any other municipal drinking or water treatment in the country?

General BOSTICK. We do not.

Ms. NORTON. Only in the Nation's Capital?

General BOSTICK. Only in——

Ms. NORTON. This is a holdover from before the city had its own home rule and, of course, it has DC Water now. DC Water is an expert agency in delivering water. That is not your core expertise, is it?

Ms. DARCY. No.

Ms. NORTON. No. The Secretary says no. In addition, as I understand it, if there are capital improvements, you are not funded by this Congress in order to engage in those improvements because you cannot borrow, you cannot bond. Isn't that the case?

General BOSTICK. That's correct.

Ms. NORTON. Of course, DC Water can borrow and bond and is doing a great many things at the moment. How do you test for lead in the water for the water supply that comes to this Congress and throughout this region?

General BOSTICK. How do we test in the water supply in Washington, DC?

Ms. NORTON. To make sure there's no lead in the water, General Bostick.

General BOSTICK. Right. We know that there's no lead in the water source, which is the Potomac River. And the water leaving the two Washington aqueducts water treatment plant is tested once a month for lead. Now lead can leach into the pipes going from the pipes that are coming from the house or the buildings to where the source of the water is, but our current indication is that we've tested the water coming from the aqueduct——

Ms. NORTON. But if it leaches from the pipes, which is of course the problem here and all across the United States, and Members had best look and ask what is the substance put into the water to counteract that lead leaching, is that substance being routinely put into the water here today? The wrong substance was being put in the water by the Corps in the early 2000s when the Nation's Capital had a similar crisis. What's the substance?

General BOSTICK. The substance is orthophosphate, and it interacts with the interior surface of a lead pipe, and it provides a protective layer in the pipe to ensure that there's no lead that's going to leach. So——

Ms. NORTON. I want to alert you, Mr. Chairman, other Members to inquire in their own districts what is the substance. The Corps put the wrong substance in the water, and there was lead in the water. Forty-two thousand children had to be tested. It was a genuine crisis. We had to use bottled water just like they are having to do in Flint, Michigan. So Members are well advised to go home

and at least inquire what is the substance, how often is the water tested.

Let me ask you about another—you do several projects here as a matter of routine. I want to thank you for agreeing to work in the Spring Valley community here to test groundwater in that community while allowing the neighborhood to make use of one of its parks. Has that groundwater testing started? And what are you looking for? What do you think you may find in the groundwater?

General BOSTICK. I'll have to follow up on the groundwater. I was not tracking that specific question, but we can follow up on it.

Ms. NORTON. Well, you went to a great deal of—you put a great deal of energy into building a way to test the groundwater, and I'd ask you within 30 days to get back to the chairman and me—and I'm sure he would give to me what action the Corps plans, about what you are doing to test this groundwater, which was your intention and what you intend to do—what you're looking for and what you intend to do about it.

And finally, let me ask you about the levee that you were building. You had a problem with the contractor. Boy, I just saw a drawing of everything on the Mall underwater except the Washington Monument because of climate change. But at least in the near term we have this levee to protect the National Mall and nearby neighborhoods, but there have been lengthy delays. We are told that the levee system evaluation report—this is supposed to be the final piece of writing—is due to FEMA this spring and that the levee therefore will be approved.

Lieutenant General Bostick and Secretary Darcy, is the Army on track to get this Federal report in, done and over with by this spring so that you can assure the Congress that, in fact, this levee to control flooding on the Mall has been taken care of?

General BOSTICK. Yes, we'll have that report completed and to FEMA this spring.

Ms. NORTON. Thank you very much. And I appreciate it, Mr. Chairman.

Mr. GIBBS. Welcome to our new member of the committee from Illinois, Mr. Bost.

Mr. BOST. Thank you, Mr. Chairman.

First up, I want to say a special thank you to the Secretary and the general. I've had the luxury of working with both, well, actually three intersecting areas: St. Louis, Louisville and also Memphis and all in one county where that one works there. But let me also say that your Colonel Mitchell is doing a fine job and has been a tremendous help to us working with them.

That being said, we do have a unique situation that has occurred, which 6 days ago I was on the ground seeing, and that is when the—what was known as the Len Small levee which was a secondary levee system that was put in in the 1920s by then-Governor Len Small in the State of Illinois, and it's only set up for a 15-foot levee. But when the holiday floods—because I guess that's what we'll call it—came and came so rapidly along the Mississippi and we traced it all the way down, that levee broke. And when that levee broke, we watched as it occurred and the concerns that we had. But we thought, no problem, we'll be able to go back in and fix the levee.

Now it has elevated, and I want to make sure that you're aware of that. It is elevated to the point that the—because the river is coming right straight there, and it goes into what's known as the Dogtooth Bend. It's about a 17-mile bend in the Mississippi River that comes back upon itself. And when it does, the area across is 3½ miles in comparison to the 17 miles around. The elevation drop is somewhere between 13 and 17 feet.

In the 3 weeks that the water was up, it has already cut a gouge about a half a mile long and one-quarter mile wide working to come across that 3½ miles.

Now the concern I have besides the fact that I have a concern for the district, for the property that was ruined and all of the issues there, the concern I really have is for commerce for the United States because if that breaks through and we aren't aggressively going after to stop that, barge traffic from New Orleans to the Great Lakes could be held by the fact that that becomes a rapid instead of a smooth, navigable water. Is that your concern as well? Or do you know?

General BOSTICK. I don't have the specific details on that, but navigation is clearly one of our three primary functions, so we're very concerned in anything that would involve the situation you described. So we will take a look at it——

Mr. BOST. OK. I wanted to make sure that we were up on that. And another concern that I do have because it's in the same area, the—across from the Len Small area is—on the Missouri side the New Madrid levee project. And that project was approved. Does that take both of you to sign off on that?

General BOSTICK. Well, there would normally be a Chief's Report that I sign. We send it to Secretary Darcy for approval.

Mr. BOST. OK. Would you know where the status of that project is? It's about a 1,500-foot added levee on the other side of the river.

Ms. DARCY. I believe—it's the St. John's-New Madrid——

Mr. BOST. Mm-hmm.

Ms. DARCY [continuing]. You're talking about? I believe it's currently undergoing an Environmental Impact Statement.

Mr. BOST. OK. The fear that we have on the other side of the Mississippi is the pressures that we're already feeling and the fact that when the 2011 flood occurred, to keep us below the 60-foot level at Cairo, it was to blow, and we remember how difficult that was to make the decision that was part of the plan to release the Birds Point levee. My concern and the concerns of my constituents are that that would change the hydraulics and put more pressure on our side of the river. Do you see that, or what are your concerns with that?

General BOSTICK. If you're talking—when we have floods in that area in the Cairo area, we would still blow the New Madrid——

Mr. BOST. The New Madrid would still fall under the existing rules so that we could make sure of——

General BOSTICK. Right. We would still execute the floodway.

Mr. BOST. And let me say this to continue to give a compliment here. Let me tell you that working together it was a great job done by the Corps, all three of them working together to release water from both the Kentucky Lake and Barkley Lake to allow the pressure relief that actually brought the pressure off of Cairo without

having to blow that and thinking in advance that way. I want to commend you on the job that you've done there.

I look forward to working with you. I—on the one project if you can get back with my staff, we're wanting to help any way we can to make sure, because my big fear on that where the Dogtooth comes around is that spring thaw would occur, we'd get another secondary flood that would move in there like the one of the holiday flood, and it would, like I said, change what we know for as far as commerce in the United States. So thank you very much. I yield back, Mr. Chairman.

Mr. GIBBS. Ms. Johnson.

Ms. JOHNSON. Thank you very much, Mr. Chairman.

Let me express my appreciation to you and Ranking Member Napolitano for holding this hearing of the Corps annual report to Congress. And I'd like to thank also the Honorable Assistant Secretary Darcy and Lieutenant General Thomas Bostick for being here today.

I do appreciate your continued commitment to working cooperatively with Congress to plan the development of our Nation's future water resources. The Water Resources Reform and Development Act of 2014, otherwise known as WRRDA, established new mechanisms for the Corps to submit projects for possible authorization by Congress. Section 7001 of WRRDA 2014 is meant to guide Congress as it drafts a new water resources bill.

I have in practice I believe many questions that remain of how both Congress and the Corps will implement the requirements under that section.

Assistant Secretary Darcy, can you speak more to the challenges that the Corps continues to face with the interpretation and implementation of 7001, what Congress can do to improve that process for future resources, water resources legislation?

Ms. DARCY. Congresswoman, I think we learned a lot from the 2015 report to the 2016 report, and we've done some outreach to local sponsors to be able to educate them as to what the requirements are and the criteria that is in 7001. We have made the submission of the proposals easier by putting it online for Web-based distribution throughout the Corps. And we also have all of our districts involved now on the local level and helping local sponsors develop their proposals for 7001. We're hoping that this year's report will meet with more of the congressional intent that there was in 7001.

Ms. JOHNSON. OK. During consideration of that bill, I worked very closely with my colleague, Congressman Farenthold to draft language directing the Corps to conduct an assessment of the Atlantic and Gulf Intracoastal Waterways within 90 days of the bill's enactment. While the language was adopted and included in the bill, that assessment has not yet been completed, and we don't have the response. So it's kind of frustrating when you're trying to plan and look for studies that have time limits that don't come.

Ms. DARCY. I'm not sure what the status is of that report. I know that there currently hasn't been any funding allocated to start that report.

Ms. JOHNSON. No funding allocated? So the funding has to be specifically allocated for every individual thing?

Ms. DARCY. Yes.

Ms. JOHNSON. So when we draft a bill and have instructions and don't have a line item to pay for it, it will not be done?

Ms. DARCY. All of the studies that are authorized all compete for funding within the President's budget every year.

Ms. JOHNSON. What is your process for alerting the Congress that they're going to be ignored if the money is not there?

Ms. DARCY. When we submit the President's budget. In each of our accounts, our investigations account is the one that would fund studies; it would be at that point that Members would know whether the study is being funded or not.

Ms. JOHNSON. But there's no response to Congress when you get a mandate—congressionally mandated to do something and you don't do it, and you say the reason is not money, there's no way to get back to Congress and say it's not going to be done?

Ms. DARCY. We don't have a notification process for that currently. Perhaps we need to be more responsive to the requests and let Members know what is not being funded.

Ms. JOHNSON. What do you suggest that we do congressionally to get responses to what is congressionally mandated that's not done in the specific time that it's requested? And it's not just a mouth-to-mouth; it is mandated in law and you can't do it, what process do you use to notify the Congress that you're not going to do it?

Ms. DARCY. As I said, we currently don't have a process in place for that kind of notification, but it's probably something we need to look at, and maybe we can work with the committee on trying to be able to afford at least the notification to the Members.

Ms. JOHNSON. So you recommend we also congressionally put that in, to instruct you to give us a report on what you're not going to do and what you're going to do based on what's—what money is allocated?

General BOSTICK. Ma'am, if I could offer, this kind of gets back to the point I was raising earlier. You know, when you look at BRAC or you look at what we did after Hurricane Sandy and after Hurricane Katrina, we had a lot of upfront funding. We knew what it was going to cost, and we were provided the money that was required and we worked with the other agencies and we got the work done in a rapid pace. Currently we have a lot more work that needs to be done than we have funding. So part of where we need help is in the priorities of what we want to get accomplished. So what we try to do is look at the benefits in each of these projects and then prioritize.

But that's why the hurricane protection system in New Orleans took 40 years to build before Katrina hit, and then we finished it in 7 years. All of these projects are out there. We need help with priorities. Priorities like BRAC where the Congress said you will start in 2005, you will be done in 2011, and we were funded for it and we did it. Right now we have a lot of projects that the Members want done and limited funds to do that, and we're not ignoring the Congress. We're trying to do the best job that we can with the dollars that we have.

Mr. GIBBS. Thank you, General.

Mr. Rouzer.

Mr. ROUZER. Thank you, Mr. Chairman.

And Madam Secretary, General Bostick, thank you so much for being here today. You don't have an easy job, and I appreciate that and certainly appreciate you indulging all of us here.

Two major items that are on my mind: Wrightsville Beach and Carolina Beach. As you all know, Wrightsville Beach is approaching its funding limit, and I was just curious if you have an idea of when the Post-Authorization Change Report for our Wrightsville Beach project will be complete.

General BOSTICK. I do not. But we can follow up and we'll get that answer to you quickly.

Mr. ROUZER. I'd—just a question of curiosity: Are there a number of Post-Authorization Change Reports that you're working on? Is it a significant number? Just a few?

General BOSTICK. My sensing is it's a smaller number. We've put processes into place where we're able to mitigate and control the price increase as much as possible. When I was first Chief, it was a very large number. I can get you the number where it's at today, but my sense is it's much less than it was before.

Mr. ROUZER. I was just trying to figure out why it's taking so long. That's why I was wondering the number.

General BOSTICK. Each one of these have different issues, and it's very difficult to say why this particular one is taking long, but I will find out, and we'll get the details and provide it to you.

Mr. ROUZER. I appreciate that very much. Carolina Beach, as you know, they concluded their 50-year cycle a couple years ago, received a 3-year extension in the last WRRDA bill, the 2014 WRRDA bill. They were included in the appendix, but not in the report. And I'm still not completely certain I fully understand the criteria for making the full report versus being inserted in the appendix if you can help me out there a little bit.

Ms. DARCY. Carolina Beach is the one you're asking about? Carolina Beach is already an authorized project. In order to get into the report, you would need to be a project that needs authorization, and Carolina Beach does not.

Mr. ROUZER. OK. Thank you for that clarification.

Thank you, Mr. Chairman.

Mr. GIBBS. Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

Secretary Darcy, General Bostick, thanks again. Great to see both of you again. As you both know, I worked to include an important provision in WRRDA 2014 that created a water infrastructure P3 [public-private partnership] program. The goal of this P3 pilot is to identify project delivery alternatives to save costs and reduce the current backlog of authorized Corps projects.

In the Corps FY 2016 workplan that was recently released, I was pleased to see that the Fargo-Moorhead flood control project was listed as a new start. In its recent report to Congress on P3s, the Corps noted the Fargo-Moorhead project sponsors had developed a split delivery approach that will expedite project delivery with the local sponsors using a P3 structure to construct the diversion channel and the Corps constructing the dam. In that same report, the Corps listed the Illinois waterway navigation proposal second in a list of six projects being evaluated as a P3 demonstration project.

General Bostick, can you reaffirm that the Illinois waterway navigation proposal remains a viable project for the P3 pilot program?

General BOSTICK. It is a viable project that we're looking at.

Mr. DAVIS. In reference to the Illinois project in its report to Congress on the state of P3s, the Corps mentioned the progress needed to develop revenue generation authority in the Federal ownership and operations. Beyond needing another new start, can you elaborate on what more the Corps needs for this project to move forward?

General BOSTICK. When we looked at the different projects that were out there, Fargo-Moorhead was the furthest along in terms of investors and the tax base that they were going to use in order to fund it and the local community coming onboard and agreeing to it. I'm not saying that Illinois is not there and others are not there, but they were not as close.

I don't have the specifics on this project that we're talking about now, but I can get those and find out what other factors are needed. I think what we had to do this first time was to almost pilot one for lack of a better term. We had to push one of these P3s out and ensure that we have the right mechanisms within OMB, within Congress and with the Corps to understand it. And then I think we can cycle back and see where Illinois River and the others stand.

Mr. DAVIS. OK. And if we're successful in requesting another new start in this year's approach process, do you think the Illinois project has a chance to be included in the FY 2017 workplan?

General BOSTICK. I really couldn't answer that today.

Mr. DAVIS. Yeah, you can. [Laughter.] You can say yes.

General BOSTICK. I can say that we will certainly take a look at it. You weren't here for my opening I don't think, but I did talk about the importance of public-private partnerships and that it's part of the solution——

Mr. DAVIS. Just say yes.

General BOSTICK [continuing]. In my view going forward.

Mr. DAVIS. Just say yes.

General BOSTICK. We will do everything we can.

Mr. DAVIS. Just say yes. [Laughter.]

Secretary Darcy, I wanted to ask you about some recent actions taken by the Chicago Corps district that have been brought to my attention with specific regard to the Brandon Road lock and dam. Chicago district recently sent out a small survey to carriers and shippers with questions about lock usage in order to identify the impacts of a new lock at Brandon Road. Are you aware of the survey that I'm talking about?

Ms. DARCY. I am not, but——

Mr. DAVIS. There you go.

Ms. DARCY [continuing]. He's going to give it to me.

Mr. DAVIS. We'll take it down. [Passing witness a survey.] We'll give that one to you. I say small survey because I understand that only a total of nine were sent out, and with unanimous consent I'd like to actually enter it into the record, Mr. Chairman.

Mr. GIBBS. So ordered.

Mr. DAVIS. Thank you. What's concerning to me is that the survey sample did not include those folks who would be directly impacted by any changes in operations at Brandon Road such as towboat companies, major shippers and businesses with indirect ties to the lock like port shipyards and construction companies.

In addition, I'm told that the survey included several companies that do not even do business near Brandon Road and that two surveys were actually sent to the same company under two different names. And as you know, Secretary Darcy, Brandon Road is a vital commercial lake between the Mississippi River system in my district borders and the great lakes. And I'm sure you'll well understand any changes to the structure operation at Brandon Road could have a significant impact on the inland maritime industry and my constituents.

So first, can you explain for the committee the methodology the Chicago district used to determine the entities that this survey was sent to?

Ms. DARCY. I cannot. I don't know if the general——

Mr. DAVIS. General Bostick?

General BOSTICK. My understanding is they contracted with the University of Tennessee's Center for Transportation Research. And their effort and guidance was to go out and get a shipper response survey from shippers, those on the docks and carriers. So the interviews included shippers and vessel operators, and there were 132 total responses that were involved in the survey.

Mr. DAVIS. How many?

General BOSTICK. 132.

Mr. DAVIS. OK. My records show that only nine were sent out. That's not the case?

General BOSTICK. That's not my understanding. But since there's a misunderstanding here, I will follow up and find the details and get back to you.

Mr. DAVIS. OK. You could do that and say yes on the Illinois waterway question, too. [Laughter.] My understanding is that only nine were sent out to address some OMB issues and also that it was necessary to expedite this process. I'm just concerned that the industry was not consulted prior to the Corps utilizing this contractor to conduct this survey, and I just want to make sure that both of you could commit to me today to work to get answers to these questions, clear up any miscommunications that I may be getting and then also work to ensure that a better sample of stakeholders that utilize the Brandon Road facility are included in any attempts to address a survey relating to that specific project.

General BOSTICK. We will do that.

Mr. DAVIS. And you could still say yes. I've got time.

Mr. GIBBS. Thank you, Mr. Davis.

Mr. DAVIS. I yield back.

Mr. GIBBS. Mr. Sanford.

Mr. SANFORD. Two quick thoughts. One, I think it's appropriate to praise the administration when they get it right and condemn them when I think they got it wrong. And I just want to say thank you for what you all have done with regard to the port in Charleston. If you look at the port in Charleston, it really is a national resource given the number of container ships that go in and out of

that facility. If you look at post-Panamax and what's going to happen with the widening of the Panama Canal, I think its impact will be profound. And it's going to have a mighty impact on the Southeast as you serve the heartland of America from a different access point.

You know, it has basically $50 billion of economic activity not just in our State but across the region, more than 200,000 jobs, direct jobs tied to the port. So it's a significant facility, and if you look at the process that the Corps has gone through, originally it was estimated I think it would take 7 years and $20 million to go through this next leg that we're in right now.

In essence both of those numbers have been cut in half. Roughly 4 years and $11 million. You guys have worked in I think awfully cooperative ways with State and other Federal agencies in some ways that maybe weren't done in the past. So I want to say thank you for what you've done on that front. I think it was well done.

And as you look at the process going forward, I guess my question would be this: Are the lessons learned that came out of what's happened in Charleston that you might apply it with other port facilities or harbor facilities around the country in terms of the expediting, the tax savings and the cooperation that we've seen thus far in Charleston?

Ms. DARCY. Congressman, I think we're looking to what we've done in preparing the Charleston study report to help with other reports that we'll be doing. As you know, this particular project had a great deal of attention on it; it was on the President's "We Can't Wait" initiative which helped us in many ways to get a focus on what was required and trying to get it, again, completed earlier than the traditional way of doing things. I think we can take those lessons learned to other port deepening projects.

General BOSTICK. One of the lessons as I'm sure you know, was that we had to work very closely with NOAA [National Oceanic and Atmospheric Administration] and look at the priorities they had and the priorities we had and how could we move Charleston up. And this gets back to the point I made earlier, the 3x3x3 really applies to the Corps of Engineers in law, but not necessarily other organizations that have their own very important priorities.

So one of the things we've set up is regular meetings. I've met with Vice Admiral Brown at NOAA, and we're looking at these priorities in certain areas. I think Charleston was another one of those that was a good example of how we could work together to see what was the Nation's——

Mr. SANFORD. Is there anything that stakeholders tied to the facility in Charleston ought to know or be aware of moving forward, any next steps that deserve further elaboration or color?

Ms. DARCY. We're on track with the Chief's Report for Charleston Harbor. We also put money in the 2016 budget for Preconstruction Engineering and Design for this project. I think the Port of Charleston did a pretty good job in getting this one over the finish line.

General BOSTICK. Yesterday I spoke to our planners, and these are young folks on who we have invested a lot of money so that they can help us with planning modernization. And part of what they're doing is looking at our centers of expertise, and one is the

world-class deep draft planning expertise, and that was key in Charleston moving forward. So we've developed great expertise in the Corps and we're looking 10, 20 years down the road at how we continue to train our people.

Mr. SANFORD. Last question in the minute I've got. And this is tied to the annual Harbor Maintenance Trust Fund. For a while it seemed the administration was underfunding. Then Congress came back, I guess, in WRRDA 2014, said we need basically a description of future costs so that we're not caught unaware or behind and that there was to be a report issued I think each year as a consequence of WRRDA 2014. Was that in your 2017 request, report back to Congress on that front? Could you, again, fill me in on where we are on that?

Ms. DARCY. On the Harbor Maintenance Trust Fund?

Mr. SANFORD. Yeah.

Ms. DARCY. I'm not aware of our report to Congress, but I will double-check and see what the requirement is and what the status is of that report for the Harbor Maintenance Trust Fund, not the Inland Waterways Trust Fund, right?

Mr. SANFORD. Right. Right. I think it's dictated by WRRDA 2014 if I'm not mistaken. I'm just curious to see where that stands. If you'd come back to me, I'd appreciate it.

Mr. GIBBS. Mr. Babin.

Dr. BABIN. Yes, sir. Thank you, Mr. Chairman.

I have a couple of questions here. Last year I asked about what the Corps was doing to address the Bayport Flare which is a navigation issue in my district on the Houston Ship Channel. And I understand that a design efficiency report is nearing completion by the Corps, and I'd like to know what the timeframe is for completing the report and who currently has authority to approve this report. And also once it is finalized, will there be any other requirements or actions required by Congress to enable the Corps to budget for and maintain the report's recommendations, and if there's any further action required by Congress and when will we receive the information for our consideration? And I guess I would direct this to General Bostick.

General BOSTICK. We regret that this has been delayed for a number of times, and we appreciate you bringing it up. I have visited the port and talked to the leaders there, and our team has worked very closely with them. We expect that the report will be in the headquarters by March of this year and that we should have approval of the project deficiency report by May. We will still need approval of the Post-Authorization Change Report, which is an increase in cost, and we will ultimately need funding in order to move forward.

Dr. BABIN. Well, it's a safety issue in our minds. Also, I would like to ask—it's my understanding that there have been a number of delays in completing the 902 report for the Houston Ship Channel project and how the delay might impact the ability to address this Bayport Flare problem if modifications need to be made by Congress and specifically I'm concerned that until the 902 report is completed, the project authorization is modified, there could be limitations on construction of critical elements of the project, which

could affect the viability of the entire Houston Ship Channel, the entire navigation system.

And I would like for your to please explain the purpose for the ongoing 902 report, the schedule for completion of the 902 report and the impacts to the project if the 902 limit is not resolved in the upcoming WRDA bill. And simply put, would more flexibility under 902 help you to address these critical safety issues that we're concerned with?

General BOSTICK. The 902 report is also on a timeline that we expect it to be submitted in March of 2016. I think we can do more work to be efficient in how we get it processed, and we're trying to do that. But that report will be here in March, and by the end of April, if there are no comments, we believe that we can start the process of moving that to Congress.

Dr. BABIN. We certainly hope so. We had a collision in our channel last year. I can't blame it on the Bayport Flares, but it certainly could have involved something in that regard so that this really and truly is a possible safety issue. And we hope that this will be taken care of pretty quickly. So March or April is when we can expect it then, huh?

General BOSTICK. March or April we should be finished with it at the headquarters. And assuming there aren't any significant issues or comments, then we will start the process of moving it to Congress.

Dr. BABIN. OK. Thank you, General. I yield back the balance of my time, Mr. Chairman.

Mr. GIBBS. General, I just want a little bit of clarification on that. The 902 on this—that's for construction. This is operation maintenance. So it shouldn't really be in that 902 issue, is that correct?

General BOSTICK. No, it is construction.

Mr. GIBBS. OK, well, we think you already have the authority to do all this already, without having to do a 902. That's an opinion of mine.

General BOSTICK. OK. Then we'll clarify it with our attorney.

Mr. GIBBS. OK.

Dr. BABIN. We thought so too, Mr. Chairman, at first. And then this is the conflicting story that we're getting. So we hope that this gets——

Mr. GIBBS. Yeah. On code 33, U.S. Code 562 you might want to look at, I guess. Mr. Rokita?

Mr. ROKITA. Thank you, Chairman, for holding this hearing. I appreciate the witnesses being back before us. My apologies for not hearing your testimony. Frankly I was in another, another hearing. Not as bad as being a Senator I guess, but we still get conflicted a lot of times. So apologies if you have to restate some of this, General. But let me start here. Representing the—and of course, the inland waterways are very important to us and very important to the Nation, as you know. We feed the world through the inland waterways in my opinion. And if any of these locks or dams go down, not only people's livelihoods, but really their safety and well-being is affected. So I'm looking at, you know, through the appropriations process and through my other committee budget looking through fiscal year 2016 appropriations, I see that we approved $405 mil-

lion for construction of projects on the system. With this appropriation, the Corps announced the funds would go to construct four lock projects, Olmsted, Lower Mon [Monongahela] 2, 3, and 4, Kentucky lock and Chickamauga lock. However, in the fiscal year 2017 budget request, $206 million in funds are requested only for the Olmsted project, if I'm reading that right.

So my question is this: Are you planning on doing work on those locks with the fiscal year 2016 money? And then you're not going to lay off the workers when you get to fiscal year 2017. So what—or are you? Or if so, what happens to the projects? I'm not understanding how the projects continue with the differential of funding.

Ms. DARCY. The 2016 workplan, you're correct, had the four projects funded in that. And then in 2017 we are only funding Olmsted.

Mr. ROKITA. Yeah.

Ms. DARCY. Because of the trust fund balances. But the work will not completely halt on the other projects. They just will not be funded in 2017 because they are, they don't compete for the funding that we have available for the inland waterways.

Mr. ROKITA. They don't compete why? Because it's not needed in your opinion? It's not——

Ms. DARCY. No, sir. The benefit to cost ratio of those projects does not compete within the budgeting process. We usually look to a benefit to cost ratio of 2.5 to 1 in order to budget projects. And those projects do not meet that criteria.

Mr. ROKITA. The 2.5 to 1 what? I'm sorry?

Ms. DARCY. Benefit to cost ratio.

Mr. ROKITA. OK.

Ms. DARCY. That's how we prioritize projects in the budget. The benefit to cost ratio is 2.5 to 1 at a 7-percent discount rate.

Mr. ROKITA. What happens to the condition of the locks? I mean, the benefit to cost ratio doesn't—those, these locks don't pass that except for one. Is the work done at that point? Does it just get put on hold? Does it languish? How hard is it to start up a project after it's put on hold? I'm, I just need some clarification.

Ms. DARCY. You want to take that one?

General BOSTICK. We wouldn't just walk away from the project, but we would do minimal work. And at some point if funding was not available, we obviously would have to demobilize the contractors. And then, we would not be managing the project. We would have a project that is unfinished. And this gets back to an earlier conversation I had before you came in here. There are projects that we have completed very rapidly in short periods of time with upfront funding. And we have great examples of how we can do that. In these examples money is stretched over a long period of time. And therefore their benefits drop. And therefore they are no longer competitive. And that's where we are in some of these projects. Because of our model on how we are able to calculate, and the lack of efficient funding, many of these projects either take a long time to complete or are not completed at all.

Mr. ROKITA. OK. So I'm again, I'm illustrating a longstanding problem, funding over multiple fiscal years. And in your opinion has Congress been helpful or hurtful on the way in trying to solve that problem?

General BOSTICK. I gave examples of where we're successful. BRAC, baseline realignment and closure. I mean the Congress, it was an up or down vote. I'm from California. We didn't want to see Fort Ord close, but it closed. There was a decision that "Here are the priorities. Here's the basis. Here's the money. You have 7 years to accomplish the mission." And the Corps was able to do it. No other organization in the world could have done that. So, and the hurricane storm damage risk reduction project after Katrina. No other country in the world could have done what the Corps did and what the Nation did, because we came together within the interagencies. I do think we need upfront funding. We need priorities. And then we need the interagencies to work together as if we have a crisis and say we're going to accomplish these missions.

When I came back from China, the Minister of China Water Resources said, "We're learning from the United States. We're about 100 years behind you but we want to catch up." So our plan is, we're going to do 172 projects with $600 billion and we're going to finish it in 7 years. And he looked at me and said, "What's your strategic plan?" And I could not repeat our strategic plan, because we don't have one in that context. We have a collection of projects that are supporting many, many districts in many, many States. And we're trying to do the best that we can to manage those projects in a strategic manner. But in this form of decisionmaking, these projects take a long time. Their BCR [benefit to cost ratio] drops and then they get very difficult to fund.

Mr. ROKITA. Thank you. And Mr. Chairman, with your indulgence, I know I'm over, but one quick followup. It could be answered in 5 or 10 seconds. The formula you speak of, Ms. Darcy, was that congressionally driven, or was that, is that something that the agency or others wholly came up with? The cost-benefit formula process that these locks have flunked now, who derived that?

Ms. DARCY. The administration does that in the evaluation of the funding.

Mr. ROKITA. At our insistence, or just the way this administration decided to prioritize things?

Ms. DARCY. Well, it's been since the 1980s that——

Mr. ROKITA. Yeah, that's what I'm asking. I'm new to this subcommittee so I'm again, trying to learn as best I can. Thank you, Chairman.

Mr. GIBBS. Oh, she left. I guess it goes to me. I was going back to your side, but Ms. Frankel left. OK. General Bostick—and Secretary, this might be kind of both of you. But in General Bostick's testimony you talk about national security being a top priority. Which, I'm glad to hear that. But to follow up on that kind of a question, I want to first thank both of you for fixing the flawed economic analysis on the Soo lock project, because I had some thoughts on that. So where are we? Because I believe that I would say the Soo lock project, there is a national security issue. And so describe your plan in the budget to maintain the 48-year-old Poe lock and the 73-year-old MacArthur lock. What's the status of the work on the Soo locks?

Ms. DARCY. I think that we're currently re-looking at the economics for this, for the new Soo lock.

Mr. GIBBS. What was that?

Ms. DARCY. I think we're, updating an economic analysis for the new Soo lock.

Mr. GIBBS. You know, this should take 5 minutes, to do an economic analysis on the Soo locks, I would think. So what's your timetable for that?

Ms. DARCY. I don't know, but I'll get back to you soon.

Mr. GIBBS. I mean, how much figuring does it take to figure out that the Soo locks, if they go down, that's a huge economic impact? Because you can't get into Lake Superior and the other Great Lakes. I mean, I think during World War II, we had a garrison guarding that up there, because it was so important. So you know, I guess I just don't really want to hear too much of "The economic analysis is going to take this long and this long." It just doesn't make sense to me. I mean, I think we could sit down here in 5 minutes and get that done. But it's just my opinion. I'm probably getting in trouble here, but that's my opinion. And General Bostick, you mentioned the national security. I think that's one area. And I've said this to your leadership. You know, it'd be nice if the Corps would identify these issues. And you're just talking about a strategic plan. And I think I said this to General Jackson when he was in my office. You know, the Soo locks I would think ought to be a national priority. The flood wall down in Houston-Galveston ought to be a national priority because we've had hurricanes hit there. The whole Eastern United States runs out of gasoline. And so if you want to develop a strategic plan, that would be my suggestion.

I want to talk a little bit about the annual report, Secretary Darcy, didn't contain some, some project modifications that have been routinely included in WRDA in the past. So these would include proposals for modification to the Houston-Galveston Channel project. To include a nonfederally constructed channel of segments, or Federal maintenance modification of the Texas City Channel deepening project. To remove impediments under navigation to enable use of certain property adjacent to the project for development of a container terminal, and the modification of the Cleveland Harbor project to provide for Federal participation of the upland placement of maintenance, such material or such material as deemed not suitable for Oakland Lake placement by the State of Ohio. The report indicates the proposals were excluded from the report's main table on this basis: they do not meet the purpose of the annual report to identify projects for authorization, or modification to existing projects.

This is puzzling to me since the proposals clearly meet that criteria of project modifications related to the Corps of Engineers navigation mission, requiring congressional authorization as capable of being carried out by the Corps of Engineers. First, why exactly were they not included in the annual report for congressional consideration for WRDA? And second, your own report states that the act directs the Secretary to include, among other things, proposed modifications to authorized projects that meet the criteria. So I would like your explanation to the subcommittee. Where in the law is the Corps of Engineers asked to judge submitted proposals beyond determining if such project modifications meet the standard criteria?

Ms. DARCY. As you've outlined, the project you've listed, we don't believe met those criteria. In particular, I know of your interest in Cleveland Harbor. And in the instance of Cleveland Harbor, the modification that was asked for is one that is, that in order to be in the report it would need congressional authorization. The modification that was asked for would be a modification to the Federal Standard. And the modification to a Federal Standard would have to be a rulemaking, not a legislative action.

Mr. GIBBS. Well, OK. So which one of the five criteria didn't it meet?

Ms. DARCY. It doesn't need to be authorized.

Mr. GIBBS. It doesn't need the authorization?

Ms. DARCY. Right. Because as you know, Cleveland Harbor is already an authorized project for the Army Corps of Engineers. What was asked for was that there be a change to the Federal Standard for the Port of Cleveland. And a change to the Federal Standard for the Port of Cleveland does not require authorization or legislation. That's, so that's why it wasn't in the report.

Mr. GIBBS. Are you willing to work with the Port of Cleveland to come up with a proposal for the next report to, you know, to resolve this issue?

Ms. DARCY. Well, I think that the criteria in 7001 would need to be changed in order for this kind of project to be included in the report.

Mr. GIBBS. So that means you're not going to work with the Port?

Ms. DARCY. No, we—with the port or the committee? We work with both. But you know, at this junction, the requirement for 7001, the modification is not a modification that meets the criteria. Because the criteria said it needs an authorization. What was asked for was a change in the Federal Standard. A change in the Federal Standard doesn't need authorization. In order to change the Federal Standard, we would need to do a rulemaking——

Mr. GIBBS. I might want to really ask in a different way.

Ms. DARCY. Sorry?

Mr. GIBBS. I might want to ask in a different way.

Ms. DARCY. You mean ask for the—the question to change?

Mr. GIBBS. Well, the report. Because if it's asked in a different way, it might not be a modification that would require that.

Ms. DARCY. That's possible.

Mr. GIBBS. So, OK. Let's see here. Ms. Frankel I'll go back to you.

Ms. FRANKEL. OK.

Mr. GIBBS. Then we'll come back.

Ms. FRANKEL. OK.

Mr. GIBBS. Go ahead.

Ms. FRANKEL. Ready, OK. Thank you so much. I want to again thank you all for your service. I want to just go back to Everglades restoration, which you know is so important to Florida. And I want to thank you for your commitment to its restoration. And thank you for the Chief's Report for the Central Everglades planning project. And I appreciate it's in the report today. Question about the budget. The FY 2016 workplan added $7 million to Everglades program operation and maintenance. And then the, but the FY

2017 budget drastically reduces the Everglades operation and maintenance funds, to almost $300,000. Could you explain that?

Ms. DARCY. What's included in the workplan, the additional $7 million for operation and maintenance is money that we believe is our Federal share. As you know, O&M for the Everglades is unique in that it's a 50–50 cost share for operation and maintenance between the Federal Government, through the Corps of Engineers, and the South Florida Water Management District. And the additional $7 million will go to our share of that operation and maintenance. That is, that the local sponsor had paid in the past, which some have viewed as a sort of a reimbursement. I want to stress the fact that we recognize that in both 1996 and in 2000 we made a commitment to fund the operation and maintenance at a 50–50 cost share, regardless of whether it is considered a reimbursement. And that's what we will continue to do.

Ms. FRANKEL. Because is $300,000 sufficient?

Ms. DARCY. For 2017, yes.

Ms. FRANKEL. It is? OK. Next question. As you know, getting a—did you want to add something to that?

Ms. DARCY. A clarification. You look at the additional $7 million and then you look at $300,000.

Ms. FRANKEL. Yeah, right.

Ms. DARCY. Because we were able to fund it at an additional $7 million in the FY 2016 workplan, which states that it includes funds for some costs that may not be incurred until FY 2017, all we would need beyond that in 2017 is $300,000.

Ms. FRANKEL. OK. That's what you're saying. As you know, getting the Chief's support has been arduous in some instances, but who's counting the years, right? And we're grateful when we get one. Included in the Chief's Report, the Corps does an economic benefit-cost analysis. And it has to be successful in order to get your Chief's Report. Question. Why—it seems though that the Office of Management and Budget does a complete different analysis which could actually prevent a project that is authorized by the Congress from making it into the President's budget. Why is that?

Ms. DARCY. When projects are authorized, when there is a Chief's Report and the Congress authorizes a project, the economic analysis that is done on that calculates a benefit to cost ratio. And that benefit to cost ratio is based on a 3.125 discount rate. When the Office of Management and Budget evaluates projects for funding, including in the President's budget, that benefit to cost ratio is evaluated at a 7-percent discount rate. So the budgeting discount rate is different from the authorization discount rate that's used.

Ms. FRANKEL. But why is that? I mean, why, why go through all—I mean, you go through so much work to evaluate these projects, and then it seems like it was for naught. I don't understand, why don't they use the same analysis?

Ms. DARCY. Well, the analysis that we use is based in statute. We are required to, when we do our evaluations for authorization, use the current discount rate, which right now is 3.125.

Ms. FRANKEL. OK. Well, that may be something that we need to take a look at. And I think I have—I'm going to just get back to one of the questions I asked before that I had to cut short, which had to do with the questions from the American Shore and Beach

Preservation Association in terms of Coastal Protection and Beach Restoration. Is it possible for you to produce a list of 10-year priorities or 10-year capabilities for all the authorized coastal projects across the country? Is that something that would, could be done?

Ms. DARCY. Do you mean prioritized in terms of the need for funding to meet the——

Ms. FRANKEL. Do you have a huge list, what the priorities are?

Ms. DARCY. We do when we look for budgeting from year to year, so I'm assuming that we probably do.

Ms. FRANKEL. OK. Maybe if we could get that.

Ms. DARCY. OK.

Ms. FRANKEL. And I want to also just reemphasize the request for a greater stakeholder involvement in deciding which projects to fund. And I thank you. And thank you, Mr. Chair.

Ms. DARCY. An aside. I spoke to that organization yesterday and that's one of the concerns they raised.

Ms. FRANKEL. OK. Thank you very much.

Ms. GIBBS. Mr. Graves?

Mr. GRAVES OF LOUISIANA. Thank you, Mr. Chairman. General, could you give us an update on the status of dredging and draft restrictions on the Lower Mississippi River?

General BOSTICK. Yes, I can. This has been a significant issue for the people in the Lower Mississippi Valley. And our leadership has been focused on it on a daily basis. The current situation is, we have exhausted or used all of the dredges that we have available internally and all of the dredges that are available in the industry. So currently we have the McFarland, the Newport, the Lindholm, the Terrapin and the Morgan. These, these are all ongoing dredges that are doing work in that particular area. And we've had to make tough decisions to bring dredges from other parts of the country. But currently we're doing the best that we can to manage it.

Mr. GRAVES OF LOUISIANA. General, I first want to commend you for all the mobilization that's happening right now. I know that in Southwest Pass, you do have four or five dredges that are all working down there trying to restore channel depth. I don't have statistics to verify this. But it just seems to me based on recollection that over the last several years we've seen more draft restrictions put on the Mississippi River than at other periods of time. And again, I don't know if that's accurate or not, but it seems to be an uptick. In the President's 2010 State of the Union Address, he talked about his objective to double exports by 2015, last year. And that goal wasn't anywhere close to being hit. There was not a comparable investment in dredging of the Mississippi River to maintain channel depths. And if my recollection is correct that we've seen more draft restrictions on the Mississippi, what we refer to as America's Commerce Superhighway, one of the most important navigation channels in the country—isn't there a connection there between increased investment in maintaining stability and predictability on that navigation channel and our ability to double exports?

General BOSTICK. Absolutely. And we talk about this all the time. I think we're very fortunate to live in the country where we do, with two coasts and the Mississippi River and all that it brings. It's connected to the richest farmland. We've got 12,000 miles of in-

land waterways, more than the rest of the world combined. So our ability to stay economically viable depends on the dredging.

Mr. GRAVES OF LOUISIANA. And the Corps is, obviously, as I see your burn rates, you are going to run out of your FY 16 money well before the end of the year. Could you talk just briefly about efforts to ensure the future of the channel, as we hit the traditional high-water period for and low-water period for the remainder of the year?

General BOSTICK. It's a daily management effort. We've got folks at the national, the regional and local level. We work as teams and we share our resources. And we prioritize the effort. And Southwest Pass is the main effort right now. And that's why we had to take resources from other locations.

Mr. GRAVES OF LOUISIANA. General, I know you're aware of the Harbor Maintenance Trust Fund and the, and the situation there where in effect users are charged a tax under the auspices of using it to dredge. Do you have any concerns about the—I guess I'll use the term "truth in budgeting" perhaps and the fact that that tax is charged to users, yet is actually diverted for other areas of Government while we struggle to maintain the authorized depth of navigation channels? And of course in Louisiana, something you and I have discussed extensively is, is this diminishing Federal Standard and beneficial use issue, whereby we have the greatest rate of wetlands loss, coastal wetland loss, in the continental United States, yet this material is often being dumped into the disposal areas in the deep water of the gulf rather than being used for ecological benefits and restoring the coast. So again, you dedicate the harbor maintenance tax, you do something, you lockbox it effectively. You have more money for dredging. You're able to expand the Federal Standards. You're able to truly do restoration work, as opposed to wasting this important racehorse. There's a question in there somewhere.

General BOSTICK. This year we have more money from the Harbor Maintenance Trust Fund than we've ever had. And we've talked about could we use more? I mean, that's really the Government's decision as it balances priorities. I can't really talk to where that money is going and who it's being used for, and whether that's more important than the work that we're doing on inland waterways. I can just say the inland waterways are important. We're dredging the best that we can with the dollars that we have. And those are precious dollars that get used very quickly.

Mr. GRAVES OF LOUISIANA. Last question. Secretary Darcy, you were in all the meetings for the 2007 Water Resources Development Act Conference Committee. In that act, there was a provision that authorized a restoration and closure of the MRGO [Mississippi River Gulf Outlet], at 100 percent Federal cost. The State of Louisiana had to sue the court. And again, I'm going to follow the law. The district court did rule in the State's favor, and indicated that as the law says, it's 100 percent Federal cost. Yet the Corps has chosen to appeal the decision. I'm struggling with how you were in the room and clearly understood the intent of Congress, yet the Corps is continuing to pursue an appeal on that accurate decision, ruling by the district court.

Ms. DARCY. I think the provision is up to interpretation, and that's why it's in the courts. Because of whether it was 100 percent Federal for entire project or whether it was 100 percent Federal for the study.

Mr. GRAVES OF LOUISIANA. I'll just say again that you were in the room. And——

Ms. DARCY. And so were you.

Mr. GRAVES OF LOUISIANA. I was. Which is why, which is why the lawsuit was filed.

Mr. GIBBS. Ms. Norton?

Ms. NORTON. Thank you again, Mr. Chairman. Secretary Darcy, I think the administration deserves a lot of credit for how you handled something of a hostile takeover by gunfire in, I think it was Princeton, Oregon, the Malheur National Wildlife Refuge. I'd like to know more, particularly since firearms cannot be carried on lands owned or operated and maintained by the Corps of Engineers. Although there are always attempts to reverse that policy. I would like to know what you can tell the committee about the background of that issue. Was the Corps consulted? What role does the Corps have when it comes to law enforcement? How are we going to keep this from happening again?

Ms. DARCY. Congresswoman, on Army Corps of Engineers lands, our property, the only allowable firearms are for hunting. And the firearms are not allowed on Corps property to be loaded. What happened in Oregon at the National Wildlife Refuge was incredibly unfortunate for everyone, especially when there's a loss of life. But at our facilities our Park Rangers aren't armed. We don't have law enforcement on site. And we believe that in order to have the best recreation experience for our visitors to our facilities is to not allow loaded firearms on our facilities. We want people to have a safe and enjoyable experience. It's outdoor recreation. People are supposed to be having fun, not be worried about their safety.

General BOSTICK. I'd only add that we do not carry firearms because we're not congressionally authorized to be full Federal law enforcement officers.

Ms. NORTON. Well, if someone came and you could see that they were carrying a firearm that is not allowed, and your, your unarmed agents were there, what could they do? What would they do in that event, if you are to prevent another such incident? Yes, you're right——

General BOSTICK. They would——

Ms. NORTON [continuing]. With the loss of life, for example, that occurred there, despite what was otherwise, it seems to me, handled very well.

General BOSTICK. This has happened before. And we call the Federal law enforcement. And they're quick to respond.

Ms. NORTON. And who is that?

General BOSTICK. Our Park Rangers would call the local police.

Ms. NORTON. So what are you doing to prevent another such incident since you've seen it? The local community was very disturbed. Did not want this, this controversy in its community. Apparently got on very well with the hunting that goes on here. But you've seen what you had to do. You waited them out. You handled it very intelligently. But of course, you have whole States in the United

States that were carved out of Federal land. And so there will be a few people who decide that they want all that land back. That may be impossible. I submit it is impossible. But you have had, forgive me, a shot across your bow. So I'd like to know what precautions you are taking to keep the Corps and the Federal agents from having to be involved in this matter again. A matter like this again.

Ms. DARCY. Well, because we are one of the only Federal agencies that do not allow firearms on our facilities, we are going to continue to protect our facilities from firearms being allowed.

Ms. NORTON. Did your rangers quickly notify——

Ms. DARCY. They call local authorities when there's an incident.

Ms. NORTON. Well, but could they, did they know that these people—they come on to, to—they come onto the wildlife preserve. They're bearing arms. Were they bearing arms so that the rangers could see them? And did they call the authorities right away?

Ms. DARCY. You are allowed to bring firearms onto those facilities. You are not allowed to——

Ms. NORTON. I'm talking about the firearms they had that you said were not allowed.

Ms. DARCY. No, they're not allowed on Corps of Engineers facilities. They are allowed on other public lands.

General BOSTICK. And the example you're talking about was not a Corps facility.

Ms. NORTON. It was the National Park Service?

Ms. DARCY. It was a wildlife refuge, the one in Oregon, yes.

Ms. NORTON. Thank you very much, Mr. Chairman.

Mr. GIBBS. Mr. Rokita.

Mr. ROKITA. Thank you again, Chairman. I want to focus a little bit on the Harbor Maintenance Trust Fund myself. Can you provide the committee a detailed list of what the Harbor Maintenance Trust Fund account spends its money on?

Ms. DARCY. Yes, we can provide it.

Mr. ROKITA. OK. What's a reasonable deadline to get that? I'm not trying to be——

Ms. DARCY. No, I'm trying to think when.

Mr. ROKITA. Sometimes when we ask questions like this and they yes it's all very nice, and then you don't hear from anybody for 6 months.

Ms. DARCY. OK. Well——

Mr. ROKITA. I just want to be reasonable.

General BOSTICK. Just to clarify, you're talking about the money that we review from the Harbor Maintenance Trust Fund and what it's spent on? Not the collective money, the $8 billion or so?

Mr. ROKITA. Yeah, what you are spending the money on.

Ms. DARCY. What we're spending it on.

Mr. ROKITA. What you—thank you. Yeah, for that clarification, which leads into the problem Mr. Graves was talking about. And then, and I'll lead into it as well.

Ms. DARCY. Just a clarification. Part of the Harbor Maintenance Trust Fund is used on the Saint Lawrence Seaway. We can provide you all that information.

Mr. ROKITA. Yeah. I'm trying to understand what you're spending, what you're spending the money on. Do you feel you—and what's a reasonable date? A month from now?

Ms. DARCY. Yes.

Mr. ROKITA. OK, thank you. Do you feel you need any clarification in the authorizing law to help direct the spending better to meet your inland waterway needs? Can we write the next water bill with more specificity in any way that would help you complete your mandate?

Ms. DARCY. I believe in the last WRRDA bill, the Congress added some more additional ways that they felt the trust fund should be used. And, and I know that in the past there have been many who have felt that the use of the trust fund should be expanded beyond operation and maintenance.

General BOSTICK. Right. One area I thought was helpful. Often we couldn't fund some of the Great Lakes and some of the small harbors. And some of the provisions were a certain percentage that would go to those. And we're now able to do that. So——

Mr. ROKITA. Is that the 71 percent you're——

General BOSTICK. That's the 10 percent.

Mr. ROKITA. The 10 percent. And then there's also the 71 percent that we did put in the last water bill.

General BOSTICK. Right.

Mr. ROKITA. That 71 percent of the trust fund had to be spent on——

General BOSTICK. Right, right.

Mr. ROKITA [continuing]. Inland water.

General BOSTICK. I was talking about the allocation of the funds that we have. And we'll get that list to you. We're required to put 10 percent in Great Lakes and the small harbors. And we did not have that guidance before that. But that's again, the Congress and the American people helping to set the priorities.

Mr. ROKITA. So with regard to that, the 10 percent and the 71 percent, it—and I'll put my Budget Committee hat on here for a minute. I don't see the President's budget proposal asking for that 71-percent expenditure in those areas that we required in the last water bill. I see a percentage that appears less than that, significantly less than that. How do you explain that?

Ms. DARCY. The $951 million that's in the President's budget request for 2017 is what we have determined is affordable from the overall trust fund for fiscal year 2017. And it's not 71 percent. I'm trying to recall what the exact percentage is. But it's not 71 percent.

Mr. ROKITA. Oh, yeah. But the law says that 71 percent of last fiscal's collections are supposed to be spent specifically in these, you know, in the areas we detailed. And you've just said, "Well, we've allocated a percentage amount that we think is responsible." What's—there is a huge difference there obviously. The law says something. And if—I don't want to put words in your mouth. You can correct me if I'm wrong. You're saying you did something else? Or is the law not clear?

Ms. DARCY. No, the President has discretion in his budget to determine the amount that's affordable from the trust fund.

Mr. ROKITA. Even though the law says, "You shall spend 71 percent." Is there like a comma or a clause afterwards that says "Unless, at the discretion of the President, he can not do that"? And to be sure, on record, I will say that I bet the appropriators, Republicans and Democrats are complicit in this, OK? But if you believe that the President's budget is a tool for, a tool of leadership and sets tones and all that, why not just set it at 71 percent? It's what Congress intended, unless I'm misreading the law.

Ms. DARCY. No, I believe the 71 percent was in the statute.

Mr. ROKITA. Right. So it's not a matter of taking more money than the trust fund has, because it's a percentage, it's 71 percent of whatever was collected. So it's not that. So what—I mean, why don't we just do what the law says? We're a country of laws, right?

Ms. DARCY. Yes.

Mr. ROKITA. It's what I do for a living these days. All right. It also seems to me—here's another question—that the money that is at Treasury for this trust fund is actually being spent in other places? Or is it, is there still a stack of money there the tax has collected? And if you're not going to follow the law, I would say embezzled, from taxpayers to use on other things? That's embezzlement. But the money is in the Treasury, right? Or no? Or has it been spent on other things?

Ms. DARCY. It's in the Treasury, yes.

Mr. ROKITA. So there's a—the money is there. It's accounted for. It's just it seems to me being used to offset spending elsewhere. And no one wants to give up that egg, because now it's harder to balance. I mean, I do this every day. I get that, how hard that is. But you think the money is there. It's not been spent on other things?

Ms. DARCY. No. I think the way you described it is accurate, that it has been used to balance other things.

Mr. ROKITA. No, no, no. But it's there. It's physically there. It's not so you can balance on paper. Or has it been actually spent on other things?

Ms. DARCY. I believe it's there. But if I need to clarify for you——

Mr. ROKITA. Yeah.

Ms. DARCY [continuing]. I will do that.

Mr. ROKITA. And again, I'm not asking you a trick question, but I would like a direct answer to that. I just don't know. And if I have to ask Treasury, you can——

Ms. DARCY. OK.

Mr. ROKITA [continuing]. Pretty quickly tell me to ask Treasury. You don't have to analyze that for 6 months.

Ms. DARCY. Well, maybe I need to ask Treasury.

Mr. ROKITA. Yeah. Thank you.

Ms. DARCY. OK.

Mr. ROKITA. Mr. Chairman, I yield. I appreciate the witnesses today.

Mr. GIBBS. All right. I've got a couple more questions. General Bostick, in your testimony, you talked about the P3s and your support for that. Even though nothing's really happening. And this ties into what I said in my opening statement about 40 percent of the implementation guidance hasn't been developed by the Corps. And

I believe P3 should be in that category. Can you extrapolate on where we are with the implementation guidance?

General BOSTICK. The implementation guidance on the P3?

Mr. GIBBS. Well, P3s, and then it ties specifically I think overall, you've got about 60 percent of it done. So you've got 40 percent more to go. That's my understanding. And I think P3s would be in that category. I know you, I know you put out a guidance on P3s that was kind of not guidance in my opinion. You just said, "We'll develop a guidance when funds are appropriated." I don't really think that's guidance.

General BOSTICK. We put the implementation guidance out on P3s. And it has about as much detail as we can, moving forward. I think that the work that we're doing with Fargo-Moorhead will help us to refine that guidance a bit more. Because there are just a lot of unknowns out there. In terms of where we're at now, we expect to have by this summer, about 90 percent of the requirements done for implementation guidance. We're moving a lot faster than I thought we were as of last year. We picked up the pace. We've spent most of our time focused on the really hard guidance that needed to go out. I think the remainder of it should go much faster. I think when we briefed you last year we were at around 38 percent. This year we're around 60 percent and we'll be at 90 percent by June.

Mr. GIBBS. OK. Can you give us a quick update on the Olmsted project? If you could, talk about what the status is on that, on the timeline?

General BOSTICK. I'd have to get back on you. I think we're still tracking Olmsted around the completion, around 2020, that we're moving at a faster rate than we thought. Even though we're well behind the original timeline. But I'll follow up if 2020 is not the date.

Mr. GIBBS. OK. I know we're making progress. I just wanted to get kind of a followup and an update so we can see. Because that project has been enormous, as you know. I want to go back to my previous question, in talking about the Soo locks. You know, that was authorized I believe in WRDA 1986. So you do have authorization to move forward. And the cofferdams were built—do you know about when the cofferdams were put in? Is that for both locks, or what's the status on the cofferdam?

General BOSTICK. I—I don't——

Mr. GIBBS. I think it's around 2009 I think.

General BOSTICK. Yes, I don't have that. I'd have to get back to you.

Mr. GIBBS. OK. On this, when I mentioned the question about the Poe lock and the old MacArthur lock, what's the budget to maintain them, and as we work towards building the new lock?

General BOSTICK. I'd have to follow up on that. We came in really prepared to talk about 7001. But we have those details.

Mr. GIBBS. OK.

General BOSTICK. And we can get them back to you.

Mr. GIBBS. OK. Well, that's good. I mean, I, you know, I'm harping on this a little bit, because I just think that you have an authorization to move forward. I would even question the need to spend a lot of time in an economic study, you've heard my com-

ments about that earlier. I mean, I don't think we need to study this for a long time to figure out that it has benefit cost analysis. You know, because of the importance of that. So I just wanted to hammer on that again. And you know, we started the cofferdam. It was put in. And you know, it's sitting there. And I know that the Michigan delegation did a little CODEL up there a few months ago. I wasn't able to participate. But there's a lot of interest up there and a lot of concern. We know that the Great Lakes as a unit is 25 percent of the economic activity of all the ports in the United States. And obviously we can't have a big snag up there. And that would obstruct not only the region, but probably the economy nationally, in some negative way. So I want to thank you both for coming today. You know, just in closing, I think it's important to recognize moving forward the implementation guidance we talked about. So I'm glad to hear about that. I think another big area that we talked about is communications between the different levels in your shop. But in terms of collaboration with the non-Federal sponsors, I think sometimes there seems to be some tension. I challenge the Corps to try to develop a better partnership, develop a relationship and collaborate. I think that's important. Because I think everybody out there wants to do what they can do and do the right thing. But sometimes there's a feeling I get there when I talk to the non-Federal sponsors that it's not the relationship that it really should be. So I think that's just something we need to work on. And so I just wanted to bring that up. And I want to thank you for both being here today. Do you want—go ahead, Secretary.

Ms. DARCY. Mr. Chairman, before we leave today I would just like to acknowledge the person to my left. This is probably the last time he'll be in front of this committee. The Army and the Nation are going to retire General Bostick in the spring. And I just want to publicly thank him for all that he has done for this organization through his leadership, not only as the Chief of Engineers but as a General in the United States Army.

Mr. GIBBS. Thank you for mentioning that, because I wasn't aware of that. At least, I had heard of it, but I didn't want to say anything, because I didn't know how official it was. But I do want to thank you, General Bostick, for your service. And thank you for coming up to my district. We had a good day out there, visiting some of the facilities there in my district such as the Zoar levee and the Dover Dam, which is, by the way, completed. And they're doing the Belvedere Dam. And that whole watershed. That basically takes care of mostly all of eastern Ohio, and the flood projects that were initiated back in the 1930s are working well.

And the Corps is doing I think a really good job working with the stakeholders. So I really appreciate the time you spent out there, and your busy schedule, and your service to our country. So thank you again, and I wish you very well in your retirement.

General BOSTICK. Thank you.

Mr. GIBBS. Thank you. Take care. This will adjourn our committee.

[Whereupon, at 12:18 p.m., the subcommittee was adjourned.]

OPENING STATEMENT
THE HONORABLE GRACE F. NAPOLITANO, RANKING MEMBER
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
HEARING ON "A REVIEW OF UNITED STATES ARMY CORPS OF ENGINEERS REPORTS TO CONGRESS ON FUTURE WATER RESOURCES DEVELOPMENT AND CHIEF'S REPORTS"
FEBRUARY 24, 2016

I would welcome our two witnesses to this hearing – the Assistant Secretary of the Army for Civil Works, the Honorable Jo-Ellen Darcy, and the Chief of Engineers, Lieutenant General Bostick.

They are dedicated public servants and good stewards in addressing the water resources challenges facing this nation, and, I want to thank them, personally, for their efforts in the fiscal year 2015 work plan to address many of the needs I raised related to issues affecting my constituents.

Earlier this month, the Subcommittee convened a round-table of stakeholders and interest groups that benefit from a robust and active civil works program to discuss priorities for a new water resources bill.

Without question, stakeholders highlighted the importance of a robust civil works program for the protection of our communities, our infrastructure, and our public health and safety. But, equally important, was a workable process for the Corps to partner with local communities to address local water resource challenges.

For decades, that process was fairly straightforward – local project sponsors would work with the Corps *and with the Congress* on proposals to address local water resources needs – and, for the majority of projects, seemed to work well.

However, for one reason or another, that process was changed.

In the 2014 Water Resources bill, Congress established a *new process* – the 7001 Annual Report to Congress process – for the development of local Corps projects and studies.

Today is our first genuine opportunity to examine the new process.

On this new process, I would note a few observations.

First, while it seems that the Administration improved its process for including projects in the 2016 Annual Report – the fact is that many project and study requests

were "screened out" by Administration priority-calls rather than using the exact criteria listed in section 7001 of WRDA 2014.

For as long as this process remains, this will be a point of disagreement between the Congress and the Administration – how much discretion does the Administration have to weed out project and study requests based on Administration priorities. Yet, this is a consequence of our self-imposed moratorium on Congressional priorities for authorizing local water resource projects.

Second, I believe there is still a significant amount of ignorance or confusion on this new process among local communities.

I predict that there will be a number of communities with traditional water resources challenges simply do not know of, or understand, this new process, and may find themselves on the outside, looking-in as Congress considers a new water resources bill for 2016.

Their needs are probably no less deserving than many of the projects and studies included in the Annual Reports – however, because these communities are not included in the Annual Report, or have been included in the Appendix, is our response going to be "you don't have the right paperwork, so you simply have to wait until the next water resources bill"?

I am most concerned about some of our lower-income communities that may not have the sophistication or financial means of other, larger communities.

We should not utilize a process that is so complicated that communities need to hire federal lobbyists to get a project approved. That is our job – to fairly and transparently represent the needs of our local constituents!

Today, the Subcommittee will discuss an array of pending Chief's Reports and potential projects and studies that did clear the Annual Report process. These will form the basis of a new water resources bill for later this year.

However, we also need to address that universe of well-intentioned local needs that may not be covered by the annual report process. We need to provide some reasonable direction to these communities and their elected officials on how they can also partner with the Corps on addressing their needs.

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

THE HONORABLE MS. JO-ELLEN DARCY
ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

AND

LIEUTENANT GENERAL THOMAS BOSTICK
CHIEF OF ENGINEERS

BEFORE

THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

UNITED STATES HOUSE OF REPRESENTATIVES

ON

A REVIEW OF THE U.S. ARMY CORPS OF ENGINEERS REPORTS TO CONGRESS ON FUTURE WATER RESOURCES DEVELOPMENT AND CHIEF'S REPORTS

FEBRUARY 24, 2016

Mr. Chairman and distinguished members of the Subcommittee, we are honored to be testifying before you today to discuss the 2016 Report to Congress on Future Water Resources Development (Annual Report) submitted in response to section 7001 of the Water Resources Reform and Development Act (WRRDA) of 2014, Reports of the Chief of Engineers (Chief's Reports), and Post Authorization Change Reports (PACRs). Our testimony will briefly describe the 13 Chief's Reports that have completed Executive Branch review since WRRDA 2014, one of which completed Executive Branch review subsequent to submission of the Annual Report on February 1, 2016. These proposed projects fall within the main mission areas of the Corps (commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration). There are nine other projects that have reports by the Chief of Engineers but are still under Executive Branch review as well as one Chief's Report for a project disposition. Also, there are two pending PACRs under Executive Branch review.

Before I discuss the Chief's Reports for specific projects that are included in the Annual Report, I would like to briefly discuss the process by which the Annual Report is developed and the requirements and criteria a project must meet for inclusion in the report.

Section 7001 of WRRDA 2014 requires an annual notice to be published in the Federal Register requesting proposals by non-Federal interests for proposed feasibility studies and proposed modifications to authorized water resources development projects and feasibility studies. Section 7001 then requires that the Secretary of the Army annually submit to Congress a report that includes only those feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources development projects and feasibility studies that satisfy five specific criteria.

The notice for the 2016 report submission was published on May 26, 2015. The deadline for non-Federal interests to submit proposals to the Corps was September 23, 2015. In order to provide more transparency to non-Federal interests we sought to clarify, in the notice, the process and the five criteria under which proposals would be evaluated in developing the 2016 Annual Report:

Criteria 1. Related to the missions and authorities of the Corps

For the purposes of the report, proposals are generally considered related to the missions and authorities of the Corps when they involve a proposed or existing Corps water resources project or effort where the primary purpose involves flood and storm damage reduction, commercial navigation, or aquatic ecosystem restoration. Proposals for related purposes, such as recreation, hydropower, or water supply, are eligible if undertaken in conjunction with a project or effort involving one or more of those primary purposes.

Criteria 2. Require specific congressional authorization, including by an Act of Congress

Proposals are considered to require congressional authorization in the following cases:

- Proposals Seeking Construction Authorization
  - Signed Chief's Reports or non-Federal feasibility reports submitted to the Secretary of the Army for review under Section 203 of WRDA 1986, as amended,
  - Signed Chief's Report or completed non-Federal feasibility reports not yet submitted to the Secretary of the Army for review under Section 203 of WRDA 1986, as amended,
  - Ongoing feasibility studies that have reached the Tentatively Selected Plan milestone and are expected to result in a Chief's Report or on-going non-Federal feasibility studies that have not yet been submitted to the Secretary of the Army for review under Section 203 of WRDA 1986, as amended, and
  - Proposed modifications to authorized water resources development projects requested by non-Federal interests through the WRRDA 2014 Section 7001 process.
- Proposals Seeking Study Authorization
  - New feasibility studies proposed by non-Federal interests through the WRRDA 2014 Section 7001 process will be evaluated by the Corps to determine whether or not there is existing study authority, and
  - Proposed modifications to studies requested by non-Federal interests through the WRRDA 2014 Section 7001 process.

As stated in the May 26, 2015, Federal Register Notice, the following types of proposals are not considered eligible to be included in the Annual Report, although they will be included in the appendix for transparency:

- Proposals for modifications to non-Federal activities where the Corps has provided previous assistance. Authorization to provide assistance does not provide authorization of a water resources development project.
- Proposals for construction of a new water resources development project (projects unrelated to currently authorized water resource development projects) that is not the subject of a complete or ongoing, feasibility study.

Criteria 3. Have not been congressionally authorized

Criteria 4. Have not been included in the report table of any previous Annual Report

Proposals included in the report table in a previous Report to Congress on Future Water Resources Development are not eligible to be included in the table included in this report. Proposals previously included in an appendix may be re-submitted for consideration for inclusion in subsequent reports.

Criteria 5. If authorized, could be carried out by the Corps

Whether following the traditional Corps Chief's Report process, or Section 7001 of WRRDA 2014, a proposal for a project or a project modification would need a current decision document to provide updated information on the scope of the potential project and demonstrate a clear Federal interest. This determination would include an assessment of whether the proposal is:

- Technically sound, economically viable and environmentally acceptable.
- Compliant with environmental and other laws including but not limited to National Environmental Policy Act, Endangered Species Act, Coastal Zone Management Act, and the National Historic Preservation Act.
- Compliant with statutes related to Water Resources Development including but not limited to the various water resources provisions pertaining to the authorized cost of projects, level of detail, separable elements, fish and wildlife mitigation, project justification, matters to be addressed in planning, and the 1958 Water Supply Act.

There are requirements that all water resources development projects must generally meet before the Corps can request Federal funds to proceed to construction. These requirements include: (1) that the project is authorized for construction by Congress; (2) that the Secretary, or other appropriate official, has approved a current decision document with the Administration's position on the project and, if appropriate, has transmitted that report to Congress; and (3) that funds for construction have been appropriated for the project. The second of these requirements is important – and relevant to the section 7001 proposals – because a current decision document is the basis for Administration support for budgeting decisions for projects. While under the traditional authorization process, the Chief's Report serves as the decision document that is referred to in the project authorization, the Chief's Report is subject to further review within the Executive Branch. Most, but not all, projects with a Chief's Report are ultimately supported by the Executive Branch for authorization. Similarly, if the Congress were to authorize construction of a project prior to the completion of the executive Branch review process, based on a proposal submitted under Section 7001, that project would lack a basis for Administration support for implementation. Clearly identifying these requirements allows for a more transparent process should any of the non-Federal proposals become authorized based on this annual report.

The Federal Register notice noted two other important considerations for non- Federal sponsors preparing proposals. First, if Congressional authorization of a new feasibility study results from inclusion in this report, it is anticipated that such authorization would be for the study only and not for construction. Second, a PACR is required to be completed to support potential project modifications and increases to the maximum cost of a project established by section 902 of WRDA 1986, as amended (902 limit). Generally, PACRs are used where a change in the project's authorization is needed due to a significant change in the cost or scope of work. For example, PACR's to evaluate

raising a project's 902 limit are undertaken because the project requires a further authorization and, therefore, were included in the report.

A total of 61 proposals were received, 25 of these were proposals for new feasibility studies, 34 were proposals for modifications to existing projects or changes to legislation, and two were proposals for a study modification. Of these proposals, 30 met the criteria and are listed in the Annual Report Table. The remaining 31 proposals that did not meet the criteria are in the Appendix. The two primary reasons proposals are included in the Appendix are that either authority already exists to perform the requested work, or the proposal did not fit within the identified Corps core mission areas. Where authority already exists to undertake the efforts described in the proposals, inclusion in the Appendix to the 2016 Annual Report does not preclude the Army from carrying out either the study or construction.

In response to feedback received on the 2015 Annual Report, the Assistant Secretary of the Army for Civil Works improved the evaluation process this year. In addition, the Army undertook a one-time review of the 95 proposals that were submitted for the 2015 Annual Report, but were found at that time to not be eligible for inclusion in the main table of the report. (They therefore appeared in the Appendix that year.) Non-Federal interests resubmitted 21 of these 95 proposals for re-consideration in the 2016 Annual Report. The Army evaluated these 21 proposals as new proposals, and determined that 7 of them were now eligible for inclusion. They appear in the main table of the 2016 Annual Report, and are identified in the "status notes" column as "Proposal submitted for the 2016 Annual Report." Of the remaining 74 proposals listed in the Appendix to the 2015 Report, we determined that 31 of them were eligible for inclusion, including two related to signed Chief's Reports. Those not related to signed Chief's Reports appear in the main table of the 2016 Annual Report, and are identified in the "status notes" column as "Re-evaluation of proposal submitted for the 2015 Annual Report."

All feasibility reports with signed Chief's Reports that have not been authorized or previously included in an annual report are accounted for in this report. The report distinguishes those for which Army review has been completed from those currently under Army review. Since submission of the 2015 Annual Report on January 30, 2015, 13 feasibility reports requiring construction authorization have completed Army review and have been officially transmitted to Congress by the Secretary. I will now provide a brief overview of the 13 proposed projects that have completed Executive Branch review since the passage of WRRDA 2014. The Army has previously provided the results of those reviews along with the following project information to the Congress.

Commercial Navigation

Brazos Island Harbor, Brownsville, Texas

On February 23, 2016, a report was transmitted to Congress on navigation improvements within the Brazos Island Harbor. The plan would increase the nominal depth of the Federal channel to -52 feet mean lower low water (MLLW) for portions of the inner channel and -54 feet MLLW for the entrance channel.

Based upon the October 2015 price levels, the total initial project cost for this project is $207.5 million with the Federal share totaling $117.7 million and the non-Federal share totaling $89.8 million.

Calcasieu Lock, Louisiana

On August 20, 2015, a report was transmitted to Congress on navigation improvements in the vicinity of Lake Charles, Louisiana. The plan consists of a sluice gate structure and dredging a new bypass channel to a depth of 12-feet MLLW. The channel transitions to a depth of 6-feet MLLW at the structure.

Based upon the October 2015 price levels, the total initial project cost for this project is $16.9 million. This cost would be shared equally between the Federal government and the Inland Waterways Trust Fund.

Charleston Harbor, Charleston, South Carolina

On January 13, 2016, a report was transmitted to Congress on navigation improvements within Charleston Harbor. The locally preferred plan that is being recommended will deepen the entrance channel to 54-feet across the 800-foot width, while reducing the existing stepped 1,000-foot top channel width to 944-feet. The entrance channel will be extended approximately three miles seaward from the existing location to a depth contour of -54-foot MLLW; deepen the inner harbor from an existing project depth of -45 feet to -52 feet MLLW from the Entrance Channel to the confluence of the Wando and Cooper Rivers, about two miles up the Wando River to the Wando Welch container facility and about three miles up to the Cooper River to the New Navy Base Terminal, and to a project depth of -48 feet MLLW over the five mile reach leading from the New Navy Base Terminal to the North Charleston container facility (over expanded bottom widths from 400 to 1,800 feet); and enlarge the existing turning basins to a 1,800-foot diameter at the Wando Welch and New Navy Base terminals to accommodate Post Panamax Generation 2 and 3 container ships and widen selected reaches

Based upon the October 2015 price levels, the total initial project cost for this project is $496 million with the Federal share totaling $228.2 million and the non-Federal share totaling $267.8 million.

Port Everglades, Broward County, Florida

On January 29, 2016, a report was transmitted to Congress on navigation improvements for Port Everglades in Broward County, Florida. The locally preferred

plan that is being recommended would increase the nominal depth of the Federal channel to -48 feet MLLW, widen the outer entrance channel to a width of 800-feet, and widen the Southport Access Channel, the main turning basin and the Turning Notch.

Based upon the October 2015 price levels, the total initial project cost for this project is $329 million with the Federal share totaling $224.5 million and the non-Federal share totaling $104.5 million.

Portsmouth Harbor and Piscataqua River, New Hampshire and Maine

On June 18, 2015, a report was transmitted to Congress on navigation improvements for Portsmouth Harbor, and Piscataqua River in New Hampshire and Maine. The plan would increase the width of the turning basin from 800-feet to 1,200-feet.

Based upon the October 2015 price levels, the total initial project cost for this project is $22 million with the Federal share totaling $16.5 million and the non-Federal share totaling $5.5 million.

Flood and Storm Damage Reduction

Bogue Banks, Carteret County, North Carolina

On February 16, 2016, a report was transmitted to Congress on hurricane and storm damage reduction along the Atlantic Ocean shoreline Bogue Banks, Carteret County, North Carolina. The plan consists of constructing 22.7 miles of main beach fill berm, approximately 50-feet wide, with a consistent profile across the entire length, along with dune expansion of approximately 5.9 miles of the project shoreline. The amount of dune expansion would vary from elevation 15 to 20 feet.

Based upon the October 2015 price levels, the total initial project cost for this project is $38.7 million with the Federal share totaling $25.1 million and the non-Federal share totaling $13.6 million. The total cost over the 50-year project life, including periodic nourishment, is $118.8 million, with a Federal share of $59.4 million and non-Federal share of $59.4 million.

Edisto Beach, Colleton County, South Carolina

On February 16, 2016, a report was transmitted to Congress on hurricane and storm damage reduction along the Atlantic Ocean shoreline of Edisto Beach, South Carolina. The plan consists of constructing a dune to an elevation of 15-feet with a top width of 15-feet extending 16,530 feet along the beach. This dune would be fronted by a berm at an elevation of 7-feet and 75-feet wide, extending south 7,740 feet from the northern extent of the project area and then tapering to 50-feet in width over the remaining length and taper to the existing profile. The dune would transition to 14-feet in elevation and

extend around the southern end of the island for 5,290 feet. There would also be constructed 1,130 feet of total groin lengthening across 23 existing groins.

Based upon the October 2015 price levels, the total initial project cost for this project is $21.9 million with the Federal share totaling $14.2 million and the non-Federal share totaling $7.7 million. The total cost over the 50-year project life, including periodic nourishment, is $34.5 million, with a Federal share of $17.3 million and non-Federal share of $17.3 million.

Flagler County, Florida

On February 16, 2016, a report was transmitted to Congress on hurricane and storm damage reduction along the Atlantic Ocean shoreline of Flagler County, Florida. The plan would include construction of the dune along 2.6 miles of shoreline to an elevation 19 feet to match the elevation of the existing dune. From the seaward end of the dune extension, a 1 vertical on 3 horizontal dune slope would extend to the design berm elevation of 11 feet to match the existing berm elevation.

Based upon the October 2015 price levels, the total initial project cost for this project is $14.5 million with the Federal share totaling $9.4 million and the non-Federal share totaling $5.1 million. The total cost over the 50-year project life, including periodic nourishment, is $31.2 million, with a Federal share of $15.6 million and non-Federal share of $15.6 million.

Hereford Inlet to Cape May Inlet, New Jersey

On February 1, 2016, a report was transmitted to Congress on hurricane and storm damage reduction along the Atlantic Ocean shoreline from Hereford Inlet to Cape May Inlet, New Jersey. The plan would include construction of the dune along 4.5 miles of shoreline to an elevation of 16 feet with a 25-foot wide dune crest on a 75-foot wide berm that at an elevation of 6.5 feet.

Based upon the October 2015 price levels, the total initial project cost for this project is $22.3 million with the Federal share totaling $14.5 million and the non-Federal share totaling $7.8 million. The total cost over the 50-year project life, including periodic nourishment, is $85.3 million, with a Federal share of $42.6 million and non-Federal share of $42.6 million.

Leon Creek Watershed, San Antonio, Texas

On January 15, 2016, a report was transmitted to Congress on flood risk management for the Leon Creek Watershed, San Antonio, Texas. The plan consists of a levee extending 3,700 linear feet from high ground on the southeast side of Port San Antonio to S.W. Military Drive at a maximum height of 21-feet and a 12-foot top width with 3.5-feet on 1-foot slopes, in channel modification that extend approximately 2,850 linear feet with a 60-foot bottom width, and permanent evacuation of four single family residential

structures and 32 townhouses susceptible to damage by a flood with a 4-percent annual exceedance probability.

Based upon the October 2015 price levels, the total initial project cost for this project is $29.1 million with the Federal share totaling $18.9 million and the non-Federal share totaling $10.2 million.

Manhattan, Kansas

On December 3, 2015, a report was transmitted to Congress on flood risk management for the City of Manhattan, Kansas. The plan consists of modifying the existing project by raising 14,600 feet of levee on the Big Blue River and Kansas River on average 1.5 – feet but by as much as 3-feet, adding under seepage control measures including 29 relief wells with over 4,900 feet of collector system, 2,500 linear feet of under seepage control berms, replacing five existing drainage structures, adding a closure structure at Hayes Drive and relocating various utility crossings.

Based upon the October 2015 price levels, the total initial project cost for this project is $24.3 million with the Federal share totaling $15.8 million and the non-Federal share totaling $8.5 million.

Aquatic Ecosystem Restoration

Central Everglades Planning Project, Comprehensive Everglades Restoration Plan, Central and Southern Florida

On September 3, 2015, a report was transmitted to Congress on ecosystem restoration improvements for the Central Everglades Project located in Martin, Lee, Palm Beach, Broward, Miami Dade and Monroe Counties, Florida. The purpose of the Central Everglades Planning Project is to improve the quantity, quality, timing and distribution of water flows to the Northern Estuaries, central Everglades and Everglades National Park, and Florida Bay while increasing water supply for municipal, industrial and agricultural users. The Central Everglades Planning Project developed from six components (or portions thereof) of the Comprehensive Everglades Restoration Plan: Everglades Agricultural AREA Storage Reservoirs; Water Conservation Area 3 Decompartmentalization and Sheetflow Enhancement; S-356 Pump Station Modifications; L-31 N Improvements for Seepage Management; System-wide Operational Changes – Everglades Rain-Driven Operations; and Flow to Northwest and Central Water Conservation Area 3A.

Based upon the October 2015 price levels, the total initial project cost for this project is $1,958,164,000 with the Federal share totaling $979,865,266 and the non-Federal share totaling $978,298,734.

Flood and Storm Damage Reduction and Aquatic Ecosystem Restoration

Upper Des Plaines River & Tributaries, Illinois and Wisconsin

On January 29, 2016, a report was transmitted to Congress on flood risk management and ecosystem restoration for the Upper Des Plaines Watershed in Illinois and Wisconsin. The project would include the construction of a system of three levee/floodwalls and two floodwater storage reservoirs near or adjacent to the main stem of the Des Plaines River. The flood risk management plan includes recreational features at three sites and implementation of non-structural flood risk management measures at up to 377 structures in nine communities in Lake and Cook County. The ecosystem restoration plan would restore 6,859 acres at seven sites across the watershed.

Based upon the October 2015 price levels, the total initial project cost for this project, as recommended in the Chief's Report, is $309,098,000 with the Federal share totaling $200,702,000 and the non-Federal share totaling $108,396,000.

There are also nine other proposed projects with reports by the Chief of Engineers, which the Executive Branch is in the process of reviewing. These are:

- Skokomish River Basin, Mason County, Washington
- Lower Willamette River, Oregon
- South San Francisco Bay Shoreline, Santa Clara County, California
- Upper Turkey Creek, Merriam, Kansas
- Mill Creek, Nashville, Tennessee
- Kansas Citys, Missouri and Kansas
- Little Diomede, Alaska
- West Shore Lake Ponchartrain, Louisiana
- Los Angeles River, California

Two additional Chief's Reports were not included in the report table. The first, Orestimba Creek, California, was authorized in WRDDA 2014 and, therefore, does not meet the criteria of requiring authorization. It was transmitted to Congress on January 29, 2016. The second, the Chief's Report for a disposition study for Green River Locks and Dams 3, 4, 5 and 6 and Barren River Lock and Dam 1, Kentucky was signed on April 30, 2015 and remains under Executive Branch review. Because it is a disposition study, it does not meet the requirements for inclusion in this annual report and was not included in the report tables.

Mr. Chairman, I would now like to discuss PACRs. Section 902 of WRDA 1986 sets a maximum percentage cost increase for Civil Works projects. A further authorization is

required to use Federal funds beyond this maximum authorized project cost. In these cases, the Corps of Engineers generally completes a PACR, which is provided to Congress if there is a recommendation for such a further authorization. There are two PACRs that have been approved by the Corps of Engineers and are under Executive Branch review. These reports are:

- Blue River Basin, Kansas City, Missouri
- Turkey Creek Basin, Kansas City, Kansas and Kansas City, Missouri

Mr. Chairman, this concludes our statement. We appreciate the opportunity to testify today and look forward to answering any questions you may have.

House T&I QFRs – Majority

A Review of United States Army Corps of Engineers Reports to Congress on Future Water Resources Development and Chief's Reports"

February 24, 2016

A. Submitted on Behalf of Congressman Rokita:

Q1 – General Bostick, can a preliminary project authorization be issued for local projects seeking study or other relevant authorization? This would enable local entities to work aggressively to begin putting funding, planning, and other project related steps in place and have these steps qualify for consideration as local match if appropriate. This would also enable local partners to effectively move their project forward rather than waiting to get COE authorization, and then have to start putting together funding, and or, other project resources. The preliminary authorization would only be valid to enable local partners to begin qualifying their local resources to be used for the proposed project. If the project did not receive formal authorization, then the preliminary authorization would be rescinded.

Answer: A preliminary project authorization cannot be issued for local projects seeking study or other relevant authorization. However, a local sponsor can take steps toward designing and constructing a project that has not yet been authorized. These measures are described in Engineering Regulation 1165-2-208, In-Kind Contribution Credit Provisions. Section 221 (a)(4) of the Flood Control Act of 1970, as further amended by Section 1018 of the Water Resources Reform and Development Act of 2014, allows an In-Kind Memorandum of Understanding (MOU) for construction to be executed for projects that are - or will be - specifically authorized for construction. The In-Kind MOU may be executed when there is agency concurrence with a Tentatively Selected Plan (TSP) at the TSP Milestone, which will include release of a draft study report for public and agency review.

Any work undertaken by a non-Federal sponsor pursuant to an In-Kind MOU is at its own risk and responsibility. An In-Kind MOU provides no assurance that the non-Federal sponsor's work will be determined to be integral to the Federal project or that any construction undertaken by the non-federal sponsor will be included as part of any ultimately recommended Federal project. Execution of an In-Kind MOU in no way obligates the Corps to enter into any future agreement for the project.

B. Submitted on Behalf of Congressman Farenthold:

Q1 - Issues persist regarding continuation of the Corpus Christi Ship Channel Improvement Project that was recently reauthorized in WRRDA 14. The benefit-cost ratio yielded by the most recent economic analysis is very high and the completion of the project will support billions of dollars in new investments and new business in south Texas. In addition, the recent repeal of the oil export ban is already having a material impact on increasing shipping volume.

Are you committed to advancing this project? If so, what are the obstacles?

Answer: Yes. We are committed to advancing this project.

Q2 – The Corps has claimed that completion of the Corpus Christi Ship Channel Improvement Project is a "new start" despite the fact that the project has been studied (twice) authorized (twice), and has received appropriations dollars. A request was made for a definition and criteria of a "new start" in connection with a hearing held on April 22, 2015 on the President's FY16 budget request, but no response has been received.

Why does the administration consider this project a new start? How do we achieve a workable definition that will make sure these critical projects that have been repeatedly evaluated and authorized, and in some cases funded federally, can proceed? How do you suggest we proceed?

Answer: After further review, the Corpus Christi Ship Channel Improvement project will not be identified as a "new start" decision. However, the two remaining separable elements will need to compete for future funding, along with other programs, projects, and activities competing for available Federal resources across the Nation.

Q3 – We understand that the Administration may be reluctant to start funding of the full deepening and widening element of the Corpus Christi Ship Channel Improvement Project. Traffic at the Port has increased greatly due to industrial development in connections with the La Quinta Channel extension and increased oil and gas production from the Eagle Ford shale region. Due to the increasing amount of ship traffic and the fact that tanker ships are now full both entering and leaving the Port, navigation of the Channel has become more difficult.

Would it be possible to start completion of the Corpus Christi Ship Channel Improvement Project by funding the widening of the channel first to enable increased shipping and address safety issues? Could the Port fund this aspect of the project as part of its non-federal match? What actions would be needed to facilitate this process?

Answer: Yes, assuming the non-Federal matching share and/or Federal funding is available, it is possible to begin the channel widening first. The particular terms of that match will depend on whether any Federal funding is available and whether a Project Partnership Agreement (PPA) is in place that covers the two separable elements not covered by the extant PPA. Non-Federal sponsors may contribute funds to the Corps in several different ways, including Contributed Funds agreements, Advanced Funds agreements, and Accelerated Funds agreements.

Committee on Transportation & Infrastructure
Water Resources & Environment Subcommittee
Oversight Hearing
2167 Rayburn Office Building
Wednesday, February 24, 2016
10:00 AM

Questions for the Record:

A Review of United States Army Corps of Engineers Reports to Congress on Future Water Resources Development and Chief's Reports

Questions from Rep. Mike Thompson, co-chair of the Congressional Shellfish Caucus

1. Shellfish contribute over $184 million annually to the Washington State economy and support more than 2,700 jobs. Washington is the largest shellfish farming state in the country. Due to the Army Corps Seattle District's implementation of the Nationwide Permit program, this industry could be at risk.

   The Nationwide Permit 48 was adopted in 2007, and updated in 2012, for the purpose of simplifying shellfish permitting. However I have heard from shellfish growers that the Seattle District of the Army Corps has yet to complete a programmatic verification of any farms under the program. That would be nine years without a single successful verification. The resulting uncertainty could drive millions of dollars of investment out of Washington State.

   The Seattle District appears to be adopting limiting conditions on Washington's shellfish farming industry and removing existing commercial acres from programmatic permitting. I understand that this is occurring without engagement with the regulated community.

   What specific actions are being taken to engage with the regulated community in the Seattle District? When will the 2007 permits be approved?

   Answer: Following receipt of the Biological Opinions (BOs), the Seattle District intends to host an open house to explain to shellfish growers the conditions of the BOs and the next steps in verifying activities under the 2012 Nationwide Permit 48.

   The 2007 Nationwide Permit (NWP) 48 expired in March 2012 and was replaced by the 2012 NWP 48. The U.S. Army Corps of Engineers (Corps) Seattle District finalized approximately 900 NWP 48 verifications under the 2012 version of NWP 48. The Corps was advised shortly thereafter by National Marine Fisheries Service that the Section 7 Endangered Species Act (ESA) consultation was based on the expired 2007 NWP, and therefore the programmatic consultation had also expired, leaving those operators without ESA or Essential Fish Habitat coverage. The Seattle District has been coordinating with the U.S. Fish and Wildlife Service and National Marine Fisheries Service on a replacement programmatic consultation coordination for shellfish activities in

Washington State marine waters. This is expected to restore ESA coverage to about 850 shellfish operations verified under the 2012 version of NWP 48. The Corps provided a programmatic biological assessment to the Services in October 2015, and is waiting for the Services to complete their consultations.

2. I have also heard that the Seattle District of the Army Corps is proceeding with a new programmatic process under the Clean Water Act. Please provide the Committee with a copy of documents that address the scope of the jurisdiction of the Corps under the Clean Water Act with regard to shellfish farming, including shellfish farming in areas that the Seattle District interprets as special aquatic sites

   Answer: The Seattle District is not proceeding with a new programmatic process at this time. NWP 48 expires on March 18, 2017. The Army Corps is currently coordinating with the Office and Management and Budget on a 2017 NWP package, which includes some proposed modifications to the existing NWP 48, along with other proposed changes on the entire NWP program. Once the OMB process is complete, the NWP package will be published in the Federal Register for public comments. The Seattle District may either propose regional conditions on the NWP 48 once it is finalized, or they may propose to develop a regional general permit to authorize regulated activities associated with shellfish seeding, rearing and harvesting. Both courses of action must be coordinated with the public; the District will publish notice of their proposed course of action for comment later this year or in early 2017.

   Under Section 10 of the Rivers and Harbors Act of 1899 (RHA), a Department of the Army permit is normally required for work or structures in or affecting navigable waters of the U.S. Navigable waters are waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

   Under Section 404 of the Clean Water Act (CWA), a Department of the Army permit is normally required to discharge dredged or fill material into waters of the U.S., including wetlands and navigable waters of the U.S. These waters include navigable waterbodies and many components of the surface water tributary system, such as streams, lakes, ponds, and certain adjacent waterbodies, including wetlands.

   The CWA provides special consideration to "special aquatic sites," which include wetlands, mudflats, vegetated shallows, coral reefs, riffle and pool complexes, sanctuaries, and refuges as defined at 40 CFR 230.4 through 230.45. In Washington waters, shellfish activities often affect special aquatic sites, particularly mudflats, vegetated shallows, sanctuaries, and refuges.

Questions from Rep. Lois Frankel

1. What are the federal and non-Federal responsibilities regarding operations and maintenance for completed projects under the Everglades Restoration Program?

Answer: Section 601(e)(4) of the Water Resources and Development Act of 2000 provides that the non-federal sponsor shall be responsible for 50 percent of the cost of operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) for completed projects under the Everglades Restoration Program. In general, the individual Project Implementation Report will identify the specific operations and maintenance plan for the project. Some actions are a 100% federal responsibility to fund and perform the work, others are a 100% non-Federal responsibility to fund and perform the work, and some may be cost shared 50/50 but performed by the non-Federal sponsor.

2. Can you identify what those operations and maintenance responsibilities are for each authorized project?

   Answer: Yes, the OMRR&R for the various South Florida Ecosystem Restoration program projects and activities are:

   A) Central and Southern Florida Project, Manatee Pass Gates and programmatic activities are 100% federal OMRR&R.

   B) Projects with 100% non-Federal OMRR&R:
      1) Kissimmee River Restoration Project,
      2) Central and Southern Florida Project: West Palm Beach Canal 51 and Stormwater Treatment Area 1E,
      3) Everglades and South Florida critical restoration projects, EXCEPT Seminole Tribe Big Cypress Reservation project (see below), and
      4) Central and Southern Florida Project: Canal 111 South Dade EXCEPT that the federal government is required to pay 60% of the annual pumping costs, including costs for fuel, lubricants, proportional depreciation and repairs, and operating labor.

   C) OMRR&R performed by the non-Federal sponsor and cost share 50% federal and 50% non-Federal:
      1) All Central and Southern Florida Project: Comprehensive Everglades Restoration Plan projects and
      2) Everglades and South Florida- Seminole Tribe Big Cypress Reservation project.

   D) OMRR&R of the Modified Water Deliveries to Everglades National Park project is cost shared 75% Federal and 25% non-Federal.

3. For projects that a non-Federal sponsor has a responsibility to perform operations and maintenance even though the operations and maintenance is cost shared, is the sponsor required to fully fund the work planned and then seek reimbursement from the Corps for the federal share?

Answer: No. The law does not require the sponsor to fully fund the work planned and then seek reimbursement.

4. What is the estimated federal cost for those operations and maintenance activities in FY 2017?

   Answer: The actual costs vary from year to year due to variations in hydrologic conditions experienced in any year, especially in an El Niño year like we are experiencing this year. However, the anticipated minimum funding needs to cover the federal share of operations and maintenance activities expected to be performed in FY17 are estimated to be approximately $7.3 million.

5. Do you expect those costs to change in the future?

   Answer: Yes. As additional features are completed, and those features transition from the construction phase to the operations and maintenance phase of the project, the total annual costs of the federal share of operations and maintenance is expected to increase.

6. Do the costs of operations and maintenance include any costs to address endangered species issues and, if so, are those costs a federal or non-Federal responsibility?

   Answer: Yes, the costs of OMRR&R include costs to address endangered species issues and yes the costs are a Federal and non-Federal responsibility.

Questions from Rep. Jared Huffman

1. In accordance with Section 7001 of the Water Resources Reform and Development Act (WRRDA) of 2014, the Army Corps of Engineers has submitted two annual Reports to Congress on potential future water resources projects. Under Section 7001, this annual report is directed to include any proposed feasibility study that meets the criteria of being "related to the missions and authorities of the Corps of Engineers," in addition to related requirements regarding congressional authorization. Your latest report outlines the interpretation of this requirement as:

   > For the purposes of this report, proposals are generally considered related to the missions and authorities of the Corps when they involve a proposed or existing Corps water resource project or effort where the primary purpose involves flood and storm damage reduction, commercial navigation, or aquatic ecosystem restoration. Proposals for related purposes, such as recreation, hydropower, or water supply, are eligible if undertaken in conjunction with a project or effort involving one or more of those primary purposes.

   Why does the Corps take the interpretation that requested proposed modifications to authorized water resources development projects and feasibility studies meet the same requirements as new proposed feasibility studies? For existing water resource projects already authorized but requiring modification, why does the Corps believe that the

project must be undertaken in conjunction with one or more of the primary purposes of the Corps, instead of simply being eligible by meeting an existing authority of the Corps of Engineers, as required by (c)(1)(A)(i) of Section 7001?

Answer: Section 7001 =(c)(1)(A) states, "The Secretary shall include in the annual report only those feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources development projects and feasibility studies that..." meet five criteria listed within that subsection. The first of the five criteria is that the proposal be "...related to the missions and authorities of the Corps of Engineers." The Corps' primary mission areas are navigation, flood and coastal storm damage reduction, and aquatic ecosystem restoration, and, as such, the Corps' water resources program is centered on activities in those authorized mission areas. The Corps includes related purposes, such as recreation, hydropower, or water supply, if undertaken in conjunction with a project or effort involving one or more of those primary purposes. The five Section 7001(c)(1)(A) criteria were consistently applied across all non-Federal proposals as the criteria do not change based on the type of proposal being evaluated.

2. One project included in the Annual Report under Section 7001 is a project modification to Coyote Valley Dam submitted by the Sonoma County Water Agency in 2015. This request was originally included in the Appendix in 2015 but has in the past year been re-revaluated by the Corps of Engineers and is now included in the main 2016 report. The requested modification to the currently authorized project would authorize the existing dam to be raised an additional 36 feet. Raising the dam would allow for an additional total storage capacity of 199,000 acre feet, a significant contribution to the local communities during the ongoing historic California drought. Additionally, the raising of the dam would help address ecosystem restoration benefits following a 2008 National Marine Fisheries Service Jeopardy Biological opinion for the Russian River, the watershed where the dam is located. What steps is the Corps taking for the Secretary, or other appropriate official, to obtain the Administration's position on the project in order to transmit this position to Congress?

   Answer: The Corps engaged in discussions, in July 2015, with stakeholders concerning a Coyote Valley Dam Raise Study. This discussion helped inform participants about the key next steps to validating the Federal interest with respect to conducting a study including an evaluation of project economics. If a Federal interest is determined, subsequent steps for a study would include developing and evaluating alternatives, selecting a plan, and preparing a feasibility report, potentially leading to a Report of the Chief of Engineers. The Chief's Report would provide the basis for the Administration position, which would be transmitted by the Secretary of the Army to Congress.

3. What steps are being taken by the Corps of Engineers to complete the report required by Section 1045 of WRRDA 2014 on the impact of droughts on Corps of Engineers reservoirs?

Answer: Funding for this report will be considered in development of future budgets and/or work plans along with other programs, projects, and activities competing for available Federal resources.

4. What steps are being taken by the Corps of Engineers to meet the requirements of Section 1046 of WRRDA 2014 on reservoir operations and water supply? As required by the section, the Secretary shall submit a report on the management practices, priorities, and authorized purposes at reservoirs in arid regions. Furthermore, when shall the Corps update and issue their report "Authorized and Operating Purposes of Corps of Engineers Reservoirs" as required by Section 1046?

   Answer: Funding for these reports will be considered in development of future budgets and/or work plans along with other programs, projects, and activities competing for available Federal resources.

5. Under Section 1028 of WRRDA 2014, the Congress clarified the measures that the Corps of Engineers can carry out to improve fish species habitats within the boundaries and downstream of Corps projects that may include a fish hatchery where the Corps is also authorized to compensate for fish losses associated with the project. Implementation guidance issued by the Corps on this section on June 17, 2015, outlined a number of steps for when the Corps would undertake the study of such measures and concluded that "upon completion and approval of a feasibility study that identifies feasible measures, such measures may be considered for construction funding in accordance with existing budgetary policies and procedures." I strongly support the Corps in carrying out Section 1028 under this interpretation, which would allow for the construction of feasible measures to be carried out without further congressional authorization upon completion of a feasibility study. Are there any additional authorities that Congress needs to provide in carrying out the function of Section 1028?

   Answer: The Corps has not identified any additional authorities needed in order to carry out any feasible measures identified in a feasibility report.

Questions from Representative Sean Patrick Maloney

1. A portion of my district lies in the Delaware River Basin.

   Federal funding has not been provided to the Delaware River Basin Commission as required by the congressionally approved compact signed into law by President Kennedy for almost 20 years.

   Section 4001 of WRRDA 2014 also directs that the Secretary of the Army shall allocate funds to the DRBC and two other mid-Atlantic river basin commissions.

   Can you please tell me that status of this clear congressional directive to budget and allocate funds to the three river basin commissions?

WRRDA 2014 further requires that if the Secretary of the Army does not allocate funds for a given fiscal year, the Secretary shall submit to this committee, a notice describing why funds were not allocated.

Can you please tell me the status of this reporting requirement? If funds were not allocated as congressionally directed, why not?

Answer: The FY 2016 and FY 2017 Budgets for the Corps' Planning Assistance to States Program (PAS) specifically mentions that funds may be provided to support activities for the river basin commissions for eligible activities. Activities and/or studies would be cost shared 50-50 with the Corps and the river basin commissions after identification of the specific activity and available funds.

The Administration determined that since the PAS Program will provide the funding for activities and/or studies to be undertaken by the River Basin Commissions in partnership with Corps, the notification requirement is not triggered.

2. The Delaware River Basin Commission was created in 1961 when President Kennedy and four basin state governors signed the Delaware River Basin Compact into law. The federal government is an active, voting member on the DRBC and the ex officio federal representative is the commander of the Corps' North Atlantic Division. A portion of my district lies in the Delaware River Basin.

According to the congressionally approved compact, "The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes." I note that since October 1, 1996, with the exception of FY-2009, funding has not been provided to the DRBC as required by the compact.

In addition to the compact language, Section 4001 of WRRDA 2014 directs that the Secretary of the Army shall allocate funds to the DRBC and two other mid-Atlantic river basin commissions to fulfill the equitable funding requirements of the respective interstate compacts. Moreover, 2016 appropriations report language reinforces the congressional intent of WRRDA Section 4001.

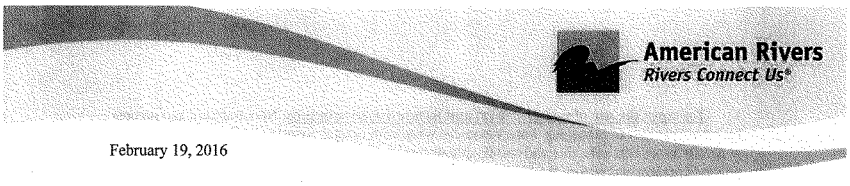
Can you please tell me that status of this congressional directive to allocate funds to the three river basin commissions?

WRRDA 2014 further requires that if the Secretary does not allocate funds for a given fiscal year, the Secretary shall submit to this committee, with the subsequent submission by the President of the budget to Congress, a notice describing why funds were not allocated and the impact of that decision on nine areas of jurisdiction.

Can you please tell me the status of this reporting requirement? If funds were not allocated as congressionally directed, why not?

Answer: The FY 2016 and FY 2017 Budgets for the Corps' Planning Assistance to States program specifically mentions that funds may be provided to support activities for the river basin commissions for eligible activities. Activities and/or studies would be cost-shared 50-50 with the Corps and the river basin commissions after identification of the specific activity and available funds.

The Administration determined that since the PAS Program will provide the funding for activities and/or studies to be undertaken by the River Basin Commissions in partnership with Corps, the notification requirement is not triggered.



February 19, 2016

The Honorable Bill Shuster
Chair
Transportation and Infrastructure Committee
2251 Rayburn House Office Building
Washington, DC 20515

The Honorable Peter A. DeFazio
Ranking Member
Transportation and Infrastructure Committee
2164 Rayburn House Office Building
Washington, DC 20515

RE: Recommendations for the Water Resources Development Act of 2016

Dear Chairman Shuster and Ranking Member DeFazio:

On behalf of American Rivers' members and supporters, I write to you as you begin your work to draft the Water Resources Development Act of 2016. American Rivers protects wild rivers, restores damaged rivers, and conserves clean water for people and nature. Since 1973, American Rivers has protected and restored more than 150,000 miles of rivers through advocacy efforts, on-the-ground projects, and an annual America's Most Endangered Rivers® campaign. Headquartered in Washington, DC, American Rivers has offices across the country and more than 200,000 members, supporters, and volunteers.

Our experience working across the country with the US Army Corps of Engineers has illuminated several areas of concern and places for improvement. We respectfully submit the following six proposals and amendments for consideration by the Environment and Public Works Committee as you begin drafting the Water Resources Development Act for 2016.

These proposals, if adopted by Congress, will protect rivers by promoting the use of nature-based solutions, increasing transparency in the Army Corps decision-making process, strengthening the safeguards when natural resource impacts are unavoidable, ensuring projects that cause ongoing environmental harm are reviewed routinely, and aiding the implementation of projects in the Northern Rockies. These solutions not only have the benefit of being good for the environment, but are also good for the federal budget.

Our recommendations focus on protecting the environment through solutions, like nature-based and nonstructural approaches, that minimize project impacts and offer a number of cost-savings for the federal government and taxpayers. For example, setting back levees to reduce the flood risk and pressure on neighboring levees saves money by reducing flood damages while also rehabilitating the floodplain ecosystem and enhancing fish and wildlife habitat. Similarly, providing more opportunities for the public to understand and engage with the Corps' decision-making process will help identify proposed and existing projects that should be reconsidered. When the public and academics are able to review the project proposals and data it can help identify flaws in benefit-cost analysis and evaluate whether an existing project has outlived its usefulness.

With these principles in mind and to protect rivers across the country, we submit for the following to be included in the Water Resources Development Act of 2016:

1101 14th Street, NW | Suite 1400 | Washington, DC 20005-5637 | Phone 202.347.7550 | fax 202.347.9240 | AmericanRivers.org

1) **Enhance the use of nonstructural and nature-based solutions**: Nonstructural and nature-based approaches to managing water resources work with natural river processes and are generally more cost-effective and sustainable than traditional structural approaches. These methods protect and restore the hydrologic, geomorphic, and ecological functions and processes of rivers and floodplains. As a result these approaches to managing water resources are more resilient and provide multiple benefits to communities. For these reasons, nonstructural and nature-based approaches are being utilized across the country. For example, the state of California recognizes that "multiple-benefit" projects like flood bypasses and floodplain reconnection can be utilized to reduce flood risk and improve habitat for fish and wildlife. In addition, nature-based approaches were utilized after Hurricane Sandy and have been incorporated into critical federal policies and Hurricane Sandy recovery efforts. However, the Army Corps routinely fails to adequately consider the use of nonstructural and nature-based approaches in favor of high-cost, less resilient, and environmentally damaging structural approaches. We recommend that Congress require the use of nonstructural and nature-based approaches where practicable and amend existing statutory language to specifically incorporate the consideration of nature-based approaches.

2) **Improve PL 84-99 to reduce flood risk and improve river health**: The Emergency Levee Repair Program, PL 84-99, is a critical federal program for repairing levees when they are damaged during a flood. However, it is inflexible when improvements are needed to a flood control system. The program discourages making system improvements that could provide increased flood protection. Many times the same levees are damaged again and again during major floods. Rather than continue to pay to repair the same structures over and over, Congress should improve this program to facilitate the consideration of nonstructural and nature-based approaches where they will reduce long-term disaster spending and flood risk.

3) **Improve transparency of Army Corps of Engineers data, actions, and critical information**: Public access to information critical to Army Corps decisions on water resources management is inconsistent. This hinders the ability of the general public, academics and scientists to adequately evaluate the effectiveness of the programs and projects administered by the Army Corps. Basic public policy information, including district and division level guidance, are inconsistently available or poorly explained. We have experienced inconsistencies between districts in many instances including the availability of data on navigation statistics and investments in levee repairs. Such inconsistencies in accessibility can lead to undue confusion and mistrust since this information is often critical for decision-making. In order to avoid unnecessary conflict, the Army Corps should strive to make data and decision-making information available publicly and in a consistent manner across all districts.

4) **Utilize expertise of state and federal resource managers:** The 2007 Water Resources Development Act establishes important requirements to ensure effective mitigation for fish and wildlife losses caused by Army Corps projects. Despite these mandates, the Army Corps continues to adopt mitigation plans that do not work, in part because they ignore expert recommendations made by federal and state fish and wildlife agencies. Congress should ensure compliance with the WRDA 2007 mitigation provision by requiring adoption of mitigation measures recommended pursuant to the Fish and Wildlife Coordination Act. Adoption of recommendations by fish and wildlife experts would result in more effective mitigation of fish and wildlife losses resulting from Army Corps projects.

5) **Regular reoperation of large scale Army Corps of Engineers projects to incorporate best available science**: Many major Army Corps projects are being operated under decades old operating plans that do not account for current conditions or science. These projects put communities at risk and cause unnecessary harm to the environment. Likewise, many Army Corps projects lack plans for decommissioning at the end of their life. Many existing projects have outlived their intended purpose or do not reflect the priorities of today. Congress should require and provide funding for the Army Corps to evaluate and update operations plans and water control manuals for large-scale projects at least every 10 years and implement needed operational changes. Regular review and optimization of operations would ensure that modern science, management approaches, and needs guide the operation of Army Corps projects.

6) **Clarify language in the Northern Rockies provision:** Based on the contracting that the State of Montana's Department of Natural Resources and Conservation has done with the Army Corps to date to get Section 4007's feasibility study underway, and based on the August, 2015 Guidance from the Army Corps, the biggest stumbling block to implementation of Section 4007 that the Army Corps is interpreting the language in Section 4007 too narrowly. The language states, "The Secretary may carry out any project identified in the study…" The guidance and contracting discussions suggest that the Army Corps believes that this only gives them the authority to fund a project that is specifically identified in the study. We suggest changing the language to "The Secretary may carry out projects addressing needs identified in the study..." This small change in language would allow for the Army Corps to support ongoing work administered by Idaho and Montana state agencies and implemented by Non-Governmental Organizations.

Thank you in advance for your consideration of our recommendations.

Sincerely,

Jim Bradley
Vice President, Policy and Government Relations
American Rivers

1. Enhance the Use of Nonstructural and Nature Based Solutions

Problem: The U.S. Army Corps of Engineers (Corps) continues to ignore longstanding federal laws and policies that require the Corps to consider and utilize the most environmentally protective approaches to addressing water resources problems by pushing for large scale structural projects when nonstructural and restoration approaches could provide the same or greater project benefits.

Large scale structural projects typically cause significant harm to the environment and destroy vital fish and wildlife habitat. Structural flood protection projects often increase flooding downstream, induce development in high risk areas, and make coastal communities far more vulnerable to storms.

Nonstructural and restoration measures, on the other hand, can solve many water resources problems while protecting and improving the health of the nation's rivers, floodplains, wetlands, and coasts. Nonstructural and restoration approaches typically cost less than structural measures and provide additional important benefits that include clean water, fish and wildlife habitat, recreational opportunities, sustainable economic development, and an increased ability for people and wildlife to adapt to climate change.

Importantly, nonstructural and restoration measures avoid the risks of catastrophic failure and overtopping created by structural projects like levees and floodwalls. The likelihood of such failures has caused the Association of State Floodplain Managers to urge communities to use nonstructural measures whenever possible instead of constructing new levees, which should be used only as an option "of last resort." ASFPM White Paper, National Flood Policy Challenges, Levees: The Double-edged Sword, Adopted February 13, 2007.

In 2007, Congress directed that all water resources projects should protect and restore the environment (42 USC § 1962–3). In 1997, CEQ and OMB issued guidance requiring the Corps to utilize nonstructural measures where appropriate. In 1974, Congress directed the Corps to consider nonstructural alternatives when planning flood damage reduction projects (33 U.S.C. § 701b-11).

Solution: Congress should require use of nonstructural and restoration approaches where those measures could provide an appropriate level of protection or benefits to address water resources problems and opportunities. At a minimum the Congress should amend existing guidelines to provide additional instruction that nonstructural and restoration approaches must be considered and prioritized. This would build on existing law, codify what is supposed to be current practice, establish a common sense approach to planning, and promote sound floodplain management.

Proposed Language 1:
LOW IMPACT, COST-EFFECTIVE PLANNING—

(A) **Planning Requirements.** When formulating and evaluating a water resources project in a feasibility study or environmental review, the Secretary of the Army shall select and recommend nonstructural measures to address all or a portion of a water resources problem or opportunity whenever practicable, unless the Secretary issues a written finding stating that it is not in the Federal interest to utilize such measures for the project. Nonstructural measures shall be presumed to be available and practicable unless clearly demonstrated otherwise.

(B) **Definition.** For purposes of this section "nonstructural measures" means actions that (i) use, enhance, facilitate, protect or restore naturally occurring hydrologic, geomorphic, and ecological functions and processes; and (ii) protect or restore the physical, chemical, or biological characteristics of streams, rivers, floodplains, wetlands, or coasts, without using structural measures. "Nonstructural

measures" include, but are not limited to: (i) acquisition of land or easements; (ii) relocation, demolition, or elevation of flood-prone properties; (iii) removal of structures such as dams, levees, and culverts; or modification of such structures to restore natural hydrology, form, function, or processes of rivers, streams, floodplains, wetlands, or coasts; (iv) reestablishment of natural hydrology, form, function, or processes of rivers, streams, floodplains, wetlands, or coasts; (v) measures to increase water conservation, increase water efficiency, or improve water management; (vi) building or construction requirements or standards; (vii) land use restrictions or limitations; or (viii) removal of nonnative species or reintroduction of native species.

Proposed Language 2:
Prioritization (WRRDA Sec 1011).

Bill Language:
In General: Title 33 US Code §2341a is amended—
(1) in subsection (a)—
(A) in paragraph (1)(C) by inserting "restore or" before the words "prevent the loss of coastal wetlands"
(2) in subsection (b)—
(A) in paragraph (1)—
(i) in subsection (A) by inserting "or regional" after "national" and striking the word "or"
(ii) in subsection (C) by inserting "or" after "birds"
(iii) by adding at the end the following:
"(D) preserve or restore habitat connectivity; and"

Statutory Language as amended:
(a) Prioritization of hurricane and storm damage risk reduction efforts

(1) Priority For authorized projects and ongoing feasibility studies with a primary purpose of hurricane and storm damage risk reduction, the Secretary shall give funding priority to projects and ongoing studies that—
(A) address an imminent threat to life and property;
(B) prevent storm surge from inundating populated areas;
(C) restore or prevent the loss of coastal wetlands that help reduce the impact of storm surge;
(D) protect emergency hurricane evacuation routes or shelters;
(E) prevent adverse impacts to publicly owned or funded infrastructure and assets;
(F) minimize disaster relief costs to the Federal Government; and
(G) address hurricane and storm damage risk reduction in an area for which the President declared a major disaster in accordance with section 5170 of title 42.

(2) Expedited consideration of currently authorized projects. Not later than 180 days after June 10, 2014, the Secretary shall—
(A) submit to the Committee on Environment and Public Works of the

Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of all—

(i) ongoing hurricane and storm damage reduction feasibility studies that have signed feasibility cost-share agreements and have received Federal funds since 2009; and

(ii) authorized hurricane and storm damage reduction projects that—

(I) have been authorized for more than 20 years but are less than 75 percent complete; or

(II) are undergoing a post-authorization change report, general reevaluation report, or limited reevaluation report;

(B) identify those projects on the list required under subparagraph (A) that meet the criteria described in paragraph (1); and

(C) provide a plan for expeditiously completing the projects identified under subparagraph (B), subject to available funding.

(b) Prioritization of ecosystem restoration efforts. For authorized projects with a primary purpose of ecosystem restoration, the Secretary shall give funding priority to projects—

(1) that—

(A) address an identified threat to public health, safety, or welfare;

(B) preserve or restore ecosystems of national **or regional** significance; **or**

(C) preserve or restore habitats of importance for federally protected species, including migratory birds; **or**

(D) preserve or restore habitat connectivity; and

(2) for which the restoration activities will contribute to other ongoing or planned Federal, State, or local restoration initiatives.

(Pub. L. 113–121, title I, § 1011, June 10, 2014, 128 Stat. 1217.)

Fish and Wildlife Mitigation (WRRDA Sec. 1040).

Bill Language

In General: Title 33 US Code §2283 is amended—

(1) in subsection (h)—

(A) in paragraph (4)—

(i) by inserting the following after subsection (C):

"(D) include measures to protect or restore habitat connectivity and to avoid habitat fragmentation"

(B) in paragraph (6)—

(i) in subsection (C) by adding "including impacts to habitat connectivity" after the words "types of impacts,"

Statutory Language as Amended:

(h) Programmatic mitigation plans

(1) In general - The Secretary may develop programmatic mitigation plans to address the potential impacts to ecological resources, fish, and wildlife associated with

existing or future Federal water resources development projects.

(2) Use of mitigation plans - The Secretary shall, to the maximum extent practicable, use programmatic mitigation plans developed in accordance with this subsection to guide the development of a mitigation plan under subsection (d).

(3) Non-Federal plans - The Secretary shall, to the maximum extent practicable and subject to all conditions of this subsection, use programmatic environmental plans developed by a State, a body politic of the State, which derives its powers from a State constitution, a government entity created by State legislation, or a local government, that meet the requirements of this subsection to address the potential environmental impacts of existing or future water resources development projects.

(4) Scope - A programmatic mitigation plan developed by the Secretary or an entity described in paragraph (3) to address potential impacts of existing or future water resources development projects shall, to the maximum extent practicable—

(A) be developed on a regional, ecosystem, watershed, or statewide scale;
(B) include specific goals for aquatic resource and fish and wildlife habitat restoration, establishment, enhancement, or preservation;
(C) identify priority areas for aquatic resource and fish and wildlife habitat protection or restoration;
(D) include measures to protect or restore habitat connectivity and to avoid habitat fragmentation;
((E)(~~D~~)) encompass multiple environmental resources within a defined geographical area or focus on a specific resource, such as aquatic resources or wildlife habitat; and
((F)(~~E~~)) address impacts from all projects in a defined geographical area or focus on a specific type of project.

(5) Consultation
The scope of the plan shall be determined by the Secretary or an entity described in paragraph (3), as appropriate, in consultation with the agency with jurisdiction over the resources being addressed in the environmental mitigation plan.

(6) Contents - A programmatic environmental mitigation plan may include—

(A) an assessment of the condition of environmental resources in the geographical area covered by the plan, including an assessment of recent trends and any potential threats to those resources;
(B) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographical area covered by the plan through strategic mitigation for impacts of water resources development projects;
(C) standard measures for mitigating certain types of impacts**, including impacts to habitat connectivity;**

(D) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;
(E) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring;
(F) acknowledgment of specific statutory or regulatory requirements that must be satisfied when determining appropriate mitigation for certain types of resources; and
(G) any offsetting benefits of self-mitigating projects, such as ecosystem or resource restoration and protection.

Paras 7-10 omitted

Durability, sustainability, and resilience (WRRDA Sec. 3022)
Bill Language:
In General: Title 33 US Code § 2351 is amended in the first sentence of the first paragraph—
(1) by inserting the words "structural or non-structural" after the words "material and resilient"
(2) by inserting ", including use or restoration of natural or natural-based solutions" after the words "construction techniques"

Statutory Language as Amended:
In carrying out the activities of the Corps of Engineers, the Secretary, to the maximum extent practicable, shall encourage the use of durable and sustainable materials and resilient **structural or non-structural** construction techniques**, including use or restoration of natural or nature-based solutions** that—

(1) allow a water resources infrastructure project—
(A) to resist hazards due to a major disaster; and
(B) to continue to serve the primary function of the water resources infrastructure project following a major disaster;

(2) reduce the magnitude or duration of a disruptive event to a water resources infrastructure project; and

(3) have the absorptive capacity, adaptive capacity, and recoverability to withstand a potentially disruptive event.

(Pub. L. 113–121, title III, § 3022, June 10, 2014, 128 Stat. 1301.)

1. **Improve the Emergency Levee Repair Program (PL 84-99) to Reduce Flood Risk and Improve River Health**

Problem: The Emergency Levee Repair Program, PL 84-99, is a critical federal program for repairing levees after they are damaged during a flood. The program is designed to implement repairs swiftly in order to be prepared for the next flood. Unfortunately, the program is inflexible for making improvements to flood control systems even when alterations would provide increased flood protection, reduced long-term disaster costs, and improve the health of rivers.

It is not uncommon for levees to be damaged during major floods. Levees can be overtopped, breached, experience erosion or scouring, etc. Often these damages occur at locations where the levee was built too close to the river. As a result, some levees can repeatedly experience damage during major floods, resulting in levee failures and damage to the property and infrastructure that was supposed to be protected. Despite repeated damage, in almost every case, the levees are rebuilt back to their pre-flood condition.

In recent years, the USACE has managed to implement several "nonstructural alternatives" involving levee setbacks and buyouts of flood-prone agricultural land on the Missouri River (IA), Maquoketa River (IA) and Yakima Rivers (WA). These projects improve the overall performance of the levee systems, are less likely to be damaged in the future, and provide opportunities for restoration of natural floodplain habitat. However, these projects had to overcome significant policy barriers in order to proceed, which delayed implementation and exposed the ways in which the existing USACE policy discourages implementation of nonstructural alternatives.

Simple changes can be made to the statutory language of the P.L. 84-99 program in order to facilitate the consideration of nonstructural or nature-based alternatives prior to a flood. This will allow the USACE, federal and state agencies, and local communities, to work with willing land owners ahead of time in order to quickly implement these alternatives in the event of a levee failure.

Solution: Congress should amend the P.L. 84-99 emergency levee repair program to make clear that levee realignments and the use of natural or nature-based solutions are allowed under this program. Congress should also amend the program to allow the USACE to work with non-federal sponsors to develop nonstructural and nature-based alternatives prior to a flood event. Finally, Congress should require the USACE to consider the cumulative costs of repairing the same structures repeatedly when undertaking a cost-benefit analysis of alternative.

Proposed Language:
IN GENERAL--- Section 5(a)(1) of the Act of August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended in the first sentence—:

(a) inserting the word 'realigning,' after the word 'extending';

(b) in two instances adding the phrase ", including natural or nature based solutions," after the term "non-structural alternatives";

(c) in two instances striking the words "if requested by" and replacing them with the words "after consultation with"

Section 5(a)(2) of the Act of August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended:
(a) inserting (A) before "the benefits to be gained by such project for the protection of-"
(b) changing (A) to (i), (B) to (ii), (C) to (iii)

(c) inserting "(B) the history of flood damages to the structure and cumulative costs of previous repairs"

3. Improve transparency of Army Corps of Engineers data, actions, and critical information

Problem: Public access to information critical to Army Corps decisions on water resources management is inconsistent. This hinders the ability of the general public, academics and scientists to adequately evaluate the effectiveness of the programs and projects administered by the Army Corps. Basic public policy information, including district and division level guidance, are inconsistently available or poorly explained. We have experienced inconsistencies between districts in many instances including the availability of data on navigation statistics and investments in levee repairs. Such inconsistencies in accessibility can lead to undue confusion and mistrust since this information is often critical for decision-making.

Data availability inconsistencies include

- Infrastructure rehabilitation. Just in 2015, the Transportation Research Board of the National Academies remarked that they were unable to determine the dates of major rehabilitations for all existing Army Corps of Engineers infrastructure – a very basic piece of historical information that is important for determining the useful age of locks and dams.
- Navigation statistics. Information regarding vessel, tonnage, commodity, origin, and destination has been collected by the Corps of Engineers from vessel operating companies since 1922[1], however, the Navigation Data Center only makes available data going back one year – a significant change from just 2015, when data dating back to the mid-1990s was available.
- Historic river levels. The St. Louis District removed all of their historical river gage data from the national rivergage.com database following a dispute with academics around the impact of navigation projects on flood stage. St. Louis is currently the only district that does not provide public access to their historic river gage data.
- Repeat Levee Repairs. Information about repetitively damaged levees and rehabilitation spending under the P.L. 84-99 program is not housed in a central location and is available at the whim of district Army Corps staff. Improved availability of data at all districts would allow for better pre-disaster planning to make system-wide improvements and develop cost-effective non-structural alternatives that will reduce long-term disaster spending.
- Reservoir levels. Operation plans for reservoir management always include specific information about the reservoir water levels, however studies show that many districts do not maintain reservoirs at the levels outlined in the operations manuals, which has the potential to lead to resource problems. In some districts, reservoir levels are provided online, while others decline to provide the information even after it is requested through the FOIA process.

Similar problems exist when trying to access and understand division and district level guidance. During the recent levels of service decision-making process for Lock and Dam 1 and Lower St Anthony Falls Lock and Dam, the District has only provided a chart of traffic levels to determine levels of service. The chart was pulled from policy document developed by the Inland Waterways Users Board which also included recommendations for public outreach and other considerations. While other districts (Pittsburg District and Mid-Atlantic Division) developed policy documents that included public meeting processes and outlined what other factors should be taken into account, the St Paul District declined to provide similar information. This left many stakeholders in the dark about the process, despite repeated requests.

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[1] http://www.navigationdatacenter.us/navchart/navregs.htm

In another example, a division level guidance document was found to be cited within a NEPA document. But when environmental groups requested a copy of the document to review and better understand the Corps decision, they were forced to make a Freedom of Information Act Request. These kinds of inconsistencies and actions by the Corps appear to obscure their decision-making process, which leads to distrust by stakeholders.

Solution: The Army Corps should strive to make data and decision-making information available publicly and in a consistent manner across all districts.

Proposed Language: Pending.

4. Ensure That Federal Water Resources Projects Minimize Adverse Impacts To Fish and Wildlife Resources

Problem: The U.S. Army Corps of Engineers often ignores critically important recommendations made by the U.S. Fish and Wildlife Service (USFWS) and state fish and wildlife agencies that would help avoid and minimize the adverse impacts of federal activities on fish and wildlife resources. The Fish and Wildlife Coordination Act has long required the Corps to consult with the USFWS and state fish and wildlife agencies for all federal projects that will physically modify a body of water for any purpose. Such recommendations would be required, for example, for diversions and other modifications to the Mississippi River to promote restoration of Louisiana's coastal wetlands. The Corps' recurring failure to comply with Fish and Wildlife Coordination Act recommendations undermines the effectiveness of restoration and unnecessarily harms the health of the nation's fish and wildlife resources. Federal planning should implement the recommendations of the nation's fish and wildlife experts to ensure robust protection and restoration of our vital fish and wildlife resources. Doing so is a common sense, cost-effective way to make projects better.

Solution: To remedy this problem, Congress should require evaluation and mitigation of fish and wildlife impacts from Corps projects consistent with recommendations of fish and wildlife experts under the Fish and Wildlife Coordination Act.

Existing Requirements of the Fish and Wildlife Coordination Act: Under the Fish and Wildlife Coordination Act, all federal agencies must consult with the USFWS, the Department of the Interior, and the head of the applicable state fish and game department whenever "the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage." 16 U.S.C. § 662. As part of the consultation, the USFWS and the states are to determine the potential impacts to wildlife resources, describe the damages that will be caused by the project, and develop mitigation measures to prevent those damages and improve wildlife resources. The recommendations must be given "full consideration", but the federal agencies carrying out the project or activity are not required to adopt the recommendations. 16 U.S.C. § 662.

Proposed Language, Amend 33 U.S.C. § 2283—Fish and wildlife mitigation: Add the following language as a new paragraph (6) at the end of 33 U.S.C § 2283(d):

(6) In carrying out this section, the Secretary shall ensure evaluation of, and mitigation for, impacts to fish and wildlife resources consistent with the recommendations developed by the U.S. Fish and Wildlife Service, Department of the Interior, and states pursuant to 16 U.S.C. § 662. This shall include, but is not limited to, recommendations to properly evaluate impacts and avoid adverse impacts to fish and wildlife resources. The Secretary shall not select a recommended alternative for a water resources project if the U.S. Fish and Wildlife Service concludes that the impacts of that alternative cannot be successfully mitigated. Mitigation required under this paragraph shall be in addition to other mitigation measures required by this section and by other applicable Federal and State law.

Note: It is very important to make clear that mitigation measures required under this provision are in addition to those required under other applicable laws. These other laws include Clean Water Act § 404 and the mitigation provisions implemented by various Water Resources Development Acts, including WRDA 2007 and WRRDA 2014.

5. **Require Regular Reassessments of Project Operations**

Problem: The Corps continues to rely on decades-old operating plans for federal water projects under its control, despite requirements to reevaluate operating plans in the agency's own internal guidance and as required by the National Environmental Policy Act. Operating plans include such things as water control manuals that establish reservoir operations and river flows, and navigation operating plans that guide dredging, channel modifications, and water control management behind locks and dams.

For example, many of the 35 federal flood control dams in central California are being managed under flood operating plans that are dramatically out of date, with many dating back 50 years. The Corps has not updated its management plans for the Mississippi River navigation system in 30 years. It has taken the Corps more than 57 years to begin updating the water control manual for the Apalachicola-Chattahoochee-Flint (ACF) system (the public comment period on the draft EIS and draft water control manual closed in January 2016, and it will likely be many years before a final EIS and water control manual are released).

Outdated operating plans put the public at increased risk of flooding, aggravates increasingly contentious water supply conflicts, and causes significant harm to fish and wildlife. Outdated operating plans cause extensive damage to the environment by destroying wetlands and backwater habitats, altering natural hydrologic cycles, preventing sediments from reaching and restoring vital coastal wetlands, and facilitating encroachment of invasive species. Importantly, outdated operating plans cannot account for: (1) current and future needs or environmental conditions, including changes in rainfall, flood levels, snowmelt patterns, and land use patterns; (2) current laws and policies; (3) modern scientific tools; and (4) state of the art management approaches that can both ensure effective operation of federal projects *and* protect the environment.

The Corps' Engineering Regulations, which are internal guidance documents, require the agency to update their operating plans on a continuous basis as needed, and at least every 10 years. The Corps' failure to meet these internal guidelines is another important reason for establishing a standardized schedule for reoperation in statute.[1]

Solution: The Corps should be required to comprehensively evaluate and update operations plans and water control manuals for large-scale projects operated and maintained by the Corps at least every 10 years, or more frequently if conditions warrant. The Corps should also be required to implement needed operational changes or to decommission outdated projects pursuant to the reevaluation.

Proposed Language:
STANDARDIZED REOPERATION—
(A) Evaluation of Operations and Maintenance. The Secretary of the Army shall comprehensively evaluate and update the operations plans, maintenance plans, and/or water control plans and manuals for projects operated and/or maintained by the U.S. Army Corps of Engineers at least once every 10 years. Such plans and manuals shall be evaluated and updated more frequently if warranted by changes in environmental conditions or as required by applicable Federal laws including the National Environmental Policy Act, the Endangered Species Act, and the Clean Water Act. Reevaluations conducted pursuant to this paragraph shall comply fully with all applicable Federal and state laws, and shall utilize the most up to date planning guidelines and science.

(B) Considerations. [To Come]

(C) Required Operational Changes. The Secretary shall implement operational changes recommended through the evaluations carried out pursuant to paragraph (A) and/or other applicable laws. Where an evaluation carried out pursuant to paragraph (A) and/or other applicable laws demonstrates that continued operation of a Federal project is no longer in the Federal interest, the Secretary shall submit a recommendation to Congress for the decommissioning of that project.

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[1] ER 1110-2-8154, 31 May 1995 (water control "plans must be reviewed and updated as needed but not less than every 10 years" and the "plans must achieve environmentally sustainable overall use of the resource"); ER 1110-2-8156, 31 Aug 1995 ("It is the policy of the Chief of Engineers that water control plans be continually reviewed, updated, and adjusted as needed to ensure that the best use is made of available water resources.").

5. Clarify Language in the Northern Rocky's Provision

Problem: Based on the contracting that the State of Montana's Department of Natural Resources and Conservation has done with the Army Corps to date to get Section 4007's feasibility study underway, and based on the August, 2015 Guidance from the Army Corps, the biggest stumbling block to implementation of Section 4007 that the Army Corps is interpreting the language in Section 4007 too narrowly.

Solution: The language states, "The Secretary may carry out any project identified in the study..." The guidance and contracting discussions suggest that the Army Corps believes that this only gives them the authority to fund a project that is specifically identified in the study. We suggest changing the language to "The Secretary may carry out projects addressing needs identified in the study..." This small change in language would allow for the Army Corps to support ongoing work administered by Idaho and Montana state agencies and implemented by Non-Governmental Organizations.

Proposed Language:

Section 4007 – Northern Rockies Headwaters

(a) In General. –The Secretary shall conduct a study to determine the feasibility of carrying out projects for aquatic ecosystem restoration and flood risk reduction that will mitigate the impacts of extreme weather events, including floods and droughts, on communities, water users, and fish and wildlife located in and long the headwaters of the Columbia, Missouri, and Yellowstone Rivers (including the tributaries of those rivers) in the States of Idaho and Montana.

(b) Inclusions. –The study under subsection (a) shall, to the maximum extent practicable—
  1) Emphasize the protection and enhancement of natural riverine processes; and
  2) Assess the individual and cumulative needs associated with—
    A) floodplain restoration and reconnection;
    B) floodplain and riparian area protection through the use of conservation easements;
    C) instream flow restoration projects;
    D) fish passage improvements;
    E) channel migration zone mapping; and
    F) invasive weed management.

(c) Disposition. –
  1) In general. –The Secretary may carry out projects addressing needs ~~any project~~ identified in the study pursuant to subsection (a) in accordance with the criteria for projects carried out under one of the following authorities:
    A) Section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

B) Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).
C) Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)).
D) Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s)

2) Report. –For each project that does not meet the criteria under paragraph (1), the Secretary shall include a recommendation relating to the project in the annual report submitted to Congress by the Secretary in accordance with section 7001.

(d) Coordination. –In carrying out this section, the Secretary—

1) shall consult and coordinate with the appropriate agency for each State and Indian tribe; and
2) may enter into cooperative agreements with those State or tribal agencies described in paragraph (1) <u>to fund and implement projects addressing needs identified in the study pursuant to subsection (a)</u>.

(e) Limitations. –Nothing in this section invalidates, preempts, or creates any exception to State water law, State water rights, or Federal or State permitted activities or agreements in the States of Idaho and Montana or any State containing tributaries to rivers in those States.

Everglades Coalition

1000 Friends of Florida
Arthur R. Marshall Foundation
Audubon Florida
Audubon of Southwest Florida
Audubon of the Western Everglades
Audubon Society of the Everglades
Backcountry Fly Fishers of Naples
Caloosahatchee River Citizens Association/ Riverwatch
Center for Biological Diversity
Clean Water Action
Conservancy of Southwest Florida
Defenders of Wildlife
"Ding" Darling Wildlife Society
Earthjustice
Environment Florida
Everglades Coordinating Council
Everglades Foundation
Everglades Law Center
Everglades Trust
Florida Conservation Voters Education Fund
Florida Defenders of the Environment
Florida Keys Environmental Fund
Florida Native Plant Society
Florida Oceanographic Society
Friends of the Arthur R. Marshall
Loxahatchee National Wildlife Refuge
Friends of the Everglades
Hendry-Glades Audubon Society
International Dark-Sky Association, FL Chapter
Izaak Walton League of America
Izaak Walton League Florida Division
Izaak Walton League Florida Keys Chapter
Izaak Walton League Mangrove Chapter
Last Stand
League of Women Voters of Florida
Loxahatchee River Coalition
Martin County Conservation Alliance
Miami Pine Rocklands Coalition
Miami Waterkeeper
National Audubon Society
National Parks Conservation Association
National Wildlife Refuge Association
Natural Resources Defense Council
Ocean Research & Conservation Association
Reef Relief
Sanibel-Captiva Conservation Foundation
Save It Now, Glades!
Sierra Club
Sierra Club Florida Chapter
Sierra Club Broward Group
Sierra Club Calusa Group
Sierra Club Central Florida Group
Sierra Club Loxahatchee Group
Sierra Club Miami Group
Snook and Gamefish Foundation
South Florida Audubon Society
Southern Alliance for Clean Energy
The Florida Wildlife Federation
The Institute for Regional Conservation
The National Wildlife Federation
The Urban Environment League of Greater Miami
Tropical Audubon Society

February 19, 2016

Chairman Jim Inhofe
410 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Barbara Boxer
456 Dirksen Senate Office Building
Washington, DC 20510

Chairman Bill Shuster
2251 Rayburn House Office Building
Washington, DC 20515

Ranking Member Peter DeFazio
2164 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Inhofe, Chairman Shuster, Ranking Member Boxer, and Ranking Member DeFazio:

On behalf of the 61 members of the Everglades Coalition committed to the protection and restoration of America's Everglades, we greatly appreciate your support for authorizing critical Everglades restoration projects in previous versions of the Water Resources Development Act (WRDA). WRDA is critical for advancing U.S. Army Corps of Engineers' projects under the Comprehensive Everglades Restoration Plan (CERP); therefore, we are very pleased that WRDA is getting back on a two-year cycle so that important restoration projects are not delayed, much to the detriment of the greater Everglades ecosystem, while waiting on federal authorizations.

As you consider WRDA this year, we write to express our strong support for the inclusion of one Everglades restoration project and two technical fixes for previously authorized projects.

Central Everglades Planning Project

In 2011, the Army Corps launched the Central Everglades Planning Project (CEPP). This innovative pilot project reduced planning time in half, from six to three years, and bundled together elements of existing CERP projects including "decompartmentalization," water storage, seepage management, and operational changes. The result is a restoration project that will not only provide tremendous benefits for the heart of the Everglades ecosystem and Everglades National Park and Florida's economy, but also one that has true community support.

Once constructed, CEPP will deliver approximately 200,000 acre-feet of "new" water annually from Lake Okeechobee to the Central Everglades (nearly two-thirds the volume of water anticipated in fully implemented CERP) and restore 10,000 acres of historic sheet flow and re-establish ridge and slough landscape and habitat in Everglades National Park. CEPP is one of the most cost effective options for ecosystem-wide restoration, while creating 20,000 jobs.

The significance of this project to the restoration of America's Everglades cannot be underestimated. CEPP is vital to reconnecting historic water flows to Everglades National Park and Florida Bay, which are in desperate need of fresh water. The project will restore wildlife habitat throughout the ecosystem and will reduce excessive damaging discharges to the St. Lucie and Caloosahatchee estuaries, which have devastated our state in recent years. The delay of CEPP could ultimately lead to more suffering for our treasured ecosystems, estuary communities, and local economies.

To underscore CEPP's importance, on February 8, 2016, the Florida Delegation, with the exception of three members who serve on the House Transportation and Infrastructure Committee, sent a letter to you highlighting the need to authorize CEPP in the next WRDA and its importance to Florida. To realize the numerous ecosystem and economic benefits, CEPP needs to be authorized in WRDA this year.

Picayune Strand Restoration

The Picayune Strand Restoration project is a CERP project that was authorized in WRDA 2007, and much construction work is underway now to restore this area into its natural state. This project will restore more than 55,000 acres of natural habitat and historic water sheetflow on land that formerly was a failed housing development project. Wildlife is already returning to this area, and it is a prime Florida panther habitat. However, due to cost increases necessary to accommodate post Hurricane Katrina construction upgrades, this project now requires that the Section 902 cost limit be adjusted. This cost adjustment needs to be a part of the next WRDA.

Kissimmee River Restoration

The Kissimmee River Restoration project is a Foundation Project for Everglades restoration and is expected to be completed in FY 2019 to help with the timing and distribution of water flows into the Everglades from the headwaters region. This project will restore the natural path of the Kissimmee River, which will help slow the flow of water to Lake Okeechobee and reduce the harmful high-volume discharges that we are seeing now into the St. Lucie and Caloosahatchee estuaries. In the process of implementing this worthy project that is very near completion, the South Florida Water Management District (SFWMD) provided important engineering work that enabled the project to move forward without the purchase of certain land, resulting in a lower project cost. Language is needed in WRDA in order for SFWMD to receive the cost credit it is due for this valuable engineering work.

We greatly appreciate your support for Everglades restoration and look forward to working with you and your staff to include these priorities in the forthcoming WRDA as we work together to restore this national treasure.

Sincerely,

Cara Capp

Cara Capp
National Co-Chair

Jason Totoiu
State Co-Chair

Committed to full protection and restoration of America's Everglades

450 N. Park Road # 301, Hollywood FL 33021 | www.evergladescoalition.org | info@evergladescoalition.org

Statement

Of

The National Wildlife Federation

Before the

Subcommittee on Water Resources and Environment
Transportation and Infrastructure Committee
United States House of Representatives

For the hearing on

A Review of United States Army Corps of Engineers Reports to Congress on
Future Water Resources Development and Chief's Reports

February 24, 2016

Prepared by

Melissa Samet
Senior Water Resources Counsel

STATEMENT OF MELISSA SAMET
SENIOR WATER RESOURCES COUNSEL, NATIONAL WILDLIFE FEDERATION

SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
UNITED STATES HOUSE OF REPRESENTATIVES
TRANSPORTATION AND INFRASTRUCTURE COMMITTEE

A REVIEW OF UNITED STATES ARMY CORPS OF ENGINEERS REPORTS TO CONGRESS ON FUTURE WATER RESOURCES DEVELOPMENT AND CHIEF'S REPORTS

February 24, 2016

Chairman Gibbs, Ranking Member Napolitano, and members of the Subcommittee, thank you for the opportunity to present this statement on Future Water Resources Development and Chief's Reports. The National Wildlife Federation appreciates the opportunity to present our recommendations for modernizing U.S. Army Corps of Engineers (Corps) planning to produce cost-effective, environmentally sound solutions to the nation's water resources needs.

The National Wildlife Federation is the nation's largest conservation education and advocacy organization with almost six million members and supporters, and affiliate conservation organizations in forty-nine states and territories. The Federation has a long history of working to protect and restore the nation's rich array of water resources and to modernize Corps planning, projects and programs. The Federation works closely with the Water Protection Network, a coalition of more than 200 grassroots, regional, and national organizations from across the country working to improve the way the Corps plans and constructs water projects.

The National Wildlife Federation calls on Congress to usher in a new approach to water resources planning – one that prioritizes use of natural systems to solve water resources problems. Healthy rivers, wetlands and floodplains provide essential fish and wildlife habitat, clean water, extensive economic opportunities, and important protections from storms and floods. As aptly stated by the President of the Reinsurance Association of America:

> "One cannot overstate the value of preserving our natural systems for the protection of people and property from catastrophic events."[1]

Utilizing healthy rivers, floodplains and wetlands to solve water resources problems will provide a host of important and tangible benefits to people, wildlife, and the economy.

Letting nature work for people is a cost-effective way to help communities address the unintended consequences of many already-constructed water resources projects, more intense storms like Hurricane Sandy, more frequent and intense floods and droughts, and rapidly rising sea levels. The reforms outlined in this Statement provide both the authority and direction that the Corps needs to utilize natural systems to solve water resource problems.

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[1] Restore America's Estuaries, *Jobs & Dollars BIG RETURNS from coastal habitat restoration* (September 14, 2011) (http://www.estuaries.org/images/81103-RAE_17_FINAL_web.pdf).

I. Robust Environmental Reviews Improve Projects and Save Taxpayer Dollars

Environmental review and meaningful public input under the National Environmental Policy Act (NEPA) provide critical input and transparency that lead to better, more effective water resources projects. Indeed, as eight past chairs of the Council on Environmental Quality have concluded, NEPA review is a prerequisite for responsible agency action:

> [C]onsideration of the impacts of proposed government actions on the quality of the human environment is essential to responsible government decision-making. Government projects and programs have effects on the environment with important consequences for every American, and those impacts should be carefully weighed by public officials before taking action. **Environmental impact analysis is thus not an impediment to responsible government action; it is a prerequisite for it.**[2]

Effective environmental reviews expose the true cost of environmentally damaging and ill-conceived proposals, leading to better and far less damaging projects and substantial savings for federal taxpayers.

For example, preparation of a supplemental environmental impact statement led the Corps to save more than 4,300 acres of wetlands that would have been destroyed had the Corps followed its original plan for raising levees along the Mississippi River.[3] Environmental review of the proposed Bolinas Lagoon dredging project in California demonstrated that the Corps' proposal would cause extensive harm to one of the most pristine tidal lagoons in California and was not necessary, saving taxpayers $133 million. The environmental review process exposed the devastating environmental impacts of the Yazoo Backwater Pumping Plant project in Mississippi, prompting the George W. Bush Administration to veto the project. This saved taxpayers more than $220 million and protected 200,000 acres of wetlands – an area the size of all 5 boroughs of New York City.

When resource agency concerns are ignored or necessary studies are not done, the results can be devastating. Prior to construction of the Mississippi River Gulf Outlet (MRGO) in Louisiana, the U.S. Fish and Wildlife Service raised serious concerns and recommended additional environmental and hydrologic modeling, but the Corps ignored this advice. Since its construction, the MRGO has destroyed more than 27,000 acres of coastal wetlands and damaged more than 600,000 acres of coastal ecosystems surrounding the Greater New Orleans area. During Hurricane Katrina, the MRGO funneled Katrina's storm surge into New Orleans, resulting in devastating flooding in St. Bernard Parish and the lower Ninth Ward.

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[2] September 19, 2005 Letter to the Honorable Cathy McMorris, Chair of the Task Force on Improving the National Environmental Policy Act from Russell E. Train (CEQ Chair 1970-1973), Russell W. Peterson (CEQ Chair 1973-1976), John Busterud (CEQ Chair 1976-1977), Charles W. Warren (CEQ Chair 1977-1979), J. Gustave Speth (CEQ Chair 1979-1981), Michael R. Deland (CEQ Chair 1989-1993), Kathleen A. McGinty (CEQ Chair 1995-1998), George T. Frampton Jr. (CEQ Chair 1998-2001), Gary Widman (CEQ General Counsel 1974-1976), Nick Yost (CEQ General Counsel 1977-1981) (emphasis added).

[3] Brief of Plaintiffs-Appellants, United States Court of Appeals for the Fifth Circuit, *Mississippi River Basin Alliance et al v. Lancaster et al.*, Case Number 99-31235, at 7 (January 26, 2000) (the supplemental EIS concluded that the traditional method of construction would destroy at least 11,654 acres of wetlands while the new alternative selected by the Corps would destroy 7,328 acres). The Corps continued to work on critical elements of this project while it prepared the supplemental environmental impact statement.

As law professors from across the country have concluded:

> Corps proposals typically involve large scale structural measures with multiple and complex impacts that can radically transform entire ecosystems. Full and meaningful assessments of such projects – including independent, detailed reviews by the resource agencies – are essential for preventing the construction of poorly-designed projects that cause significant and avoidable damage to the nation's natural resources and put communities at risk. Such reviews are particularly important given the Corps' well recognized institutional bias towards construction of large scale structural projects and its long history of flawed analyses.[4]

Effective environmental review does not delay projects that are in the national interest. Project delays are caused by poor planning, funding constraints, and the Corps' $60 to $80 billion backlog of authorized but unconstructed projects which all require periodic funding to remain authorized. According to several Congressional Research Service reports, lack of funding is the primary obstacle for project completion and has the greatest impact on the time it takes to deliver a project. To help speed project delivery, Congress should improve Corps planning through the reforms discussed in Section II below.

Despite the many benefits of comprehensive environmental review, and despite extensive opposition from the conservation community and leading experts, the Water Resources Reform and Development Act (WRRDA) of 2014 instituted dramatic rollbacks to the NEPA review process for Corps projects. Given the benefits of environmental review it is critical that the Committee refrain from imposing any additional limitations on NEPA review or public input for federal water resources projects.

Instead, once the WRRDA 2014 review and planning changes are fully implemented (we understand that few, if any, projects have gone through this new review process), Congress should ask the General Accounting Office (GAO) to conduct a comprehensive assessment of the impacts of those changes on effective environmental review, meaningful public participation, harm to the environment, and whether, in fact, they led to any significant improvement in project delivery. Congress should then take steps, including rescinding or modifying WRRDA 2014 changes if necessary, to ensure that the environmental impacts of water resources projects are fully, fairly, and openly evaluated as required by NEPA.

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[4] Letter from 50 professors of Administrative Law, Environmental Law, and Natural Resources Law and Policy to Members of the Senate, dated April 8, 2013 (urging the Senate to strike the section 2032 and 2033 streamlining provisions for Corps projects from S.601). Between 1994 and 2011, at least 35 reports from the National Academy of Sciences, Government Accountability Office, Army Inspector General, National Academy of Public Administration, U.S. Commission on Ocean Policy, and independent experts revealed major flaws in Corps project planning and implementation, and urged substantial changes to the Corps' planning process. These studies include one by the Department of the Army Inspector General which found that the Corps had deceptively and intentionally manipulated data in an attempt to justify a $1.2 billion lock expansion project and that the Corps has an institutional bias for constructing costly, large scale structural projects. Department of the Army Inspector General (Case No. 00-019), Investigation of Allegations against the U.S. Army Corps of Engineers Involving Manipulation of Studies Related to the Upper Mississippi River and Illinois Waterway Navigation Systems, November 2000.

II. Common Sense Reforms Will Protect People, Jobs, and Wildlife

The common sense, good government reforms outlined below would usher in a new approach to Corps planning that both solves water resource problems and protects the nation's rivers, wetlands, and floodplains. The National Wildlife Federation urges the Committee to include these reforms in the next Water Resources Development Act to protect people, jobs, and wildlife:

- **Require use of low impact, cost-effective solutions where they can provide an appropriate level of protection and benefits.** The Corps continues to promote destructive and costly structural projects even where less costly and environmentally protective nonstructural and restoration measures would provide better and more cost-effective solutions. Requiring the use of low impact approaches where practicable is a cost-effective way to solve water resource problems; protect people, wildlife, and businesses that rely on healthy rivers, coasts, and wetlands; and comply with the National Water Resources Planning Policy (42 USC 1962-3).

- **Modernize water project management by requiring the Corps to update operating plans and water control manuals for large-scale Corps projects at least every 10 years.** Many large-scale Corps projects are managed under antiquated, decades-old water control manuals (guiding reservoir operations and river flows) and navigation plans (guiding dredging, channel modifications, and water levels behind locks and dams). These outdated plans do not address modern needs or environmental conditions. Regular plan updates would ensure that federal water infrastructure is managed with state-of-the-art approaches to both improve operations *and* protect the environment.

- **Utilize federal and state fish and wildlife expertise by requiring evaluation and mitigation consistent with Fish and Wildlife Coordination Act recommendations.** Corps planners continue to ignore recommendations from state and federal fish and wildlife experts leading to unnecessary environmental harm and mitigation plans that do not work. Fish and Wildlife Coordination Act review is a longstanding, critically important component of water resources planning. Utilizing the recommendations from these expert reviews is a common-sense, cost-effective way to improve federal water resources projects.

- **Modernize emergency flood recovery efforts by allowing use of P.L. 84-99 emergency funds for levee setbacks and other low impact solutions that increase public safety.** P.L. 84-99 requires the Corps to fund 80% to 100% of the cost of restoring a publicly-owned flood project damaged by a flood to pre-disaster conditions (33 U.S.C. 701n), but these large, guaranteed federal subsidies cannot fund nonstructural measures unless specifically requested by the local sponsor. Removing this prohibition would ensure effective evaluation of more sustainable, less damaging, and less costly alternatives.

- **Improve planning and transparency by making water resources planning data and policy guidance available to the public.** Critical data and regional policy guidance are often not available to the public, significantly impeding the ability of outside experts and the public to effectively evaluate Corps planning, projects, and programs. Increasing data and policy guidance transparency is fundamental to improving Corps decision making.

These reforms would promote effective and environmentally sound solutions to the nation's many pressing water resources needs, as required by the National Water Resources Planning Policy.[5]

These reforms are needed because, despite some progress in Corps planning, the agency continues to promote large-scale, structural projects and utilize outdated operating plans that wreak havoc on the nation's waters and wildlife. The nation can no longer afford this business as usual approach to project planning, which has made freshwater species the most imperiled group of fish and wildlife in North America while failing to stem the nation's skyrocketing flood and storm damages. The National Weather Service reports that between 2000 and 2014, inland flooding took 1,010 lives and caused more than $129 billion in damage. Coastal storms caused even more harm. Hurricanes Katrina and Sandy alone caused more than $200 billion in damage.

Work with Nature to Protect People, Wildlife, and the Economy

The Department of the Army Inspector General has found that the Corps has an institutional bias for constructing costly, large scale structural projects.[6] These types of projects damage the functioning and productivity of natural systems, putting the public, the environment, and the economy at risk.

This was made tragically, and abundantly, clear when Hurricane Katrina slammed into New Orleans. Poorly planned Corps projects led to major losses of Louisiana's vital coastal wetlands that were not available to help buffer Katrina's storm surge, funneled and intensified that surge into New Orleans, and encouraged the development of high-risk areas that suffered the brunt of the flooding. The city's fate was sealed by the Corps' flawed design and construction of levees and floodwalls that were supposed to protect the city, but did not.

As this Committee is well aware, the flooding of New Orleans devastated families, destroyed homes, and displaced entire communities. It also caused enormous economic losses:

> "During the first 10 months after the hurricane, the city suffered an over-the-year average loss of 95,000 jobs. At the trough of the job loss, in November 2005, employment was 105,300 below the previous year's November figure. By June 2006, the over-the-year job loss, though smaller, was still substantial (92,900). Lost wages over the 10-month period from September 2005 to June 2006 were about $2.9 billion, with 76 percent of the loss attributable to the private sector."[7]

More than ten years later, New Orleans still has not fully recovered.

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[5] 42 U.S.C § 1962–3 (Section 2031 of Public Law 110–114, 121 Stat. 1082). The National Water Resources Planning Policy established in 2007 directs that all federal water resources projects – including operation of the nation's vast array of existing water infrastructure – must protect and restore the environment, seek to promote sustainable economic development, and seek to avoid the unwise use of floodplains. To carry out this directive, Congress directed the Corps to, among other things, protect and restore the functions of natural systems and to mitigate any unavoidable damage to those systems.

[6] Department of the Army Inspector General (Case No. 00-019), Investigation of Allegations against the U.S. Army Corps of Engineers Involving Manipulation of Studies Related to the Upper Mississippi River and Illinois Waterway Navigation Systems, November 2000 (finding that the Corps deceptively and intentionally manipulated data in an attempt to justify a $1.2 billion lock expansion project and that the Corps has an institutional bias for constructing costly, large scale structural projects).

[7] Michael L. Dolfman et al, *The effects of Hurricane Katrina on the New Orleans Economy*, Monthly Labor Review (June 2007).

New Orleans and communities throughout coastal Louisiana and across the country need the protection and many other benefits provided by healthy wetlands, rivers, and floodplains. As aptly stated by the President of the Reinsurance Association of America:

> "One cannot overstate the value of preserving our natural systems for the protection of people and property from catastrophic events."[8]

A fundamental tool for preserving and restoring the many benefits provided by our natural systems is requiring the use of nonstructural and restoration measures to address water resource problems where those measures can provide an appropriate level of protection and benefits.

Nonstructural measures include coastal and floodplain protection, relocation of flood-prone properties, water conservation and efficiency, improved management of existing water resources projects, pricing mechanisms, and navigation scheduling. Restoration measures include actions that reestablish the natural form, function, hydrology, and inundation of rivers, floodplains, and wetlands including through the removal or modification of levees, dams, river training structures, cut offs, and culverts.

Nonstructural and restoration measures avoid the risks of catastrophic failure and overtopping created by structural projects like levees and floodwalls. While structural flood damage reduction projects will be necessary in some instances, the likelihood of such failures has caused the Association of State Floodplain Managers to urge communities to use nonstructural measures whenever possible instead of constructing new levees, which should be used only as an option "of last resort."[9]

As demonstrated by the success stories presented in Attachment A, nonstructural and restoration measures can solve significant water resources problems. At the same time, such measures protect the nation's rivers, floodplains, and wetlands – resources that provide vital services to people and wildlife – and typically cost less than structural solutions. Indeed, restoration and nonstructural measures are so important that Louisiana's *2012 Comprehensive Master Plan for a Sustainable Coast* is proposing to spend three quarters of its funding over the next fifty years to accomplish them.[10]

Wetlands act as natural sponges, storing and slowly releasing floodwaters after peak flood flows have passed, and coastal wetlands buffer the onslaught of hurricanes and tropical storms. Restoring a river's natural flow and meandering channel, and giving at least some floodplain back to the river, slows down floodwaters and gives the river room to spread out without harming homes and businesses. A single acre of wetland can store 1 to 1.5 million gallons of floodwaters.[11] Just a one percent loss of a watershed's wetlands can increase total flood volume by almost seven percent.[12]

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[8] Restore America's Estuaries, *Jobs & Dollars BIG RETURNS from coastal habitat restoration* (September 14, 2011) (http://www.estuaries.org/images/81103-RAE_17_FINAL_web.pdf).

[9] Association of State Floodplain Managers White Paper, National Flood Policy Challenges, Levees: The Double-edged Sword, Adopted February 13, 2007.

[10] *Louisiana's Comprehensive Master Plan for a Sustainable Coast* 2012. Coastal Protection and Restoration Authority of Louisiana. Baton Rouge, LA. at 36-37.

[11] Environmental Protection Agency, *"Functions and Values of Wetlands." EPA 843-F-01-002c.* (2001) (*factsheet).*

[12] Demissie, M. and Abdul Khan. 1993. "Influence of Wetlands on Streamflow in Illinois." Illinois State Water Survey, Contract Report 561, Champaign, IL, Table 7, pp. 44-45.

Healthy rivers, floodplains, and wetlands provide vital fish and wildlife habitat and allow people and wildlife to benefit from natural flood cycles. In a healthy, functioning river system, natural floods deposit nutrients along floodplains creating fertile soil for bottomland hardwood forests. Sediment transported by floods form islands and back channels that are home to fish, birds, and other wildlife. By scouring out river channels and riparian areas, floods prevent rivers from becoming overgrown with vegetation. Floods also facilitate breeding and migration for a host of fish species, and provide vital connectivity between habitat areas. In the deltas at the mouths of rivers, floods release freshwater and sediment, sustaining and renewing wetlands that protect coastal communities from storms and provide nurseries for multibillion dollar fisheries.

Healthy rivers, floodplains, and wetlands provide extensive recreational opportunities such as boating, fishing, and bird watching that help drive the nation's economy. In 2011, "90.1 million Americans, 38% of the U.S. population 16 years old and older, enjoyed some form of fishing, hunting or wildlife-associated recreation" contributing $145 billion to the national economy in the process.[13] "This equates to 1% of gross domestic product; meaning one out of every one hundred dollars of all goods and services produced in the U.S."[14]

Healthy coasts "supply key habitat for over 75% of our nation's commercial fish catch and 80-90% of the recreational fish catch."[15] Healthy rivers are equally important to these fisheries and the economic benefits they provide. For example, recreational fishing in the Apalachicola River and Bay in Florida contributes $191 million to the local economy each year. Commercial fishing in the Apalachicola River and Bay contributes $200 million annually to the regional economy and directly supports up to 85 percent of the local population. In 2011, more than 33.1 million Americans spent "$41.8 billion on trips, equipment, licenses, and other items to support their fishing activities."[16]

Restoration projects are also an important creator of jobs that are "inherently local and cannot be exported."[17] Restore America's Estuaries reports that coastal restoration "can create more than 30 jobs for each million dollars invested" which is "more than twice as many jobs as the oil and gas and road construction industries combined."[18]

In Louisiana, analysis of a proposed $72 million project to restore a 30,000-acre expanse of degraded marsh near downtown New Orleans known as the Central Wetlands Unit shows that it could create 689 jobs (280 direct jobs and 400 indirect and induced jobs) over the project's life.[19] Implementation of the entire $27.6 billion dollars of restoration in Louisiana's Master Plan over the next fifty years would multiply those jobs hundreds of times over.

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[13] U.S. Fish and Wildlife Service, 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation: National Overview, Issued August 2012.
[14] *Id.*
[15] Restore America's Estuaries, *Jobs & Dollars BIG RETURNS from coastal habitat restoration* (September 14, 2011) (http://www.estuaries.org/images/81103-RAE_17_FINAL_web.pdf).
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] Environmental Defense Fund, Profiles in Restoration: The Central Wetlands Unit, Part VI (May 3, 2010) (http://blogs.edf.org/restorationandresilience/category/central-wetlands-unit/).

In Florida, restoration of the Everglades will produce more than 442,000 jobs over the next 50 years and almost 23,000 short- to mid-term jobs for the actual restoration work.[20] Restoring the Everglades is also predicted to produce a return of four dollars for each dollar invested, including:

- Improved water supply worth $13.1 billion;
- Increased property values worth $16.1 billion;
- Increased park visitation and tourism worth $1.3 billion; and
- Increased fishing and hunting as wildlife populations increase, worth $15.1 billion.[21]

The Department of the Interior's FY2010 investment of $156 million for ecosystem restoration activities in the Chesapeake Bay, Great Lakes, and Everglades supported more than 3,200 jobs and contributed $427 million in economic outputs.[22] The full economic output is even greater, however, as the $427 million does not capture the net benefits associated with the restoration of environmental goods and services not bought and sold in markets.[23]

In Oregon, a $411 million investment in restoration from 2001 to 2010 generated an estimated $752 to $977 million in economic output.[24] The 6,740 restorations projects completed during that time supported an estimated 4,600 to 6,500 jobs, including jobs in construction, engineering, wildlife biology, and in supporting local businesses such as plant nurseries and heavy equipment companies.[25] On average, $0.80 of every $1.00 spent on a restoration project in Oregon stays in the county where the project is located and $0.90 stays in the state.[26] Importantly, the monies spent on restoration are "an enduring investment" whose value "continues to accrue and pay out over generations. Improvements in habitat and fish and wildlife populations provide recreation and commercial opportunities as well as ecosystem services that are fundamental to our health, productivity, and quality of life."[27]

Restoration projects can also provide critical business opportunities during difficult economic times:

> "During the economic recession, a habitat restoration project kept our marine transportation business afloat. We were able to keep many of our people working to rebuild a critical part of the marine environment that had been all but lost in North Carolina."[28]

To protect communities, wildlife, and a healthy economy, the Corps must protect and restore the nation's rivers, floodplains, and wetlands – resources that provide natural protection from floods and storms, clean and healthy drinking water, and vital fish and wildlife habitat.

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[20] Everglades Foundation, Everglades Restoration a 4-to1-Investment (http://everglades.3cdn.net/79a5b78182741ae87f_wvm6b3vhn.pdf).
[21] *Id.*
[22] The Department of the Interior's Economic Contributions (Department of the Interior, 2011) at 106 (http://www.doi.gov/news/pressreleases/upload/DOI-Econ-Report-6-21-2011.pdf).
[23] *Id.* at 5.
[24] Whole Watershed Restoration Initiative, Oregon's Restoration Economy, Investing in natural assets for the benefit of communities and salmon (2012)(http://www.ecotrust.org/wwri/downloads/WWRI_OR_brochure.pdf).
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] Restore America's Estuaries, *Jobs & Dollars BIG RETURNS from coastal habitat restoration* (September 14, 2011) (http://www.estuaries.org/images/81103-RAE_17_FINAL_web.pdf) (quoting Simon Rich, General Manager of Stevens Towing Company).

Modernize Operating Plans to Protect People, Wildlife, and the Economy
The Corps operates hundreds of projects across the country, including 12,000 miles of inland commercial navigation channels, more than 690 dams, and 75 federal hydropower facilities. Many of these projects are being managed under antiquated, decades-old water control manuals (guiding reservoir operations and river flows) and navigation plans (guiding dredging, channel modifications, and water levels behind locks and dams).

For example, the 35 federal flood control dams in central California are being managed under flood operating plans that are dramatically out of date, with many dating back 50 years. These outdated plans have damaged the region's rivers and wildlife and threaten the safety of communities throughout central California. These outdated plans cannot account for current needs or environmental conditions, including changes in rainfall, flood levels, snowmelt patterns, and land use patterns. These outdated plans fail to use modern scientific tools, information, or state-of-the-art management approaches that can both ensure effective operation of federal projects *and* protect the environment.

The Corps' decades-old water control manual for the Apalachicola-Chattahoochee-Flint (ACF) system has allowed the Corps to starve the Apalachicola River in Florida of the freshwater flows needed to maintain a healthy system. This is causing significant damage to one of the most ecologically rich river systems in North America and to the vitally important Apalachicola Bay.[29] In 2012, the Corps' refusal to send sufficient freshwater flows to the Apalachicola River and Bay forced Florida's Governor to ask for a federal declaration of a commercial fishery failure for Florida's oyster harvesting areas in the Gulf of Mexico.[30] The Deputy Secretary of Florida's Department of Environmental Protection recently told Congress that the Apalachicola "River and Bay ecosystem, and thus, the men and women of this region, are entirely dependent on timely freshwater flows to remain healthy and productive."[31]

Decades-old navigation management plans are causing significant harm to the Mississippi River. The Corps has not updated its management plans for the Mississippi River navigation system in 40 years (as a result of extensive pressure, the Corps is currently reassessing some, but not all, of its management activities for the Middle Mississippi River). As a result, the Corps continues to carry out the same operations and maintenance (O&M) activities that have played a major role in the dramatic decline in the ecological health of the Mississippi River and the species that rely on it.[32]

Among other things these outdated O&M activities are destroying critical habitats including the rivers' backwaters, side channels and wetlands; altering water depth; destroying bathymetric diversity; causing

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[29] The current master water control manual for the ACF system was completed in 1958. After years of pressure and litigation, the Corps recently began the process of updating that manual. The public comment period on the draft water control manual and environmental impact statement closed in January 2016, and it will likely be a year or longer before the new water control manual is finalized.
[30] That request was granted in 2013.
[31] Testimony of Greg Munson, Deputy Secretary of Florida Department of Environmental Protection, *Oversight of Army Corps of Engineers Water Management in the Apalachicola-Chattahoochee-Flint River (ACF) and the Alabama-Coosa-Tallapoosa (ACT) River Systems* before the Senate Committee on Environment and Public Works, July 22, 2013.
[32] U.S. Geological Survey, Ecological Status and Trends of the Upper Mississippi River System 1998: A Report of the Long Term Resource Monitoring Program (April 1999); Johnson, B. L., and K. H. Hagerty, editors. 2008. U.S. Geological Survey, *Status and Trends of Selected Resources of the Upper Mississippi River System,* December 2008, Technical Report LTRMP 2008-T002. 102 pp + Appendixes A–B (Upper Midwest Environmental Sciences Center, La Crosse, Wisconsin).

nonnative species to proliferate; and severely impacting native species.[33] The Corps has ignored alternatives to its O&M practices that could both maintain a vibrant navigation system and improve the health of the river.

The Corps' construction of river training structures as part of its O&M activities has also significantly increased flood risks for Mississippi River communities. An extensive body of peer-reviewed scientific literature demonstrates that these structures, which are intended to reduce navigation dredging costs, have increased flood levels by up to 15 feet in some locations and 8 to 10 feet in broad stretches of the river where these structures are prevalent.[34] The scientific support for the flood height inducing effect of river training structures is so strong that the government of the Netherlands recently completed a €45 million program to modify hundreds of river training structures to reduce flood risks.

To protect public safety, wildlife, and a healthy economy, the Corps must manage the nation's vast array of existing water resources infrastructure using state-of-the art techniques that address modern needs and protect the environment.

III. Authorize Ecosystem Restoration Projects

The National Wildlife Federation strongly supports effective ecosystem restoration. To that end, we urge Congress to authorize the Central Everglades Planning Project (CEPP) in the next Water Resources Development Act. CEPP is a critical component of the Comprehensive Everglades Restoration Plan.

CEPP includes a series of interconnected restoration projects that will create 20,000 jobs and provide tremendous benefits to the environment.[35] Once constructed, the CEPP projects will deliver an average of 200,000 acre-feet of new, clean freshwater from Lake Okeechobee to the central Everglades each year, reconnecting historic water flows to Everglades National Park and Florida Bay. In doing so, CEPP will restore natural sheet flow to 10,000 acres of degraded Everglades' wetlands and improve fish and wildlife habitat throughout the system. CEPP will also rehydrate aquifers that provide drinking water for more than 7 million people and help prevent damaging discharges that cause algae blooms and habitat degradation in the Caloosahatchee and St. Lucie estuaries.

Rapid implementation of CEPP is critically important as Everglades National Park and Florida Bay are in desperate need of fresh water. Implementing CEPP will make tremendous progress towards restoring the nationally significant Everglades ecosystem, and protecting estuary communities and local economies.

The National Wildlife Federation continues to review the other projects with signed Chief's Reports and will provide recommendations on those project in the future.

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[33] *Id.*

[34] *E.g.*, Pinter, N., A.A. Jemberie, J.W.F. Remo, R.A. Heine, and B.A. Ickes, 2010. Empirical modeling of hydrologic response to river engineering, Mississippi and Lower Missouri Rivers. River Research and Applications, 26: 546-571; Remo, J.W.F., N. Pinter, and R.A. Heine, 2009. The use of retro- and scenario- modeling to assess effects of 100+ years river engineering and land cover change on Middle and Lower Mississippi River flood stages. Journal of Hydrology, 376: 403-416. More than 50 peer reviewed studies link construction of instream structures to increases in flood levels. A list of these studies is available from the National Wildlife Federation upon request.

[35] The Chief's Report for CEPP was signed on December 23, 2014.

IV. Conclusion

The National Wildlife Federation calls on the Committee to usher in a new approach to water resources planning by including the reforms discussed in this Statement in the next Water Resources Development Act. We also respectfully urge the Committee to refrain from imposing any additional limitations on NEPA review or public input for federal water resources projects.

Attachment A

LOW IMPACT SOLUTION SUCCESS STORIES

California – Coyote Creek. The Santa Clara Valley Water District sought approval for levee setbacks and bypass channels after major flooding in 1983. The project was completed in 1995, and is credited for reducing flooding in 1997. According to the Santa Clara Valley Water District, flood waters would have been 40% faster and water volume would have been 57% higher without these improvements.

California – Napa River. The Napa River has flooded at least 30 times in the last 150 years, with residents sustaining more than $540 million in flood damages in the past 40 years alone. After twice rejecting old-style Corps' plans for levees-only flood protection in 1998 a broad coalition worked to develop a "living river" plan that is reconnecting portions of the Napa River to its floodplain. This new plan replaces the Corps' proposed floodwalls and levees with terraced marshes, wider wetland barriers, and restored riparian zones. About 500 acres of previously drained farmland were returned to marshland. Though they were only partially completed, those natural flood control solutions are credited for lowering flood levels by about 2 to 3 feet during the 2006 New Year's Day flood.

Florida – Upper St. John's River. Florida has a long history of flooding caused by hurricanes, tropical storms, and heavy rainfall. By the 1970s, the St. John's River had lost more than 62 percent of its historic 400,000 acres of floodplain wetlands, aggravating extensive flooding in the region. In 1986, Congress authorized a combined structural and restoration project to reduce flood damages along the river. The backbone of this project is restoration of 200,000 acres of floodplain which will hold more than 500,000 acre-feet of water – enough to cover 86 square miles with 10 feet of water – and will accommodate surface water runoff from a more than 2,000 square mile area. The Corps predicts that this $200 million project will reduce flood damages by $215 million during a 100-year flood event, and provide average annual benefits of $14 million.

Illinois – Cache River. Channelized, dredged, diverted, and leveed since the early 1900s, the Cache River today has lost 91% of its historic wetlands, leaving just 472,800 acres of its once 5 million-acre floodplain. Friends of the Cache, local landowners, The Nature Conservancy, and a variety of government agencies formed a partnership in 1995 that has resulted in the restoration of 9,000 acres of wetlands, reducing erosion and sedimentation, improving water quality, decreasing flooding, and allowing wildlife to flourish. The success of this project has inspired efforts to restore small creeks in the watershed to their original channels.

Illinois – Grafton. After the historic 1993 floods, and extreme flooding almost biannually for more than 150 years, the town of Grafton moved 70 homes and 18 commercial properties out of the floodplain to higher ground. The restored floodplain provides more room for the Mississippi and Illinois Rivers to spread out, reducing flood levels and damages, and providing recreational opportunities during dry periods. The 1995 Mississippi River flood left Grafton relatively unscathed.

Iowa – Iowa River. After the historic 1993 floods, communities in east-central Iowa looked to change how the land along the Iowa River was being used and purchased 12,000 acres in easements along the 45-mile river corridor for flood control purposes. Over the past decade, local communities are estimated to have saved $7.6 million in flood damages.

Iowa – Louisa Levee District 8. In 1993, when an oxbow levee breached for the 17th time, farmers in the Louisa Levee District volunteered for a federal buyout program. More than 2,500 acres of cropland in the old levee district was converted into the Horseshoe Bend Wildlife Refuge, a combination of grassland, meadows, and wetlands, which provides natural flood protection and serves as a stopover for migrating waterfowl. Residents report that this project helped to reduce flooding in 1995. Relocating the farmers out of the floodplain kept their agricultural land safe from future flooding at a cost that was about 50 percent less than the estimated cost of repairing flood damages from the 1993 flood. The project also put a permanent end to repeated levee repairs and expensive damage payments.

North Dakota and Minnesota – Red River. The communities of Grand Forks, North Dakota and East Grand Forks, Minnesota have suffered through at least 12 major floods since 1871. Following severe flooding in the spring of 1997, the communities worked with the Corps to develop a flood protection strategy featuring a space to give the river room to expand. This project involved setting back levees and acquiring flood-prone property to create a 2,200-acre greenway along the Red River between the two cities. This greenway has produced considerable flood insurance savings and provides open space for year-round recreation.

Massachusetts – Charles River. Extensive suburban growth paved over much of the Charles River watershed in eastern Massachusetts, triggering flooding from stormwater runoff in Boston and other downstream communities. In 1972, the Corps abandoned a planned $100 million levee and dam flood project along the Charles River after the agency determined that upstream wetlands were preventing some $17 million worth of flood damages annually. The Corps instead developed a nonstructural plan at a fraction of the cost, the $10 million Charles River Natural Valley Storage Project. This project, which included the purchase of 8,500 acres of wetlands with a storage capacity of 50,000 acre feet of water, helped reduce major floods in 1979, 1982, 1987, and 2006. In 1987, the storage area prevented an estimated $3.2 million in damages. In 2006, the storage area reduced flooding to a 2 year event while nearby rivers were suffering 40 and 100-year flood levels. The storage area has the added benefit of providing important recreational opportunities for the Boston Metropolitan area.

Missouri – Missouri River. Severe flooding throughout the 1990s led local citizens to seek natural alternatives to structural flood control measures. Through a combination of fee title acquisition and easement acquisition, 19,000 acres on a 49 mile stretch between Boonville and Jefferson City, Missouri were purchased and set aside as flood overflow areas, including nearly 6,000 acres that were previously enclosed by levees. According to the Natural Resource Conservation Service, the Corps estimated that such reconnections of the river with its floodplain reduced flood levels in 1998 by about four feet.

Oklahoma – Mingo Creek. Once known as the flood capitol of the world, the city of Tulsa suffered the worst flood in its history in 1984. Five of the 14 deaths and $125 million of the $180 million in flood damage occurred along Mingo Creek. Rejecting the Corps' plan to build 5 structural detention sites, a team of civil engineers, urban planners, and landscape architects devised an alternative that included restoring open space where floodwater can safely overflow, creating permanent lakes, and relocating buildings from the Mingo Creek floodplain. Tulsa's flood insurance rates subsequently decreased by 25%, and repetitive loss properties declined from 93 in 1984 to just 5 in 1995.

Wisconsin – Duffy's Marsh. Located in Marquette County, Wisconsin, the Duffy's Marsh restoration project encompasses about 1,500 acres of open water, grassy wetland, and upland. The restoration work primarily involved filling agricultural ditches that drained the land. The marsh now holds approximately 55 million cubic feet of water.

American Sportfishing Association · B.A.S.S. · Izaak Walton League of America · The Nature Conservancy · Theodore Roosevelt Conservation Partnership

February 23, 2016

The Honorable Bill Shuster
Chairman
Committee on Transportation and Infrastructure
2251 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Peter DeFazio
Ranking Member
Committee on Transportation and Infrastructure
2251 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Shuster and Ranking Member DeFazio:

As organizations representing a broad range of conservation, sportsmen and women, recreation, and outdoor industry interests, we are writing to ask you to ensure the next Water Resources Development Act (WRDA) promotes the protection and restoration of fish and wildlife habitats across the country as part of a comprehensive approach to water resources management. Every year, hunting and fishing contribute $200 billion in total economic activity to our nation's economy, and water resource projects and associated programs are critical to maintaining and improving these economic contributions as well as our sporting traditions.

U.S. Army Corps of Engineers (the Corps) water resource projects are designed to meet many needs, including water supply, flood control, navigation, and hydropower as well as recreation and wildlife purposes. Ensuring these projects are designed, built and operated to sustain and improve the environment is critical to the health of our rivers and other waterways.

There are three areas where the next WRDA can make important improvements to the existing programs and do so in ways that are more cost-effective, facilitate project delivery, empower state and local governments, and help meet the many needs associated with our waters and waterways. Specifically, we request that the next WRDA:

1. **Use nonstructural, natural, and nature-based solutions wherever practicable and cost-effective.** Natural infrastructure, such as wetlands, natural floodplains, dunes, and reefs, often provides a cost-effective means of meeting our water resource needs in conjunction with or in place of more traditional 'hard' infrastructure. By ensuring such approaches are equally considered during project design and implementation we can help reduce risks from flood and storm events, improve water quality, and enhance habitat and

recreational opportunities while saving taxpayer dollars.

For example, the Corps should utilize levee re-alignment to reduce artificial "pinch points" in watersheds that cause longer and higher flood stages and increase damages downstream. This will reduce the costs to taxpayers by promoting solutions for structures that have been subject to repeated flood damage. Also, the Corps should prioritize or address habitat connectivity whenever possible. Maintaining and restoring habitat connections offers tremendous benefits for fish and wildlife, but it can significantly reduce flood risks, too.

Directing the Corps to consider nature-based solutions, levee re-alignments, habitat connectivity, and other non-structural approaches can simultaneously improve flood control, storm resilience, and fish and wildlife habitat, providing a more sustainable water resources infrastructure.

2. **Modernize operations of water control structures.** Most of the Corps' existing dams, locks, and other infrastructure were built decades ago and are operated according to water control manuals and navigation plans that, in many cases, have not been updated in years, do not take advantage of the most sophisticated weather forecasting technologies, and rely on rule curves for reservoir operations tied to specific calendar dates rather than hydrologic conditions. The Corps must seek opportunities to update and optimize the operations of existing infrastructure, but it lacks clear direction from Congress. As a result, Corps facilities miss opportunities to boost water supply, manage flood and storm risks, increase hydropower, expand recreational opportunities, and enhance environmental benefits. The next WRDA should direct the Corps to modernize operations at its facilities while continuing to meet their authorized purposes.

3. **Improve civil works mitigation practices.** Mitigation should be designed to facilitate efficient and timely delivery of needed infrastructure projects and assure effective natural resource and habitat outcomes, such as flood risk reduction, water quality improvement, increased recreational opportunities, and improved fish and wildlife habitat and habitat connectivity. Frequently, mitigation is more effective and efficient if it is considered before project construction begins. Encouraging both watershed-scale and advanced mitigation can help speed up project delivery and reduce costs by ensuring environmental requirements are met early and that compensatory mitigation activities have significant lasting benefits for fish and wildlife.

These three improvements will help ensure the Corps has the flexibility and direction to make the smartest possible choices about building, repairing, and operating our infrastructure, and using our limited resources in the most effective way. They can also facilitate broad support for delivery of projects while ensuring a comprehensive approach to water resource management. Improving the health of our water resources is necessary to sustain our national, regional and local economies and, particularly, to provide ongoing opportunities for hunting and fishing.

We ask for your support to ensure the next WRDA helps us meet these goals and look forward to working with you as you develop this legislation.

Sincerely,

American Sportfishing Association
B.A.S.S.
Izaak Walton League of America
The Nature Conservancy
Theodore Roosevelt Conservation Partnership

CC: Members, Committee on Transportation and Infrastructure, U.S. House of Representatives

American Rivers * Center for Biological Diversity * Defenders of Wildlife
Earthjustice * League of Conservation Voters
Natural Resources Defense Council * Sierra Club
Southern Environmental Law Center

The Honorable Bill Shuster
Chairman
House Transportation and Infrastructure Committee
United States House of Representatives
Washington, DC 20515

The Honorable Peter DeFazio
Ranking Member
House Transportation and Infrastructure Committee
United States House of Representatives
Washington, DC 20515

The Honorable Bob Gibbs
Chairman
Subcommittee on Water Resources and Environment
United States House of Representatives
Washington, DC 20515

The Honorable Grace Napolitano
Ranking Member
Subcommittee on Water Resources and Environment
United States House of Representatives
Washington, DC 20515

Dear Chairman Shuster, Ranking Member DeFazio, Chairman Gibbs, and Ranking Member Napolitano:

As the Committee on Transportation and Infrastructure begins consideration of a Water Resources Development Act for 2016 during the hearing "A Review of United States Army Corps of Engineers Reports to Congress on Future Water Resources Development and Chief's Reports," scheduled for Wednesday, February 24, 2016, the undersigned organizations and the millions of members they represent, respectfully request that this letter be submitted for the official hearing record.

First and foremost, our organizations urge the Committee to refrain from adding any further limitations on environmental review or public input to the Water Resources Development Act (WRDA) of 2016. The last reauthorization instituted dramatic reforms to the environmental review process under the National Environmental Policy Act (NEPA), but because those reforms have yet to be fully implemented, their impacts on the Corps review process remain unknown.

The next WRDA presents an important opportunity for Congress to ensure that the health of our nation's waters, the safety of our communities, and sound taxpayer investments will be achievable priorities for water resources management. As the flooding of New Orleans during Hurricane Katrina demonstrated, poorly planned projects can lead to incomprehensible losses. Environmental review and meaningful public input under NEPA provide critical transparency to water resource projects that can cost hundreds of millions of taxpayer dollars, fundamentally change entire ecosystems, and provide vital infrastructure.

Any focus on further "environmental streamlining" will be grossly misplaced. Projects of the size, complexity, and importance of those authorized under WRDA demand the careful planning and meaningful community input required by NEPA. The impacts of the planning and review reforms included in the last WRDA bill should be assessed once implemented. Until then, Congress should refocus its efforts on the primary impediment to maintaining our ports and waterways – funding.

According to several Congressional Research Service (CRS) reports, lack of funding is the primary obstacle for project completion. CRS notes that "[t]he majority of studies and construction projects authorized … are currently unfunded and cannot proceed unless or until funds are appropriated. As a result, whether or when project studies or construction activities receive funding will have the greatest impact on the time it takes to deliver a project."

We applaud the Committee's determination to get back to a two-year cycle on reauthorization and look forward to working with the committee as you move forward with this legislation.

Sincerely,

Jim Bradley
Vice President, Policy and Government Relations
American Rivers

Brett Hartl
Endangered Species Policy Director
Center for Biological Diversity

Mary Beth Beetham
Director Legislative Affairs
Defenders of Wildlife

Martin Hayden
Vice President of Policy & Legislation
Earthjustice

Sara Chieffo
Vice President for Policy and Lobbying
League of Conservation Voters

Scott Slesinger
Legislative Director
Natural Resources Defense Council

Dalal Anne Aboulhosn
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Sierra Club

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Deputy Legislative Director
Southern Environmental Law Center

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