

**PRESIDENT BIDEN'S FISCAL YEAR 2022 BUDGET
REQUEST: AGENCY POLICIES AND PERSPEC-
TIVES (PARTS 1 AND 2)**

(117-21)

REMOTE HEARINGS
BEFORE THE
SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT
OF THE
COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTEENTH CONGRESS
FIRST SESSION

THURSDAY, JUNE 24, 2021 (Part 1)
WEDNESDAY, JULY 14, 2021 (Part 2)

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PRESIDENT BIDEN'S FISCAL YEAR 2022 BUDGET REQUEST: AGENCY POLICIES AND PERSPECTIVES (PART 1)

THURSDAY, JUNE 24, 2021

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

The subcommittee met, pursuant to call, at 11:06 a.m. in room 2167 Rayburn House Office Building and via Zoom, Hon. Grace F. Napolitano (Chair of the subcommittee) presiding.

Members present in person: Mr. Huffman, Mr. Garamendi, Mr. Carbajal, Mr. Rouzer, Mr. Webster, Dr. Babin, Mr. Graves of Louisiana, Mr. Bost, Mr. Weber, Mr. Westerman, Mr. Mast, and Mr. Nehls.

Members present remotely: Mrs. Napolitano, Mr. DeFazio, Ms. Johnson of Texas, Mr. Lowenthal, Mr. Malinowski, Mr. Delgado, Ms. Bourdeaux, Ms. Wilson of Florida, Mr. Stanton, Ms. Norton, Mr. Cohen, Mr. Brown, Mr. Katko, Mr. LaMalfa, Miss González-Colón, and Mrs. Steel.



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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Chairman

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Sam Graves
Ranking Member

Paul J. Sans, Republican Staff Director

JUNE 21, 2021

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Water Resources and Environment
FROM: Staff, Subcommittee on Water Resources and Environment
RE: Subcommittee Hearing on “President Biden’s Fiscal Year 2022 Budget Request: Agency Policies and Perspectives (Parts I and II)”

PURPOSE

On Thursday, June 24, 2021, at 11:00 a.m. EDT, the Subcommittee on Water Resources and Environment will hold a hearing in the Rayburn House Office Building, Room 2167, and via Zoom, to receive testimony related to “President Biden’s Fiscal Year 2022 Budget Request: Agency Policies and Perspectives (Part I)”. The Subcommittee will hold a second hearing on July 14, 2021, at 11:00 a.m. EDT, in the Rayburn House Office Building, Room 2167, and via Zoom, to continue to receive testimony from the remaining federal agencies under the jurisdiction of the Subcommittee related to the President’s fiscal year (FY) 2022 budget request.¹

The purpose of these hearings is to provide members with an opportunity to review the FY 2022 budget request and the administration’s program priorities for the authorities under the jurisdiction of the Subcommittee.

At the first hearing, the Subcommittee will hear testimony from the U.S. Army Corps of Engineers (Corps), the Tennessee Valley Authority (TVA), and the U.S. Sector of the International Boundary and Water Commission (IBWC) within the Department of State. At the second hearing, the Subcommittee will hear testimony from the Environmental Protection Agency (EPA), the Great Lakes St. Lawrence Seaway Development Corporation (GLS), the U.S. Department of Agriculture’s (USDA) Natural Resources Conservation Service (NRCS), the Agency for Toxic Substances and Disease Registry (ATSDR) at the Centers for Disease Control and Prevention (CDC), and the National Oceanic and Atmospheric Administration (NOAA).

ENVIRONMENTAL PROTECTION AGENCY (EPA)

The administration’s FY 2022 budget request for the EPA totals \$11.241 billion, including \$5.130 billion for State and Tribal Assistance Grants, \$3.427 billion for Environmental Programs and Management, and \$1.533 billion for the Hazardous Substance Superfund program. The FY 2022 budget request is \$1.968 billion more than the FY 2021 enacted budget for the EPA.

¹“President Biden’s Fiscal Year 2022 Budget Request: Agency Policies and Perspectives (Part II)”.

Summary of FY 2022 Budget Request ²

(in millions)

Program	FY 2021 Enacted	FY 2022 Authorized	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
				\$	%
Science and Technology	\$729.3	No Authorization	\$830.0	\$100.6	13.8%
Environmental Programs and Management	2,761.6	No Authorization	3,427.5	665.9	24.1%
State and Tribal Assistance Grants	4,313.9	No Authorization	5,130.0	816.1	18.9%
<i>Clean Water SRF</i> ¹	1,638.8	No Authorization	1,870.7	231.9	14.1%
<i>Drinking Water SRF</i> ¹	1,126.1	No Authorization	1,357.9	231.8	20.6%
Water Infrastructure Finance and Innovation Program (WIFIA) Account.	65.0	No Authorization	80.1	15.1	23.3%
Hazardous Substance Superfund	1,205.8	No Authorization	1,533.8	328.0	27.2%
EPA Office of Inspector General	43.5	No Authorization	54.3	10.8	24.9%
Other ²	154.1	No Authorization	185.5	31.5	20.4%
Total	\$9,273.1		\$11,241.3	\$1,968.2	21.2%

¹ The State and Tribal Assistance Grants (STAG) program includes several grant programs other than the SRFs.² This number is the sum of the following EPA line items:

- Building and Facilities (B&F)—\$33.8 million (FY21 enacted) to \$62.8 million (FY22 request);
- Inland Oil Spill Program—\$20.1 million (FY21 enacted) to \$22.4 million (FY22 request);
- Leaking Underground Storage Tanks (LUST)—\$92.2 million (FY21 enacted) to \$92.4 million (FY22 request); and
- E-Manifest—\$8.0 million (FY21 enacted) & (FY22 request).

CLEAN WATER

The Committee on Transportation and Infrastructure has jurisdiction over programs aimed at protecting the nation's water quality. The EPA, through its own programs and in partnership with states and tribes, seeks to improve water quality in rivers, lakes, and coastal waters through investment in wastewater infrastructure, water quality standards, permitting programs, water quality monitoring, wetlands protection, and research, among other activities. The EPA's Office of Water operates the EPA's water quality protection programs.

Clean Water State Revolving Fund: The FY 2022 budget request proposes \$1.870 billion in federal capitalization grants for the Clean Water State Revolving Fund (Clean Water SRF), which is \$231.9 million more than the FY 2021 enacted level. The Clean Water SRF is the primary federal program for funding wastewater infrastructure projects and activities throughout the nation. Clean Water SRF funds are used for capitalization grants for state clean water infrastructure programs, which, in turn, fund locally developed wastewater infrastructure projects and activities.

In previous Congresses and the current Congress, the subcommittee held numerous hearings on financing water infrastructure projects. These hearings examined the growing funding gap that now exists between wastewater infrastructure needs and current levels of spending, the challenges facing low-income and rural communities in affording wastewater infrastructure investment, and the resiliency needs of our nation's water infrastructure. In June 2021, the Committee ordered H.R. 1915, the Water Quality Protection and Job Creation Act of 2021, as amended, favorably reported to the House of Representatives by a bipartisan vote of 42–25; this legislation would reauthorize the Clean Water SRF and other wastewater infrastructure grant programs for an additional five years.

Water Infrastructure Finance and Innovation Act Program (WIFIA): Authorized by the Water Resources Reform and Development Act of 2014 (WRRDA, P.L. 113–121), the WIFIA program provides low-interest federal loans or loan guarantees to eligible entities for a wide range of nationally and regionally significant water and wastewater projects. The most recent authorization level (FY 2021) for the WIFIA program was \$50 million; however, the WIFIA program is not authorized for FY 2022. The President's budget request for FY 2022 is \$80.1 million for the WIFIA program, while the FY 2021 appropriated level was \$65 million.

Environmental Programs and Management (EPM): This account provides funds for internal programmatic activities. The President's budget request would increase funding for the EPM account by \$665.9 million (24.1 percent) from the FY 2021 appropriated level of \$2.761 billion to \$3.4 billion.

² See <https://www.epa.gov/sites/production/files/2021-05/documents/fy-2022-epa-bib.pdf>; see also <https://www.epa.gov/sites/production/files/2021-05/documents/fy-2022-congressional-justification-all-tabs.pdf>

Geographic (Regional) Programs: The EPA's regional programs provide an opportunity to target regionally specific environmental problems and to work closely with state and local partners. The FY 2022 budget request increases funding for the EPA's Great Lakes Restoration Initiative (GLRI) to \$340 million (+\$10 million), the Chesapeake Bay Program to \$90.5 million (+\$3 million), Gulf of Mexico to \$22.4 million (+\$2.4 million), Lake Champlain to \$20 million (+\$5 million), San Francisco Bay to \$12 million (+\$3 million), Long Island Sound to \$40 million (\$9.6 million), Puget Sound to \$35 million- (+\$1.25 million), and Lake Pontchartrain programs to \$1.73 million (+\$295,000).

Additionally, the administration proposes a \$141,000 funding increase for the National Estuaries Program from the FY 2021 enacted level of \$31.82 million (section 320 of the Clean Water Act) to \$31.9 million.

[NOTE: On June 15, 2021, the House of Representatives passed under suspension three Clean Water regional program bills from the Committee on Transportation and Infrastructure, including legislation to authorize federal appropriations for the Puget Sound (H.R. 1144), the San Francisco Bay (H.R. 610), and the Lake Pontchartrain Basin (H.R. 1921) programs. The EPA regional programs are funded from the EPA's EPM account.]

State and Tribal Assistance Grants (STAG): This account provides categorical grants to states and tribes as part of the cooperative partnership between federal government, states, and tribes. The President's budget request would increase funding for the State and Tribal Assistance Grants account from the FY 2021 appropriated level of \$4.313 billion by \$816.1 million (18.9 percent) to \$5.1 billion. *[NOTE: On June 15, 2021, the House of Representatives passed under suspension H.R. 2008 to reauthorize federal appropriations for EPA's non-point source pollution grant program (section 319), which is funded from the STAG account.]*

The President's FY 2022 budget request would provide \$234.6 million in grants to states to establish and maintain state water pollution control programs under section 106 of the Clean Water Act. This is a \$4.6 million increase from the FY 2021 appropriated level of \$230 million. Section 106 funding is used by individual states to carry out state clean water programs, including Clean Water Act permitting, monitoring, and enforcement.

SUPERFUND AND BROWNFIELDS

Superfund Program: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, P.L. 96-510) established the Superfund program in 1980. The EPA's Office of Land and Emergency Management (OLEM) runs the Superfund program. Superfund is the federal program established to clean up the nation's uncontrolled and/or abandoned hazardous waste sites. The law makes designated responsible parties pay for the hazardous waste cleanups wherever possible and provides for a hazardous substances trust fund, commonly referred to as the Superfund, to pay for remedial cleanups in cases where responsible parties cannot be found or otherwise be held accountable. Superfund is also available for responding to emergency situations involving the release of hazardous substances. The EPA addresses the highest priority sites by listing them on the Superfund National Priorities List (NPL). The administration's FY 2022 budget request provides \$1,533.8 billion for the Superfund program, a \$328 million increase from the FY 2021 appropriated level of \$1.205 billion.

Brownfields: Brownfields consist of properties for which the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. These sites can consist, for example, of former industrial properties, gas stations, or dry cleaners. The EPA established the Brownfields Initiative in 1995 to better enable the federal government, states, and communities to work together to address, cleanup, and reuse brownfields sites. The Small Business Liability Relief and Brownfields Revitalization Act (P. L. 107-118) authorized funding for the EPA to award brownfields assessment, cleanup, and revolving loan fund grants, as well as provided limited Superfund liability protections for certain innocent landowners and bona fide prospective purchasers. The EPA's OLEM manages the Brownfields program.

The President's FY 2022 budget request would provide \$201.374 million for the EPA's brownfields program, including \$130.982 million in site assessment and cleanup grants (STAG account); \$46.195 million for authorized state brownfields programs (STAG account); and \$24.197 million for the EPA's management of the Brownfields program (EPM account). Of all the brownfields-related activity included in the President's budget, the account that funds actual, on-the-ground, brownfields site assessment and remediation activities proposes funding at \$130.9 million, which would be a \$40.0 million increase from the FY 2021 level. In the 115th Congress,

the Brownfields Utilization, Investment, and Local Development Act (P. L. 115–141) included an authorization of \$200 million for FY 2022 for this specific purpose.

U.S. ARMY CORPS OF ENGINEERS (CORPS)

The Corps studies, constructs, operates, and maintains water resources development projects for the nation, usually through cost-shared partnerships with non-federal sponsors. Authorized mission activities include navigation, flood control, shoreline protection, hydropower, dam safety, water supply, recreation, environmental restoration and protection, and disaster response and recovery.

Summary of FY 2022 Budget Request ³

(in millions)

Program	FY 2021 Enacted	FY 2022 Authorized	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
				\$	%
Investigations	\$153.0	No Authorization	\$105.8	-\$47.2	-30.8%
Construction	2,692.6	No Authorization	1,792.4	-900.3	-33.4%
Operation and Maintenance	3,849.7	No Authorization	2,502.9	-1,346.8	-35.0%
[Harbor Maintenance Trust Fund] ¹	n/a	No Authorization	\$1,625.9	-	-
Regulatory	210.0	No Authorization	204.4	-5.6	-2.6%
Expenses	206.0	No Authorization	199.3	-6.7	-3.3%
Office of the Assistant Secretary of the Army	5.0	No Authorization	5.0	0.0	0.0%
Mississippi River and Tributaries (MRT)	380.0	No Authorization	\$269.7	-110.3	-29.0%
Inland Waterways Trust Fund (IWTF)	113.0	No Authorization	52.15	-60.85	-53.8%
FUSRAP	250.0	No Authorization	[250.0] ²	-	-
Flood Control and Coastal Emergencies (FCCE)	35.0	No Authorization	35.0	0.0	0.0%
Total	\$7,894.3		\$6,792.5 ³	-1,101.8	-13.9%

¹ The President's budget distinguishes between Operation and Maintenance expenditures for non-navigation projects and O&M expenditures utilizing Harbor Maintenance Trust Fund expenditures. When compared with the FY 2021 appropriated levels for O&M activities (\$3,849 billion), the FY 2022 President's budget allocates a total of \$4,295 billion for O&M activities, for an increase of \$446 million (or 11.58 percent).

² Funds for the Formerly Utilized Sites Remedial Action Program (FUSRAP) program are included in the FY22 budget request under the Department of Energy's Office of Legacy Management, but would still be performed by the Corps. If such funds were included in the FY22 budget request for the Corps, the total request would be \$7,042 billion, which would be a decrease of \$875 million (-10.8%) from the FY21 enacted level.

The water resources development projects and programs of the Corps support vital economic and environmental needs of this nation. These projects provide for continued economic growth, job creation, and economic stability while protecting human lives and property, ensuring reliable waterborne transportation of goods, and restoring valuable natural resources.

The administration's FY 2022 request for the Corps of \$6.793 billion would be a reduction of \$1.101 billion from the FY 2021 enacted level for the agency.

Sources of Appropriations for FY 2022:

General Fund	\$5.067 billion
Harbor Maintenance Trust Fund	\$1.625 billion
Special Recreation User Fees	\$47 million
Inland Waterways Trust Fund	\$52.15 million

Investigations: The President's budget request would provide a total of \$113 million for the Investigations program, consisting of \$105.8 million from the Investigations account and \$7.1 million from the Mississippi River and Tributaries account. This program funds studies to determine the need, feasibility, and economic and environmental benefits of potential water resources projects. The investigations account is used to fund the study of potential projects related to river and harbor navigation, flood control, shore protection, environmental restoration, and related purposes. This account also funds the restudy of authorized projects, miscellaneous investigations, and plans and specifications of projects prior to construction.

The budget focuses on ongoing work and on promoting efforts to provide local communities with technical and planning assistance to enable them to reduce their flood risk, with emphasis on non-structural approaches. The budget would include

³ See Fiscal Year 2022, Civil Works Budget of the U.S. Army Corps of Engineers, accessed at <https://usace.contentdm.oclc.org/digital/collection/p16021coll6/id/42>

\$29 million for technical and planning assistance programs that will help local communities identify and address their risks associated with climate change, \$17 million for research and development, \$4 million to complete dredged material management plans necessary to enable the disposal of dredged material from seven Great Lakes projects and two Mississippi River projects over the next 20–25 years, and \$1 million to incorporate climate resilience into planning and policy guidance for how the Corps formulates future projects.

The budget requests funding to initiate seven new studies: Central and Southern Florida Flood Resiliency Study, FL (flood and storm damage reduction); Boise River, Garden City, Ada County, ID (flood and storm damage reduction); Great Lakes Coastal Resiliency Study, IL, IN, MI, MN, OH, PA, NY, & WI (flood and storm damage reduction); Spring Creek South, Jamaica Bay (Howard Beach), Queens, NY (aquatic ecosystem restoration); Little Narragansett Bay, RI (navigation); Waccamaw River, Horry County, SC (flood and storm damage reduction); and Little Goose Creek, Sheridan, WY (aquatic ecosystem restoration).⁴ The budget also requests funding to complete 15 ongoing studies.⁵

Construction: The Construction account would provide \$1.889 billion for the construction of Corps projects, consisting of \$1.792 from the Construction Account, \$63.7 million from the Harbor Maintenance Trust Fund (HMTF), and \$32.6 million from the Mississippi River and Tributaries account. The budget includes requests for four construction new starts, including: McClellan-Kerr Arkansas River Navigation System, Three Rivers, AR (navigation); West Sacramento, CA (flood and storm damage reduction); Anacostia Watershed Restoration, Prince George's County, MD (aquatic ecosystem restoration); and Norfolk Harbor and Channels, VA (Deepening) (navigation).⁶ The budget also proposes sufficient funding to complete construction of four ongoing projects.⁷

The 2022 budget would include \$350 million for the South Florida Ecosystem Restoration (SFER) (Everglades) program, a \$100 million increase, or forty percent, from the 2021 enacted level. SFER funding was also included in the administration's infrastructure proposal, the *American Jobs Plan*.⁸ Taken together, a robust amount of funding is proposed for SFER, enabling significant progress on ecosystem restoration. In an effort to improve the resilience of the nation's ports and waterways, the plan would also include \$2 billion over five years to cover the federal share of coastal navigation construction projects and \$780 million to cover 65 percent of the cost to complete construction of on-going capital improvement projects and major rehabilitation of existing inland navigation construction projects.

The budget proposes modifying the performance criteria for projects funded on the basis of their economic return to the nation, by lowering the threshold benefit-to-cost ratio (BCR) (previously at 2.5 to 1) to 2.0 to 1 or greater at a seven percent discount rate.

Operation and Maintenance (O&M): The President's budget would provide a total of \$4.295 billion for the O&M program, consisting of \$2.503 billion from the O&M account, \$1,557 billion from the HMTF, and \$235.3 million from the Mississippi River and Tributaries Account.

The budget would provide \$75 million to advance near-term climate resilience efforts by specifically targeting operation and maintenance activities that are focused on improving climate resilience and/or sustainability at existing Corps-owned projects, \$60 million for work needed to mitigate for adverse impacts from existing Corps-owned projects, \$20 million to improve cybersecurity at existing Corps-owned projects, and \$13 million to complete major rehabilitation studies at six inland waterway locks and dams projects. These funds will be used in addition to the \$2 billion over five years proposed in the *American Jobs Plan* for the maintenance and repair of existing navigation channels and navigation locks and dams on the nation's inland waterways that support commercial navigation.

Harbor Maintenance Trust Fund (HMTF): The President's budget proposes to spend \$1.626 billion from the HMTF for eligible projects and activities with an emphasis on operation and maintenance, including dredging, of completed projects, the highest amount ever proposed in a President's budget since enactment of the HMTF in 1986. The budget requests \$787 million to address the top 50 U.S. coastal ports across the nation, which handle around 90 percent of the waterborne cargo that is shipped to or from the United States. The budget also requests \$252 million for op-

⁴ See id.

⁵ See id.

⁶ See id.

⁷ See id.

⁸ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>.

eration and maintenance of Great Lakes-projects, \$58 million for projects that support access by Native American tribes to their legally recognized historic fishing areas, and \$63 million for five construction projects that will accommodate disposal of material dredged from coastal navigation projects. The budget also highlights funding in the *American Jobs Plan* that proposes an additional investment of \$2.8 billion over five years for activities in coastal ports that are HMTF eligible.

Mississippi River and Tributaries (MR&T): The President's budget request includes a total of \$275 million, consisting of \$269.688 million from the Mississippi River and Tributaries account and \$5.312 million from the HMTF, for ongoing work in the lower Mississippi River and its tributaries, with emphasis on the 1,600 miles of levees and related features on the main stem of the lower Mississippi River and in the Atchafalaya Basin.

Flood Control and Coastal Emergencies (FCCE): The President's budget request includes \$35 million for preparedness and training for floods, hurricanes, and other natural disasters.

Formerly Utilized Sites Remedial Action Program (FUSRAP): The President's budget request proposes to transfer financial responsibility for FUSRAP sites back to the Department of Energy. *NOTE: The Department of Energy budget request includes \$250 million for management of the FUSRAP program.*

Inland Waterways Trust Fund (IWTF): The President's budget request proposes to spend \$52.150 million from the IWTF to begin construction on the McClellan-Kerr Arkansas River navigation system, Three Rivers, AR project, which will reduce the risk of a breach between Arkansas and White Rivers during high water that would likely result in a loss of navigation on the Mississippi River. The budget also includes \$420 million in funding proposed in the *American Jobs Plan* over the next five years to cover 35 percent of the cost to complete construction of on-going capital improvement projects and major rehabilitation of existing inland navigation construction projects.

Veteran's Curation Program and Collections Management: The President's budget proposal includes \$6.5 million for the Veteran's Curation Program, which provides rehabilitation and training for veterans using the archaeological collections of the Corps.

NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

Summary of FY 2022 Budget Request ⁹

(in millions)

Program	FY 2021 Enacted	FY 2022 Authorized	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
				\$	%
Watershed and Flood Prevention Operations	\$175.0	Such Sums as May be Necessary.	\$175.0	0.0	0.0
Watershed Rehabilitation Program	10.0	No Authorization.	10.0	0.0	0.0
Watershed Protection and Flood Prevention Program ...	50.0	\$50.0	\$50.0	0.0	0.0
Total	\$235.0	\$50	\$235.0	0.0	0.0

The NRCS is authorized to give technical and financial help to local organizations planning and carrying out watershed projects for flood protection, agricultural water management, recreation, municipal and industrial water supply, and wildlife enhancement.

The President's budget proposes \$50 million in mandatory funding for the Watershed Protection and Flood Program, which was created in the Agriculture Improvement Act of 2018 (P.L. 115-334) through amendments to the Watershed Protection and Flood Prevention Act (P.L. 83-566).

In addition, the budget proposes level funding of \$175 million for Watershed and Flood Prevention activities authorized by the Flood Control Act of 1944 (P.L. 78-534) and the Watershed Protection and Flood Prevention Act of 1954 (P.L. 83-566). This program directs NRCS to work with localities to plan and install flood prevention improvements and share the cost for improvements in flood prevention, agricultural water management, recreation, and fish and wildlife development. Further, the FY 2022 budget proposes an increase of \$10 million in funding under this pro-

⁹ <https://www.usda.gov/sites/default/files/documents/2022-budget-summary.pdf>

gram for small watershed operations authorized under P.L. 83–566. This program provides federal resources to small watersheds of 250,000 acres or less for both for technical and financial assistance of flood prevention and watershed projects on private land for the conservation, development, utilization, and disposal of water, and for the reduction of sediment and erosion damages.

The President’s budget highlights a proposal to increase funding for the Watershed and Flood Prevention Operations program by \$100 million per year (totaling \$1 billion over ten years).

Lastly, the President’s budget proposes level funding for the Watershed Rehabilitation Program at \$10 million for FY 2022. This program provides financial and technical assistance to communities for planning and financing the rehabilitation of federally constructed flood prevention dams that have reached the end of their design lives. The program is authorized under Section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), as amended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)

Summary of FY 2022 Budget Request ¹⁰

(in millions)

Appropriations Account	FY 2021 Enacted	FY 2022 President’s Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
			\$	%
National Ocean Service (NOS)	\$628.2	\$862.4	\$234.2	37.2%
Office of Oceanic and Atmospheric Research (OAR)	614.1	815.7	201.6	32.8%
Total ^{1,2}	\$1,242.3	\$1,678.1	\$435.8	35.1%

¹ Table totals the discretionary funding for NOS and OAR, and does not highlight accounts outside the jurisdiction of the Committee on Transportation and Infrastructure

² Total includes funding for both operations, research, and facilities, and procurement, acquisitions, and construction accounts.

The Subcommittee has jurisdiction over various NOAA programs and activities, including responsibilities under the Clean Water Act, the Coastal Zone Management Act Reauthorization Amendments (P.L. 101–508), the Marine Protection, Research and Sanctuaries Act (P.L. 100–688), Superfund (P.L. 99–499), the Oil Pollution Act (P.L. 101–380), the Nonindigenous Aquatic Nuisance Prevention and Control Act (P.L. 104–332), the Harmful Algal Bloom and Hypoxia Research and Control Act (P.L. 105–383), and the Estuary Habitat Restoration and Partnership Act of 2000 (P.L. 105–457). The Subcommittee’s jurisdictional interest in the NOS includes coastal water pollution and natural resource damages.

The President’s FY 2022 budget requests \$815.67 million for discretionary funding for the OAR, \$201.58 million more than the FY 2021 enacted level of \$614.09 million.

The President’s FY 2022 budget requests \$862.4 million for discretionary funding for the NOS, \$234.2 million more than the FY 2021 enacted level of \$628.2 million. The National Coastal Zone Management (CZM) Program is part of the NOS.

The FY 2022 request includes level the following:

- *Coastal Zone Management Grants (\$108.5 million)* within the CZM Program. These grants support actions of states and other grantees authorized under the Coastal Zone Management Act (CZMA). Some of this work supports section 6217 of the Coastal Zone Reauthorization Amendments Act for controlling coastal non-point pollution. The CZM Program is a voluntary partnership between the federal government and coastal states, Great Lakes states, and territories to address coastal issues. This is a \$30 million increase over the FY 2021 enacted level.
- *National Centers for Coastal Ocean Science (NCCOS) Competitive Research Funding Support for Ecological Threats (\$22 million)*. The NCCOS competitive research program provides grants to academic institutions to conduct ecological research that advances NOAA’s missions—including for algal blooms.
- *National Sea Grant Program (\$130 M)*. This program funds a network of 34 Sea Grant programs located in coastal states and territories, as well as more than 3,000 scientists, researchers, students, and outreach experts from more than 300 institutions. This funding number includes the total of funds from the National Sea Grant College Program and Marine Aquaculture program.

¹⁰ <https://www.noaa.gov/sites/default/files/2021-06/NOAA%20FY22%20CJ.pdf>

The President's FY 2022 budget proposes to increase funding for Coral Reef Restoration and Threat Abatement Initiatives by \$10 million to \$43 million. This program funds efforts to protect and restore coral reefs, diagnose and treat coral reefs, and partners with USGS in support of research and epidemiology of coral disease.

GREAT LAKES ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION (GLS)

Summary of FY 2022 Budget Request ¹¹

(in millions)

Program	FY 2021 Enacted	FY 2022 Authorized	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
				\$	%
Total	\$38.0	No Authorization	\$37.7	-\$0.3	-0.8%

The St. Lawrence Seaway is a 328 nautical-mile deep-draft waterway between the Port of Montreal and Lake Erie. It connects the Great Lakes with the Atlantic Ocean via the lower St. Lawrence River. The Seaway includes a network of 15 locks and connecting channels located in Canada and the United States. Thirteen of the locks belong to Canada and the remaining two locks, located in Massena, New York, belong to the United States.

The U.S. portion of the Seaway was authorized in 1954, and is operated by the GLS, an agency within the DOT. The Canadian portion of the Seaway is operated by the Great Lakes St. Lawrence Seaway Management Corporation, a private corporation established in the 1990s and owned by the nine largest Canadian users of the Seaway.

The President's budget request for the GLS from the HMTF is \$37.7 million. This would fund the daily operations and maintenance of the U.S. portion of the St. Lawrence Seaway (\$23.2 million) and Seaway infrastructure investment (14.5 million).

Operational, maintenance, and capital asset renewal needs for the U.S. portion of the St. Lawrence Seaway are derived from appropriations from the HMTF and revenues from other sources.

TENNESSEE VALLEY AUTHORITY (TVA)

Summary of FY 2022 Budget Request ¹²

The TVA is the nation's largest government-owned wholesale power producer established by the Tennessee Valley Authority Act (16 U.S.C. 831) in 1933. TVA supplies power to nearly ten million people over an 80,000 square mile service area covering Tennessee, and parts of Mississippi, Alabama, Georgia, North Carolina, Virginia, and Kentucky. In addition, TVA's non-power program responsibilities include the multi-purpose management of land and water resources throughout the Tennessee Valley.

Initially, federal appropriations funded all TVA operations. Direct federal funding for the TVA power program ended in 1959, and appropriations for TVA's environmental stewardship and economic development activities were phased out by 1999. TVA currently receives no federal appropriations but operates and maintains its assets through commercial and residential rates, and the authority to issue federally secured bonds.

¹¹ <https://www.transportation.gov/sites/dot.gov/files/2021-05/GLS-FY-2022-President-Budget-Request.pdf>

¹² See https://www.tva.com/docs/default-source/1-float/tva_annual_performance_report_final_05.21.21853293c8-12c6-43e3-96e6-5058b2d21607.pdf?sfvrsn=fb9f903_3; see also https://www.whitehouse.gov/wp-content/uploads/2021/05/oia_fy22.pdf.

*UNITED STATES SECTOR OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION
(IBWC)*

Summary of FY 2022 Budget Request ¹³

(in millions)

Appropriations Account	FY 2021 Enacted	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021	
			\$	%
Salaries and Expenses	\$49.8	\$52.0	2.2	4.4%
Construction	\$49.0	\$46.8	-2.2	-4.4%
Total	\$98.8	\$98.8	0.0	0.0

First established in 1889, the IBWC has responsibility for implementing the boundary and water treaties between the United States and Mexico and settling issues that may arise along the 1,952-mile common border. The IBWC is an international body, composed of a United States sector and Mexico sector, each headed by an Engineer-Commissioner appointed by the respective President. The United States sector of the IBWC receives its policy guidance from the U.S. Department of State and the Mexico sector of the IBWC receives its policy guidance from Mexico's Secretariat of Foreign Relations. The U.S. IBWC is headquartered in El Paso, Texas, and the Mexico IBWC has its headquarters in Ciudad Juarez, Chihuahua.

The President's budget request for U.S. IBWC Salaries and Expenses is \$51.97 million, which is an increase of \$2.2 million over the FY 2021 enacted amount. The budget request for U.S. IBWC construction activities is \$46.8 million, which is a decrease of \$2.2 million from FY 2021 levels.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY (ATSDR)

Summary of FY 2022 Budget Request ¹⁴

(in millions)

Appropriations Account	FY 2021 Enacted	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021	
			\$	%
Total	\$78.0	\$81.8	\$3.6	4.8%

The ATSDR is the nation's public health agency for chemical safety. The agency's mission is to use the best science, take responsive action, and provide trustworthy health information to prevent and mitigate harmful exposures and related disease.

ATSDR was created by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (P.L. 96-510), more commonly known as the Superfund law, and was formally organized in 1985.

Under its CERCLA mandate, the agency's work falls into four functional areas: (1) protecting the public from hazardous exposures; (2) increasing knowledge about toxic substances; (3) educating health care providers and the public about toxic chemicals; and (4) maintaining health registries. In recent years, ATSDR has focused on pathways of potential exposure to toxic chemicals, including food, water, air, and consumer goods.

The administration's FY 2022 budget request for ATSDR is \$81.75 million, which is \$3.75 million more than the FY 2021 appropriations for the agency.

¹³ https://www.state.gov/wp-content/uploads/2021/05/FY-2022-State_USAID-Congressional-Budget-Justification.pdf

¹⁴ <https://www.cdc.gov/budget/documents/fy2022/FY-2022-CDC-congressional-justification.pdf>

WITNESSES (PART I)

- Lieutenant General Scott A. Spellmon, Chief of Engineers and Commanding General, U.S. Army Corps of Engineers
- Jaime A. Pinkham, Acting Assistant Secretary of the Army for Civil Works, Department of the Army
- Jeff Lyash, President and Chief Executive Officer, Tennessee Valley Authority (TVA)
- Daniel Avila, Acting Commissioner, U.S. Sector of the International Boundary and Water Commission (IBWC)

Mrs. NAPOLITANO. Good morning, ladies and gentlemen. I call this hearing to order.

Today's hearing will focus on President Biden's fiscal year 2022 budget request and his administration's priorities for the upcoming year. This hearing will serve as part 1 of two hearings on these topics, in order to hear from multiple agencies in the subcommittee's jurisdiction.

Let me begin by asking unanimous consent that the Chair be authorized to declare a recess at any time during today's hearing.

Without objection, so ordered.

I ask for unanimous consent that Members not on the subcommittee be permitted to sit with the subcommittee at today's hearing, and be permitted to ask questions.

Without objection, so ordered.

It is the responsibility of each Member seeking recognition to unmute their microphone prior to speaking, and to mute themselves upon the end of their 5 minutes. To avoid any inadvertent background noise, I request that every Member keep their microphone muted when not seeking recognition to speak. Should I hear any inadvertent noise, background noise, I will request that the Member please mute their microphone.

And finally, to insert a document into the record, please have your staff email it to DocumentsT&I@mail.house.gov.

Now, for my opening statement, I will tell you that today we will discuss the President's fiscal year 2022 budget request and other policy goals and objectives of the Biden administration.

Let me begin by commending the Biden administration for restoring critical funding and respect to the agencies under the jurisdiction of this subcommittee, and recognizing the essential role that they play in addressing the critical water resources and human health needs of our communities.

As we all remember, the previous administration tried to single-handedly gut the expertise and authorities of Federal agencies, both by systematically trying to roll back environmental protections, as well as by slashing agencies' funding to prevent hard-working Federal employees from doing the job that we directed them to do, and that provides critical economic, environmental, and public health benefits to the American people.

This year, it is refreshing to see that the President's budget request restores the funding levels that are necessary to accomplish the important work of all the agencies under the subcommittee's jurisdiction, not just Band-Aid solutions.

This budget request would provide funding for critical Army Corps of Engineers projects across the country, which would provide communities with flood protection, water supply, and environmental restoration. I am pleased to see that this budget request includes sufficient funds to complete a dam safety project at Whittier Narrows Dam in California.

For the Corps, the fiscal year 2022 budget request represents the largest single budget request for the Corps in its entire history.

The budget also calls for the largest transfer of critical navigation maintenance funds from the Harbor Maintenance Trust Fund. These dollars will fund operation and maintenance projects at our coastal ports, which strongly support all our economy, and keep us

globally competitive. Such projects will be essential as we come out of COVID-19 pandemic, which had devastating effects on our export economy.

The budget also maintains funding for agencies with large regional impacts like the International Boundary and Water Commission. These agencies have an important role to play—we don't hear much about them—in managing water supplies in the Southwest; and for keeping our border waters clean, safe, and reliable; and for implementing aspects of drought contingency plans with Mexico and the Western States on the Colorado River.

At the same time, the administration is now reviewing the nearly 100 environmental rules that were weakened or revoked altogether by the previous administration. Today, I hope to hear your plans to correct these wrongdoings and return to the protection of our environment and resources, rather than the protection of polluters and their bottom lines.

The reality is Americans know that protecting our waters creates economic growth with healthy communities and clean water for agriculture, for residential, and business use.

As the administration looks at the many environmental protections that have been attacked over the last 4 years, there are certainly some priority areas for the subcommittee. Overall, we need to ensure the protection of our waterways and the availability of clean water for every community.

For example, I was heartened to hear that the Biden administration proposes to replace the “dirty water rule,” which was the single largest rollback in clean water protections in the history of the Clean Water Act. However, I do remain concerned that every day the “dirty water rule” remains in place, additional waters—including seasonal rivers, streams in the West, and wetlands across the country—are being polluted, degraded, or destroyed.

We will also need to address rules which fail to protect children from toxic chemicals, such as the coal ash storage rule and the steam electric effluent guidelines rules. These weakened rules will have a devastating impact on families near facilities that produce such toxic pollution in communities of color, even beyond them.

We also need to address rules which failed to give communities a voice or choice in highly impactful projects. Whether the project is pipelines that may cut through the entire communities, or open-pit mines that threaten their natural resources or way of life, we cannot leave minority, rural, or Tribal voices out of the conversation.

Today, I look forward to hearing from our witnesses on your budget priorities and learning how you are planning to restore your offices to their sworn duties and missions that were so neglected over the last 4 years.

[Mrs. Napolitano's prepared statement follows:]

Prepared Statement of Hon. Grace F. Napolitano, a Representative in Congress from the State of California, and Chair, Subcommittee on Water Resources and Environment

Today, we will discuss the president's fiscal year 2022 budget request and other policy goals and objectives of the Biden administration.

Let me start by commending the Biden administration for restoring critical funding and respect to the agencies under the jurisdiction of this Subcommittee and recognizing the essential role that these agencies play in addressing the critical water resources and human health needs of our communities.

As we all remember, the previous administration tried to singlehandedly gut the expertise and authorities of Federal agencies, both by systematically trying to roll-back environmental protections, as well as by slashing agency funding to prevent hard working federal employees from doing the job that we directed them to do, and that provides critical economic, environmental, and public health benefits to the American people.

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The budget request also maintains funding for agencies with large regional impacts, like the International Boundary and Water Commission. These agencies have an important role to play in managing water supplies in the Southwest, for keeping our border waters clean, safe, and reliable, and for implementing aspects of drought contingency plans with Mexico and Western states on the Colorado River.

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For example, I was heartened to hear that the Biden administration proposes to replace the Dirty Water Rule—which was the single largest rollback in clean water protections in the history of the Clean Water Act. However, I remain concerned that every day the Dirty Water Rule remains in place, additional waters (including seasonal rivers and streams in the West and wetlands across the country) are being polluted, degraded, or destroyed.

We will also need to address rules which failed to protect children from toxic chemicals, such as the Coal Ash Storage Rule and the Steam Electric effluent guidelines rule. These weakened rules will have devastating impacts on families near facilities that produce such toxic pollution, and communities even beyond them.

We also need to address rules which failed to give communities a voice or choice in highly impactful projects. Whether the project is pipelines that may cut through entire communities, or open-pit mines that threaten their natural resources or way of life, we cannot leave minority, rural, or tribal voices out of the conversation.

Today, I look forward to hearing from our witnesses on your budget priorities and learning how you are planning to restore your offices to their sworn duties and mission areas that were so neglected over the past four years.

Mrs. NAPOLITANO. At this time I am pleased to yield to my colleague, the ranking member of the subcommittee, Mr. Rouzer, for any thoughts he may have.

Mr. ROUZER. Well, thank you, Madam Chair. I appreciate you holding this hearing, and I would like to, of course, thank our witnesses for being with us today, too.

And I might add that I hope we can get back to a day when we are all here in the committee, including our panelists. In fact, I think it is past time to get back to that. That was my editorial comment.

A little different viewpoint on things, as compared to the chairman's remarks, today's hearing will focus on the President's fiscal year 2022 budget proposal for the U.S. Army Corps of Engineers, the Tennessee Valley Authority, and the U.S. Sector of the International Boundary and Water Commission within the Department of State.

First, I am going to start with Army Corps, and I appreciate that we have representation from both the Corps and its political leadership at the Office of the Assistant Secretary of the Army for Civil Works.

You both know how important the Corps projects are around the country, and, certainly, my district is no different. The beaches in my district rely on Army Corps maintenance to protect life, property, and our critical tourism economy in the event of a natural disaster. Our beaches in New Hanover County specifically have benefited from regular Army Corps maintenance. These projects require continued and consistent funding.

However, I am concerned with the administration's proposed budget, in part because of its lack of dedication to undertaking and completing projects like this. Overall, the President's budget proposes cutting Corps funding by more than 10 percent, a reduction of almost \$800 million. Now, I think we are all certainly of the mind that—or at least most of us—that the Federal Government needs to undergo a little fiscal belt-tightening. But the Corps' Civil Works budget is not what needs to be cut.

Evidently, this current administration doesn't feel the need for fiscal restraint elsewhere, in fact, particularly in light of some of its other enormous spending proposals. President Biden's \$6 trillion budget plan, proposing a level of relative spending not seen since World War II, is not exactly the picture of fiscal restraint. So the fact that this administration has proposed increasing spending in nearly every aspect of the Federal Government, but then would cut the Corps budget by 10 percent defies logic, common sense, and everything else, especially when considering the tremendous backlog of projects.

An administration proposes a budget to show Congress and the American people what its priorities are. What is it Speaker Pelosi always says? Show me your budget, and I will show you your priorities. Well, look here. Based on this budget, it would appear that President Biden is talking out of both sides of his mouth: on the one hand, talking about spending lavishly, supposedly for infrastructure, but on the other hand, putting the extremely important infrastructure projects that the Corps is responsible for as a very low priority. How else do you read it?

While on the subject of the Army Corps, I need to take a moment to discuss the announcement from 2 weeks ago that the administration is yet again going to reconsider the definition of "waters of

the U.S.,” or WOTUS, as we call it, for purposes of the Clean Water Act. While not a surprise to hear that this administration is proposing to take this action, it is no less a disappointment.

I understand that no new regulation has been issued yet, not even an official proposal. However, the system we have in place now, it works. It is fair to our Nation’s farmers, ranchers, businesses, city planners, and everyone else.

A return to anything close to the 2015 WOTUS rule would be a failure, and the regulatory burden placed on average Americans and the effect on the economy would be highly detrimental. As I said a couple of weeks ago, no bureaucrat in Washington should be able to dictate what our farm families, small businesses, local governments, and citizens do on their property after a significant rainfall.

Now, aside from the representatives of the Corps, we also have folks here from two other important entities: the Tennessee Valley Authority and the International Boundary and Water Commission. TVA has not taken any Federal funds since 1999, which is certainly a rarity among entities created by Congress. However, that does not mean that TVA doesn’t face challenges in performing its mission. In fact, I look forward to hearing about what TVA needs to be able to most effectively and cost-efficiently achieve its missions, including that of delivering crucial electricity to its customers.

And finally, I look forward to hearing from the International Boundary and Water Commission and the challenges it faces as it implements the boundary and water treaties between the United States and Mexico and resolves differences they may have.

Again, Madam Chair, thank you for holding this hearing, and I want to thank our witnesses. I yield back.

[Mr. Rouzer’s prepared statement follows:]

Prepared Statement of Hon. David Rouzer, a Representative in Congress from the State of North Carolina, and Ranking Member, Subcommittee on Water Resources and Environment

Thank you, Chair Napolitano. I appreciate you holding this hearing, and I would also like to thank our witnesses for being here today. I might add that I hope we can get back to a day when we are all here in the Committee, including our panelists. In fact, I think it’s past time to get back to that.

As noted, today’s hearing will focus on the President’s Fiscal Year 2022 budget proposal for the U.S. Army Corps of Engineers (Corps), the Tennessee Valley Authority (TVA), and the U.S. Sector of the International Boundary and Water Commission (IBWC) within the Department of State.

Let’s start with the Army Corps of Engineers.

I am appreciative that we have representation from both the Corps itself and its political leadership at the Office of the Assistant Secretary of the Army for Civil Works. You both know how important the Corps’ projects are around the country, and my district is no different.

The beaches in my district rely on Army Corps maintenance to protect life, property, and our critical tourism economy in the event of a natural disaster. Our beaches in New Hanover County specifically have benefitted from regular Army Corps maintenance. These projects require continued and consistent funding.

However, I’m concerned with the Administration’s proposed budget in part because of its lack of dedication to undertaking and completing projects like this. Overall, President Biden’s budget proposes cutting Corps funding by more than 10 percent—a reduction of almost \$800 million.

Now, I am certainly of the mind that the federal government needs to undergo some fiscal belt-tightening. But the Corps' Civil Works budget is not what needs to be cut.

Evidently, this current administration doesn't feel the need for fiscal restraint elsewhere in fact. Particularly in light of some of its other enormous spending proposals. President Biden's \$6 trillion budget plan, proposing a level of relative spending not seen since World War II, is not exactly a picture of fiscal restraint. So, the fact that this administration has proposed increasing spending in nearly every aspect of the federal government, but then would cut the Corps budget by 10% defies logic, common sense, and everything else. Especially when considering the tremendous backlog of projects.

An administration proposes a budget to show Congress and the American people what its priorities are. Based on this budget, it would appear that President Biden is talking out of both sides of his mouth—on the one hand talking about spending lavishly supposedly for “infrastructure,” but on the other hand putting the extremely important infrastructure projects that the Corps is responsible for as a very low priority.

While on the subject of the Army Corps, I need to take a moment to discuss the announcement from two weeks ago that the Administration is, yet again, going to reconsider the definition of “Waters of the United States” (or “WOTUS”) for purposes of the Clean Water Act.

While not a surprise to hear that this administration is proposing to take this action, it is no less a disappointment. I understand that no new regulation has been issued yet—not even an official proposal. However, the system we have in place now works—it is fair to our nation's farmers, ranchers, businesses, city planners, and anyone else.

A return to anything close to the 2015 WOTUS rule would be a failure, and the regulatory burden placed on average Americans and the effect on the economy would be highly detrimental. As I said two weeks ago, no bureaucrat in Washington should be able to dictate what our farm families, small businesses, local governments, and citizens do on their property after a significant rainfall.

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TVA has not taken any federal funds since 1999, which is certainly a rarity among entities created by Congress. However, that does not mean that TVA doesn't face challenges in performing its mission. In fact, I look forward to hearing about what TVA needs to be able to most effectively and cost-efficiently achieve its missions, including that of delivering crucial electricity to its customers.

Finally, I look forward to hearing from the IBWC and the challenges it faces as it implements the boundary and water treaties between the United States and Mexico and resolves differences that may arise.

Mrs. NAPOLITANO. Thank you, Mr. Rouzer. At this time I am pleased to yield to the chairman of the full committee, Mr. DeFazio, for any thoughts he may have.

Mr. DEFAZIO. Thanks, Madam Chair. I am pleased to have the Corps and the other entities before us today to talk about protecting the environment, investing in science, and putting real money toward our crumbling infrastructure.

I would just slightly correct the ranking member's statement. It is the highest submission ever. It is \$2 billion over what Trump asked for. It is the highest submission ever by a President. All Presidents have played this game forever. They know Congress is going to add in more money, but this is the highest starting point we have ever had. So I am certain we will top the numbers of last year, particularly after 25 years of effort that have unlocked the Harbor Maintenance Trust Fund. And we will see the results of that.

In fact, I was talking to an Appropriations Committee subcommittee chair yesterday about \$400 million unallocated from the unlocked Harbor Maintenance Trust Fund that won't count against

our allocations, and I am hoping to see all of that money spent to begin to deal with our backlog.

I wanted to spend the money more quickly. I had to negotiate with the Republican-run Senate, two committees. The first committee, we worked it out. We were going to spend the money in 5 years. Then Senator Shelby got involved. Because the Senate is so dysfunctional, they couldn't pass or even bring up a bill that passed the House unanimously. And Senator Shelby said, "No, no, no, we are not going to spend that money in 5 years. Ten years." So, you know, that is how we got to this point.

But it is the highest ever submission by a President. So let's see the record corrected on that.

It does restore significant funding levels to programs with community-level impacts, such as flood protection, resiliency to climate change, sea level rise, severe weather events, and other issues. I didn't see much commitment to that throughout the reign of the former President and his administration, and I am pleased to see a new emphasis on that.

They brought, as I said, a \$2 billion lower proposal for the Corps to us last year. Congress fixed that, ultimately, but it was not by the initiative of the Trump administration. And, simultaneously, they were dismantling critical laws. The gentleman mentioned the "waters of the U.S." I have been engaged in the debate over this issue for a quarter of a century. The rule adopted by the Trump administration removes protections from somewhere between 70 and 80 percent—they couldn't even tell us in the hearing—of the wetlands and waterways in the United States.

Now, some on the committee may not be old enough to remember when rivers burned. I do. Some may not remember, because you haven't been out our way, when the Willamette River was an open sewer in Oregon. It is now fishable, swimmable, drinkable. The Cuyahoga doesn't burn anymore. And we have preserved critical wetlands for migratory birds and other species, and they ultimately lead into our rivers and streams, and the health of our rivers and streams.

We have lost a lot because of the Trump "dirty water rule." In fact, I couldn't disagree more with the ranking member. That rule should be immediately repealed. I hate to say it, but the Bush rule to which we would revert is better, way better than what Trump did. And then the Corps needs to undertake to write a rule that makes sense and works for everybody, including farmers.

The first rule proposed by the EPA was turgid under Obama. And so all sorts of myths were created. It was going to regulate birdbaths, and puddles on farms, and this and that. Under much pressure, they finally rewrote it. And what they finally wrote, actually, was good. We were holding a joint hearing over in the Capitol with the Senate. There was this slide that you guys like to show of a farm field and say, "This guy had to go through a full environmental analysis, just to farm his field."

And I asked Gina McCarthy, the then-head of the EPA, what would happen to that farmer under the new rule you are proposing? And she said, "Oh, it would be categorically exempt." So actually, we did have a workable rule, and it would have benefited everybody, but also protected critical wetlands and waters. So I am

disappointed they haven't immediately repealed the Trump rule. We are losing wetlands, and polluting streams on a daily basis.

There are also rollbacks of pollution discharge requirements from coal-fired powerplants, and I am thrilled we have got someone here from TVA today to talk about this. These discharges include arsenic, lithium, mercury, selenium—not great things to have in our waterways, drinking water, or fishable water. So that is not too good. But I have read that the TVA is somehow taking advantage of this rule, and continues discharging unsafe levels. And I hope that I am wrong, and I hope that the record will be straightened out today. And if not, then we are going to want to see that that does happen in the near future.

I remember the massive disaster of 2008, with the coal ash, where we have lost a lot of contractors who were sent in there to try and clean up that unbelievable mess without proper protective equipment. More than a decade later, that toll continues. So this is nothing to be trifled with at all.

One other issue missing from the last administration was significant community engagement that included all communities, including Native American communities, in terms of moving forward projects which would have major impacts on the environment of these communities. And I am pleased that the Acting Assistant Secretary overturned one of the last-minute out-the-door policies of the Trump administration to exclude consultation with Tribal communities in Clean Water Act jurisdictional decisions. Who thinks that is a good idea? Really? So that is a good step.

And I also want to see—because in the WRDA 2020 bill, I got a provision in there to improve consultation, and I am going to want to hear what the Corps has done to improve consultation. The Corps also has to swiftly implement the policies which will increase resiliency in projects; utilize nature-based infrastructure options, which was again mandated in that bill; provide access to lower income communities; and truly maximize sustainable development.

So I am looking forward to this hearing, clearing up some of these issues and questions, and laying aside some myths. So thank you, Madam Chair.

[Mr. DeFazio's prepared statement follows:]

Prepared Statement of Hon. Peter A. DeFazio, a Representative in Congress from the State of Oregon, and Chair, Committee on Transportation and Infrastructure

Thank you, Madam Chairwoman, for holding today's hearing.

Today's hearing is refreshing in that, for the first time in five years, I don't feel like we are operating in two parallel universes. Finally, we have a budget in front of us that demonstrates this administration's commitment to protecting our nation's environment, investing in science, and putting real dollars towards our crumbling infrastructure. It is a budget that recognizes the critical role that the federal government plays in sustaining our economy, our environment, and our quality of life.

First and foremost, I am glad to see the highest numbers ever requested in a President's budget for the Army Corps of Engineers (Corps). This is also the highest amount ever requested to be transferred from the Harbor Maintenance Trust Fund—over \$1.6 billion.

I have been working for over two decades—since the days of Chairman Bud Shuster—to unlock the Harbor Maintenance Trust Fund. At last, after successful enactment of my proposal in WRDA 2020, those dollars will finally be spent on the activities they were collected for, instead of sitting idle in the U.S. Treasury. I look for-

ward to continued partnership with our Appropriations Committee colleagues to finally fully utilize the Harbor Maintenance Trust Fund proceeds.

Other agencies within the subcommittee's jurisdiction are also well-supported in this budget. In many cases, this budget restores significant funding levels to programs with community-level impacts, such as flood protection and resiliency to the threats of climate change. Properly funding these programs will restore and protect our ecosystems, will allow our local and national economies to thrive, and will help us to meet the complex challenges of the 21st century.

We, as members of Congress, are tasked with ensuring the strength and health of our nation, our economies, and our overall quality of life for future generations. Many of the agencies under this subcommittee have similar mission areas. Yet, we saw a lack of federal commitment to these goals throughout the entirety of the previous administration. Instead of protecting children and families from exposure to toxic chemicals, we saw corporate and polluter giveaways under the false notion of economic benefits.

The previous administration continuously brought us laughable budget proposals that ignored federal responsibility, or reality. Simultaneously, the last administration worked to dismantle and weaken existing law that protects our nation's waters, public health, and the economy.

Separate from the numbers alone, I am glad to have these agency representatives before the subcommittee today to hear about their priorities and policy objectives for the new administration. There is certainly a lot of work to do to correct the missteps of the last administration and the war the former president waged on our environment and our most vulnerable communities. I hope to work with you all on some of the most egregious examples.

One of the most important, at least for this committee, will be the rewrite of the Navigable Waters Protection Rule, known here as the Dirty Water Rule. This rule would have removed protections from up to 71 percent of streams, and more than 50 percent of wetlands. That is simply unconscionable.

I was pleased to hear the announcement that the Biden administration will overturn the Dirty Water Rule; however, I believe this rule must be immediately repealed and then replaced. Every day that the Dirty Water Rule remains in place, countless waters and wetlands are polluted, degraded, or destroyed, and American families will pay the cost of this destruction through more polluted waters, less protected drinking water sources, greater flood risk, and a degraded environment.

This is too high a cost to pay for inaction and I will continue to push this administration for the immediate repeal of the Dirty Water Rule.

I am also deeply concerned with another environmental reversal of the last administration, the rollback of pollution discharge requirements from coal-fired power plants. We know these discharges include arsenic, lithium, mercury, and selenium. We know each one is detrimental to the health of our waterways. I expect this corporate giveaway to also be reversed soon. In the meantime, I have read press reports that the Tennessee Valley Authority is trying to take advantage of this misguided rule and to continue discharging what I consider to be unsafe levels of toxic chemicals while this rule is under potential revision.

The Tennessee valley knows all too well the impacts of coal ash and coal pollution. I hope Mr. Lyash can shed some light on the TVA's decisions and provide this committee with an update on issues associated with the health of contractors involved in the cleanup of the Kingston coal ash spill in 2008, which sadly, more than a decade later, continues to cost workers' lives. Their families deserve answers.

Madam Chair, one other issue that was uniquely missing from the last administration was ensuring agency actions were developed with significant community engagement. This means meaningful involvement and consultation with tribes, rural communities, economically-disadvantaged communities, and minority communities.

Addressing environmental justice considerations and community engagement needs to become the norm again as we address how our environmental laws are developed and applied, and how our federal agencies communicate and discuss potential impacts of federal actions on local communities.

For example, I am pleased by the action of the Acting Assistant Secretary to overturn a last-minute policy of the last administration to exclude consultation with tribal communities in Clean Water Act jurisdictional decisions. However, that is just the start, and the Corps needs to continuously engage with Tribal, rural, and economically-disadvantaged communities, in both regulatory decisions and as it develops future water resources development projects.

I look forward to hearing where the Corps is on updating these consultation policies, as required by the WRDA 2020 bill.

Other aspects of WRDA 2020 should be a major priority as well. We truly passed a strong, bipartisan, and forward-looking bill last year. The Corps must swiftly im-

plement the policies which will increase resiliency in projects; better utilize nature-based infrastructure options; provide access to lower-income communities; and truly maximize sustainable development.

As we look forward to real federal investment and implementation of the policy goals of the Biden administration, I hope to see continued support for the protection of our communities and our environment. We must be determined in restoring and renewing our federal commitments to clean water and modern, resilient infrastructure.

Thank you, Madam Chairwoman.

Mrs. NAPOLITANO. Thank you, Mr. Chairman.

Thank you all. Thank you, gentlemen, and we will now proceed to hear from our witnesses who will testify today. Thank you all for being here. You are very welcome.

On today's panel we have Lieutenant General Scott A. Spellmon, Chief of Engineers and Commanding General of the Army Corps of Engineers; Mr. Jaime A. Pinkham, Acting Assistant Secretary of the Army for Civil Works, Department of the Army; Jeff Lyash, President and Chief Executive Officer of the Tennessee Valley Authority; and Daniel Avila, Acting Commissioner of the U.S. Sector of the International Boundary and Water Commission.

Without objection, your prepared statements will be entered into the record, and all witnesses are asked to limit their remarks to 5 minutes. Your testimony will be on file.

Lieutenant Spellmon, welcome. You may proceed.

General SPELLMON. Madam Chairwoman, with your permission, I would like to defer to Mr. Pinkham to give his statement first.

Mrs. NAPOLITANO. Certainly.

Mr. Pinkham, you may proceed.

TESTIMONY OF JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY; LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS; JEFFREY J. LYASH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TENNESSEE VALLEY AUTHORITY; AND DANIEL AVILA, ACTING COMMISSIONER, U.S. SECTOR OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION

Mr. PINKHAM. Thank you, Chairwoman Napolitano, Ranking Member Rouzer, and Chairman DeFazio, and also to members of this committee. I appreciate the opportunity to join General Spellmon to discuss the President's budget request for the Civil Works program for the Army Corps of Engineers.

And as noted, the fiscal year 2022 budget is the highest annual budget ever proposed, at roughly \$6.8 billion.

And we want to emphasize investments that heighten economic and environmental returns; increase the resiliency to climate change; facilitate safe, reliable, and sustainable commercial navigation; and advance the delivery of the water resources projects.

In my short time in this position, I witnessed that our work, and thus this budget, relies on a foundation of strong relationships between the Corps and our public and private partners to help deliver on the three main missions of the Civil Works program: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration.

And the budget supports a diverse set of tools and approaches to working with our partners, whether it is cost sharing, providing planning and technical assistance, or collaborative conversations on how best to respond to our water resources challenges.

In addition, we want to advance two key objectives of this administration, including increasing infrastructure and ecosystem resilience to climate change and decreasing climate risk for the communities, as well as promoting environmental justice in disadvantaged communities in line with the Justice40 Initiative.

And just let me give you, quickly, the top numbers in the budget. The investigations account is funded at \$106 million; construction at \$1.8 billion; operation and maintenance, \$2.5 billion; Harbor Maintenance Trust Fund at \$1.6 billion; the Inland Waterways Trust Fund at \$52 million; and the Mississippi River and tributaries account at \$270 million. Other important accounts include flood control and coastal emergencies at \$35 million; our regulatory program at \$204 million. The Corps' expense account is at \$199 million, and the Office of the Assistant Secretary of Civil Works is \$5 million.

And if we convert this to how it will be used on the ground, it will be used in projects such as this: \$3.4 billion of it will support projects and activities that facilitate commercial navigation; \$1.7 billion to help reduce the risk of damages from floods and storms; \$501 million to restore aquatic ecosystems to more natural conditions; and also over \$75 million that will help increase the resilience of Corps' infrastructure to climate change, including energy and water conservation measures, updates to water control manuals, a charging infrastructure to support a Federal fleet of zero-emission vehicles, and an evaluation of ways to increase the resiliency of the Corps' infrastructure over the long term.

But in this is also \$29 million for technical and planning support and assistance to States and Tribes and local communities, as they take steps to reduce flood risk, including those risks that are associated with climate change.

And the American Jobs Plan also includes an additional \$8 billion over 5 years for the Corps to improve ports and waterways.

There are some important place-based initiatives within the budget, including \$350 million for the south Florida Everglades restoration, a \$100 million-increase over the 2021 enacted level.

We are going to initiate seven new studies: central and southern Florida flood resiliency, Great Lakes coastal resiliency, and studies in States that are Idaho, Rhode Island, South Carolina, Wyoming, and Queens, New York.

And there will be a construction of four new projects: the McClellan-Kerr Arkansas River Navigation System; West Sacramento, California; Norfolk Harbor and Channels; and a project that will start and complete construction on the Anacostia watershed restoration in Maryland.

And we also look forward to completing two projects, the Calumet Harbor and River in Illinois and Indiana, and the project at the mouth of the Columbia River between Oregon and Washington.

And within the \$1.6 billion derived from the Harbor Maintenance Trust Fund, \$787 million will be used to support commercial navigation at the top 50 U.S. coastal ports across the Nation, which

handle an estimated 90 percent of the waterborne cargo that is shipped to or from the United States in foreign commerce.

There is \$252 million for operation and maintenance of Great Lakes projects, and \$63 million for five projects that will accommodate the disposal of material dredged for coastal navigation.

Our budget proposal also includes returning the responsibility and management of the Formerly Utilized Sites Remedial Action Program, FUSRAP, back to the Department of Energy.

The budget also advances the process of addressing the climate crisis as outlined in President Biden's Executive order. The Army will evaluate the Civil Works program to identify the appropriate actions the agency can take to support this policy objective in the 2023 budget.

The Army is also committed to securing environmental justice, and spurring economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution, and experience underinvestment in our essential services.

And lastly, I want to point to the Water Resources Development Act of 2020, which was enacted last December. We have moved forward with implementation. A public comment period was conducted, including five listening sessions. So we plan to have the implementation guidance for many of the provisions ready in August. But other provisions may require more time to go through the rule-making process.

Madam Chair, it has been an honor to serve in this position and help implement the President's priorities and the Army's Civil Works programs. I have been on board for slightly over 2 months, and I continue to deepen my understanding, which I hope will assist in our common efforts to address the challenges we face with the resources that are entrusted to us.

And thank you for inviting me today, and I look forward to your questions.

[Mr. Pinkham's prepared statement follows:]

Prepared Statement of Jaime A. Pinkham, Acting Assistant Secretary of the Army for Civil Works, Department of the Army

Chairwoman Napolitano, Ranking Member Rouzer and distinguished members of the committee, thank you for the opportunity to be here today to discuss the President's Budget request for the Civil Works program of the Army Corps of Engineers.

The Fiscal Year 2022 Budget request provides roughly \$6.8 billion for the Army Civil Works program, which is the highest annual budget ever proposed, with a focus on investments that will yield high economic and environmental returns, increasing resiliency to climate change; facilitating safe, reliable and sustainable commercial navigation; and accelerating and improving the delivery of water resources projects. This Budget relies on a foundation of strong relationships between the Corps and local communities, which allow us to work together to help develop, manage, restore, and protect the Nation's water resources.

The Budget focuses on the highest performing work within the three main missions of the Army Civil Works program:

- Commercial navigation,
- Flood and storm damage reduction, and
- Aquatic ecosystem restoration.

In developing the Budget, consideration was given to advancing two key objectives including: 1) increasing infrastructure and ecosystem resilience to climate change and decreasing climate risk for communities based on the best available science; and 2) promoting environmental justice in disadvantaged communities in line with the

Justice40 Initiative and creating good paying jobs that provide the free and fair chance to join a union and collectively bargain.

The Budget supports a Corps program that has a diverse set of tools and approaches to working with local communities, whether this means funding projects with our cost-sharing partners, providing planning assistance and technical expertise to help communities make better risk-informed decisions, or participating in national and international conversations on how to best address our water resources challenges. The Budget also focuses on maintaining the vast water resources infrastructure that the Corps owns and manages, and on finding innovative ways to rehabilitate it or transfer ownership to willing recipients. For example, the Budget includes \$13 million to complete six new major rehabilitation studies for inland waterways locks and dams and \$2 million to investigate the disposition of completed projects.

The FY 2022 Investigations account is funded at \$106 million, the Construction account at \$1.8 billion, the Operation and Maintenance account at \$2.5 billion, the Harbor Maintenance Trust Fund at \$1.6 billion, the Inland Waterways Trust Fund at \$52 million, and the Mississippi River and Tributaries account at \$270 million. Other accounts include the Flood Control and Coastal Emergencies account at \$35 million, the Regulatory Program account at \$204.4 million, the Expenses account at \$199.3 million, and the Office of the Assistant Secretary of the Army for Civil Works account at \$5 million.

The Army Corps will use \$3.4 billion of these funds to invest in projects and activities that will facilitate commercial navigation, \$1.7 billion to help reduce the risk of damages from floods and storms, and \$501 million to restore aquatic ecosystems to a more natural condition. These amounts include:

- \$75 million to increase the resilience of Corps infrastructure to climate change, consisting of \$38 million for energy and water conservation measures at Corps projects, \$23 million for updates to water control manuals at Corps projects that will account for the changing climate, \$8 million for the charging infrastructure needed to support a Federal fleet of Zero Emission Vehicles, and \$6 million to evaluate ways to increase the resilience of Corps infrastructure over the longer term; and
- \$29 million for Corps technical and planning assistance programs, through which the Corps is able to assist states and local communities with taking steps to reduce their flood risks, including risks associated with climate change. For example, the Budget supports Corps participation in joint Federal-State inter-agency teams known as the Silver Jackets, which work at the state level to help local communities to understand their flood risks and identify options to help them manage those risks, with an emphasis on non-structural approaches.

The American Jobs Plan also includes an additional \$8 billion over five years for the Corps to improve ports and waterways.

The Budget includes \$350 million for the South Florida Everglades Restoration or SFER program. The SFER request of \$350 million is a \$100 million increase, or 40 percent, to the 2021 enacted level. SFER funding is also included in the American Jobs Plan. Taken together, a robust amount of funding is proposed for SFER, enabling significant progress on this ecosystem restoration program.

The FY 2022 Budget includes funding to initiate seven new studies:

- Central & Southern Florida Flood Resiliency (Section 216), FL;
- Boise River, Garden City, Ada County, ID;
- Great Lakes Coastal Resiliency Study, IL, IN, MI, MN, OH, PA, NY & WI;
- Spring Creek South, Jamaica Bay (Howard Beach), Queens, NY;
- Little Narragansett Bay, RI;
- Waccamaw River, Horry County, SC; and
- Little Goose Creek, Sheridan, WY.

The FY 2022 Budget also includes funding to initiate construction at four new projects—McClellan-Kerr Arkansas River Navigation System, Three Rivers, AR; West Sacramento, CA; Anacostia Watershed Restoration, Prince George's County, MD; and Norfolk Harbor and Channels, VA (Deepening) as well as to complete three construction projects—Calumet Harbor and River, IL & IN; Columbia River at the Mouth, OR/WA; and Anacostia Watershed Restoration, Prince George's County, MD.

Within the \$1.6 billion proposed in the FY 2022 Budget to be derived from the Harbor Maintenance Trust Fund, \$787 million will be used to support commercial navigation at the top 50 U.S. coastal ports across the Nation, which handle an estimated 90 percent of the waterborne cargo that is shipped to or from the United States in foreign commerce; \$252 million for operation and maintenance of Great Lakes projects; \$58 million for projects that support access by Native American tribes to their legally recognized historic fishing areas; and \$63 million for five con-

struction projects that will accommodate disposal of material dredged from coastal navigation projects.

The FY 2022 Budget proposes \$10 million for a new Innovative Funding Partnership program, which supports Corps efforts to accelerate and improve the delivery of water through greater non-Federal participation, and by removing barriers that prevent State, local, and private parties from moving forward with investments that they deem priorities.

In addition, the Budget also proposes to return responsibility for management of the Formerly Utilized Sites Remedial Action Program (FUSRAP), back to the Department of Energy (DOE). Consolidation of FUSRAP with the other DOE cleanup programs under a single agency will allow the DOE to consider a broader range of federal cleanup responsibilities in prioritizing work each fiscal year and will result in efficiencies for taxpayers. The Army Corps will continue to perform cleanup of FUSRAP sites on a reimbursable basis with the DOE.

The FY 2022 Budget begins the process of addressing the climate crisis. As outlined in Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, the Army will evaluate the Civil Works program to identify the appropriate actions the agency can take to support this policy objective in the FY 2023 Budget. The Army is also committed to securing environmental justice and spurring economic opportunity for disadvantaged communities that have been historically marginalized and overburdened by pollution and experience underinvestment in essential services. The Army will actively work towards ensuring 40 percent of the benefits of climate and clean energy investments are directed to disadvantaged communities. These actions will include an examination of the activities of key programs to determine whether those programs' benefits have accrued to disadvantaged communities. The Army will also begin to track program expenditures that impact disadvantaged communities and consider metrics that will help track how applicable covered program benefits accrue at specific disadvantaged communities.

I would also like to highlight one of the initiatives proposed in the Budget—an important technical change to the account structure of the Corps, which will improve our ability to oversee the spending financed through our two navigation trust funds. This proposal involves changes to the appropriations language for the Construction, Operation and Maintenance, and Mississippi River and Tributaries accounts, as well as the adoption of appropriations language for the Harbor Maintenance and Inland Waterways Trust Funds. It is needed and would enable greater transparency and accountability in how these funds are budgeted and spent.

Lastly, when the Water Resources Development Act 2020 was enacted in December 2020, we immediately moved to begin implementation. As required by the Water Resources, Reform Development Act of 2014, a public comment period was conducted from March 8 to May 7, 2021. During the public comment period, the Army Corps held five listening sessions to hear directly from stakeholders. A total of 517 stakeholders participated and submitted 148 written comments. We are now drafting guidance for many of the WRDA 2020 provisions to provide clarification on their implementation. Other provisions may warrant a rulemaking.

I am very honored to have been selected for this position, to help implement the President's priorities for the Army Civil Works program. I have been on-board for just over two months, and I've had the opportunity to make a few short trips to Tacoma Harbor in Washington State and multiple project sites throughout West Virginia, northern Ohio, Maryland and Delaware. I have been very impressed with the professionalism and dedication of the Army Corps of Engineers employees, who build and maintain water resources facilities for our primary Civil Works missions. There is much work to be done; I'm excited to be a part of this great team—serving our Nation.

Thank you all for inviting me here today. I look forward to your questions.

Mrs. NAPOLITANO. Thank you very much, Mr. Pinkham, we appreciate your testimony.

And now I will ask the general—your testimony is welcome.

General SPELLMON. Thank you, and good morning. Chairwoman Napolitano, Ranking Member Rouzer, and full committee Chairman DeFazio, and distinguished members of the subcommittee, thank you for the opportunity to testify today.

I have been in command of the Corps a little bit over 9 months now, and I would just like to provide a few brief highlights of the great work our team is accomplishing, as we are already making

progress on three of my initial focus areas. And those are transforming our organization to accommodate an increased workload; expanding research and development with a focus on delivering projects faster and cheaper and getting after some of our current challenges across the Nation; and of course, strengthening our already-talented workforce. And these are just a few of the key initiatives that we are going to use to optimally leverage the annual appropriations that we receive, meet the priorities of both Congress and the administration, and, of course, to ultimately deliver on our vision, that is, to engineer solutions for our Nation's toughest challenges.

Over the past several years, the Corps has successfully delivered an annual Civil Works program in the range of \$7 to \$8 billion, and I want to expand this competency into one that could deliver double that benefit, by stretching our dollars further through better partnering practices, revolutionizing our processes, and seeking efficiencies with functional pilot programs.

Our Nation is again seeking to renew its infrastructure, and we in the Corps are poised to support this pivotal modernization. Some examples of our initiatives include the Corps' continued efforts to build upon public-private partnerships and other innovative financing solutions. We are also working to streamline our regulatory program by providing straightforward, commonsense rules. But we continue to face challenges with a funding-static stream during an ever-increasing demand on these resources.

We will continue to seek efficiencies in project delivery by reducing cost, optimizing schedules, and eliminating unnecessary redundancies. We have successfully validated a number of these concepts through implementation of the regional dredge demonstration program down on the gulf coast, and we look forward to applying those concepts in other regions, as well as furthering potential efficiencies in our navigation program by advancing the beneficial use of dredge material.

I feel strongly that, in order to achieve this vision, we also need to elevate our research and development program, and we are working to expand our R&D initiatives and strengthen our partnerships with academic institutions to leverage the enormous capacity of our Nation's scientists so we can meet the challenges of the 21st century head on.

Investment in research and development will help us find solutions for today's challenges, like those posed by harmful algal blooms in Florida and the Great Lakes, drought and wildfires across the West, and reservoir sedimentation across the country. And of course, we want to engineer more with nature everywhere we work.

And finally, successful investment in our future cannot be accomplished without the talented and passionate professionals of our workforce. People remain our greatest resource. Investing in our people, our leaders, and diversity in all its forms, as well as maintaining our commitment to safety in all that we do, are keys to developing our future team.

For the past 245 years, the Corps of Engineers has served as our Nation's engineers, and we have risen to meet the challenge of the day, and today is no exception. We are going to engineer the future,

but we do not do it alone. We need the help of our non-Federal partners, all our project stakeholders, and, of course, Congress to enable us to succeed. And I look forward to continuing our great collaboration with this committee, as we strive to finish quality projects on time, within budget, and do it safely.

So thank you again, Madam Chairwoman and members of the subcommittee.

I look forward to answering any questions that you may have.

[Lieutenant General Spellmon's prepared statement follows:]

Prepared Statement of Lieutenant General Scott A. Spellmon, Chief of Engineers and Commanding General, U.S. Army Corps of Engineers

Chairwoman Napolitano, Ranking Member Rouzer, and Members of the Subcommittee:

I am honored to testify before your committee today, along with Mr. Jamie Pinkham, the Acting Assistant Secretary of the Army for Civil Works, in regard to the President's Fiscal Year 2022 (FY 2022) Budget for the United States Army Corps of Engineers (Corps) Civil Works Program.

Through its Civil Works Program, the Corps works with other Federal agencies, and with State, Tribal, and local agencies and others, to develop, manage, restore, and protect water resources, primarily through the construction, operation and maintenance, and study of water-related infrastructure projects. The Corps focuses on work that provides the highest economic, environmental, and public safety returns to the Nation. The Corps also regulates development in waters of the United States and works with other Federal agencies to help communities respond to, and recover from, floods and other natural disasters. The FY 2022 Budget invests in improving the Nation's water infrastructure, including U.S. coastal ports, while incorporating climate resilience efforts into the Corps' commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration work.

The Corps' Military program also continues our work across the globe with presence in more than 110 countries supporting national security and our Combatant Commanders.

OVERVIEW

The Civil Works Program is performance-based. It uses a targeted approach to invest in our water resources and promote climate resiliency, which will benefit the Nation's economy, environment, and public safety—now and in the future. With the requested funds, the Corps will emphasize: Investments in High Return Projects; Increasing Resiliency to Climate Change; Facilitating Safe, Reliable and Sustainable Commercial Navigation; and Accelerating and Improving Delivery of Water Resource Projects.

The Corps focuses on high-performing projects and programs within its three main water resources missions: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. The Budget includes \$6.8 billion for these Civil Works activities throughout the Nation. The American Jobs Plan includes an additional \$8 billion over five years for the Corps to improve ports and waterways.

INVESTIGATIONS PROGRAM

The Investigations program of the Corps is funded both in the Investigations account and in the Mississippi River and Tributaries account. The Corps uses these funds to evaluate water resources problems and opportunities, design projects within the Corps three main mission areas, and support related work. The Investigations program includes the Corps planning assistance and technical assistance programs, where the Corps shares its expertise with local communities to help them identify and understand their water resources problems, and helps them to develop options including ways that they can increase their resilience to, and preparedness for, flood risks. In addition to ongoing efforts, the FY 2022 Budget supports starting seven new studies of problems and opportunities associated with the commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration missions of the Corps.

CONSTRUCTION PROGRAM

The Construction program of the Corps is funded both in the Construction account and in the Mississippi River and Tributaries account.

The goal of the construction program is to produce as much value as possible for the Nation from the available funds. The Corps also gives priority to investments, selected on a risk informed basis, in dam safety assurance, seepage control, and static instability correction work at dams that the Corps owns and operates.

The Budget provides \$350 million for the South Florida Everglades Restoration (SFER) program, which includes the everglades. This is \$100 million above the enacted level for FY 2021, an increase of 40 percent. Additional SFER funding is included in the American Jobs Plan. Taken together, these funds would enable the Corps to make significant progress on this restoration program.

The Budget also invests in four previously unfunded construction projects: West Sacramento, California, a flood and storm damage reduction project; McClellan-Kerr Arkansas River Navigation System, Three Rivers, Arkansas, and Norfolk Harbor and Channels, Virginia (Deepening), which are commercial navigation projects; and Anacostia Watershed Restoration, Prince George's County, Maryland, an aquatic ecosystem restoration project.

OPERATION AND MAINTENANCE (O&M) PROGRAM

The O&M program of the Corps is funded both in the O&M account and in the Mississippi River and Tributaries account, with the Budget providing over \$4 billion.

All structures age and can deteriorate over time, causing a potential decline in reliability. As stewards of a large portfolio of water resources projects, the Corps is working to sustain the benefits that the key features of this infrastructure provide.

The Corps continues to improve the efficiency and effectiveness of its operation and maintenance program. The Corps does so by targeting its investments in infrastructure maintenance, repair, and rehabilitation on a risk informed basis. It invests in the highest priority needs with emphasis on the key features of the infrastructure that the Corps owns and operates, and in work that will reduce long-term O&M costs in real terms.

Generally, the O&M program supports completed works owned or operated by the Corps, including administrative buildings and laboratories. Work to be accomplished includes: operation and maintenance of locks and dams along the inland waterways; maintenance dredging of inland and coastal Federal channels; operation and maintenance of multi-purpose dams and reservoirs for flood risk reduction and related purposes such as hydropower; monitoring of completed navigation and flood damage reduction projects; and management of Corps facilities and associated lands including serving as a responsible steward of the natural resources on Corps lands.

REGULATORY PROGRAM

Through its Regulatory Program, the Corps protects the Nation's waters including wetlands, and regulates development that could impede navigation, while allowing reasonable development to proceed.

EMERGENCY MANAGEMENT

The Flood Control and Coastal Emergencies (FCCE) account funds the planning, training, exercises, and other preparedness measures that help the Corps respond to floods, hurricanes, and other natural disasters, and to support emergency operations in response to such natural disasters, including advance measures, flood fighting, providing potable water, and the repair of certain damaged flood and storm damage reduction projects. The FCCE funding proposed in the Budget is for preparedness work. The Corps also prepares for emergencies through funding provided under the National Emergency Preparedness program, an O&M account remaining item.

REIMBURSABLE PROGRAM

Through the Interagency and International Services (IIS) Reimbursable Program, the Corps assists other Federal agencies, state, local, tribal governments, and those of other countries with timely, cost-effective solutions. These agencies can turn to the Corps, which already has these capabilities, rather than develop their own internal workforce and expertise to act as their design and construction agent. The work is principally technical oversight and management of engineering, environmental, and construction projects. The work itself is typically performed by private sector

firms and is financed by the agencies we service. We only accept agency requests that are consistent with our core technical expertise, in the national interest, and that can be executed without impacting our primary mission areas.

CONCLUSION

The FY 2022 Budget for the Corps represents a continuing, fiscally prudent investment in the Nation's water resources infrastructure and the restoration of aquatic ecosystems. The U.S. Army Corps of Engineers is committed to a performance-based Civil Works Program, based on innovative, resilient, and sustainable risk-informed solutions.

Thank you, Madam Chairwoman and Members of Subcommittee. This concludes my statement. I look forward to answering any questions you or other Members of the Subcommittee may have.

Mrs. NAPOLITANO. Thank you, General, for your speech, and it is truly welcome.

Mr. Lyash, you may proceed with your testimony, sir.

Mr. LYASH. Well, Chairwoman Napolitano, Ranking Member Rouzer, and members of the committee, thank you for the opportunity to represent one of the Nation's largest and most innovative utilities, and a corporate agency of the Federal Government, the Tennessee Valley Authority.

I want to thank, in particular, Representative Cohen, a member of our Tennessee delegation, for his service to the Memphis area. I have the opportunity to discuss issues quite frequently with Representative Cohen, and I always appreciate his perspective and his counsel on a broad range of issues.

My career in the energy industry spans more than 40 years. I was president and CEO of Ontario Power. I served as executive vice president of Duke Energy and Progress Energy, and CEO of Progress Energy Florida. From my perspective in the energy industry and in the nuclear industry, I firmly believe that reliable, affordable electricity is foundational to our national security and our economy, more so today than ever.

TVA was established almost 90 years ago to serve the Tennessee Valley and the Nation by developing innovative solutions to complex problems in energy, the environment, and economic development. Through this public power model, TVA works with 153 local power companies like Memphis Light, Gas, and Water, to supply low-cost, reliable energy to 10 million people in 7 Southeastern States. We carry out TVA's mission with no Federal appropriation of tax dollars. The last appropriations for the power system were in 1959, and, as was said earlier, for the purposes of river operations our last appropriations were in the mid-1990s.

TVA has strengthened its financial and operational performance in recent years with disciplined business planning. We have reduced operating and maintenance costs by \$800 million a year, reduced fuel and purchase power costs by over \$1 billion a year, reduced our long-term debt to its lowest level in 30 years, and we have invested \$15 billion so that our generating portfolio provides a cleaner, lower cost energy mix that will last for decades to come, all while keeping TVA's effective rates lower than they were a decade ago, and staying on course to keep rates low and stable through the end of this decade.

In February, in fact, the Lazard management firm provided an independent review of TVA to our board of directors that recog-

nized TVA's performance and the ongoing value of this public power model to the region and the Nation. Today, TVA is working to decarbonize our energy system and support a net-zero carbon future for the Nation.

A core strength of TVA lies in our diverse and clean generating portfolio, one of the Nation's most diverse, with hydroelectric power, rapidly growing contributions from renewable energy, natural gas, a lessening contribution from coal, and the Nation's third largest nuclear fleet. Our mass carbon emissions today are 63 percent less than they were in 2005, and we are executing a plan to achieve a 70-percent reduction by 2030, and we have a path to an 80-percent reduction by 2035, using existing technologies, and without adversely impacting reliability or cost.

Our aspiration is to achieve net-zero carbon emissions by 2050, but we recognize that closing that last 20 percent gap in CO2 emissions to reach that net zero depends on the development of a set of emerging technologies at a commercial scale, and at a cost that will enable their broad deployment in the 2030s. Across Government and industry, we must work together to develop these new technologies.

TVA is investing in research and development of technologies that include long-duration energy storage and carbon capture to enable their potential deployment in the 2030 to 2040 timeframe and beyond. We are also partnering with the State of Tennessee to support another key technology, the electrification of transportation, which is the leading source of greenhouse gas emissions.

And as an industry leader in nuclear technology, we are engaged today in developing new nuclear technology for tomorrow, and we stand ready to help lead the Nation in development and demonstration of advanced nuclear technology, specifically small modular reactors, SMRs, as they are known. We see SMRs as a key to decarbonizing our system and our economy. Provided the funding becomes available, TVA's plan is to have a reliable, affordable, flexible, and clean advanced reactor option available by 2032.

But it is not a path we can take alone. Industry partnerships and Federal financial support, these are essential to breaking through the risks of developing first-of-a-kind technology so that it can be demonstrated, commercially replicated, and eventually exported around the world. TVA would be honored to be part of this effort, if it is a priority for the Nation, and if it brings value to the people and communities we serve.

Thank you, Madam Chair, and I look forward to answering your questions.

[Mr. Lyash's prepared statement follows:]

Prepared Statement of Jeffrey J. Lyash, President and Chief Executive Officer, Tennessee Valley Authority

INTRODUCTION

Chairman Napolitano, Ranking Member Rouzer, and members of the committee, thank you for the opportunity to appear today to represent one of the nation's largest utilities and a corporate agency of the federal government, the Tennessee Valley Authority (TVA).

I marked my second anniversary as president and chief executive officer (CEO) of TVA in April. I am privileged and honored to lead the 10,000 women and men of TVA as we serve the communities and people of the Tennessee Valley region and the nation.

My career in the energy industry spans more than 40 years. Before joining TVA, I was president & CEO of Ontario Power Generation, one of Canada's largest electric utilities with a diverse generating portfolio.

Before that, I was president of CB&I Power, with responsibilities that included providing operating plant services for nuclear and other forms of generation. Formerly, I served in executive vice president capacities at Duke Energy and Progress Energy, and as president and CEO of Progress Energy Florida. I spent a significant portion of my career building, maintaining and operating nuclear facilities.

I have held a Senior Reactor Operator's License issued by the U.S. Nuclear Regulatory Commission (NRC) and worked in a wide range of leadership roles at nuclear facilities including as operations manager, engineering manager, plant manager, and director of site operations.

Earlier in my career I served at the Nuclear Regulatory Commission in both technical and leadership positions.

From my perspective as a leader in the energy industry and in nuclear energy specifically, I firmly believe that reliable and affordable electricity is foundational to our national security and our economy. I also believe that low carbon electricity is critical to decarbonizing the broader economy.

To accomplish and sustain this, a diverse portfolio of generating assets will be needed, and nuclear energy must continue to play a vital role in our nation's energy supply. I appreciate the Committee's interest in our energy resources and the infrastructure needs of the nation.

TVA's mission is to serve the people of the Tennessee Valley region and the nation to make life better, and our national charter is engraved in stone at many of our facilities: "Built for the People of the United States."

TVA was created in a time of great challenges for our nation—a time when new ideas and fresh approaches were essential to economic recovery during the Great Depression. TVA and its broad mission of service represented a break with the past, a determination to bring new thinking to the problems at hand, and an investment in building the infrastructure necessary to an improved quality of life and economic opportunity.

That investment, which has since been repaid with interest, helped lift the region out of the Great Depression and supplied energy for crucial defense industries to help win World War II.

Today, TVA is applying the same spirit of service, innovation, and forward-thinking that revolutionized life in the Valley to the emerging challenges of our time. In my testimony, I will discuss how we are continuing TVA's mission as we adapt to new challenges, technologies, and opportunities.

TVA MISSION

In 1933, personal income in the TVA region averaged \$3,500 a year in today's dollars—and just 45% of the national average at that time. Nearly two-thirds of Valley residents were farmers, and only 3% of them had electricity. Even fewer had running water. Valley lands were ravaged by erosion, overuse and wildfires. In some parts of North Alabama, three people in five had malaria. The Tennessee River was unmanaged, subjecting the region to devastating floods year after year while at the same time impeding transportation in areas of shallow water and treacherous shoals.

TVA was tasked with addressing a wide range of challenges. It focused on the innovative concept of managing the vast resources of the Tennessee Valley as an integrated system, across jurisdictional boundaries, to benefit the region as a whole. TVA engineers built a network of hydroelectric dams to achieve multiple purposes—providing the infrastructure not only for low-cost power but also flood control, transportation, water quality, and more.

TVA scientists and educators developed groundbreaking fertilizer technology that helped revive the Valley's exhausted farmland and became the basis for 75% of the fertilizers used around the world. TVA engineers developed the nation's first 512-kV transmission systems to reliably link TVA to a regional family of local power companies across 80,000 square-miles. And TVA economic development specialists pursued collaborative approaches to recruiting and retaining investments that would create and sustain quality jobs.

TVA's commitment to developing and delivering new ideas transformed the seven-state Tennessee Valley region, leveraging the value of low-cost public power and

going far beyond it, helping to lift the people of the Valley out of poverty and bringing the benefits of low-cost power to every community in the Valley.

In 2018, the region's per capita income had risen to 82% of the national level. The Valley's dependence on agriculture has shifted to an emphasis on industry, with only 0.5% of workers still employed in agriculture. TVA's early efforts to reforest the region with 570 million seedlings restored large tracts of land to beneficial use. TVA's integrated network of multi-purpose dams has averted more than \$9.5 billion in potential flood damage since 1936. The TVA's managed system also provides extensive recreation opportunities for hunting, fishing, and other valued outdoor leisure.

TVA'S OPERATIONS

Today, TVA is the nation's largest public power supplier, providing energy that 10 million people across seven southeastern states rely on every day. We are also the nation's third-largest electricity generator. Our transmission system is the nation's second-largest, with 16,300 miles of high-voltage lines; and we have delivered low-cost energy to our customers with 99.999% reliability—every year since 2000.

TVA has one of the nation's largest, most diverse, and cleanest generating portfolios, including hydroelectric, natural gas, coal, wind, and solar generation, as well as significant energy storage resources. In addition, and a focus of our discussion today, our portfolio includes the nation's third-largest nuclear fleet. In Fiscal Year 2020, our nuclear fleet generated 42% of the electricity delivered to our customers, energy that is carbon-free.

TVA's nuclear fleet has a generating capacity of approximately 8,000 megawatts and is the backbone of our clean generation portfolio. TVA is an industry leader in expanding nuclear generation. In 2016, TVA brought online the first new nuclear generation of the 21st Century, achieving commercial operation of the second unit at the Watts Bar Nuclear Plant, adding about 1,164 megawatts of carbon-free energy for our system.

We have upgraded our existing Browns Ferry Nuclear Plant units to generate additional low-cost, reliable and carbon-free energy; and we are investing in maintaining and upgrading our plants to extend their operations by decades.

In our fossil-fueled generation, TVA's coal-burning units are among the nation's oldest. They have served our power system well for decades. In FY 2005, coal supplied about 60% of our total power supply, compared with less than 15% in FY 2020. TVA has retired or announced retirements for 8,600 megawatts of coal generation. We will continue to evaluate the impact of retiring the balance of the coal fleet by 2035; our evaluation includes environmental review, public input and Board approval. As plants are retired, we work closely with each plant community and its public officials, business leaders, the public, and plant employees to support the transition.

As we reduce coal generation, we are modernizing our gas generation fleet as a bridging technology. This, and our continued and increased reliance on nuclear generation, will help reduce emissions and support high levels of reliability, given the intermittency of renewables. And in partnership with multiple other utilities in the Southeast, we are working to establish the Southeast Energy Exchange Market. This market could potentially help all participants in the Southeast realize a higher penetration of renewables by creating a bilateral market to exchange energy efficiently.

ENERGY AND THE ECONOMY

The impact of a reliable, low-cost energy supply can be seen in the region's economic development successes. Over the past five years, TVA has helped attract or retain about 341,000 jobs and more than \$45 billion in capital investment for the region. In FY 2020, despite pandemic conditions, we helped the region attract or retain 67,000 jobs and more than \$8.6 billion in capital investment.

For a growing number of businesses and industries, having a supply of carbon-free energy has joined cost and reliability as a key factor in determining where they locate or expand their operations. TVA's ability to provide low-cost, increasingly clean, highly reliable energy is essential for powering the ambitious strategies and climate goals of these businesses. This ability creates a competitive advantage for our region in attracting innovative industries, jobs and investments and continuing to power the Valley's economic development.

The priorities on which TVA has focused during the past several years include investing and modernizing the power system to drive down costs, maintaining financial and organizational discipline, and significantly strengthening our partnerships

with customers, labor unions, and stakeholders. Our success in executing this strategy has positioned us well for the future.

Over the past decade, TVA has kept its effective rate flat while at the same time investing over \$15 billion to balance and modernize our generation portfolio, and we continue to make investments to further modernize and diversify our generation system.

TVA is investing more than \$2 billion in transmission system improvements over five years to ensure that we continue to provide increasingly clean, low-cost, reliable energy. We are working to find ways to ensure reliability as local power companies bring their own solar and other renewable resources onto the system.

The heart of the energy system of the future will be TVA's new System Operations Center and Energy Management System, a \$300 million investment employing smart technologies to manage power grid operations more reliably, efficiently and securely. The center's Energy Management System will increase system flexibility by integrating and monitoring distributed energy resources and demand response, helping to keep costs low and reliability high as energy sources and customers' energy use continue to evolve.

TVA's responsibilities for energy, environmental stewardship, and economic development also make us an important contributor to ongoing efforts to improve air quality in the region and the nation. Our system is one of the nation's cleanest with almost 60% of our energy supply coming from carbon-free sources.

Our efforts to build a resilient, diverse power generation mix have led to a 63% reduction in mass carbon emissions since 2005 in the total energy we supply to the region. In addition to our expanding use of nuclear energy, from 1970 to 2020, TVA invested \$6.8 billion in environmental controls to reduce emissions from fossil-fueled plants. These environmental control investments have reduced our sulfur dioxide emissions 99% below 1977 levels. Nitrogen oxide emissions have been reduced 97% below 1995 levels. We have reduced carbon dioxide emissions by about 60% compared with the 2005 benchmark, one of the largest decreases in the power industry.

To continue diversifying our power system, we are adding significant renewable energy. As of the second quarter FY 2021, TVA has commitments of over 2,300 megawatts of solar capacity expected to come online by the end of 2023. Including these projects, we expect to add 10,000 megawatts of solar by 2035, which is primarily based on customer demand in the near term and represents a 24-fold increase from today.

In renewable energy, our utility-scale solar program, Green Invest, is setting a standard for the industry. The program is based on a unique public/private partnership structure and competitive bid process that enable the growth of affordable solar without shifting costs to non-participants. Additionally, Green Invest leverages the demand for utility-scale solar from business and industry for economic development in our communities.

Since 2018, Green Invest has attracted nearly \$2.7 billion in solar investment and procured more than 2,000 megawatts of solar on behalf of its customers—maintaining TVA's green energy leadership as the energy provider with the greatest amount of renewable generation in the Southeast.

TVA's environmental responsibilities include managing the 652-mile Tennessee River system, an important part of the nation's commercially navigable inland waterway system. Nearly 50 million tons of commercial goods move through the TVA system of locks and dams each year. Other benefits of the river system include flood control that prevented \$1 billion in flood damage in FY2020 as the region experienced 150% of normal rainfall.

The river system's hydro-electric dams are TVA original energy source; and the system's 40,000 miles of rivers, streams and tributaries also support water supply and water quality, as well as other needs. The river system also supports a thriving recreation industry that produces almost \$12 billion a year in economic activity, supporting more than 130,000 jobs and generating almost \$917 million in tax revenues to the region's state and local governments.

THE PUBLIC POWER MODEL

TVA carries out all aspects of its mission of service with no federal appropriations of tax dollars. While TVA is a corporation of the federal government, TVA funds its power system and virtually all other operations entirely with revenues from energy sales and proceeds from debt issuances.

TVA's unique business model is structured so that TVA serves the people of the Valley with public power, in partnership with local power companies. In supplying public power, TVA is statutorily obligated to supply energy at the lowest feasible rate, with an obligation to serve the people and their communities, not shareholders.

And we serve people throughout the region, from the largest cities to the most remote farms.

Because TVA is self-financing and must fulfill its broad mission, revenues from energy sales cover TVA services that investor-owned utilities generally do not offer, such as river management, extensive economic development programs, innovative demonstration projects, and a wide range of environmental stewardship programs.

Even so, TVA maintains some of the nation's lowest energy prices. About 70% of the people served by large utilities across the nation pay higher rates than do TVA customers, and TVA's industrial rates are among the lowest in the nation—lower than 90% of the nation's top 100 utilities. TVA's effective rates have remained flat and low for the past seven years even as we have reduced debt to its lowest level in more than 30 years and invested in the power system. Our long-term financial plan projects flat, effective wholesale rates for the next decade, and we continue to have solid confidence in those plans.

TVA's commitment to putting the people and communities we serve first was evident this winter as extreme weather overwhelmed other power providers outside the TVA region. Unfortunately, the people living in those areas were hit hard by the blackouts and price surges. While only a portion of our service territory experienced similar extreme weather, TVA's commitment to service, our ongoing investments in the power system, and the dedication of our employees kept our plants operating, supplying energy at stable prices, and with high reliability. This event has demonstrated the resiliency of our system.

Built into TVA's business model is our relationship with the 153 local power companies across the region. We supply wholesale energy to the local power companies, which then distribute the energy to the homes and businesses they serve.

In the past two years, we have strengthened the partnership between TVA and local power companies, by introducing the long-term partnership agreement. As a result, we now have new and stronger partnerships in place with 142 of the 153 local power companies that we serve, representing 93% of the region's local power companies. We are aligned around 20-year commitments to plan and work together to keep rates low and stable, across the seven-state region.

Long-term partners benefit from a 3.1% credit on their monthly wholesale bills, and 71 of our partners also are taking advantage of TVA's Generation Flexibility program to help meet local generation needs for their customers, including the deployment of distributed solar resources. In addition, TVA directly supplies energy to 57 large corporations and federal installations in the region, including Oak Ridge National Laboratory and other Department of Energy facilities at Oak Ridge, Tennessee.

Last winter, the TVA Board commissioned the internationally recognized Lazard firm to assess TVA's business performance through 2020 and determine if this business model is a reasonable approach to fulfilling TVA's mission in the future. The Lazard report builds on an earlier strategic review by the firm, one done in 2014, and notes that TVA's financial performance has been notably strong against both our own financial plan and the performance of other utilities. The report concludes that TVA's business structure and the public power model continue to be a reasonable approach to support TVA's mission for providing the greatest value to the 10 million people in TVA's seven-state service area.

Public power means having financial stability without tax dollars; and it puts service, community, and people over profits. During pandemic conditions, TVA has been uniquely situated to demonstrate its commitment to our customers and communities by helping to mitigate the impact of unprecedented challenges.

For all customers, for FY 2021, we have reduced our already low energy prices by 2.5% through a Pandemic Relief Credit on monthly bills during the year. This credit will put a projected \$200 million back into Valley communities in FY 2021 in the form of rate reductions, bill assistance for those in need, upgraded system infrastructure to maintain reliability, and more.

For large industrial and commercial customers, we began offering Back-to-Business incentives to help businesses return to full operations and to help the economy recover. As of the second quarter FY 2021, we have invested \$12 million in credits to help everyone get "back to business."

Early in the pandemic, as household bills began to stack up, TVA provided the local power companies we serve with regulatory flexibility and \$1 billion in credit support to help them and the people they serve. Also, early on, we established a Community Care Fund to help charitable organizations meet local needs through matching funds from local power companies and others. The value of the Community Care Fund now exceeds \$7 million. The Community Care Fund has made more than 460 grants to organizations across the region, addressing local needs through

food banks, boxed-lunch programs for students, United Way, Boys and Girls Clubs, and other programs.

Together, TVA and local power companies ensure a reliable, increasingly clean and low-cost energy supply; a local presence and local voice; and the reinvestment of revenues into the energy, economic development, and environmental services that benefit the region.

GOVERNANCE AND FINANCES

TVA is governed by our Board of Directors, which is responsible for providing strategic oversight. The nine part-time Board members are appointed by the President with the advice and consent of the U.S. Senate. Board responsibilities include formulating broad strategies, goals, long-range plans, and policies for TVA; reviewing and approving annual budgets; and setting and overseeing electric rates.

For FY 2021, the TVA Board approved a budget of \$10.0 billion, which includes \$2.2 billion in continuing capital improvements to our generating, transmission and infrastructure assets. TVA's financial position continues to be strong and stable.

In FY 2020, the TVA team delivered exceptionally strong financial results, providing TVA the flexibility to take a number of special steps, such as the \$200 million Pandemic Relief Credit and the Community Care Fund I mentioned previously. These initiatives helped address the ongoing impacts of COVID-19 in our communities.

In FY 2020, TVA's total operating revenues of \$10.2 billion were down about 5% from projections due to a combination of weather factors and the impacts of the pandemic. That shortfall was offset by improved operational performance that lowered operating and maintenance costs, reduced fuel costs and exceeded TVA's debt reduction target by nearly \$400 million, reducing debt to its lowest level in 30 years.

TVA's fuel, purchased power, operating and maintenance, tax equivalents, and interest expense were all lower in FY 2020 than in FY 2019. TVA's fuel and purchased power expense was 15% lower year-over-year, primarily driven by lower effective fuel rates and lower energy sales due to impacts of milder weather and COVID-19, as well as the increased generation of nuclear power.

TVA paid nearly \$552 million in tax equivalent payments in FY 2020 to state and local governments served by its energy generation or in areas supporting TVA properties. The payments compensate state and local governments that cannot levy property or sales taxes on TVA as a federal entity. We return 5% of power sales revenues from the previous year in the form of tax equivalent payments to the eight states where we sell electricity or own generating plants, transmission lines, substations and other assets, and directly to 147 local governments where TVA owns power property.

TVA's strong financial position helped us absorb the impacts of the pandemic in 2020, provide extra support for our customers, and reduce effective power rates for customers for 2021, when our communities need relief the most. This would not have been possible without the ongoing financial discipline of our employees.

THE WOMEN AND MEN OF TVA

The strength of TVA truly is its people—a diverse and skilled workforce of 10,000 employees and almost 14,000 contractor partners. Almost 20% of TVA employees are veterans, and we will continue our focus on employing those American heroes as we face the future. Our employees and contractors are represented by 17 unions, and we value and appreciate all our union partners.

In 2020, we entered into two historic agreements with our union partners—a 10-year extension of the recognition of the TVA Trades and Labor Council for Annual Employees as representing TVA craft employees, and a 10-year extension of TVA's project labor agreements with the North American Building Trades Union.

The TVA Retirement System administers retirement benefits for approximately 9,700 employees and 23,000 retirees and beneficiaries. Pension assets total about \$8 billion; liabilities are approximately \$13.6 billion; annual pension benefit payments total about \$720 million; with a plan to be fully funded for TVA's pension liability by 2036. TVA implemented a plan in 2016 focused on fully funding the pension over a 20-year period. The plan includes assumptions around system demographics, contributions, asset returns, and discount rates. The funding plan is ahead of schedule, and we consistently update the details of the funding plan. Separately, 401(k) plan assets total \$3.3 billion.

CYBERSECURITY

As we supply reliable energy, the efficiency and security of our transmission system are critical. TVA works around the clock to monitor and protect its critical cyber assets, partnering with other government agencies, as well as with industry groups and peers such as the Edison Electric Institute and neighboring utilities.

TVA has a comprehensive cybersecurity program aligned to industry and federal best practices that operates to identify, detect, protect, and respond to threats. We focus on being proactive and using risk-based assessments to protect TVA. In addition to having multi-layered threat analysis capabilities, we perform continuous monitoring, penetration testing and vulnerability assessments.

TVA's critical systems are housed within a specialized, isolated network that is separated from corporate networks and inaccessible from the internet. This network segmentation provides a significant added level of security.

TVA trains its employees to recognize and resist cyber threats. TVA also adheres to an array of industry and government standards, including National American Electric Reliability Corporation (NERC) Critical Infrastructure Protection (CIP) standards, Nuclear Regulatory Commission (NRC) security requirements and the Federal Information Security Management Act (FISMA).

CARBON REDUCTION

TVA is a national leader in carbon reduction and is the largest clean-energy producing utility in the Southeast, including our nuclear energy and hydro generation, and home to a nationally recognized solar energy program.

We have nearly 50% more clean generation than our closest regional peer, and currently have one of the lowest greenhouse gas intensities per unit of electricity produced in the U.S. But we are not satisfied. We are committed to continuing to reduce greenhouse gas emissions while maintaining our focus on delivering low-cost, reliable energy that our customers expect and deserve for the long-term.

In May, we announced TVA's decarbonization plan to increase our carbon reduction from the current 63% to 70% by 2030 and a path for reaching approximately 80% by 2035, using existing technology and without impacting TVA's reliability or costs. While we are encouraged by more ambitious goals, under the current technology and expected costs, our aspirational goal is to achieve net-zero carbon emissions by 2050.

We recognize that reaching net-zero by closing the last 20% gap in carbon emissions, or accelerating our reduction, depends on the development of emerging technologies at a commercial scale and at a cost that will enable their deployment. These include advanced nuclear, carbon capture and sequestration, long-duration energy storage, and alternative fuels such as hydrogen. Importantly, our challenge is not only to lower CO₂ emissions from the existing generation system, but also to provide the additional zero-carbon resources needed to satisfy what may very well be increasing demand as clean electricity is used to decarbonize other sectors of the economy, such as transportation.

In 1950, electricity was just 2% of end-use energy. Today, it is 22%; and by 2050, there are projections that say it could be over 40%. We must work together to develop and demonstrate new technologies to meet this critical demand for electricity to further evolve existing technologies, such as energy storage systems and carbon capture, and develop new capabilities, such as advanced nuclear technologies.

TVA stands ready to help lead in these innovation efforts.

THE NEED FOR NEW NUCLEAR

I believe our goal for the energy industry and the nation should be to decarbonize the generation of electricity and then use our clean energy supply to reduce emissions, drive innovation and grow the economy. I believe that goal can be achieved through the development and use of carbon-free nuclear energy.

Carbon-free nuclear is one key aspect of our energy supply as we work to electrify the economy, drive down customer costs, and eliminate emissions. TVA is engaged today in developing new nuclear technology because we believe it is essential to TVA's and the nation's decarbonization efforts. We are applying TVA's experience as a leader in technology innovation and deployment in the industry to the new challenge of identifying the best options for the next generation of advanced nuclear.

TVA believes light water small modular reactors are the specific advanced nuclear technology that could be most ready for deployment near-term—with the first commercial operation by 2030s. This would enable advanced nuclear to make a meaningful contribution to carbon reduction within the next two decades.

In December 2019, TVA received the nation's first Early Site Permit for a small modular reactor from the U.S. Nuclear Regulatory Commission for two or more small modular reactors at our Clinch River Site in Oak Ridge, Tennessee. This is the only site in the nation with an NRC-approved early site permit for small modular reactors.

In the second quarter of 2021, TVA initiated a programmatic Environmental Impact Statement to address potential environmental effects associated with the construction, operation, and decommissioning of an advanced nuclear reactor. We already have a partnership to explore the economic feasibility of small modular reactor technology with the University of Tennessee and the Department of Energy's Oak Ridge National Laboratory, among others.

Successful partnerships, such as our recent agreement to collaborate with Kairos Power on deploying a low-power demonstration reactor, are particularly important in the development of advanced nuclear designs. In the Tennessee Valley and elsewhere, nuclear technology plays a critical role in meeting electricity generation needs and carbon reduction goals in a manner that maintains reliability and keeps rates affordable. As one of the nation's largest electricity providers, TVA is committed to being part of the solution and to working with others to meet this important challenge.

TVA is working with Department of Energy's Oak Ridge National Laboratory, the largest multi-program science and energy research lab in the United States, to explore options and opportunities for fostering innovations in nuclear and other technologies.

The national lab is a customer of TVA and a key part of the Department of Energy's efforts to reduce its carbon footprint. TVA and ORNL have a number of exciting opportunities to work together to develop advanced nuclear technologies. In the Tennessee Valley and elsewhere, nuclear technology is one way to meet electricity generation needs and carbon reduction goals. As one of the nation's largest electricity providers, TVA is committed to being part of the solution and to working with others to meet this important challenge.

TVA is poised with a site, expertise, nuclear construction know-how, and mission to lead in this technology to achieve the nation's carbon-free goals. As TVA strives to explore new technologies, we must remain cognizant of our unique business model: TVA is a federal entity with no appropriated funding, with a mandate to set power rates as low as feasible, and with no eligibility for tax credits or other incentives available to investor-own utilities.

CONCLUSION

TVA delivers on its mission of service through work in three key areas: energy that is low-cost and reliable; economic development that brings jobs and capital investment to the region; and environmental stewardship of the region's public lands, water and air. TVA was created with, and has continued to build on, its clear mission to benefit the public good.

This was our initial mission during the Great Depression as we began building the infrastructure to support a better quality of life. This was our mission while powering the nation to win World War II. This continued to be our mission during the subsequent decades of American growth and prosperity, and it is still our mission.

We are investing in the future today as we set our plans and aspirations for years to come.

The challenges are certainly different today than in 1933, but they are no less critical to the lives of those we are privileged to serve—delivering vital services and support across the region for almost 90 years, including during this unprecedented pandemic that has impacted families, communities, businesses and industries.

TVA's mission has stood the test of time, but TVA has never stood still. We are always striving to live up to the words prominently visible at many TVA facilities: Built for the People of the United States.

Mrs. NAPOLITANO. Thank you, Mr. Lyash. That was very good testimony.

And Steve, I didn't know if you wanted to introduce him. I am sorry if I didn't let you, but do you want to add a word or two about Mr. Lyash?

Mr. COHEN. Thank you, Madam Chair. Mr. Lyash has done a great job at TVA in representing the Authority in a manner that

it deserves. He is a breath of fresh air from his predecessor. But even then, he is outstanding, and I appreciate his kind remarks.

Mrs. NAPOLITANO. Thank you very much, Mr. Cohen.

Mr. Avila, you may proceed with your testimony, sir.

Mr. AVILA. Thank you, Chairman DeFazio, Ranking Member Graves, Chair Napolitano, Ranking Member Rouzer, members of the subcommittee. Thank you for inviting me to testify regarding the U.S. Section of the International Boundary and Water Commission's fiscal year 2022 budget request.

The agency's important border water-related functions include controlling floods, generating power and international dams, ensuring adequate water supplies, and undertaking specific sanitary projects that require cooperation with Mexico.

I would like to thank Congress for appropriating \$300 million to EPA for the construction of sanitation infrastructure in the San Diego-Tijuana area.

U.S. IBWC is consulting closely with EPA to help decide on the best projects to pursue. Once EPA selects the projects, U.S. IBWC will join other stakeholders in assisting EPA with project implementation, as authorized. We will also work closely with Mexico to develop any necessary agreements where their participation is needed.

It is critical to keep in mind that operation and maintenance expenses for large, new facilities could reach as high as \$40 to \$50 million per year.

While EPA developed long-term solutions, the two sections of the IBWC, along with local stakeholders, established a binational rapid response team in the San Diego-Tijuana region to respond to wastewater incidents when the flows could reach the United States.

With an unprecedented drought in Western United States, the U.S. IBWC is working to reduce the impact on U.S. water users. Last October, U.S. IBWC negotiated a successful conclusion to the 5-year Rio Grande water cycle, which ended with Mexico delivering the entire volume required under a 1944 treaty. Currently, we are holding technical and policy discussions to encourage Mexico to adopt more systematic and transparent water delivery schedules.

For the Colorado River Basin, U.S. IBWC helped develop and implement IBWC Minutes 319 and 323, ensuring that if the United States makes a shortage declaration this August, Mexico will take proportionate cuts to the Colorado River water deliveries in 2022. U.S. IBWC is working with Bureau of Reclamation and Mexico to prepare Mexico for cuts under our Colorado River international agreements. Mexico has conserved hundreds of thousands of acre-feet of water, helping to boost Lake Mead water elevation, and forestall mandatory reductions to users in both countries.

My written testimony provides details of the fiscal year 2022 budget request for \$98.8 million, matching last year's appropriation.

Thank you for the opportunity to testify, and I look forward to answering any questions you might have.

[Mr. Avila's prepared statement follows:]

**Prepared Statement of Daniel Avila, Acting Commissioner, U.S. Sector of
the International Boundary and Water Commission**

Thank you for inviting me to testify regarding the Fiscal Year 2022 budget request for the U.S. Section of the International Boundary and Water Commission. We welcome the opportunity to discuss the current issues and opportunities to improve infrastructure and the quality of life in the United States along the U.S. southern border with Mexico.

The International Boundary and Water Commission (IBWC)'s mission is to provide binational solutions to issues that arise during the application of U.S.-Mexico treaties regarding, among other things, water quality and flood control in the border region, including constructing, rehabilitating and operating flood control systems, storage dams, and wastewater treatment plants, as directed by Congress. The IBWC is an international organization composed of U.S. and Mexican Sections, each headed by an Engineer Commissioner appointed by the President of the country. Each Section is administered independently of the other. The U.S. Section (USIBWC) is an independent federal agency that operates under the foreign policy guidance of the Department of State and is funded through the annual Department of State, Foreign Operations, and Related Programs Appropriations Act.

The IBWC has over a century of experience in bi-national cooperation and partnership, dating back to the temporary boundary commissions established by the Treaty of Guadalupe, the Gadsden Treaty, and an 1882 Convention to map the international boundary between the United States and Mexico. The U.S. and Mexican governments established what became the IBWC (then the International Boundary Commission) in 1889, initially to resolve boundary-related differences arising along the border. The 1944 U.S.-Mexico water treaty established the key organizational components of IBWC and its two sections. Today, the IBWC is charged with applying boundary and water treaties concluded between the United States and Mexico, including water distribution and flood management of the transboundary rivers, and settling differences that arise in their application along the nearly 2,000-mile border. Virtually every aspect of USIBWC's mission protects American lives and property and supports the economies of U.S. border communities by facilitating water deliveries for agricultural, industrial and municipal uses.

The USIBWC's activities include:

- demarcation of the land boundary along the States of California, Arizona and New Mexico, including at international ports of entry and international bridges;
- preservation of the international boundary defined by the Rio Grande along the State of Texas;
- determination and accounting for national ownership of the waters of the Rio Grande and Colorado River and allocation of water between Mexico and the United States during severe drought;
- operation and maintenance of flood control systems consisting of over 500 miles of river and floodway levees, 20,000 acres of floodplains, 700 hydraulic structures, 100 hydrologic gaging stations, and four diversion dams;
- operation and maintenance of two international storage dams and associated hydroelectric power plants;
- operation and maintenance of two wastewater treatment facilities in the United States;
- maintenance of two international bridges in the El Paso/Ciudad Juarez area;
- water quality monitoring for bi-national IBWC-approved projects and exchange of data; and
- review of all plans for new international bridges, border crossings, and pipe and power lines that cross the international boundary to ensure compliance with boundary treaty requirements.

This year, the Department of State, in tandem with the U.S. Section of the IBWC, submitted four reports to Congress on: Mexico's Rio Grande water deliveries to the United States; the release of effluent from Mexico into the United States; the inter-agency plan to address the impact of toxic transboundary flows on U.S. communities; and USIBWC support for the state of Texas's efforts to control Carrizo cane along the border.

PRIORITY ISSUES

Water Delivery

As the Western United States faces unprecedented severe drought conditions, the USIBWC's ability to negotiate international agreements, known as Minutes, with Mexico under the 1944 Water Treaty allows our respective countries to develop solutions to current issues, and our water accounting function helps ensure the equi-

table distribution of the waters of the Rio Grande and Colorado Rivers is in accordance with the treaties and Minutes. For the Colorado River basin, USIBWC helped develop and implement Minutes 319 and 323, ensuring that if the United States makes a shortage declaration, Mexico will take cuts to Colorado River water deliveries along with the Lower Colorado River Basin in the United States. The Bureau of Reclamation expects to make a shortage declaration in August 2021, forcing automatic water delivery cuts in 2022. USIBWC's budget provides for work to implement drought planning and water conservation in the Colorado River Basin, including working with Reclamation and Mexico to prepare to implement cuts in Mexico.

This year marks the first year of water savings by Mexico under the Binational Water Scarcity Contingency Plan agreed to in Minute 323, a plan that complements savings undertaken in the United States under the domestic Lower Basin Drought Contingency Plan approved by Congress in 2019. Prior to this year, under the terms of Minute 323 and related Minutes, Mexico has conserved hundreds of thousands of acre-feet of water, adding to volumes conserved in the United States, to help boost Lake Mead elevation and forestall mandatory reductions to users in both countries.

On the Rio Grande in Texas, under the 1944 Water Treaty, Mexico is required to deliver water from the Rio Grande to the United States in five-year cycles. For the water delivery cycle that ended in October 2020, USIBWC was instrumental in ensuring Mexico finished without a water debt. IBWC conducts regular technical and policy meetings to ensure Mexico meets its Rio Grande delivery requirements and the United States and Mexico fulfill their obligations on the Colorado River.

Sanitation—San Diego, California

Another of the Commission's top priorities is addressing sanitation conditions along the U.S. Mexico border. To that end, USIBWC operates and maintains two bi-national wastewater treatment facilities at San Diego, California (South Bay International Wastewater Treatment Plant) and Nogales, Arizona, and participates with Mexico in its operation of a facility in Mexico that discharges into the Rio Grande River near Laredo, Texas. In the early 1990s when NAFTA was being drafted and implemented, Mexico made major investments in sanitation infrastructure with substantial U.S. cost-shares through entities like the Border Environmental Cooperation Commission (BECC) and EPA. The San Diego wastewater treatment facility was also constructed during this time. However, rapid economic and demographic growth along Mexico's northern border with the United States did not bring proportionate Mexican investments in infrastructure or maintenance of the existing infrastructure, particularly in water and sanitation. As a result, much of that infrastructure is coming to the end of its useful life. This results in increased operations and maintenance costs at USIBWC's facilities and recurring sewage spills across the border into the United States.

For decades, nearby communities have had to cope with the transboundary wastewater flows between Tijuana and San Diego. Despite massive U.S. investment in the City of Tijuana's collection system, that system has aged, and the city's population has grown since the mid-1990s. During rainstorms or wet weather in Tijuana and when pipelines or pumps break, water flows to the Tijuana River and canyons and mixes with unknown amounts of urban runoff, treated effluent from the Tijuana River, and wastewater in Mexico before flowing into the United States. During dry weather, the runoff is largely groundwater and some untreated flows from illegal connections in Mexico (dry-weather flows); during storms, this runoff mixes with large amounts of rainfall (wet-weather flows). Thus, transboundary flows that cross the U.S.-Mexico international border can transport pollutants generated in Mexico that impact downstream surface waters in the United States.

Among the factors leading to transboundary flow incidents are aging and unmaintained Tijuana sewer lines and pumps, power outages, and wet weather flows from storms that overwhelm the capacity of pumps in Mexico that are diverting sewage flows away from the United States. USIBWC uses its relationships with Mexican officials to leverage larger solutions than one small agency can achieve on its own. We consult closely with U.S. stakeholders and encourage Mexican officials to access federal, state, local and private sources to fund repairs.

In the mid-1990s the IBWC constructed the South Bay plant to treat a limited amount of Mexican wastewater sent to the plant primarily from the City of Tijuana's collection system, before discharging the treated effluent offshore in the Pacific Ocean. The collection system in Mexico includes a small-capacity pump in the Tijuana River in Mexico to divert to the South Bay plant the dry-weather flows that occur in the river on a regular basis. However, there are two scenarios when the flows from Mexico overwhelm South Bay's capacity. First, when it rains, wastewater mixes with stormwater in the Tijuana River and canyons, exceeding Mexico's capac-

ity to capture the river flows and exceeding the South Bay plant's treatment capacity. The River simply cannot be stopped from flowing into the United States and no single wastewater treatment plant could treat the entire river, which is part of the drainage of a watershed that is over 1,700 square miles in size.

Second, Mexico's wastewater system sometimes sends flows to the South Bay plant that exceed its limited capacity. Over the last four years, pump station failures and leaks in Tijuana's sewage pipelines have become particularly acute, leading to increased wastewater flow to the United States. For example, the plant began receiving much higher flows from Mexico's collection system in August 2020. The USIBWC was informed after many inquiries that Mexico was experiencing electrical power difficulties with pump stations PB1A and PB1B, and that multiple sections of the conveyance lines to a Mexican-side treatment plant had collapsed and were undergoing repairs. Due to this confluence of multiple system components breaking down all at once, Mexico was unable to decrease the flow coming to the South Bay plant. From approximately August 2020 through January 2021, flows in excess of 25 million gallons per day were sent to the plant. While transboundary flows through the River channel were greatly reduced during this period, the plant began to experience effluent exceedances in November 2020.

American communities are understandably frustrated. The State of California, (through the San Diego Regional Water Quality Board), two municipalities, the Port of San Diego, and an environmental group have filed three related lawsuits against USIBWC for alleged Clean Water Act violations related to transboundary flows from Mexico. The plaintiffs are demanding construction of defensive infrastructure in the United States aimed at preventing the flows from Mexico that exceed the South Bay plant's capacity. Although the activities that form the basis for the plaintiffs' claims do not constitute any violations of law, settlement could resolve the litigation in a manner that fosters long-term cooperation. Given the engineering and regulatory complexities in addressing this issue, all stakeholders must work together in proposing and implementing technically feasible solutions while accounting for long-term operation and maintenance costs and regulatory issues.

This subcommittee has expressed particular interest in infrastructure in the Tijuana River Valley and, while it is not typical for USIBWC to report on another agency's efforts, it will do so here given Congress's interest in this geographic region and the overlap of EPA/USIBWC efforts. In January 2020, Congress appropriated \$300 million for border area infrastructure, as part of the United States-Mexico-Canada Agreement (USMCA) implementing legislation. The funds were appropriated to EPA to design and construct new infrastructure in coordination with eligible public entities. EPA is assessing which of nine technically feasible proposed projects to build. USIBWC has been identified as one from a list of 11 eligible entities including state and local agencies who may be suitable candidates to implement one or more of the nine projects. The leading projects under consideration include an expansion of the USIBWC's South Bay plant, which treats wastewater to the secondary level, or construction of a new treatment plant adjacent to the existing one, for treatment of much larger volumes of wastewater at the advanced primary level.

As part of EPA's process, USIBWC is taking part in a series of meetings with California stakeholders to review the project options. It will take several years to conduct feasibility studies, obtain environmental approvals, and design and build new structures. If USIBWC participates in any of the projects, that project will need bi-national participation and therefore may also involve a new IBWC Minute. If the Administration determines that IBWC is the entity most appropriate to own and operate additional wastewater management infrastructure in the Tijuana Valley, IBWC's authority to receive additional funds, construct new facilities, and own and operate such facilities would need to be clarified.

Technical feasibility studies need to cover the affordability not only of construction, but also of operation and maintenance for the life of the project. The long-term operation and maintenance costs of some of the proposed projects are significant and this operational aspect, as well as technical feasibility, need to be carefully understood by any entity participating in the implementation of the projects. Some of the projects, if built, would require as much as \$40–50 million annually to operate and maintain. The studies also need to determine whether the new structures meet regulatory requirements.

The two Sections of IBWC have joined forces with local stakeholders in the United States to establish a binational Rapid Response Team in the San Diego-Tijuana region. In January 2020, the team responded to a clogged pipe behind a highway in Tijuana which created a large pool of water that threatened to collapse the highway and bring contaminated water into the United States. The team provided subject matter experts and lent City of San Diego bypass pumps to Tijuana to control the

flow. USIBWC was able to drain the pool, capturing all the contaminated water and treating it at the South Bay International Wastewater Treatment Plant.

Mexico's federal government allocated the equivalent of over ten million dollars in 2020 to upgrade Tijuana sanitation infrastructure. In July 2020, the Mexican Section of IBWC took over the operation of the largest pump station, PB-CILA, ensuring round-the-clock operation and improved maintenance. By May 2021, the Mexican Section completed the station's rehabilitation, refurbishing pumps and acquiring new ones. The Mexican Section's analysis of Tijuana's needed sanitation infrastructure upgrades between 2021 and 2024 has a projected cost of 4.7 billion pesos, or roughly 240 million dollars. If funds are obtained, the plan's execution would include the use of treated wastewater, the upgrade of wastewater treatment plants, the repair and replacement of wastewater pipelines, and the repair of pump stations.

Sanitation—Nogales, Arizona

Southeastern Arizona has been impacted by deteriorating international wastewater pipelines in Santa Cruz County known as the Nogales Main Collector Line (Trunkline) and the International Outfall Interceptor (IOI). Wastewater from Nogales, Sonora, Mexico as well as Nogales and Rio Rico, Arizona, travels through the wastewater pipelines to the Nogales International Wastewater Treatment Plant (NIWTP), which is operated and maintained by the USIBWC. The multi-year rehabilitation of the Nogales IOI is needed to avoid adverse environmental impacts and to ensure reliable operation of the wastewater collection and treatment system.

The amount of Mexican sewage treated at the NIWTP has often exceeded agreed limits. In addition, since 2011 the Mexican government has failed to pay the full amount owed for treatment of this sewage, leading to a debt of over 4 million dollars. The City of Nogales, Arizona, has also failed to pay for treatment of its domestic wastewater. The transboundary flows sometimes include heavy metals primarily from industries in Mexico and the treatment plant cannot remove these contaminants. This led the Arizona Department of Environmental Quality (ADEQ) to sue the USIBWC in 2012, asserting violations of the Clean Water Act, and to issue a violation for USIBWC's discharge in 2019.

USIBWC has worked within the Administration's budget request process to obtain federal funds to repair the Trunkline and IOI. Through multiple-year appropriations, USIBWC has received nearly \$44 million in funding to rehabilitate the pipelines by installing a new liner inside the pipeline. The ADEQ obtained state and non-governmental funds for a cost share with the federal government. USIBWC solicited proposals for the construction of the initial phases of the Trunkline and IOI relining, and we hope to award a contract by July 2021. The multi-year rehabilitation of the Nogales IOI is needed to avoid adverse environmental impacts and to ensure reliable operation of the wastewater collection and treatment system.

The project represents a narrow settlement of litigation between ADEQ and the USIBWC over the pipeline. A broader settlement that also delineates federal and local responsibilities for maintaining the pipeline has not yet been possible. Although the City of Nogales, Arizona disputes past charges for wastewater treatment, by USIBWC's account the City owes us over \$5 million (or over \$6 million if we include interest and penalties) for the treatment of city wastewater. USIBWC agrees with the City that charges should be based on actual usage and is prepared to negotiate how usage is calculated. The City and USIBWC have agreed to mediate this and other legal issues in Autumn 2021.

The City of Nogales, Sonora has also accumulated large unpaid balances for the treatment of its wastewater at NIWTP. In coordination with the U.S. Department of State, USIBWC has repeatedly pressed Mexico's federal government to pay the ballooning debt on behalf of the local utility, which currently amounts to over \$4 million.

Flood Control and Dam Safety—Texas

Dam safety is another one of USIBWC's top priorities. While the Agency does not seek additional funds for its Safety of Dams Program this year, it will use unobligated carryover balances to develop and implement risk mitigation plans. USIBWC is working with the Mexican Section to determine the best option to reduce the risk of dam failure, which will require a cost share with Mexico. The most recent safety inspections have identified urgent or high priority deficiencies at five of the six Rio Grande dams operated by the U.S. Section or jointly with the Mexican Section. American, International, Retamal, and Falcon Dams received a Dam Safety Action Classification (DSAC) of "High Priority, Conditionally Unsafe," while Amistad Dam received a DSAC rating of "Urgent, Potentially Unsafe." A minimum of \$20 million in unobligated carryover funds will be used to implement mitigation measures at

Amistad International Dam. About 98 percent of the water used in the Lower Rio Grande Valley of Texas and Mexico is released from Amistad and Falcon Dams, providing potable water for 1.5 million U.S. and Mexican border residents. Failure of either of these dams would have catastrophic consequences in terms of potential loss of life and property, and damage to the economy in the Lower Rio Grande Valley.

COMPONENTS OF AGENCY'S PROPOSED 2022 BUDGET

The President's FY 2022 budget request for the USIBWC Salaries and Expenses (S&E) Account is for \$51,970,000, an increase of \$2,200,000 above the FY 2021 Appropriation of \$49,770,000. The requested funds will allow the USIBWC to continue critical or urgent maintenance and repairs of its facilities and infrastructure for storage, diversion, and flood control of river waters, as well as maintenance of USIBWC sanitation projects. The request funds 249 positions of the authorized total of 253 and administrative costs of the U.S. Section, as well as the funds needed for the continued operation and maintenance of the U.S. portion of bi-national infrastructure along the border. That infrastructure is required to ensure compliance with treaties and other international agreements between the United States and Mexico that are within the purview of the IBWC.

The USIBWC has eight field offices and four satellite offices that span the border from San Diego, California to Brownsville, Texas. Staff in these offices operate and maintain projects, including many operated jointly with Mexican Section personnel based in companion offices on the Mexican side of the border. Of the roughly \$52 million request, \$34.5 million will support continued operation and maintenance (O&M) costs of existing infrastructure. This activity includes the measurement and determination of the national ownership of boundary waters.

The S&E funding also covers the U.S. share of O&M for two international wastewater treatment plants, two major international storage dams with associated hydroelectric power plants, four diversion dams, river channel and levee projects, and boundary demarcation activities.

The remaining \$17.5 million that is requested for the S&E Account includes \$12.7 million for administration, which covers negotiations and supervision of joint projects with Mexico to solve international boundary and water problems; overall management of the USIBWC; formulation of operating policies and procedures; and financial management, information technology (IT) infrastructure modernization and administrative services to carry out international obligations of the United States consistent with international agreements and other authorities.

In addition, \$4.8 million is requested to cover activities in USIBWC's Engineering Department, which support our projects and include technical and environmental planning, engineering design and hydraulic studies, construction oversight of new projects, and engineering guidance. Other areas include environmental monitoring and compliance; surveys and mappings, and investigations to determine the need for and feasibility of future projects. Engineering funds also cover the design and management of projects, surveys, studies, and investigations to address international boundary and water problems with Mexico in accordance with IBWC treaties and agreements. The IBWC participates in multiagency water quality programs in the Rio Grande, Colorado River, New River, and the Pacific Ocean.

The FY 2022 Construction Account request of \$46.8 million is \$2.2 million below the FY 2021 President's Budget of \$49.0 million. Of this amount, \$28.8 million is requested for the Water Conveyance Program: this includes \$20.8 million for rehabilitating and upgrading the Rio Grande flood control levee systems, which have impacts in southern New Mexico and Texas, and \$8.0 million to rehabilitate the Tijuana River levee systems protecting the San Diego area. The amount of \$15.0 million is requested for the Resource and Asset Management Program, including \$5.7 million for deferred maintenance and repairs and \$5.0 million for facilities renovation, among other projects. The request also includes \$3.0 million for the Water Quality Program, for the rehabilitation of the Nogales International Outfall Interceptor and Trunkline, as described above.

Planned Rio Grande flood control levee upgrades are part of a multi-year effort to protect communities along the Rio Grande. The construction and maintenance of the Rio Grande flood control system are part of an effort undertaken with Mexico to preserve the Rio Grande as the international boundary and protect lives and property on both sides of the river. The U.S. Section is responsible for maintaining levees and floodways on its side of the border, as is Mexico on its territory. On the U.S. side, the USIBWC flood control system consists of over 500 miles of levees and interior floodways, segments of which date to the 1930s and 1940s. The system is divided in three parts: the Upper Rio Grande flood control system protects one million U.S. residents in the Las Cruces, New Mexico-El Paso, Texas area, with its 225

miles of levees; the fifteen-mile long Presidio Valley system protects nearly 5,000 people in Presidio, Texas; and the Lower Rio Grande system, with its 270 miles of river and interior floodway levees, protects one million U.S. residents in the Brownsville-Harlingen and McAllen-Edinburg-Mission areas in south Texas.

Deficient segments of the flood control system will be improved in order of priority by risk, population, and development. Improvements will include upgraded levees, floodwalls, gated hydraulic structures, and other structures to sustain the system's conveyance capacity and contain floodwaters. By building structures that meet criteria established by the Federal Emergency Management Agency (FEMA), the program can alleviate the need for border residents to purchase costly flood insurance.

The Tijuana River Levee System Rehabilitation Project will rehabilitate approximately four miles of deficient levees and related flood control structures along the Tijuana River in the United States. Originating in Mexico, the Tijuana River crosses into the United States near San Ysidro, California, then flows west 5.3 miles to discharge into the Pacific Ocean at a point 1.5 miles north of the border. The levee system protects San Ysidro from river floods. The agency has completed the environmental assessment and the engineering work is almost complete. Construction of the first phase of the levee system improvements will address improvements on the river's North levee. A second construction phase for the river's South levee will be the subject of a future funding request.

The FY 2022 Request for \$5,700,000 will continue the multi-year Deferred Maintenance and Repairs Project, established in FY 2020, for the repair and replacement of mission-critical assets in prioritized order. This includes infrastructure for storage, diversion, and flood control of transboundary river waters, as well as our sanitation projects. It also includes field office facilities and heritage assets such as Falcon International Dam and the fixed monuments demarcating the U.S.-Mexico boundary. Deferred maintenance and repairs requirements have accumulated over years of funding constraints. The Request will allow execution of the second phase of this multi-year project.

Originally funded in FY 1992, the Facilities Renovation project will continue with a multi-year program to renovate and modernize deteriorated IBWC facilities along the U.S.-Mexico border to current industry standards. These facilities, most of which were constructed between 1930 and 1950, require major rehabilitation work to meet OSHA standards, comply with current environmental laws, and provide more efficient, effective, and secure working environments. The project consists of structural, electrical and mechanical improvements, as well as renovations necessary to meet regulatory requirements.

The USIBWC has performed condition assessments of its facilities to determine a priority ranking based on condition, purposes, and code compliance, and to determine the most cost-effective means of improvement either through renovation or replacement. Among the more urgent priorities, the agency will provide for a new administration building at the Lower Rio Grande Field Office in Mercedes, Texas. The existing administration building is an old metal building in poor condition that contains asbestos and does not have fire protection. The old building will be demolished and replaced with a new building of the same size, designed to comply with current building codes and conserve energy.

The USIBWC welcomes your support as we implement these important projects as part of our mission to address boundary and water issues along the U.S.-Mexico border. Thank you for the opportunity to testify.

Mrs. NAPOLITANO. Thank you, Mr. Avila, for your testimony. It is nice to know that we have somebody looking out for us there.

Thank you to all our witnesses, and we will now have questions for the witnesses.

And again, we will use a timer to allow 5 minutes for questions from each Member. If there are additional questions, we may have additional rounds, as necessary.

And now I would like to recognize Mr. DeFazio to begin the questioning.

Mr. DeFazio, you may proceed.

Mr. DEFazio. Thank you, Madam Chair. As I mentioned during my remarks, I freed up a substantial portion of the Harbor Maintenance Trust Fund, which was sequestered in the Treasury. And I would like to ask General Spellmon—I just discussed with the

chair of the subcommittee an approach yesterday—the \$400 million that was left on the table.

And first, I want to know—there is a critical project for Coos Bay-North Bend in my district. The jetty is deteriorating. And as the general knows, the deterioration starts, and when we get 35-foot seas in the winter, it accelerates at a rapid rate, and it becomes even more and more and more expensive. And obviously, the harbor entrance becomes dangerous for commercial and recreational.

So I would just like to confirm. I have heard from the region that you do have the capability, if I can get the full allocation of \$32.72 million, that you would have the capability to act in the next fiscal year.

General SPELLMON. Sir, that is absolutely correct.

Mr. DEFAZIO. OK, excellent. Well, I am working on it, and hopefully I will get you those funds.

The other issue for our whole region is the Columbia River Treaty. It has expired. It was the first cross-border beneficial use of water treaty in the world. LBJ came out here to actually sign the treaty. It was a big deal. It is expired.

And one of the critical components of it is flood control on the Canadian end of the whole basin. If there isn't a new treaty in 2024, we will have to call on Canada to provide the flood. But we don't have provisions negotiated or—not even, as I understand, estimates on, potentially, what it might cost, and how the Corps could pay for that. I understand there are negotiations going on. They are confidential. But as I understand it, Members can receive—you know, we can get top-secret briefings, we can get confidential briefings.

We need to be prepared if the Corps is going to need allocations in those fiscal year budgets to move forward. So I would ask that the Corps reach out to Members—we have a working group from the Northwest—and perhaps provide a confidential briefing, so we can have an idea of where this might be headed.

General SPELLMON. Yes, sir. And sir, you and I discussed this before. You know our objective, from the beginning and remains, is to provide similar levels of flood protection for the people of the Pacific Northwest. And sir, we would welcome the opportunity to come and brief you in private with a group, with our team. We continue to provide technical advice and modeling and analysis to the Department of State. But, sir, we would welcome the opportunity to give you a more detailed update.

Mr. DEFAZIO. OK, thank you, General. And the Corps does have all the legal authorities it needs to make these payments, right?

What we have to do is find the money. You don't need further legal authority. Is that correct?

General SPELLMON. Sir, if I understand your question, you know, we paid in advance back in 1964 for the 60 years of flood protection. We have given our numbers to the Department of State. They have been put on the table with our partners in Canada. And sir, I would welcome the opportunity to walk you through that in our analysis that supports those estimates.

Mr. DEFAZIO. OK. And then, I guess this is, perhaps, to the Assistant Secretary, and maybe to you.

I live on a boat in DC, in the channel leading out of what has now become the trendiest, most congested neighborhood in DC. They now have kayak rentals, canoe rentals, all sorts of stuff, an unbelievable amount of recreational traffic, water taxis, in addition to the sightseeing ferries and all that. And there is a proposal that makes no sense that's for security purposes, they would restrict people to the far side of the channel, which I believe will ultimately lead to fatalities, because once one swimmer came over the wall.

I would say, if the generals who are getting that wonderful free housing with a great view of Hains Point are concerned about security, it would be more appropriate to put up a fence, or a wall—but that would really impede their view.

And some time at the beginning of the year there was a leak thing about, oh, al-Qaida is threatening Fort McNair, or the Quds Force, or somebody. The Quds Force is not going to say, oh, that is a restricted zone, there is a red buoy, I can't cruise in there and do anything. It makes no sense.

You know, we passed a bill out of committee. I believe that this is not the solution to whatever problem they have. And I do believe it will lead to very dire problems. And so I don't know what the current status is of that rulemaking.

And I don't know if it is you or the Assistant Secretary that could tell me on that.

General SPELLMON. Sir, I will start. So, sir, that action has gone from our Baltimore District, in conjunction with their coordination with the Military District of Washington. It is now in my headquarters.

Sir, you may be aware the President's Executive order has taken that decision away from the Corps to be rendered by a political appointee yet to be confirmed. And if I am asked for my recommendation, I will give my best military advice to the Assistant Secretary at that time, after I have had an opportunity to look at the facts myself.

Mr. DEFAZIO. Sure. I was talking to the Commandant of the Coast Guard. He is waterfront down in a much more sensitive base. And he said he doesn't even have—there's nothing in his backyard, and no restrictions on traffic. And that base has much more sensitive operations going on down there. So I am very puzzled as to this request.

And then finally, Secretary Pinkham, the "dirty water rule." We have lost—irrevocably—resources, and we are losing them every day to inappropriate development because of the total loss of protections under the Trump rule for up to 80 percent of our waterways and wetlands. I am puzzled as to why you are just contemplating writing a new rule, which usually takes a couple of years, as opposed to revoking that rule, returning to what would take us back to the Bush-era rule, which had problems, but it is way better than what Trump did. Can you address that?

Mr. PINKHAM. Yes, thank you for the question. When the President issued an Executive order to review the former environmental rules for consistency with the new agenda, "waters of the U.S." was one of the rules that was evaluated. And when I came on board, we were in an active effort to reach out to stakeholders to—you know, and we heard from a variety of prospective stakeholders, in-

cluding the ag industry and local governments. And there was a wide range of concerns about the rule.

One, there was a concern, as Chairman DeFazio has pointed out, is this ongoing damage that is occurring now, and is expected to continue to occur. And people from the Southwest, where we have these drought-related areas, were highlighting that. On the other hand, we were hearing concerns from the ag community, about they felt there was a level of certainty with this rule.

And so what—we used that—was just to inform ourselves that, in fact, we needed to change the rule. So we decided to at least start with an intent to inform the Nation that a new rule was needed. But what we want to do is take the time and create a deliberative approach. I mean, we have been experiencing the rule going left and right, and, you know, this pendulum, and we want to find a way to find a more durable rule. So it is going to take time.

We haven't really refined the process to go forward, but I am working with EPA on defining what that process and the timelines will be. And Mr. DeFazio, if you would like to have some additional conversations, one on one, I would be happy to meet with you to discuss it. But give us time. We will continue to work on the road ahead.

Mr. DEFazio. Yes, well, I don't consider that acceptable. The damage is irreversible, and the 2 to 3 years it takes agencies to write a rule—I have very little patience with bureaucracy—the amount of destruction could be extraordinary.

And again, we do have a backup. And you could just go back and look at the rewritten Obama rule, which was put into place, which actually lessened the burden on most farmers, except of all the BS that went out about rain puddles, and drainage ditches, and bird-baths, and all the other crap that was out there that was totally fictitious.

So, yes, you are going to hear from the Farm Bureau, "Oh, this would be horrible, it will be horrible." Well, it wasn't. And, in fact, as I pointed out, it exempted lots of farmers from more environmental review under the old existing rule.

So, I don't find that an acceptable answer, and I think the delay is very, very disappointing. And we are going to lose resources that we can never recover that are already in short supply.

So, yes, I will look forward to having an individual conversation with you and whoever is responsible for this at EPA to drive that point home a little bit more, and then bring it up myself with the White House. So thank you.

Thank you, Madam Chair.

Mrs. NAPOLITANO. Thank you, Mr. DeFazio. I think you have got a point, I think we have got to follow that. And I would ask the gentleman, Mr. Pinkham, to report to the committee on what is happening.

Mr. Rouzer, you are recognized.

Mr. ROUZER. Thank you, Madam Chair. And I assume we will probably do multiple rounds of questions. I am going to try to get my first set here within the 5 minutes, just to be fair to everybody else.

Mr. Secretary and General Spellmon, my initial questions here are for you two. As you are probably aware—and these deal with some local projects I have back home—as you are probably aware, there are two federally authorized coastal storm damage reduction projects in my district. Wrightsville Beach is one, Carolina Beach and vicinity is the other. Both of them have scheduled renourishment—or supposed to be renourished—this year, for fiscal year 2021.

However, they were not funded, as you know, in the Army Corps fiscal year 2021 work plan, which, quite frankly, came as a great surprise to everybody up and down the chain, at least those that I have spoken to. And I understand that the Wilmington District and some others had put together a plan to utilize funds that were left over from a couple of other projects in North Carolina, and convert those for these two projects.

I understand it is on your doorstep, if not already seen, and I want to make sure that you are aware of that, and just get any input from you here, while I have you.

General SPELLMON. Sir, this is General Spellmon. I will begin.

First I want to say we acknowledge the importance of both of these beach renourishments to the people in the region.

The good news for Wrightsville Beach is the plans and specifications are complete. Our intent was to perform the construction with our flood control and coastal emergency account. Unfortunately, we had the 2019 floods, which took many other priority needs to other parts of the Nation. So I am working two avenues to fund Wrightsville Beach. I will start there.

First, we are working on an internal reprogramming action, where we will find funds from other projects within the Corps that either are no longer needed, or came in under budget. And the need here for Wrightsville is \$14.3 million, so that research is ongoing.

Similarly, a second prong is we have asked the administration to consider moving this project, Wrightsville, from the flood control and coastal emergency account to our construction account under the Disaster Response Act of 2019.

Mr. Rouzer, both of those options, both of those prongs that we are working on require administration and congressional committee review, and we would like to get those decisions here next month, so we can get to a contract award by September, so we can get this project in before the environmental windows take effect.

Sir, similarly on Carolina Beach, we are—again, we are—this one we are working an internal reprogramming action to find—the funds they need here is \$24 million, and we are working to find those funds as expeditiously as possible. And then we will take our recommendation to the Assistant Secretary, and to the administration.

I hope that answers your question.

Mr. ROUZER. I appreciate that very, very much. And, as you mentioned, the timing of this, getting this done as quickly as possible is obviously very important. The longer it waits, the greater the cost.

One quick question. I assume OMB has to sign off on this, or is this just strictly internal with you all?

General SPELLMON. Sir, I believe Mr. Pinkham in our Assistant Secretary's team will work these options with OMB and the administration, yes.

Mr. ROUZER. OK. One other community I want to ask about real quick. The town of Holden Beach requires funding for their coastal storm damage reduction feasibility study. They are a federally authorized beach, obviously. Will you work to ensure that the funding is included in the fiscal year 2022 work plan?

General SPELLMON. Yes, sir, we can't make any commitments at this time, but we will give our best technical recommendation to the Assistant Secretary as—if we are offered a fiscal year 2022 work plan, to prioritize these type projects.

Mr. ROUZER. Thank you very much.

First question—and I am going to go back to the discussion on “waters of the U.S.”—which agency is going to be the lead on this? Is that going to be the Army Corps, is that going to be you all, or is this going to be the EPA taking the lead?

Mr. PINKHAM. OK, it will be primarily EPA, with a tremendous amount of engagement from the Civil Works program at the Army.

Mr. ROUZER. I don't know if I like the sound of that. Let me ask you this. Can you tell us the criteria that the administration is considering for what will be regulated as a water of the U.S.?

Mr. PINKHAM. Ranking Member Rouzer, I am not going to predetermine what the outcome is of this process, and this is why we want to engage the various stakeholders to come up with what that definition will be. And we hope that definition will be durable.

Mr. ROUZER. Madam Chair, I notice that my time has expired, and I hope that we can do some additional rounds. I yield back.

Mrs. NAPOLITANO. Well, we hope so. Or you can ask they be submitted and answered in writing. Thank you, Mr. Rouzer.

I would like to—I just gave the courtesy to the chair. That is why I allowed him to have extra time. But the order of the speakers for the next few are myself, Mr. Katko, Ms. Johnson from Texas, Mr. Babin, Mr. Garamendi, Mr. Graves.

OK, and I have a question for General Spellmon and Mr. Pinkham, and I sincerely thank the administration for fully funding Whittier Narrows, which is in my district. It is so important for millions of residents in my district and the surrounding region.

Can you give the committee a status update on the project, and what the budget request would accomplish?

General SPELLMON. Madam Chairwoman, I will start. First, you know that we have completed the risk reduction measures on the spillway gates at Whittier Narrows last December, so there we transitioned from mechanical controls to electrical controls to prevent premature openings.

This year we have two important prerequisites for the large dam safety work. We are going toward an environmental mitigation contract, and we have some utilities that we have to move. The large-scale dam safety work, we are wrapping up design. We plan to award that contract in September of next year. The President's fiscal year 2022 budget funds that work to completion for this very important project.

Mrs. NAPOLITANO. Yes.

General SPELLMON. And this is a large effort, ma'am. We are scheduled—it is looking at a schedule completion in 2026.

Mrs. NAPOLITANO. Thank you very much.

Mr. Pinkham, in your testimony you mentioned that the budget provided \$23 million of updates to water control manuals at Corps projects that will account for the changing climate and for the operation, an issue I have been working for many years at Prado, Whittier Narrows, Santa Fe in southern California, and I am pleased to see investment, but I am concerned that we are talking about water control manual updates for years, and very little ever gets implemented.

Money is not the only issue, but also bureaucracy, with the involvement from various agencies such as the Fish and Wildlife Service outside the Corps. How will you ensure that the manuals are actually updated to address current hydrological conditions, and provide sufficient protections and water supply?

Mr. PINKHAM. Chair Napolitano, thank you for the question, and I think it is an important question, and one that I will work closely with General Spellmon on, is, in addition to the manuals, how do we consult and work with the other Federal interests that are out there, whether it is around endangered species or water quality.

So, Madam Chair, let me commit to work with General Spellmon on making sure your concerns are addressed.

Mrs. NAPOLITANO. Thank you. I visited Morris Dam this week, and I find that dam pristine, run by the county of Los Angeles. And I think we should have the same situation in all of our dams that are run by the Corps.

General Spellmon and Mr. Pinkham, as wildfire season is upon us at the West, all of the West, my district has experienced four wildfires on Army Corps property along the river over the past 2 years. These wildfires were caused by homeless trespassers and reckless behavior. This is a major hazard to homes and businesses along the river, and the Army Corps infrastructure and personnel in the region.

What are we doing to address the problem?

How many rangers do we now have for the entire area?

General SPELLMON. Madam Chairwoman, first I want to say we share your concerns for the safety and security, just given the risks that we are seeing with the increased homeless population across the region.

And also, I want to say we appreciate Congress' support in the CARES Act that gave us additional funding to provide additional security personnel for our projects. With that support we have already conducted three very large-scale debris removals from three homeless camps at San Gabriel River and the Santa Fe River spillway. We have a fourth debris removal scheduled for this September. And, ma'am, I think you are tracking, we are working very closely with the L.A. County Sheriff's Department and the Department of Parks and Recreation.

We have already expanded our patrols, and we are looking for other opportunities where we can bring down this fire risk. And, ma'am, we will keep you updated as we continue to work our way through this.

Mrs. NAPOLITANO. Thank you.

Mr. Avila, as drought plagues the Colorado River system, have recent minutes to your treaty with Mexico addressed drought contingencies and mitigation, and what are the next steps for the agency in addressing drought at the Colorado River?

Mr. AVILA. Yes, IBWC is working hard to mitigate the impacts of the drought in the Colorado River Basin in both the United States and Mexico.

IBWC Minute 323, signed in 2017, ensures that Mexico will get reduced water deliveries in 2022, if—and it is very likely—the Department of the Interior declares a shortage this August.

We are currently helping Mexico prepare for the reductions in developing drought plans and conserving water. As agreed under relevant IBWC minutes, Mexico is already undertaking temporary water savings, which can be recovered if reservoir conditions improve. In 2021, these savings amount to 41,000 acre-feet. Mexico's efforts complement similar U.S. savings under the U.S. lower basin drought contingency plan, which Congress approved in 2019.

Mrs. NAPOLITANO. Thank you very much. My time is up.

Mr. Katko, you may proceed.

Mr. GRAVES OF LOUISIANA. Madam Chair, this is Graves of Louisiana. I think I am going to be next.

[Pause.]

Mr. GRAVES OF LOUISIANA. I just highjack him?

Mrs. NAPOLITANO. Mr. Graves, you may proceed, then, I am sorry.

Mr. GRAVES OF LOUISIANA. Thank you, Madam Chair.

I want to thank you both for being here today, and I certainly do appreciate your service. I have a number of things. I am going to try and get through them as quickly as I can.

First of all, BBA 2018, there are a couple of projects that were funded. One of them is a Comite diversion project. The other one is one we refer to casually as "Five Bayous," otherwise known as Baton Rouge Area Flood Control. The Comite project is a critical project. It has history dating back to the late 1970s, early 1980s. This is a fully funded project. It was recently announced that the project schedule slipped 50 percent, 50 percent slippage in schedule. Every day that this thing is delayed, it is potentially putting people at risk.

Just about a month ago we had a record flood. We had another one a few weeks ago. I just want to put this on your radar. Colonel Murphy down in New Orleans has been great to work with, but this project has got to stay on the front burner, both of them. They have got to stay on the front burner, and I just don't see them moving at the urgency that they need, so I just wanted to flag that for you all.

General SPELLMON. Sir, this is General Spellmon. I acknowledge the 1-year slip in delivery. It did take us longer to get our right-of-way drawings out, which slowed down the real estate transactions.

And sir, I will just say I appreciate your personal leadership, as we work through the Florida gas LNG pipeline. We are currently in a day-per-day slip. I know that is complicated, but I do appreciate your leadership in helping us through that. Over.

Mr. GRAVES OF LOUISIANA. General, and I am going to keep doing it. This is really personal for all the people that we represent. And I want to say it again. Colonel Murphy has been great to work with, very communicative, and I appreciate that. But this—you know, this slippage every single day—you know the vulnerability we have down there. So I just want to ask that this be kept on the front burner.

I am going to jump to the next one, the Water Resources Development Act of 2020, we had a provision there regarding the hurricane protection system payback. And we did send a delegation letter asking the Corps to get moving on the interpretation. We got a pretty tight fuse on this. And I just wanted to flag that for you all, and ask you to, once again, please keep that on the front burner. We have got to get moving on this. Huge financial implications that is potentially diverting money away from other hurricane protection, coastal restoration, and flood protection needs in the State.

General SPELLMON. Yes, sir, this is General—yes, sir. I acknowledge all. We acknowledge the WRDA provision. We are working with the Secretary's office on implementation guidance to get out in the field, and our suspense back to Colonel Murphy is the 15th of August.

Mr. GRAVES OF LOUISIANA. OK, and I think you know that some of the timelines on that date into September and October timeframe, so there is a really tight fuse on that first kind of action item.

General, I want to bring up—or Secretary—bring up something else. We have legislated in Congress, and we do it all the time on things. And probably the thing that aggravates me more than anything else I do is when we pass a law, only to have some bureaucrats come back and tell us that it didn't do what we said it did, or intended it did. Whenever we prenegotiated the language, we got drafting assistance and all that stuff, and we deal with that exact issue right now in multiple places. But one of them is non-standard to States, it has to do with real estate acquisition for environmental restoration projects.

In the case of Louisiana, and—the landowners will donate project easements, right-of-ways, whatever, and the Corps has come back and said, "No, you have to have it in fee title." We can lower the project cost. We can decrease the conflict with locals and stakeholders. This makes no sense at all. If we can get all the rights we need through a conservation easement or a project easement, we change the law only to have the Corps come back and write the same damn thing in their guidance as they had written before.

We didn't change the law for fun. We did it because we don't agree with what the Corps has been doing. And I just want to ask you all to please go back and take a look at this.

Mr. PINKHAM. Representative Graves, and, you know, this—I am new to the program, and this is an issue I was unaware of. But I will commit to you that I will look into this, and provide you with a response.

Mr. GRAVES OF LOUISIANA. Thank you. Secretary, I appreciate that.

Beneficial use of dredged material is another issue. Congress has come in in the last few WRDAs. I think we have done two different

revisions to beneficial use of dredge material, because what has happened in areas like south Louisiana, which—I won't get into all the plumbing issues related to the Mississippi River causing much of our coastal land loss, but you also do extensive dredging in the Bird's Foot, and we changed the law to make it, instead of least-cost alternative, looking at how beneficial use of dredged material for ecological restoration can be calculated as a benefit, appropriately. Yet we continue to see where the spoil material is dumped in the hopper dredge disposal areas off the deep waters of the Gulf of Mexico, providing zero benefit. And meanwhile, we have, by some measure, \$15 billion in ecological restoration projects authorized through the Corps of Engineers, none of which are moving forward.

This really seems like it is an opportunity for a better win-win. It is a good environmental win, it is a better use of resources. And I just want to ask if you could take a 10th relook at what Congress intended whenever we changed the law on beneficial use of dredged material calculations.

General SPELLMON. And, sir, this is General Spellmon. I acknowledge all. We want to flip the numbers. Today we put about 30 percent of our nationwide dredged material to beneficial use. The other 70 percent, as you said, gets dumped. I want to flip those numbers.

There is an R&D component to this, and there is some best practices that we need to share across the enterprise. But, sir, we are committed to it.

Mr. GRAVES OF LOUISIANA. Thank you very much. I just want to make note for the record that I got my buddies, Mr. Huffman and Mr. Garamendi from California, that are over there, cheerleading. So they agree, they are on board with this, and we don't agree with much.

Mr. HUFFMAN. The Beneficial Reuse Caucus, I think, has just begun.

Mr. GRAVES OF LOUISIANA. All right.

Mrs. NAPOLITANO. Gentlemen, your time is up, Mr. Graves. And I agree with you, by the way. So I thank you very much.

Mr. GRAVES OF LOUISIANA. Madam Chair, can I talk you into a second round?

Mrs. NAPOLITANO. We will look at it. It depends on how many are—

Mr. GRAVES OF LOUISIANA. If I get you a cup of coffee? If I get you a king cake, a second round of questions?

[Laughter.]

Mrs. NAPOLITANO. All right, sir, thank you.

Ms. Johnson from Texas, you are on.

Ms. JOHNSON OF TEXAS. Thank you very much, and let me welcome our witnesses, and simply say that I have an opening statement that I ask unanimous consent to put in the record.

[Pause.]

Mrs. NAPOLITANO. So ordered.

Ms. JOHNSON OF TEXAS. Thank you. With the proposed funding increases in your agency's budget, in what way specifically do you believe that this funding would impact and assist cities and communities like mine in the Dallas area?

To Mr. Spellmon, and then I will follow up.

General SPELLMON. So, ma'am, as you heard in the opening remarks, this is a record-level budget request from the President. I think it is going to help us immensely get after a number of projects to complete what we have already started, then, of course, with the New Start authorities given to us from the administration to get after some backlog projects, as well. So we appreciate the trust and the investment, and I do believe a number of these will help urban areas, as you have described.

Ms. JOHNSON OF TEXAS. Well, thank you very much.

About almost 2 years ago now, I convened a COG—council of governments—geographical area around Dallas; Federal, State, county, and local officials to talk about a plan for some preventions that—some catastrophes that we could possibly avoid, since we know that the Corps has basically looked at that after the fact.

Are you aware of the plan that we came up with?

General SPELLMON. Ma'am, I am not familiar with the details, no.

Ms. JOHNSON OF TEXAS. OK, any of the panelists there familiar with those details?

Mr. PINKHAM. Member Johnson, I am not familiar.

Ms. JOHNSON OF TEXAS. OK. Well, I am sorry we don't have anyone here from that region, but we did spend a great deal of time putting together a plan for prevention, because, as you know, most of our troubles in the area comes from flooding after the fact. And so we had a plan, and a pilot project came from that, named the "Integrated Planning for Regional Transportation Development and Stormwater Management in the Dallas-Fort Worth Region." And I guess, if you don't know about the planning that we did, then you don't know about the project.

I was curious if you were aware of that important pilot there, with the Army Corps of Engineers, and how you supported it. But I guess, if you don't know about it, I can't ask you a question you don't know about.

But specifically, with respect to climate change, just briefly, what are each of your agencies doing to reduce disruptive costs of the Federal Government?

One example of concrete action in my congressional district is the extension of levees in the city of Dallas. For some reason, we can't seem to get completed projects. Can any of you comment on that?

General SPELLMON. So, ma'am—this is General Spellmon—first I will tell you that we have been incorporating climate change into our projects for at least the last 12 years. I know we are looking at the climate change effects for both the Dallas Floodway and the Dallas Floodway extension. So we are accommodating the potential of future flows that we may see in that region.

I would just also share, from a very high level, we have also just completed following the administration's guidance to submit our climate adaptation plan across all of our programs, not just Civil Works, but also for the construction that we do around the country.

Ms. JOHNSON OF TEXAS. Let me—this is the final question. When there is a plan that we have come together with, including the Corps, what should the—

Mrs. NAPOLITANO. The—

Ms. JOHNSON OF TEXAS [continuing]. Process—excuse me?

[Pause.]

Ms. JOHNSON OF TEXAS. How should we get that well known, and how can it get attention?

General SPELLMON. Ma'am, I am sorry, this is General Spellmon. I am sorry, I don't understand the question.

Ms. JOHNSON OF TEXAS. When a regional effort comes together, and puts together a plan to attempt to save money by providing activities ahead of the storms, how does that become known in the entire agency, and how can we get that known for implementation?

General SPELLMON. So, ma'am, we have done this in other regions of the country. So what I will do immediately after this hearing, I will follow up with General Beck to talk about the integrated planning for the Dallas-Fort Worth region. I will get myself smarter on that, and then we will come back to you with what we believe the next step should be.

Ms. JOHNSON OF TEXAS. Well, thank you very much. I yield back, Madam Chair.

Mrs. NAPOLITANO. Thank you, Ms. Johnson.

Next is Mr. Babin, Mr. Garamendi, Mr. Weber, Mr. Lowenthal. Mr. Babin, go ahead, please.

[Pause.]

Mrs. NAPOLITANO. Mr. Babin?

Mr. ROUZER. Madam Chair, I understand Mr. Mast would be up next.

Mrs. NAPOLITANO. OK. No, Mr. Mast is after Mr. LaMalfa.

Mr. ROUZER. He is not here, either.

Mrs. NAPOLITANO. OK.

Mr. ROUZER. My understanding from the team is Mr. Mast would be next.

Mrs. NAPOLITANO. All righty. Mr. Mast, you are on. Please proceed.

Mr. MAST. Thank you, Madam Chair. Thank you, Madam Chair. I have with me a photo here. Maybe we will be able to move it into the shot, if the staff can move it into the shot. And it is just a snapshot of the hundreds of miles of algal blooms on Lake Okeechobee.

[Photo displayed.]

General Spellmon, Mr. Pinkham, I know that you are well aware of what is going on out there. We have spoken about it numerous times before.

Mr. Pinkham, we spoke about this in private. I visited Port Mayaca with General Graham during a visit, where it was absolutely disgusting, it looked exactly like what you see here behind me. This is the lock and dam. This is where your individuals work, right up here. We tried to go out onto this lock and dam, right here. And it was so disgusting that we couldn't even breathe. And because it was so disgusting and we couldn't even breathe, we tried to go inside of the building there. And even in the building, it was an unbearable state. We were spitting every couple of seconds to get the taste of it out of our mouths. Our clothes reeked for hours thereafter.

And my question is, have you spoken with Major General Graham about this, Mr. Pinkham?

And has he issued a written report detailing the conditions that Army Corps of Engineers personnel, both uniformed servicemembers and civilians, are being forced to work in in these conditions? Has he issued a report on that day?

Mr. PINKHAM. Representative Mast, yes. And as a result of our conversations, and your meeting with General Graham on this, as I laid out in my letter to you, shared how we are relying on the Florida Department of Public Health, the Centers for Disease Control, and EPA on guidance on the precautions that both visitors and the workforce should be taken at that site. So we had provided written guidance to all personnel about both the health risks and the other precautions they should be taking.

Mr. MAST. Yes, I am—thank you, Mr. Pinkham. I am concerned about the letter that you sent me. It states specifically in the letter that the EPA, who I know I got to write a standard on these algal blooms, on this toxic water, says the EPA indicates health risks associated with inhalation are very low.

I want to submit for the record a study by the University of Florida, Madam Chairwoman, if there is no objection to that, that indicates that the inhalation hazard from harmful algal blooms, these toxic algal blooms, can actually travel for up to 10 miles, and is persistent for hours on end, Mr. Pinkham—

Mrs. NAPOLITANO. So ordered.

[The information follows:]

Article entitled, “Atmospheric Progression of Microcystin-LR from Cyanobacterial Aerosol,” Submitted for the Record by Hon. Brian J. Mast

SUPPORTING INFORMATION

ATMOSPHERIC PROGRESSION OF MICROCYSTIN-LR FROM CYANOBACTERIAL AEROSOL

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Number of Figure: 3

Number of section: 1 (Description of the chamber, experimental procedures, and instrumentation)

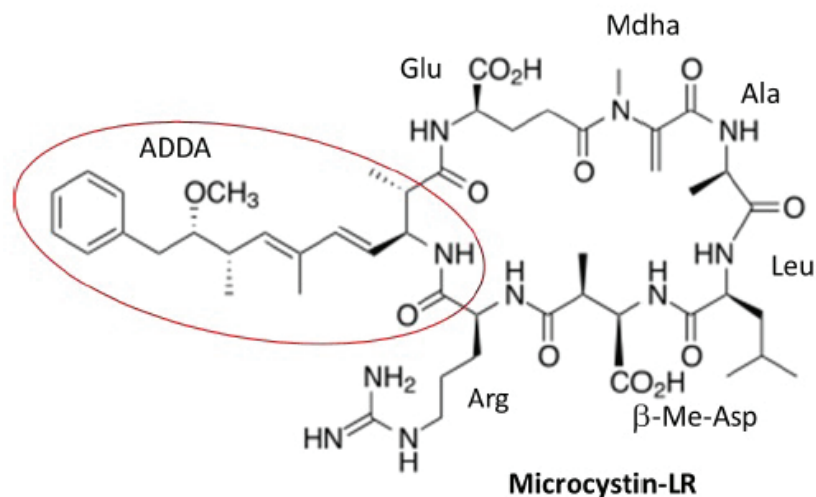


Figure S1. The molecular structure of Microcystin-LR.

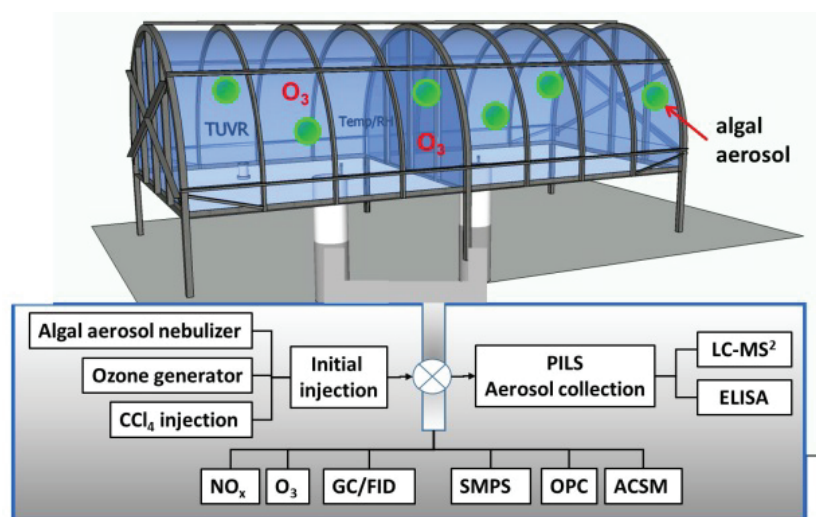


Figure S2: The Atmospheric Photochemical Outdoor Reactor (UF-APHOR) chambers and instrumentation

Section S1. Description of the chamber, experimental procedures, and instrumentation

UF-APHOR chamber. The UF-APHOR dual chambers are located on the roof of Black Hall (latitude/longitude: 29.64185°/-82.347883°) at the University of Florida (UF), Gainesville, Florida.¹⁻³ The air volume of the half-cylinder shaped, dual chambers is 104 m³ (52 m³ + 52 m³). The dual, Teflon film chambers were operated simultaneously to allow for investigation of two different experiments under the same ambient, diurnal profiles of sunlight, relative humidity (RH), and temperature (T). To allow for gas and aerosol characterization, chamber air was pumped through several sampling lines into the atmospheric chemistry lab that is located directly below the chamber.

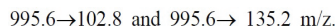
Experimental procedure using UF-APHOR. The atmospheric process of MC-LR in cyanobacterial aerosol was performed on the form of the batch reaction in UF-

APHOR. The chamber air was cleaned using air purifiers (GC Series, IQAir) for 48 hours prior to each experiment. CCl_4 (>99.9%, Sigma Aldrich) was used as a tracer for dilution. CCl_4 was injected to the chamber using a glass manifold with clean air. Both gas data (i.e., ozone) and MC-LR data were corrected for the chamber dilution. The chamber dilution rate ranged between 0.007–0.008 per hour (less than 1% per hour). Prior to each experiment, the 4mL cyanobacterial culture aliquot (*Microcystis aeruginosa* or *Anabaena*) was sonicated for 5 minutes. Then, 100 μL MC-LR aqueous solution (500 $\mu\text{L}/\text{mL}$) was spiked to the cyanobacterial culture aliquot. Silica particles (NanoCym Inc., USA) were also employed to investigate the impact of aerosol media on the degradation of MC-LR. The 6 mg dry silica particles and the 100 μL MC-LR aqueous solution (500 $\mu\text{g}/\text{mL}$) were added into 5 mL water. Silica particles were polydisperse particles with a mean diameter of 500 nm and a BET surface area of $5.9 \pm 0.3 \text{ m}^2 \text{ g}^{-1}$. The MC-LR spiked cyanobacterial aqueous solution or silica particle aqueous suspension was atomized into the chamber using a nebulizer (LC STAR, Pari Respiratory Equipment) with clean air flow. The nebulization of aerosol took 5–7 minutes. For the ozone experiment, ozone was produced using an ozone generator (Waterzone 500, Amherst, NH) and introduced into the chamber prior to cyanobacterial aerosol injection at nighttime. To measure the initial concentration of MC-LR in cyanobacterial aerosol for the ozonolysis experiment, the controlled dual chamber experiments were performed: the MCLR-spiked cyanobacterial aerosol with ozone in the East chamber and the without ozone in the West chamber.

Aerosol sampling with PILS. A particle-into-liquid sampler (PILS, Applikon, ADI 2081) was used to collect cyanobacterial aerosol particles.^{4–7} Particles inside PILS quickly grow due to the condensation of water vapor, which is efficiently collected on impaction. The PILS collection efficiency is larger than 95% for particles.⁴ In the modified protocol, impacted particles were collected within a small amount of deionized water⁶ with a flow rate of 20–40 $\mu\text{L}/\text{min}$. A carbon denuder was located upstream the PILS to remove the gas chemical species in chamber air. The PILS samples were subsequently applied to LC-MS/MS and ELISA.

Instrument. The instruments used for chamber operation are shown in Figure S2. Agilent 7820A Gas Chromatography-Flame Ionization Detector was employed with an oven temperature of 100 °C to measure CCl_4 concentrations. Gas phase concentrations of NO_x and O_3 were measured using a Teledyne Model 200E Chemiluminescence $\text{NO}-\text{NO}_x$ Analyzer and Model 400E Photometric O_3 Analyzer, respectively. The particle distribution and number concentrations of submicron particles were measured with a scanning mobility particle sizer (SMPS) (TSI, Model 3025A, MN) coupled with a condensation nuclei counter (TSI, Model 3022, MN). The concentrations of the particle ranging between 0.5 μm and 10 μm in particle diameter were also measured using the Optical Particle Counter (OPC 3330, TSI, MN). No particle was larger than 1 μm . Non-refractory species (sulfate, nitrate, ammonium, chloride and organics) in submicron aerosol were measured in situ by using an Aerosol Chemical Speciation Monitor (ACSM, Aerodyne, MA). ACSM spectra analysis was performed by using the standard ACSM analysis software (version: ACSM_local_1.6.0.0) provided by Aerodyne which was written within Wavemetrics Igor Pro. Both SMPS data and ACSM were utilized to estimate cyanobacteria aerosol mass.

LC-MS/MS operation condition: The concentrations of MC-LR in the collected aerosol samples were also analyzed by high-performance liquid chromatography tandem mass spectrometry (HPLC-MS²) using a 6500 QTRAP (Sciex, Palo alto, Cal.) coupled to a Nexera 2 UPLC (Shimadzu, Japan) system. Chromatographic separation was achieved on an Eclipse plus C18 column, 2.1x100 mm, 3.5 mm (Agilent, CA) using 0.5 % formic acid in water as phase A and 0.5% formic acid in acetonitrile as phase B. The flow rate was set as 0.2 mL/min. The gradient started at 5% of B for 2 min; ramped to 60% B in 2 min, 95% B in 0.5 min, 96% B in 3.5 min, 100 % B in 0.5 min; and then held for 0.5 min. Data were acquired in positive mode using the following parameters: 35 psi curtain gas, 5000 V ion spray voltage, 350 °C source temperature, 12 psi collision gas, 50 psi nebulizer gas, and 60psi heater gas. Two transitions were used for MC-LR:



Data were acquired using Analyst v.1.7 software and analyzed using Analyst v.1.6.2 software. A MC-LR standard (Abraxis; Cat. No. 300632, CAS No. 101043–37–2) was solubilized in 5% acetonitrile + 0.5% formic acid to build a standard curve from 0.5 nm^3m^{-3} to 100 nm^3m^{-3} . The limit of detection and limit of quantitation were determined as 3 or 10 times the standard deviation of the response of the curve and the slope of the calibration curve, respectively.

Concentrations of MC-LR

Concentrations of MC-LR in air (ng/m^3): The concentration of the MC-LR in chamber air is calculated using the aerosol mass concentration ($\mu\text{g}/\text{m}^3$) and the mass ratio of MC-LR to dried algae (50:8320 for Exps A and E; 50:2000 for Exp B; 50:3750 for Exp. C; 50: 6000 for Exp. D). SMPS data and the density of aerosol (assuming to be one) will provide the aerosol mass concentration. In order to determine the dry algae mass concentration in cyanobacterial aqueous solution, a 100 μL homogeneous cyanobacterial aqueous solution was dried on a preweighed Teflon-coated, glass-fiber filter (Emfab TX40 HI20 WW; Pallflex Corp., Putnam, CT) using a dry air tank. The dried cyanobacterial biomass on the filter was weighed using an analytical balance (MX5; Mettler-Toledo Ltd., England). The cyanobacterial concentration was determined by the filter mass with and without cyanobacteria and the volume of the cyanobacterial solution. The dry cyanobacterial mass concentrations of Exps. (A), (B), and (C) were 3.3 mg/mL , 0.8 mg/mL and 0.75 mg/mL , respectively.

MC-LR mass concentration ($\text{ng}/\mu\text{g}$ algae aerosol) and cyanobacterial aerosol: The mass concentrations of MC-LR were calculated using LC-MS/MS data (ng/mL) (or ELISA) in the PILS samples (mL/m^3) and the aerosol mass concentrations ($\mu\text{g}/\text{m}^3$, SMPS data and the density of aerosol) in chamber air. For the calculation of the kinetic rate constant, the MC-LR concentration associated with aerosol concentrations were corrected for chamber dilution (CCl_4 data). The MCLR concentration ($\text{ng}/\mu\text{g}$) at time = t ($[\text{MC-LR}]_t$) was normalized with the initial MC-LR concentration ($[\text{MC-LR}]_0$) at time = 0 in Figure 1 of the manuscript. The relative concentrations were applied to determine the rate constant for the reaction of aerosolized MC-LR with ozone.

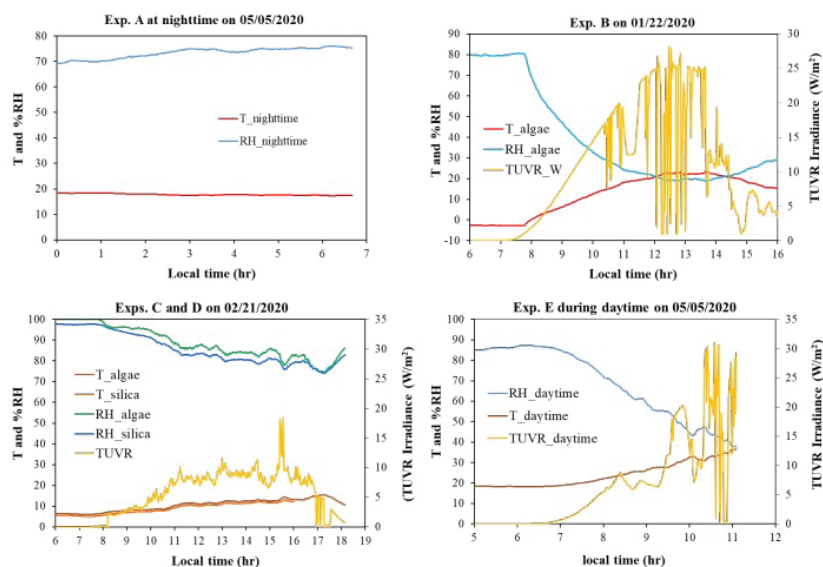


Figure S3. Time profiles of temperature (T), %relative humidity (%RH) and TUVR sunlight irradiance over the course of the chamber experiment (Table 1).

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Mr. MAST [continuing]. And General Spellmon—thank you, Madam.

Would you say that the people working in this region fall within that 10-mile parameter that this University of Florida study points to?

Do your workers fall within that 10-mile parameter, and that persistent area that this University of Florida study points to?

Mr. PINKHAM. Representative Mast, yes, the site would be within the 10 miles. But what I would like to do—

Mr. MAST. I need to pause you there, I just need to pause you there, sir. I appreciate that. I will give you more time.

That being said, the letter that you wrote me, it said the EPA indicates the health risks are very low. Do you have any source material that says where the EPA got that? Because I have done extensive research on this, and I can't find one EPA study on inhalation hazards as it relates to these algal blooms that have measured, in some cases, over 100 times too toxic, according to the ingestion standard that the EPA put forward. So do you know, is there source material for what the EPA stated?

Mr. PINKHAM. Representative Mast, I will be happy to follow up and go through EPA to get that source material.

Mr. MAST. I don't believe that there is source material. I appreciate you helping me out with that, because I want to read it, if there is.

General Spellmon, I want to go to you quickly here. Given the information that I just put out there, this is a picture of this Sunday, these toxic algal blooms. Are you aware at what level they measured?

General SPELLMON. No. No, I am not.

Mr. MAST. OK, that is concerning, especially considering that I wrote you guys a letter, talking about the fact that you have uniformed service personnel working directly on top of them, and civilian personnel working directly on top of them. That actually measured about 116 parts per billion. That is 16 times more toxic than what the EPA says is OK.

And my question to you is simply this: Given that information, and that you acknowledged about 1½ years ago that it is toxic water, would you say that your soldiers and personnel at Port Mayaca are being poisoned?

General SPELLMON. No, I would not. I would say we are going to follow the guidance.

Mr. MAST. Are you willing to risk your career on the fact that your soldiers and civilians are not being poisoned?

General SPELLMON. Sir, we are going to follow the best guidance from the Florida Department of Health and the EPA.

Mr. MAST. Yes. I am just going to say this last sentence. I don't take anything more seriously than the safety of the people in my community, and the safety of my brothers and sisters in arms. I know you are a uniformed servicemember. I just gave you pretty damning information about how toxic this is, and the fact that your personnel are sitting there, breathing it 10 hours a day.

Would anybody in this room care if I opened this up? [Indicating jar containing unidentified substance.]

VOICE. [Inaudible] open it.

Mr. MAST. Would you care if I opened this up?

VOICE. No.

Mr. MAST. Why?

General, would you care if I opened this up in here?

Mrs. NAPOLITANO. Mr. Mast, your time is up, sir.

Mr. MAST. I will open it up, then, thanks.

Mrs. NAPOLITANO. OK. You make a valid point. That is unconscionable to have that happen. When was that picture taken, Mr. Mast?

Mr. MAST. No, I will get it open, eventually.

Mrs. NAPOLITANO. Mr. Mast?

Mr. MAST. Yes, ma'am?

Mrs. NAPOLITANO. When was that picture taken?

Mr. MAST. Sunday.

Mrs. NAPOLITANO. General, I hope that—

Mr. MAST. The picture was taken Sunday.

Mrs. NAPOLITANO [continuing]. That the results of his questioning are available to all the committee. This is an important issue for the health of the people that are involved.

Mr. GARAMENDI, you are next.

Mr. GARAMENDI. Madam Chair, you are really, really fortunate that you are not here in the hearing room. That man is about to open that toxic algae bloom, and we are within 10 feet here.

Stop it, Mr. Mast.

Mr. MAST. A lot of people have to breathe this every day. I can't even get this thing open. Thank God. Somebody on my staff has got a strong grip.

Mr. GARAMENDI. Well, we appreciate whoever closed that and sealed it. We don't need that.

Incidentally, there is a law that we passed. It is called the OATH Act. It requires that every medical record for anybody in the military—and we are now going to amend it to include civilian personnel—that in their medical record, exposure to toxics be in that medical record for the rest of their lives, so that any subsequent illness might be traced back to that toxic.

Mr. MAST. As I requested—

Mr. GARAMENDI. And you were one of the coauthors of that piece of legislation.

Mrs. NAPOLITANO. That is great.

Mr. GARAMENDI. Very good, thank you.

Mrs. NAPOLITANO. Mr. Mast, would you mute yourself?

Mr. GARAMENDI. I am consuming my time here. Please excuse me. And Mr. Mast is on to a very, very important issue.

And thank you, Mr. Mast, for raising that. We also have algae blooms in California.

My questions go to General Spellmon and Secretary Pinkham. I want to talk about restoration programs. California has some of the most affected rivers. The Sacramento River system, there are two major restoration projects on the Sacramento River. I want to bring to the attention of General Spellmon the Yuba River Goldfields restoration project, a project that has been authorized, but is now in abeyance, and may very well stop, as a result of a specific ruling by the Corps of Engineers.

General Spellmon, your predecessor wrote—in the final authorization for this from the Corps of Engineers, General Semonite wrote, “Great project, proud to contribute to the restoration of critical fish habitat for nationally significant aquatic species,” meaning salmon.

Unfortunately, the final contract between the Corps of Engineers and the local agencies, the Yuba County Water Agency, did not limit the future liability of the local agency to restore the project to the completed program, which made no sense in two ways. One, unlimited liability could be several tens of millions of dollars at any time. And secondly, the project was specifically designed—well, the initial restoration would be to try to restore as much as humans know what the river might have looked like before the Yuba Goldfields totally destroyed a 10-mile stretch of the river.

The project was designed so that the river would run free, and restore itself over time. That is one thing. I bring that to your attention, and ask for your consideration on this liability issue.

The second is a new project that actually would be authorized under the Yolo Bypass Systems Improvement. The 2016 WRDA legislation would authorize it. This is a 300,000-acre restoration project that would include two of the major flood bypasses, the Sutter Bypass and the Yolo Bypass, that work in coordination with the nearby and adjacent rice fields to provide 300,000 acres of restored salmon habitat in those bypasses, using the return flows from the rice fields to provide nutrients for the salmon. It has been shown in pilot programs on the Yolo Bypass that the salmon are somewhere between two and four times more successful in such a project.

I bring this to your attention, would ask for you to consider joining the Secretary of the Interior in a visit to this program. The program is supported by the American Rivers, the Audubon, California Rice Commission, California Trout, California Waterfowl, Conaway Preservation, Ducks Unlimited, Ecosystems, Glenn-Colusa, on and on, and the Northern California Water Association.

This is a 300,000-acre win-win program that is available. I don’t expect a response on either of these now. But for sure, we are going to get back together again to talk about it, and how we can actually move these two projects forward. We need to have a better contract from the Corps of Engineers for the Yuba River Goldfields program. And we need your engagement on the California flood plain restoration project.

With that, I yield back my remaining 3 seconds. Thank you.

Mrs. NAPOLITANO. Well, thank you, Mr. Garamendi, for being so generous with your time.

Mr. LaMalfa, you may proceed.

Mr. LAMALFA. Thank you, Madam Chair, and I want to echo some of what Mr. Garamendi was saying on how successful that restoration is in the rice lands up there in the area, too. It is not far from my neighborhood. So it is looking good.

I want to address General Spellmon and Mr. Pinkham, as well, in my thoughts here. We have a situation in the far north part of my district. There are four hydroelectric dams. Three are on the California side, one is on the Oregon side, up on the Klamath River. And at a time when we are facing power shutoffs because of heat, because of a grid that is not keeping up, underway is the process of removing these dams that—just recently, FERC has approved a transfer of the license on these four dams to an entity called the KRC, as well as the State of California and Oregon, because KRC is just a shell corporation that has really no assets to back it up. So now the taxpayers of California and Oregon will be on the hook for the possible cost overruns on dam removal.

So FERC sent to Army Corps in the San Francisco District a memo for the NEPA process. It will direct Army Corps to partner with FERC, and perform the environmental review functions under section 404 we are very familiar with, and also section 10 of the Rivers and Harbors Act. So there are a lot of issues with the dam removal.

What we saw—what was called the Condit Dam up in the State of Washington, they breached a dam a while back, it ended up smothering the spawning grounds with silt. It had about 2.4 million cubic yards of sediment there that ended up going downstream and smothering spawning grounds. So the number on the Klamath is not 2.4, but 20 million cubic yards is one estimate. It could be as high as 60 million, because it is hard to estimate this behind dams.

So what we are looking at is that, under section 404, the permits are required to dispose of dredged or fill material in the Nation's waterways.

So does the Army Corps have any idea—General Spellmon, how are we going to mitigate 20 million cubic yards of silt and sediment behind this set of dams, given that the sediment really hasn't been dealt with in this kind of volume before?

What can we be looking at, as far as a true—when you are doing your NEPA on this, how do you account for that much sediment?

General SPELLMON. Yes, sir, the answer may be that we can't account for it, right? And it might not be a good disposal option. So I won't know the answer to that, sir, until we get further down the NEPA process, and do the math, and do the analysis, and do the modeling. But I cannot answer that today.

Mr. LAMALFA. OK. Does the Army Corps have any plans under this memo to do an expedited or accelerated NEPA review process here, as I seem to be hearing?

General SPELLMON. Congressman, I am not familiar with an expedited process on these three hydroelectric dams. I have not heard that.

Mr. LAMALFA. OK, yes—there is four.

Mr. Pinkham, do you have anything on that?

Mr. PINKHAM. Like General Spellmon, I have not heard anything about an expedited process on NEPA.

Mr. LAMALFA. OK. So is there any idea how long the review itself might take on something like this, either of you gentlemen?

General SPELLMON. Sir, I will follow up with our Sacramento District, Commander Colonel Handura, and get a better estimate of timeline for you.

Mr. LAMALFA. OK, I think it is based in the San Francisco District, though, OK? So you guys will figure that out.

Do you have any idea how long the environmental review of the Condit Dam took, up in the State of Washington?

General SPELLMON. Sir, this is General Spellmon. I do not.

Mr. LAMALFA. OK. Please let us know on that, as you get the chance.

On flood control now, obviously, that is a cornerstone of Army Corps' work in the United States. Is the Army Corps allowed or are they going to consider flood control to be a primary purpose of these dams, as it has shown to be?

But is that—in the memo that you are going to be working on, the MOU, is Army Corps' responsibility and work on flood control, is that going to be given weight as to whether it agrees in this NEPA process that the dam removal is a good idea or not?

General SPELLMON. Yes, sir, it will. That will be a component.

Mr. LAMALFA. OK. Is that a pretty key component, or is it secondary to a perceived environmental benefits, or—what are you looking at, do you think?

General SPELLMON. So sir, I will dig into these four dams that you mentioned. I am not familiar with the authorized purposes for which they were originally designed and built. That will be a large function of the answer to that question, and I will have to follow up with you once I know more.

Mr. LAMALFA. OK. They do serve a flood control function, in addition, as well as they are actually a source of water supply in firefighting, too, for aircraft that can scoop the water out, or withdraw the water from the lakes. And so that is important, as well. But it has been shown to be an important firefighting tool, as well as the flood control. And with the removal of these dams, it is fully expected that there is—further down in Siskiyou County we will have flood problems that they haven't had since the existence of these dams.

Under section—

Mrs. NAPOLITANO. Mr. LaMalfa, your time is up.

Mr. LAMALFA [continuing]. 404, and also section 10—

Mrs. NAPOLITANO. Mr. LaMalfa?

Mr. LAMALFA. Ma'am?

Mrs. NAPOLITANO. Your time is up.

Mr. LAMALFA. Oh, that flew by. OK.

Please look into the *C. shasta* virus aspects, too, where the river situation causes a virus that affects the salmon on there, and see if section 404 covers the cause of *C. shasta* to be made worse by this dam removal, and the flushing that may or may not happen.

So thank you, Madam Chair, I yield back.

Mrs. NAPOLITANO. Thank you, sir. Thank you.

Mr. Lowenthal, you may proceed.

Mr. LOWENTHAL. Thank you, Madam Chair, and thank all the panelists. This is a fascinating hearing, and I would like to also ask a question of General Spellmon.

And again, it is going to relate to my own district. There has been more and more attention, since the pandemic, on ports, particularly the San Pedro Bay port complex. Half of the Port of Long Beach is in my district.

Since the pandemic, first the drop-off, then tremendous growth and congestion, difficulty in backlog, and getting ships in and out. And not a day goes by that people do not ask me, "What more is Congress doing for port infrastructure?"

In the case of the Port of Long Beach, which is the port that I represent, the port is making massive investments in their rail network. As their executive director, Mario Cordero, has stated in congressional testimony, the future is in rail. I agree with him, but I also know that water investments go hand in hand with rail investments, and I am hoping you can give me a status update on the Port of Long Beach's deep draft navigation study.

The purpose of this feasibility study is to identify, evaluate, improve existing navigation channels within the Port of Long Beach, to improve conditions for current and future container and liquid bulk vessels operating safely, and especially in the event of vessel malfunction—

[Audio malfunction.]

Mr. LOWENTHAL [continuing]. Study is on track to receive a Chief's Report this fall. Is that true?

And can you tell me when we can expect your signature on this critical project document?

General SPELLMON. So, Congressman Lowenthal, I had the opportunity to visit the Port of Long Beach in January of 2019, so I acknowledge the importance of this report to the region.

The Chief's Report is scheduled to be on my desk in 90 days. I intend to sign that in September. And that will make that project eligible for Congress' consideration in WRDA 2022.

Mr. LOWENTHAL. Thank you, and I think that is a wonderful answer, and I yield back.

Mrs. NAPOLITANO. Thank you, Mr. Lowenthal, and I would now like Mr. Babin to go proceed.

Dr. BABIN. Yes, ma'am. Thank you so very much, Madam Chairwoman and Ranking Member Rouzer. Thank you to our witnesses for being here with us today.

General Spellmon, thank you for your service to our country, and I would like to commend you on your personal attention that you have given to my district and the State of Texas. Your leadership has not gone unnoticed, I promise you.

And Acting Assistant Secretary Pinkham, welcome to the Office of the Assistant Secretary of the Army for Civil Works. I look very much forward to working with you and your staff before and after you are confirmed. I would also like to personally extend an invitation to the Greater Houston area to you to view some of the great Corps projects that we have going on in southeast Texas, like the Port of Houston Channel improvement project in Galveston Bay, the Sabine coastal storm risk management ecosystem restoration

project. I was proud to work with Assistant Secretary R.D. James on several Texas issues, and look forward to now working with you on improving our port and water infrastructure.

I have the privilege of representing southeast Texas, from Houston over to Louisiana, which, in my district, includes four ports. And this past December I was honored to have helped lead the effort, alongside other Houston delegation members, to see through to the end the successful authorization and appropriation to dredge and widen the Houston Ship Channel in the Water Resources Development Act.

And to go even further, a few weeks later we were able to secure \$19 million and a New Start designation to begin construction of this project, which is a timeline very, very unusual to achieve. This was a very large, huge win, I think, for the country itself, considering that the Port of Houston is the number-one-ranked port in the Nation in total of waterborne tonnage, sustaining 3 million American jobs, \$802 million in U.S. economic value, and generating \$38 billion in Federal, State, and local tax revenues.

But before the Corps could begin construction, a project partnership agreement must be executed. It is my understanding that both parties are extremely close to finalizing that agreement. So, Secretary Pinkham, can you provide me an estimated date on when the project partnership agreement will be finalized?

And if there are any delays, will you commit to expediting the finalization of that agreement?

Expanding and enhancing all our ports here in Texas is a critical investment that is key to our global competitiveness.

[Pause.]

Dr. BABIN. Secretary Pinkham?

Mr. PINKHAM. Yes, thank you, Representative Babin. I am not that familiar with the project. We are happy to look into it, and look at what the timeline is ahead, and get back to you.

Also, thank you for your invitation to visit the Greater Houston area. I would like to take you up on your offer. And just for the record, I am the Acting Assistant Secretary of the Army, and we are working on the confirmation of Mr. Connor, who will come in, we hope, as the ASACW.

Dr. BABIN. Got you.

Mr. PINKHAM. But in the meantime, I would be happy—

Dr. BABIN. Got you. Thank you. Thank you very much.

And General Spellmon, it is my understanding that the Port of Corpus Christi's ongoing channel improvement project did not meet the required benefit-to-cost ratio for inclusion in the fiscal year 2022 President's budget. However, they could have been included in the budget, if the remaining funds of the \$154 million had been provided.

Was the Port of Corpus Christi's channel improvement project considered for inclusion in the fiscal year 2022 President's budget?

And if the port was considered, why was it not included in the budget?

Were there any other factors besides their benefit-to-cost ratio that led to the project's exclusion in the President's budget?

General SPELLMON. Sir, I can say, from a technical perspective, we report capabilities to the administration on work that we can

do on the upcoming fiscal year. The Corpus Christi project had a capability on the order of about \$155 million.

We acknowledge the importance of this port to the people of Texas and, frankly, to the Nation. And we want to finish everything that we start.

I will tell you that we will continue to make our strongest technical recommendations to continue this work.

Dr. BABIN. Absolutely. Thank you. And the Port of Corpus Christi, although not in my district, is extremely important, in terms of energy being brought out of our great State.

So with that, Madam Chair, I will yield back. Thank you very much.

Mrs. NAPOLITANO. Thank you very much, Mr. Babin. I appreciate you returning your time. Next we have Mr. Malinowski.

You may proceed.

Mr. MALINOWSKI. Thank you, Madam Chair, and thanks to our witnesses.

So Acting Assistant Secretary Pinkham, I wanted to start by just thanking you for the response that you sent to the letter that I sent you in late May, along with Senators Menendez and Booker, and Congressman Payne regarding our Rahway River flood risk mitigation study in my district in New Jersey. I think you probably know at this point how important this is to me and to my constituents, that we address the persistent flood risks in that area, and find a solution that will ultimately get this project into a Chief's Report.

And Lieutenant General Spellmon, you will remember, I think, that you and I discussed this at a Water Resources and Environment Subcommittee hearing way back in July of 2019. You and your colleagues have been hearing from my staff and from me regularly since then. And I know you are a Jersey native, so you know the area well, and understand the need. My constituents and I, as you know, we were disappointed that the Corps moved to terminate the study in 2019. We, of course, nullified that termination in the 2020 WRDA bill.

And, as you acknowledged in your letter, Assistant Secretary, the Corps confirmed its intention to resume the study, and we are very grateful for that.

So a couple of questions for Mr. Pinkham, and feel free to weigh in, if you like, General Spellmon, as well.

Just to put a finer point on your response to me earlier this week, can you reaffirm here your commitment to work closely and collaboratively with both the non-Federal sponsor and the local affected communities on a suitable path forward for this project, and to stay engaged until we have developed a solution?

Mr. PINKHAM. That is correct. And as I said in my opening statements, the foundations of our work are really built around partnerships. So I look forward to collaboration on this project.

Mr. MALINOWSKI. Good. And you noted in the letter that you sent on June 18th that, in accordance with WRDA, the Corps intends to resume the study. Can you offer us any more clarity today as to when?

WRDA was signed, I think, on December 27th of last year, so 6 months ago. And our communities are, naturally, quite anxious about this.

Mr. PINKHAM. Yes. Currently, we are working on the implementation guidance of the WRDA provisions, which we hope to be done by this August.

Mr. MALINOWSKI. OK, and can you confirm, finally, that the Corps has the necessary resources to proceed with the resumption of the study?

Mr. PINKHAM. I really don't know the particulars of that, but I will be happy to look into it.

Mr. MALINOWSKI. Good. If you can, get back to us.

And then, finally, broadening the discussion out from my district and my State, as you know, the committee, we recently advanced a very ambitious water infrastructure bill that, among other things, would invest \$40 billion over 5 years in the Clean Water State Revolving Fund, millions more in grants to municipalities for water projects around the country. I think there is bipartisan consensus that we have underinvested in our water infrastructure over many years, so it is a lot of money that we are proposing.

But I would note that the Corps has its own backlog of projects that have been authorized, but not funded. And I understand that backlog is around \$100 billion. Is that correct?

General SPELLMON. Sir, this is General Spellmon. That is correct, on the order of \$109 billion, across 963 projects.

Mr. MALINOWSKI. Good. And would you be able to enumerate for us—maybe not today, in our back and forth, but afterwards—the dollar amount that the Corps could execute for water resource development projects and studies over the next 5 to 8 years, if you had the funding, what your actual capacity would be?

General SPELLMON. Yes, sir. We can outline that for you, geographically and over time.

Mr. MALINOWSKI. That would be helpful.

And I will just close with the point we are authorizing a lot of money, and I strongly support the bill, but I think it is important for all of us and every American to understand that, even with the very generous amounts that we will hopefully be appropriating this year, there will still be deep, deep needs in our communities that may not be satisfied. And so let's be ambitious with this opportunity we have this year to pass a good bill.

Thank you so much. I yield back.

Mrs. NAPOLITANO. Thank you, Mr. Malinowski. You make a great point. And I have always said we need to stop using Band-Aid approaches, and be able to give enough funding to be able to get things done.

Mr. Westerman, you may proceed.

Mr. WESTERMAN. Thank you, Madam Chair, and thank you to General Spellmon and Acting Secretary Pinkham for being here today to discuss the proposed budget.

And before I begin questioning, I would like to acknowledge that the proposed budget does include \$149 million for the New Start construction for the Three Rivers project. And, as you all are aware, that project that is at the confluence of the Arkansas and Mississippi Rivers affects the whole MKARNS system, and all the States and groups that depend upon the MKARNS for navigation, as well as the flood control component of that. Another critical component that affects my State, as well as other States, is the

MKARNS project, and the President's budget includes \$56.1 million in operations and maintenance funding for the MKARNS. I believe this is low, but it is a start.

Congress made clear in the Water Resources Development Act of 2020 that I was—you know, enjoyed working with Chairwoman Napolitano on that. I thought we had a good bill, and we specified in there that the MKARNS does not require a New Start through the annual funding process. And I understand that the districts are updating the economic feasibility of the project, but what is the Corps' plan to resume construction of this project that, unbelievably, began in 2005?

General SPELLMON. Sir, this is General Spellmon. So I will tell you I have had the opportunity to visit this project in Three Rivers earlier this year, and we acknowledge it is important.

So we appreciate the support Congress gave us in the fiscal year 2021 work plan, that \$559,000. What we are doing with those funds, sir, we are investing them and ensuring our design is up to date, and our cost estimate is up to date. And once we have those two products, that will help us support our budgetary submission for consideration by the Secretary. And we are working on these actions now.

Mr. WESTERMAN. Thank you. We will, obviously, be monitoring that closely, and we are here to help with it however we can.

As I said previously, the President's budget proposal did include O&M funds above the fiscal year 2021 enacted level for the entire MKARNS. Arkansas projects are proposed to receive approximately \$1 million less in the proposed budget. And noting that MKARNS faces an approximately \$230 million critical infrastructure and maintenance backlog, and that this system has a responsibility to be maintained by the Federal Government, what is the plan to address the critical maintenance backlog on the MKARNS?

General SPELLMON. Sir, this is General Spellmon, I will start.

So my latest numbers show we have a \$245 million backlog on the system. And so, just for context, across the Nation on Corps projects, our O&M backlog is about \$4¼ billion.

I will say we appreciate the President's budget request, a record high for operations and maintenance funding, over \$4 billion. And that will help us immensely, both on the MKARNS and on other important projects that we have to bring down that backlog number.

Mr. WESTERMAN. Yes, so it is \$15 million more than the numbers we had. I think that shows how quickly this maintenance backlog is piling up.

So, General, what is the annual capacity for operations and maintenance on the MKARNS?

How much work could be done if the funding were available?

General SPELLMON. Sir, I don't have that number with me, but I can get that and follow up with you shortly after the hearing.

Mr. WESTERMAN. I appreciate that. My sources tell me that the capability is much higher than the amount of funding that is there, and we know that the longer we delay critical maintenance, that it increases the cost even more. So, coming from an engineering background, it just makes sense to me that we would spend money

wisely, that we would take care of maintenance issues before they became emergency issues.

I know this isn't unique just to the MKARNS, it is unique to the whole system. I think it is something that we need to focus more on in Congress. I think Chairwoman Napolitano and many others on the committee would agree to that, that it is a shame that we don't have the—it almost seems like we don't have the moxie to do the required maintenance that we need to do, whether that is funding, or getting projects approved, or actually getting execution on these projects.

So I wish you all the best. And again, this is a very important part of the President's budget. And I look to see good results coming from it.

I yield back.

Mrs. NAPOLITANO. Thank you, Mr. Westerman. And I sure miss you, sir.

The order next is Mr. Carbajal, Miss González-Colón, Mr. Stanton, Mrs. Steel, Mr. Cohen, Mr. Nehls, Mr. Brown, Ms. Norton.

Mr. Carbajal, you are next.

Mr. CARBAJAL. Thank you—

Mrs. NAPOLITANO. You may proceed.

Mr. CARBAJAL [continuing]. Chairwoman. Thank you, Chairwoman Napolitano.

And thank you, Lieutenant General Spellmon and Acting Secretary Pinkham, for being here. As you know, I represent the central coast of California, and we are all too familiar with the increased threats of climate change from increased wildfires, prolonged droughts, more severe flooding, and devastating debris flows. The central coast is all too familiar with this new reality.

Currently, we have various Army Corps projects that might bring some relief to my constituents as we deal with these new risks. San Luis Obispo County is having ongoing conversations with the L.A. District about potentially taking on ownership of the Salinas Dam. My understanding, from discussions with Colonel Julie Balten, overseeing the Los Angeles District, is that the dam is currently a military asset.

So a couple of questions. Do you see any obstacles to the transfer of the dam to the county of San Luis Obispo?

And two, is there legislation that I should consider in order to accomplish the goal of delegating authority and transferring the dam to San Luis Obispo County?

General SPELLMON. Congressman, my understanding on this process is the Corps would request to do a disposition study on this project. Again, this dam was built in 1942, over a 6-month period, and then transferred to the Corps 7 months later.

The purpose of the disposition study is to make sure that all parties have eyes wide open on the structural integrity of the dam, any seismic concerns, any environmental concerns, and let's have all that on the table, and then have that discussion.

Regarding legislative drafting services, sir, we have done this before on other parts of our infrastructure, and we would be happy to work with you after we get started on the disposition study, on what that legislative language might look like.

Mr. CARBAJAL. Thank you. I don't know, Acting Secretary Pinkham, if you have anything else to add.

Mr. PINKHAM. I have nothing to add, sir.

Mr. CARBAJAL. Thank you. Moving on, the Lower Mission Creek flood control project began as a partnership between the county of Santa Barbara and the Corps in the late 1960s. I am glad to see that the Corps is working with Santa Barbara County on a Post-Authorization Change Report to account for post-fire hazards and current construction performed by the county of Santa Barbara.

Would you be able to provide an update on where this project stands at this point?

General SPELLMON. Congressman, I can. Again, we appreciate Congress' support in the 2021 work plan. That \$500,000 allowed us to initiate the Post-Authorization Change Report that you just mentioned. We are in the President's fiscal year 2022 budget for \$600,000. That will allow us to complete the PACR report, and we estimate that will be an 18-month effort.

Again, we are here to update the economics, the benefits, and the costs, and then we would welcome the opportunity to keep you informed as we progress on that report.

Mr. CARBAJAL. Thank you, General, I appreciate your attention to this particular project in my district, and I look forward to continuing to work with your staff on this important project.

Thank you very much, Madam Chair. I yield back.

Mrs. NAPOLITANO. Thank you, Mr. Carbajal, very much appreciated.

Miss González-Colón, you may proceed.

Miss GONZÁLEZ-COLÓN. Thank you, Madam Chair, I am happy to be here. And thank you, as well, to the ranking member, and the witnesses and the work they do, and the information they provide to us.

I need to say that, in the case of the Army Corps of Engineers, it is an agency very close to me. The Army Corps team has been outstanding in Puerto Rico, and their leaders should be proud of them. They have truly delivered during the last 5 years that I have been working with them, and I need to do a shout-out to Mr. Tim Murphy of Jacksonville, and Milan Mora, as well, of the Jacksonville office, and Jorge Cruz, among many others from the Puerto Rico team, for their outstanding job.

And having said that, I would like to go directly to some of the questions.

One of the reasons that I am very worried is to see significantly lower numbers in both the investigations account and in the construction account. The investigations are essential to know where and how to proceed with construction. And construction, as you may know, is essential for the mission of protection of life and property. In our letters we had—we requested funding for the construction account at no less than the \$2.69 billion that was in the fiscal year 2021 enacted level. So we hope we can better approach that amount to ensure the Army Corps' mission capability.

Having said that, I know there is a strong demand for Army Corps construction projects in Puerto Rico, including my two priorities, the Caño Martín Peña ecosystem restoration project, and the San Juan Harbor navigation project. The first one is authorized to

address condition, channeling, the health and well-being of approximately 26,000 residents in 8 communities, the area's economic development, and critical infrastructure like the San Juan International Airport.

I have already called on the appropriators for funds for the first contract of the construction phase, which is shovel-ready, and the non-Federal sponsor has already met the real estate requirements, and yet, after 14 years of construction, has not commenced, despite repeated extensions of the authorizations of ecosystem restoration "new start." So that is one of the areas that I want to focus on.

Also critical for us is the San Juan Harbor navigation project, which I also brought up with appropriators, and this is our principal port, handling most of Puerto Rico's waterborne trade, and most of the cruise passengers to the island. It is also a key point of operation for the U.S.-flagged merchant fleet. And the project has the necessary Chief's Report. We are looking for it to be budgeted for a start, as well.

We also have issues with the coastal erosion, and I will submit for the record some comments regarding that. I would like—there was an initial study for the Rincón area. You know, the community doesn't just want to put a wall on those areas. It would rather protect the natural shoreline as much as possible. So I would like to be updated on those communications, and how we can make it easier.

So my question at this point, although I am going to submit some for the record, Madam Chair, is how we can help, from Congress, to those two projects, to move it forward, to get it included, what you need from us. What do you need from Congress? What do you need from the Government of Puerto Rico to make that happen?

And if I can count on reaching out to your office to work with the non-Federal sponsor to determine how we can best improve the outlook of—to get that started, the Caño Martín Peña, and if there are any issues that hinder its inclusion in the work plan under the construction account.

General SPELLMON. So, ma'am, this is General Spellmon. I will begin.

First off, I will tell you I will be in Puerto Rico next week. I am going to go walk, and see all of these projects again, and I will have a more detailed update after I am there.

I will tell you Congress is doing everything they need to be doing to help us. On Caño Martín ecosystem restoration project, the President's 2022 budget offers us \$2.15 million. We are going to use that to conduct preliminary engineering and design of the project, and that is an important prerequisite we need to have complete before we go back to the administration and request construction funding.

So, again, we want to complete the design, and then we will go ask for the construction dollars.

As you already know, the San Juan Harbor, we already have the money from Congress that was given to us in the 2019 work plan to complete preliminary engineering and design. That will be done next month. And then that will allow us to seek, in our next budget proposal to the Secretary, construction funding.

And ma'am, I just want to say we appreciate your leadership and passion for these projects.

Miss GONZÁLEZ-COLÓN. So I know my time expired, Madam Chair. I will submit for the record a list of other questions, and I hope we can see you next week in Puerto Rico.

I yield back.

Mrs. NAPOLITANO. Thank you, Miss González-Colón.

Mr. Stanton, you are recognized.

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

First let me address my questions to General Spellmon. General Spellmon, my home State of Arizona has a number of critically important ecosystem restoration and flood protection projects. But for far too long they haven't received the support that they need from the Corps. And as I have reviewed the budget proposal and previous work plans, it is clear to me that Arizona is not getting its fair share. This current budget proposes less than \$5 million for the entire State of Arizona, one of the most populous States in the country. And all of that funding is directed to operation and maintenance.

Sadly, it includes nothing to advance construction of the Little Colorado at Winslow flood protection project, nothing for ecosystem restoration projects, including Rio Salado, Tres Rios, and Rio Salado Oeste, and nothing to advance critical feasibility studies at Cave Buttes Dam and the Agua Fria Trilby Wash.

General Spellmon, will you commit today to working with me to address these glaring funding shortfalls, and help advance these and other critical Arizona water resource projects?

General SPELLMON. Congressman, yes, we will absolutely work with you.

One of the criteria that we use when we send our proposals to the Assistant Secretaries, we want to finish what we start. And certainly Tres Rios is a great example of that.

Mr. STANTON. OK, well, I appreciate that, although, unfortunately, the budget presented doesn't reflect that. But you are an honorable person. I take you at your word.

Mr. Pinkham, same question for you. Will you work with me and the Arizona delegation to address these glaring funding shortfalls for the State of Arizona?

Mr. PINKHAM. You have my commitment, sir.

Mr. STANTON. We have spoken at length previously about Tres Rios, an ecosystem restoration project along the Salt and Gila River corridors. That is only partially complete. And I am disappointed and frustrated that funds have not been allocated to complete the project's Post-Authorization Change Report. The 2020 WRDA directs the Corps to prioritize this report, and it is imperative that the Corps do just that.

With each passing day, we risk missing the chance, and yet another chance to adjust the project's 902 limit, which is necessary to complete its construction. General Spellmon, do you agree that the Corps should finish this project which it has started?

General SPELLMON. I do agree we should finish it. Sir, I am going to give you my humble assessment, and I may be wrong—

Mr. STANTON. Please.

General SPELLMON. I hope I am wrong. I think this project has an image problem because I have seen others like it across the Nation.

So first I will tell you that I have two non-Federal sponsors, the Gila River Indian Community and the city of Phoenix, and they both want different things, moving forward. So I told my team in the field, we have got to narrow that gap before we take our next proposal to the Secretary. And I have dug through this, because this has not seen Federal funding in some time. So I have dug through the budgetary documents.

And I will tell you, we are highlighting too many recreation components in this project, where we need to be focused on the Corps' mission of aquatic ecosystem restoration. I have asked my team to work with the non-Federal sponsors. Let's clean all of that up. And then, if we are offered a fiscal year 2022 work plan from Congress, we will put forth a better proposal to the Secretary.

Mr. STANTON. It is a critically important project to me, as a former mayor of Phoenix. I know, currently, to the city of Phoenix, to our nearby Tribal communities. But it has received funding and support, and we don't want that money to go to waste.

Mr. Pinkham, I am going ask you the same question. Should the Corps complete this critically important restoration project in Phoenix?

Mr. PINKHAM. Representative Stanton, like General Spellmon—and I am not as familiar with this project as he is, but certainly it would be something I will coordinate with him, to make sure that something is made possible to address the concerns you are raising.

Mr. STANTON. I appreciate that very much. We have advocated this for a long period of time, we have gotten verbal assurances. We have done our part to get the right language in the various reports, and now it is time for the Corps to do their part.

Another important provision in the 2020 WRDA is section 162, which ensures the Corps has the authority to review and modify the water control manual at Roosevelt Dam. With climate change expected to bring increased temperatures and higher precipitation variability on the Salt and Verde watersheds, both of which provide critically important water to the Greater Phoenix metro area, successful management will require existing water infrastructure operations to be adaptable. So I appreciate your team engaging with us on this, and ask you to keep me updated on its implementation.

And with that Madam Chair, I am about to run out of time, so I will yield back and submit my additional questions for the record, and hope to get responses in the near future.

Mrs. NAPOLITANO. Thank you very much, sir.

Mr. STANTON. Thank you.

Mrs. NAPOLITANO. Mrs. Steel, you are recognized.

Mrs. STEEL. Thank you very much, Chairwoman Napolitano and Ranking Member Rouzer, for hosting this hearing, and giving me time to speak about an issue that is incredibly important and urgent to Orange County.

Before being elected to Congress, I served on the Orange County Board of Supervisors. During my time on the board, I worked with the L.A. Army Corps District to fund and complete the Surfside-

Sunset and Newport Beach replenishment project on the Orange County coastline. This issue has a long history, but the short version is this: More than 60 years ago, the construction off the coast by the Federal Government narrowed our beaches. And in the time since, the coastline has eroded.

Erosion is a major safety issue, not to mention it is hurting our wildlife and our Orange County ecosystem. The Army Corps started fixing this damage by adding sand back to our beaches, but they stopped funding the project in 2000. My constituents feel abandoned by Army Corps. Every day this project goes unfinished, the taxpayers of Orange County are left on the hook to pay more, and are living in a higher risk of a natural disaster, causing major destruction and loss of life.

I have local resolutions and support letters from Orange County, Huntington Beach, Newport Beach, Seal Beach, and photos from the July 2020 Newport Beach flood I would like to submit for the record.

[The information follows:]

Local Resolutions from Huntington Beach, Seal Beach, and Newport Beach, California; Support Letters; and Photos from the July 2020 Newport Beach Flood, Submitted for the Record by Hon. Michelle Steel

RESOLUTION NO. 2021-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH REQUESTING THAT THE UNITED STATES ARMY CORPS OF ENGINEERS FUND AND IMMEDIATELY PROCEED WITH SURFSIDE-SUNSET BEACH NOURISHMENT PROJECT STAGE 13 FROM ANAHEIM BAY HARBOR TO NEWPORT BAY IN ORANGE COUNTY, CALIFORNIA

WHEREAS the longshore current carries beach sand southward along the California coast, nourishing the beaches of Orange County from Anaheim Bay Harbor through Huntington Beach to Newport Beach; and

Prior to onshore structural development between the San Gabriel River outlet and Newport Bay, local beaches received sand from flood runoff of the Los Angeles, San Gabriel, and Santa Ana Rivers; and

In 1942, the United States constructed jetties at Anaheim Bay to serve the Seal Beach Naval Weapons Station, adjacent to Surfside Beach. Waves reflected off the East Jetty combine with ocean waves, causing strong, localized southward-flowing longshore currents near the jetty. These currents cause severe down coast erosion at both Surfside Beach in Seal Beach, and Sunset Beach in Huntington Beach. In response, and without any formal Congressional action, the Army Corps of Engineers initiated beach replenishments in 1945, 1946 and 1956; and

The Army Corps conducted studies and issued a Report (House Document 602, October 2, 1962) identifying three causes of Orange County beach erosion: (1) the jetties at the entrance to Anaheim Bay; (2) flood-control structures constructed on the Los Angeles, San Gabriel, and Santa Ana rivers reducing sand delivery; and (3) construction of the Los Angeles/Long Beach breakwater system further altering and exacerbating the local sediment transport processes. The Army Corps acknowledged that all three causes of beach erosion were the result of the Federal government's own actions. Accordingly, the Army Corps recommended that the Federal Government provide sixty-seven percent (67%) of the cost of initial deposition of sand, with periodic beach nourishment. Congress authorized the Report's recommendations through the 1962 River and Harbor Act, Public Law 87-874, which the President signed; and

From 1964 through 1997, Beach Nourishment Stages 1 through 10 were completed. For 32 years, the Army Corps Commander considered beach nourishment a mandatory requirement. However, in 1995, the Army Corps began a phase-out of nourishment without regard to its past practice that nourishment was unique and necessary. Nourishment Stage 11 was completed in 2001, and Stage 12 was not completed until 2009; and

On April 2, 2018, the City of Huntington Beach and the County of Orange executed an Agreement For Construction of Periodic Nourishment Of the Orange County Beach Erosion Control Project Stage 13, in which the City agreed to contribute \$281,966 towards Stage 13 construction. The State of California, the City of Newport Beach and others will provide additional contributions; and

In September 2018, the Army Corps issued a Draft Environmental Assessment for Nourishment Stage 13, indicating the project would begin in the winter of 2019, and that Stage 14 would occur in 2023. The Environmental Assessment acknowledged that Stages 13 and 14 were required pursuant to the 1962 act of Congress, Public Law 87-874, and that "Federal authority directs the Corps to nourish the beaches between the Anaheim Bay jetties and the Newport pier;" and

If nourishment is discontinued, Orange County beaches will erode, reducing recreation opportunities and protection of shoreline facilities from of storm damage; and

Despite the warning that failure to nourish local beaches would not only reduce recreation opportunities but also expose property to storm damage, the Army Corps has failed to fund the Nourishment Stage 13 for 11 years, and shows no signs of pursuing it;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

1. The City Council finds all of the above Recitals true and correct.
2. The City Council urges the U.S. Army Corps of Engineers, South Pacific Division Los Angeles District to immediately fund and proceed with Surfside-Sunset Beach Nourishment Project Stage 13.
3. The City Council directs the City Clerk to forward this Resolution to Lt. Gen. Scott A. Spellmon, Commanding General of the U.S. Army Corps of Engineers, Gen. Paul E. Owen, Commander of the U.S. Army Corps of Engineers South Pacific Division, and Col. Julie Balten, Los Angeles District Commander.
4. The City Council directs the City Manager and the City Director of Public Works, or their designees to meet directly with Colonel Balten, and take all other actions reasonable and necessary to ensure that Nourishment Stage 13 proceeds immediately in 2021, and Stage 14 occurs within two years of the completion of Stage 13.
5. PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 19th day of April, 2021.

REVIEWED AND APPROVED:

City Manager

Mayor

INITIATED AND APPROVED:

Director of Public Works

APPROVED AS TO FORM:

City Attorney

STATE OF CALIFORNIA
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, ROBIN ESTANISLAU, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a Regular meeting thereof held on April 19, 2021 by the following vote:

AYES: Peterson, Kalmick, Ortiz, Carr, Posey, Moser, Delgleize
NOES: None

ABSENT: None
 ABSTAIN: None

ROBIN ESTANISLAU,
*City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach,
 California.*

RESOLUTION 7144

A RESOLUTION OF THE SEAL BEACH CITY COUNCIL REQUESTING THE UNITED STATES ARMY CORPS OF ENGINEERS FUND AND PROCEED WITH SURFSIDE-SUNSET BEACH NOURISHMENT PROJECT STAGE 13 FROM ANAHEIM BAY HARBOR TO NEWPORT BAY IN ORANGE COUNTY, CALIFORNIA

WHEREAS, the longshore current carries beach sand southward along the California coast, nourishing the beaches Orange County from Anaheim Bay Harbor to Newport Beach; and,

WHEREAS, prior to onshore structural development between the San Gabriel River outlet and Newport Bay, local beaches received sand from floor runoff of the Los Angeles, San Gabriel, and Santa Ana Rivers; and,

WHEREAS, in 1942, the United States constructed jetties at Anaheim Bay to serve the Seal Beach Naval Weapons Station, adjacent to Surfside Beach. Waves reflected off the East Jetty combined with ocean waves, causing strong, localized southward-flowing longshore currents near the jetty. These currents cause severe down coast erosion. In response, and without any formal Congressional action, the Army Corps of Engineers (Army Corps) initiated beach replenishment in 1945, 1946, and 1956; and,

WHEREAS, the Army Corps conducted studies and issued a Report (House Document 602, October 2, 1962) identifying three causes of Orange County beach erosion:

1. The jetties at the entrance in Anaheim Bay.
2. Flood-control structures constructed on the Los Angeles, San Gabriel, and Santa Ana rivers reducing sand delivery.
3. Construction of Los Angeles/Long Beach breakwater system.

The Army Corps acknowledged that all three causes of beach erosion were the result of the Federal Government's own action. Accordingly, the Army Corps recommended that the Federal Government provide sixty-seven percent (67%) of the cost of initial deposition of sand, with periodic beach nourishment. Congress authorized the Report's recommendation through the 1962 Rivers and Harbor Act, Public Law 87-874, which the President signed; and,

WHEREAS, from 1964 through 1997, Beach Nourishment Stages 1 through 10 were completed. For 32 years, the Army Corps Commander considered beach nourishment a mandatory requirement. However, in 1995, the Army Corps began a phase-out of nourishment without regard to its past practice and Congressional declaration that periodic nourishment was unique and necessary.

Nourishment Stage 11 was completed in 2001, and Stage 12 was not completed until 2009; and,

WHEREAS, in September 2018, the Army Corps issued a Draft Environmental Assessment Nourishment Stage 13, indicating the project would begin in Winter 2019, and that Stage 14 would occur in 2023. The Environmental Assessment acknowledged that Stages 13 and 14 were required pursuant to the 1962 Act of Congress, Public Law 87-874, and that "Federal authority directs the Corps to nourish the beaches between the Anaheim Bay jetties and the Newport Pier;" and,

WHEREAS, if the nourishment is discontinued, Orange County beaches will continue to erode as a result of federal actions, reducing recreation opportunities and protection of shoreline facilities from storm damage; and,

WHEREAS, despite the warning that failure to nourish local beaches would not only reduce recreation opportunities but also expose property to storm damage, the Army Corps has failed to fund Stage 13 for 11 years.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEAL BEACH DOES HEREBY RESOLVE:

Section 1. The City Council finds all of the above Recitals true and correct.

Section 2. The City Council urges the United States Army Corps of Engineers, South Pacific Division Los Angeles District to immediately fund and proceed with Surfside-Sunset Beach Nourishment Project Stage 13.

Section 3. The City Council hereby directs the City Clerk to forward this Resolution to the United States Army Corps of Engineers.

Section 4. The City Council hereby directs the City Manager to take all other reasonable actions necessary to ensure Surfside-Sunset Beach Nourishment Project Stage 13 proceeds immediately after the Army Corps of Engineers acts to fund it.

PASSED, APPROVED AND ADOPTED by the Seal Beach City Council at a regular meeting held on the 26th day of April, 2021 by the following vote:

AYES: Council Members: Kalmick, Massa-Lavitt, Moore, Sustarsic, Varipapa
 NOES: Council Members: None
 ABSENT: Council Members: None
 ABSTAIN: Council Members: None

JOE KALMICK,
Mayor.

ATTEST:
 GLORIA D. HARPER,
City Clerk.

STATE OF CALIFORNIA }
 COUNTY OF ORANGE } SS
 CITY OF SEAL BEACH }

I, Gloria D. Harper, City Clerk of the City of Seal Beach, do hereby certify that the foregoing resolution is the original copy of Resolution 7144 on file in the office of the City Clerk, passed, approved, and adopted by the City Council at a regular meeting held on the 26th day of April, 2021.

GLORIA D. HARPER,
City Clerk.

RESOLUTION NO. 2021-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, REQUESTING THAT THE UNITED STATES ARMY CORPS OF ENGINEERS FUND AND IMMEDIATELY PROCEED WITH SURFSIDE-SUNSET BEACH NOURISHMENT PROJECT STAGE 13 AND PRIORITIZE ALL FUTURE BEACH NOURISHMENT PROJECTS FROM ANAHEIM BAY HARBOR TO NEWPORT BAY IN ORANGE COUNTY, CALIFORNIA

WHEREAS, the longshore current carries beach sand southward along the California coast, nourishing the beaches of Orange County from Anaheim Bay Harbor through Huntington Beach to Newport Beach;

WHEREAS, the construction of engineered flood control structures between the San Gabriel River and Newport Bay have prevented the natural transportation of sediment and sand from the Los Angeles, San Gabriel and Santa Ana rivers, which would otherwise, naturally replenish sand depleted by winter storms and other naturally occurring sand depletion actions;

WHEREAS, in 1962, the United States Congress passed the Rivers and Harbors Act, Public Law 87-874, which required the Army Corps of Engineers ("Army Corps") to address the impacts of flood control structures on natural sand deposits;

WHEREAS, the Army Corps studied and issued House Document 602, October 2, 1962 which led to beach nourishment projects wherein sand was imported onto beaches where sand depletion was occurring;

WHEREAS, from 1964 through 1997, Nourishment Stages 1 through 10 were completed, however, since 1995 the Army Corps began a phase-out of nourishment projects;

WHEREAS, Nourishment Stages 11 and 12 were completed in 2001 and 2009, respectively;

WHEREAS, on December 13, 2016, the City of Newport Beach ("City") and County of Orange entered into an Agreement for Periodic Nourishment of the Orange County Beach Erosion Control Project Stage 13, in which the City agreed to contribute \$158,601 towards Nourishment Stage 13 with additional funding from the State of California, City of Huntington Beach and others contributors;

WHEREAS, in September 2018, the Army Corps prepared a Draft Environmental Assessment for Nourishment Stage 13 which acknowledged that Nourishment Stages 13 was required pursuant to the Rivers and Harbors Act, Public Law 87-874 and projected Nourishment Stages 13 and 14 would begin in 2019 and 2023, respectively;

WHEREAS, despite the warning that failure to nourish local beaches would not only reduce recreation opportunities but also expose property to storm damage, the Army Corps has not funded the Nourishment Stage 13 for 11 years, and shows no signs of pursuing future nourishment projects; and

WHEREAS, if Nourishment Stages 13 and other future nourishment projects are discontinued, Orange County beaches will erode and, consequently, reduce recreation opportunities and protection of shoreline facilities from storm damage.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council does hereby urge the U.S. Army Corps of Engineers, South Pacific Division Los Angeles District to immediately fund and proceed with Surfside-Sunset Beach Nourishment Project Stage 13.

Section 2: The City Clerk shall forward this resolution to Commanding General of the U.S. Army Corps of Engineers Lieutenant General Scott A. Spellmon, Commander of the U.S. Army Corps of Engineers South Pacific Division General Paul E. Owen, and Los Angeles District Commander Colonel Julie Balten.

Section 3: The City Manager and the Public Works Director, or their designees, may meet directly with Colonel Balten or her designee and take all other actions reasonable and necessary to ensure that Nourishment Stage 13 proceeds immediately in 2021, and for Nourishment Stage 14 to occur within two years of completion of Nourishment Stage 13.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 27th day of April, 2021.

BRAD AVERY,
Mayor.

ATTEST:

LEILANI I. BROWN,
City Clerk.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

AARON C. HARP,
City Attorney.

SUPPORT LETTERS

APRIL 22, 2021.

The Honorable MICHELLE STEEL,
United States House of Representatives,
1113 Longworth House Office Building, Washington, DC 20515.

Re: Surfside Sunset Beach Nourishment Project Stage 13 Funding Request—SUPPORT

DEAR CONGRESSWOMAN STEEL,

On behalf of the Orange County Board of Supervisors, I write to express my strong support for the Surfside Sunset Beach Nourishment Project Stage 13 to receive community project funding. This collaborative project will directly serve the residents of the County of Orange by reducing severe beach erosion and allowing for habitat and wildlife preservation along our coast.

This sand nourishment project will alleviate the beach erosion problem caused by flood control and water conservation along the Los Angeles, San Gabriel, and Santa Ana Rivers, general navigation improvements in Long Beach and federal jetties that are constructed at the entrance to Anaheim Bay.

The project consists of periodic beach nourishment through construction of a feeder beach at Surfside/Sunset and includes back-passing of sand to fill in the cells of the Newport Beach groin field which was constructed during the earlier stages of this project. These beach nourishment projects were authorized by Section 101 of the Rivers and Harbors Act of 1962 and were slated to be conducted every five years. To date, there have been 12 stages of beach nourishment projects since 1964, with the latest Stage conducted in 2010. The impacted cities and the County have been prepared to provide our share of the local matching funds since this project was scheduled to commence in 2018.

Thank you for continuing to advocate for the Surfside Sunset Beach Nourishment Project as a project to receive community project funding. This project impacts the entire region and has strong benefits to the taxpayers of Orange County and for these reasons, the Orange County Board of Supervisors enthusiastically supports this budget request. If you have any questions, or would like more information, please contact Peter DeMarco, Director of Legislative Affairs.

Sincerely,

ANDREW DO,

Chairman, Orange County Board of Supervisors, Supervisor, First District.

cc: Members, Orange County Board of Supervisors
Frank Kim, County Executive Officer
James Treadaway, PE & SE, Director-OC Public Works

MAY 13, 2021.

Hon. Representative MICHELLE STEEL,
17011 Beach Boulevard, Suite 570,
Huntington Beach, CA 92647.

Re.: Stage 13 Surfside-Sunset Beach Sand Replenishment Project—SUPPORT

The Independent Special Districts Association of Orange County (ISDOC) writes to express its full support for the federal funding and scheduling of the crucial Stage 13 Surfside-Sunset Beach Sand Replenishment Project, with work to be conducted, per prior precedent, by the U.S. Army Corps of Engineers ("USACE").

As a nonprofit membership association, ISDOC represents the interests of and provides advocacy for Orange County's 27 independent special districts, including the Surfside Colony Storm Water Protection District, that provide essential government services to Orange County's coastal and other communities.

Sand replenishment to protect 12 miles of coastline from the impacts of currents, sea-level rise, and waves has not happened since 2010. The area's sand erosion, caused by multiple U.S. Government actions and compounded by natural forces, is threatening the area's beaches, public health and safety, property values, recreation, and tourism so vital to our region's economy. The situation is dire—1.9 million cubic yards of sand is urgently needed to shield the area's beaches from further damage.

ISDOC would greatly appreciate your assistance in petitioning the federal government to immediately fulfill its obligations to the Stage 13 Surfside-Sunset Beach Sand Replenishment Project by allocating funds and scheduling the USACE to conduct this work as soon as possible.

If you have any questions about this letter, please feel free to call me. Thank you for your time and consideration of this request.

Sincerely,

MARK MONIN,

ISDOC President and Director, El Toro Water District.

c: City of Huntington Beach Mayor Kim Carr
City of Newport Beach Mayor Brad Avery
City of Seal Beach Mayor Joe Kalmick

County of Orange, 2nd District Supervisor Katrina Foley
ISDOC Executive Committee and Member Agencies
Orange County Congressional Delegation
Orange County State Legislative Delegation
Orange County Council of Governments Chair Trevor O'Neil
USACE Los Angeles District Commander Col. Julie Balten

NEWPORT BEACH FLOODING—JULY 4, 2020











Mrs. STEEL. As we speak, my district is bracing for extreme high tides that could hit Newport Beach any time. My constituents are fearing another flood like last July's that inundated streets and drenched homes and businesses along the Balboa Peninsula. Newport Beach has already closed the beach parking lot to protect its visitors and residents. Last year, COVID kept the beaches closed, but now thousands have returned to the area, leaving the risk much higher. City workers are raising sand berms on the Balboa Peninsula and handing out sandbags to residents hoping to avoid flood brought by high waves last Fourth of July.

I requested General Spellmon for a meeting 3 weeks ago, and am still waiting patiently, waiting for a reply to set up a meeting. I look forward to sharing these documents with you at our meeting.

So you, General Spellmon, you will continue to hear a lot from me about this project. In your testimony today you said the Corps focuses on work that provides the highest economic, environmental, and public safety returns to the Nation, and helps communities respond to and recover from flood and other natural disasters.

In 2018, an estimated 3.74 million tourists spent \$565 million while visiting Huntington Beach. Newport Beach had 7.3 million visitors who spent \$1.2 billion, which supported 16,828 jobs in Orange County. In July 2020, Newport Beach saw strong ocean waves overpower the coastline, and flood surrounding areas including neighborhoods and automobiles. Officials had to rescue over 100 people.

So my question is, with a lack of action by Army Corps to fund these critical projects, man-made, Government-made erosion has continued to reduce the shoreline and create new and enhanced liabilities. Are you concerned with the heightened risk of safety

issues, including loss of life and cost to municipalities if these floods continue?

The extreme high tides are coming now. As we speak, the local officers have shut down the parking lots. When a storm comes in and business is washed away, who will be held responsible?

General SPELLMON. So, ma'am, this is General Spellmon.

First of all, I will tell you that—thank you for the invitation to meet with you, and I will have my team set that meeting up as soon as possible. I look forward to discussing this with you.

What you are describing in Orange County is not unique to this part of California. We see this coastal erosion across the Nation. We see it on the Great Lakes, we see it on our inland waterways. And as you heard me say in previous testimony, the backlog for the Corps' operation and maintenance program today is about \$4¼ billion.

So we are going to continue to make our best recommendations to the Secretary to get after these issues. Certainly, life safety is the first priority, the first criteria we use when we rack and stack these projects and take our proposals. But, ma'am, I look forward to working with you in more detail on this, and I look forward to our office call.

Mrs. STEEL. I would love to look at the budget, because, General Spellmon, I have more questions, and, actually, I have more—

Mrs. NAPOLITANO. The gentlewoman's time has expired.

Mrs. STEEL. My time has expired, I know. So I am going to do everything in writing, and I will submit in writing all of these questions.

Thank you.

Mrs. NAPOLITANO. Thank you very much, Madam.

Mr. Cohen, you are recognized, 5 minutes.

Mr. COHEN. Thank you, Madam Chair.

Firstly, I would like to discuss a strictly local issue, the Byhalia pipeline, with Mr. Pinkham.

Mr. Pinkham, we have talked about this, and I appreciate your time, and I look forward to working with you on this. The Byhalia crude oil pipeline goes through low-income, African-American communities that have been burdened with a lot of industrial pollutants for years. One of the representatives of the pipeline company called this the "point of least resistance," and the city of Memphis, many, many people in the city of Memphis are up in arms about it, feeling that this is wrong, to put another potentially hazardous facility project, which could leak into our aquifer, through this community, and jeopardize the drinking water from the well field that goes through this community.

The Army Corps permitted the construction through the 2017 version of a nationwide permit, NWP 12. The Corps is committed to an environmental policy and being a good partner in the environment, and yet this project has not taken into consideration community issues.

As the Corps is committed to securing environmental justice—
[Inadvertent interruption by unmuted committee member.]

Mr. COHEN [continuing]. The Corps has an obligation to consider those effects now for this community.

[Inadvertent interruption by unmuted committee member.]

Mr. BROWN. Representative Steel, please mute your mic, Representative Steel.

Mr. COHEN. Mr. Pinkham, are you there?

Mr. PINKHAM. I am here, Representative Cohen.

Mr. COHEN. Yes, sir.

Mr. PINKHAM. OK. Well, thank you for your letter, and also thank you for taking a call from me to discuss this project. And you are right. And I have shared with the Corps leadership that I would be working on taking a review of the Byhalia project. And you are right, there are some concerns about the environmental justice, what are the impacts to the groundwater, the water that the community relies on. And those are two concerns that I don't take lightly.

I am still taking a look at the project. I got a briefing from the Corps of Engineers, and I would like to arrange an opportunity for a followup conversation as we look at what our options are ahead.

Mr. COHEN. Thank you very much. This is an important issue, and I appreciate your interest. And the people in Memphis [inaudible] they did their job, but they didn't necessarily look at the environmental justice that the Corps looks at.

Another issue in Memphis is Tom Lee Park, and the Corps helped create Tom Lee Park in the 1980s, with work on the bluff. Now we are looking at making it into one of the finest urban parks in the country, and giving a lot of low-income people access to a park where they can enjoy the river, and get outside, and enjoy the nature.

We have applied for a—we have got a section 408 permit which has been submitted, and I would like to offer my strong support for the issuance of that permit as soon as possible, so construction can begin. And you can help us with that project.

Got your support?

General SPELLMON. Sir, this is General Spellmon. First, I have been to Tom Lee Park, and acknowledge—and had a great briefing from our team out there. But yes, absolutely, we look forward to working with the community on this 408 permission.

Mr. COHEN. Thank you, sir.

Mr. Lyash, I have got a few questions for you. And I appreciate your service and your earlier remarks.

You emphasized in your written material TVA's interest in helping work on the environment, and how much nuclear is a part of that, and how much nuclear is a part of TVA. Modular nuclear can help, but we have got this big plant, which we have talked about at length, down in Alabama and Bellefonte, that if we allow it to be—attempt to be reconstructed and put back into use, we can take \$10 billion of TVA assets and put them to use, and really help the economy in Alabama, and help Memphis citizens with the utility rates.

Can you give me any hope that you will work with Nuclear Development to try to come up with a solution that helps both the people of Alabama who need that economic incentive, and the people of Memphis who need lower utility rates, and the whole people and the TVA and the country that need more energy sources that are not pollutants, like the coal plants have been in the past?

Mr. LYASH. Yes, thank you, Congressman. As you have pointed out, TVA is committed to driving down our greenhouse gas emissions, while at the same time maintaining low prices, high reliability, and high resiliency. And there are many facets of doing that, including integration of a significant amount of renewable storage and other technologies.

But you are correct. We believe preservation and extension of our existing nuclear fleet, and construction in the near term, and construction of new nuclear in the long term—2030s into 2040s—has got to be a part of that solution.

Our strategy in nuclear focus is on extending the lives of our current fleet, upgrading them to get more from them, building white-water small modular reactors and advanced modular reactors that can be replicated across TVA, and perhaps across the country or the world.

We evaluated completing the Bellefonte plant. And our decision, as an entity, was that it was neither cost effective nor in the interests of our customers to do so, to invest in that 60-year-old technology. Rather, more cost effective to invest in new nuclear technologies.

We are, as you know, we are currently in litigation with Nuclear Development, who had a contract to purchase that plant, but didn't meet the conditions to close. And it would have been illegal for us to close. That lawsuit is pending, so I need to refrain from commenting on it, but I—

Mr. COHEN. Let me interrupt you just a second, which I hate to do, because you were so kind to me in your earlier remarks, but I have limited time. Hopefully, you can resolve that. It does seem like Bellefonte is a place that could be really important for everything you stand for.

But another thing is the coal ash in Memphis. We talked about that, too. And you promised me you are going to do what you can to remove the coal ash at the Allen Steam Plant, which caused, by the way, a lot of the problems with people in Boxtown, in that district I talked about, Byhalia. They have Valero Oil and the TVA coal plant. They have four times the cancer of people, other people in similar conditions. It is partly because of that.

Can you not expedite the removal of that coal ash? Because it affects our Memphis aquifer, as well, and it affects the people in that neighborhood.

Mrs. NAPOLITANO. The gentleman's time has expired.

Mr. COHEN. Can he answer the question?

Mrs. NAPOLITANO. Yes.

Mr. COHEN. Thank you, ma'am.

Mr. LYASH. Thank you, ma'am.

Yes, Congressman. It is a top priority for us to safely and effectively dispose of that coal ash by removing it and moving it to a licensed landfill. And we are committed to mitigate groundwater contamination that may be there as a result of the coal ash, and restore that site to a good purpose, economic development for that community.

Beginning in late July, after we finish our permitting process with TDEC and EPA, we will begin moving that ash out of there by truck. We will be transporting 120 trucks a day, and moving

that out as quickly as we can safely do so. And you have my commitment that we will work that project until it is acceptably complete.

Mr. COHEN. Thank you, sir.

And thank you, Madam Chair. I yield back the balance of my time.

Mrs. NAPOLITANO. You are very welcome, sir.

Mr. Nehls is followed by Mr. Huffman, Ms. Norton, and Mr. Brown.

Mr. Nehls, you may proceed.

Mr. NEHLS. Thank you, ma'am. I would like to thank General Spellmon and Secretary Pinkham for being here.

I know that you have heard from many of my colleagues, many of them sharing with you stories, issues that need to be addressed. And I feel certain that you are taking each and every one of their concerns very seriously.

I represent Southwest Houston in the great State of Texas, and if you—I feel certain both you gentlemen are familiar with a storm we had reach our shores in Texas called Harvey, just a few years ago. I was then the county sheriff for Fort Bend County, and I spent an enormous amount of time, several days, addressing issues related to homes that had water up to their cupboards. We lost life. We had people that were just devastated by Hurricane Harvey.

I don't feel I need to have any type of static displays behind me, pictures of Harvey. I am sure that you are very familiar with the devastation, the devastation that that storm caused Southwest Houston and really, quite honestly, most of the State of Texas.

So now it is my job, as a Member of Congress, to try to help those people, the people that have been flooded. I can assure you that the water in the streets have receded today, but I will guarantee that the floodwaters are still in the minds of many of those that lost everything.

So now it is my time. It is an attempt for me to work with you all, work with the local county officials and everyone else, to find a solution to make sure it doesn't happen again. So I am working with the Willow Fork Drainage District and Fort Bend County Drainage District to prevent upstream flooding of my constituents, so that the devastation of Hurricane Harvey does not repeat itself. Because we need both improved storage capacity in Barker and Addicks Reservoirs, and greater conveyance out of the reservoirs. I am closely following the solutions that will provide these flood mitigation improvements, and help finish the job of the Corps' 1940 Flood Protection Plan for Houston.

I am a big proponent of Willow Fork Drainage District's pilot program—again, this is a pilot program—otherwise known as the Barker Reservoir flood risk reduction and park project, which begins the process of creating the much-needed additional storage in Barker Reservoir. But we cannot stop with this one project. Other areas within Barker and Addicks need to be scoped for similar projects in order to affect the regional flood management benefit.

So my question for the good general here is has the Corps commenced an amendment to the master plan for the Barker and Addicks Reservoirs that would identify locations where more stor-

age can be created to increase capacity for the purpose of protecting upstream property owners?

General SPELLMON. Yes, Mr. Nehls, I will get an answer for you. I am not sure. I don't know the answer to that.

I am familiar with the pilot. I was just down at Addicks and Barker here in the last couple of months. So I do understand the approach that we want to take here.

I would just tell you that we are going back to the Secretary for some more time on this particular investigation. We could not reach agreement with our non-Federal sponsors on an upstream approach, nor a downstream approach. We have been asked to take a look at the feasibility of a tunneling option to improve conveyance from the reservoir out to the Galveston Bay. So that work is ongoing. The technical analysis here is ongoing, and we are going to go to the Secretary once we know a bit more from our partners, and ask for a bit more time, and do some additional analysis on this other conveyance option.

Mr. NEHLS. Well, thank you, General. I just want to let you know that I know that there are a lot of discussions, and I have to tell you the people want to see action. They want to see their Government do everything they can to help protect them. God forbid we ever have another rain event like we had with Harvey.

So I am just saying that there has got to be some solutions to this. I am going to continue to reach out to you and your team to try to find some answers and at least get the ball rolling. We can't sit on our hands. We are one storm away from devastation again, and we have to do everything we can to find a way to reduce some of this flood mitigation. And I would appreciate your support. So thank you again—

General SPELLMON. Yes, sir.

Mr. NEHLS [continuing]. For being here.

General SPELLMON. I assure you, no one is sitting on their hands, sir.

Mrs. NAPOLITANO. Do you yield back, sir?

Mr. NEHLS. That I do. Thank you, ma'am.

Mrs. NAPOLITANO. You are very welcome, and thank you very much.

The order of speakers: Huffman, Norton, and Brown.

Mr. Huffman, you are recognized.

Mr. HUFFMAN. Thank you, Madam Chair.

And Secretary Pinkham and General Spellmon, let me just say I appreciate the amount of preparation that surely both of you had to undertake to get ready for this hearing, because every member of this committee is going to take you on a deep dive on the high-priority, critical infrastructure projects in their district. And I am in awe of your ability to keep up with all of that, and have thoughtful, in many cases, quite responsive things to say in response to each of us. So thank you for that.

This budget request, in my view, is a real win for the American people. And I think it is up to Congress now to deliver on the ambition of this budget request. We are talking about the largest ever request by any administration for the Army Corps of Engineers, the largest ever proposed transfer from the Harbor Maintenance

Trust Fund. These are things that, not only represent a historic investment in our Nation's ports, harbors, and waterways.

This isn't just an abstract amount. In many cases, this determines whether, certainly, small ports, like the ones in my district, are even going to be ports, because if we don't get our critical maintenance dredging, you don't have ports in places like this. So I am talking about facilities like the San Rafael Canal, which I am going to ask you about in a moment.

But I am also hopeful, in spite of the things I certainly liked in this budget, that the Corps will move ahead with the second phase of the Hamilton Wetlands restoration project, another priority in my district. Restoring wetlands and creating a natural habitat for endangered species, these are investments that are going to help modernize—that are definitely needed in my district.

And then another one is investments in modernizing the operations of Lake Mendocino and Lake Sonoma to conserve more water, because you know about the critical drought conditions that we are facing.

Anyway, it is a long list, and these budget items are not abstract numbers. They make a huge difference for communities, and for the people that many of us represent.

So, Secretary Pinkham, let me take you to San Rafael and ask you about the San Rafael Canal. This channel was last fully dredged in 2002. Today we have incidents of boaters becoming stuck in sediment that are just increasingly common. Marina operators can't even rent slips anymore because access is totally dependent on tides.

Now, the President's budget does request \$6.75 million for this project. That is really important. But some of the estimates for a full dredge are significantly higher than that. So I want to just ask you about whether you believe that that amount is sufficient to completely dredge the San Rafael Canal and, if there are any shortfalls, whether you will commit to working with Congress on additional funding, as needed, to make sure we get the job done.

Mr. PINKHAM. Representative Huffman, I am not familiar with San Rafael and the issues that you are facing, and certainly, if there are additional resources, and it is within the Corps' capacity, I would be happy to work with General Spellmon on—if we can get additional resources to do the work, to do it right.

Mr. HUFFMAN. All right. I appreciate that. I will now ask you about Lake Mendocino and Lake Sonoma. Their operations are really important for the entire Russian River Basin, which is in critical drought conditions right now.

Over the last few years the Corps has worked with a range of stakeholders, including Sonoma Water, to look at updating operations of these reservoirs with forecast-informed reservoir operations, something I have been supporting for many, many years. And I am very pleased to see that the Corps is finally moving ahead with updating the water control manuals necessary to change operations, and ensure that we are operating these reservoirs with the best available science.

In the budget justifications, though, the Corps outlined completing the update of the manual at Dry Creek, which is Lake Sonoma. There is an \$800,000 request for that. However, it was si-

lent on Lake Mendocino, Coyote Valley Dam, which is, frankly, well ahead of most other projects, in terms of incorporating FIRO. And I just wanted to ask if you could confirm that, notwithstanding the absence of a specific justification for that, that the intent of the Corps is to finish and update both sets of manuals.

General SPELLMON. Sir, if that question is to me, we are in the President's budget for 2022 for \$860,000 to complete the Lake Sonoma water control manual. And, as you said, that should be complete within a year. And we are going to apply everything we learned through the FIRO pilot, as you said, a great program.

And we have what we need to do the Lake Sonoma water control manual in the President's budget request, as well.

Mr. HUFFMAN. Terrific. That is great to hear. Thank you, General.

And lastly, I just want to talk about an exciting project in my district, Hamilton Wetlands restoration. I see that my time has expired, but the Corps has come a long way with this project. It is time now to move on to the next phase. And I hope I can have a conversation with you, General, about matching this significant State and local funding that has been made available to complete that phase. It is a really wonderful, multibenefit project that I think we will all be very proud of.

Mrs. NAPOLITANO. Yield back?

Mr. HUFFMAN. Thank you, yield back.

Mrs. NAPOLITANO. Thank you, Mr. Huffman.

Ms. Norton, you are recognized.

[No response.]

Mrs. NAPOLITANO. Ms. Norton, you are recognized.

Ms. NORTON. Did you call on me?

Mrs. NAPOLITANO. Yes, I did. You are recognized, Ms. Norton.

Ms. NORTON. I can't hear you.

Mrs. NAPOLITANO. I don't know, but—

Ms. NORTON. Wait a minute.

Mrs. NAPOLITANO. We can hear you.

Ms. NORTON. Wait a minute, I am sorry.

Mrs. NAPOLITANO. You are now recognized. You may speak.

Ms. NORTON. Thank you, Madam Chair. I have a question for Lieutenant General Spellmon. It concerns the Corps' proposed rule to restrict the Southwest Waterfront. And that is the—I am sorry, the Washington Channel next to the Southwest Waterfront. It is the Washington Channel near Fort McNair. Now, the reason I raise the Southwest Waterfront is that that is a major bill of mine. It is still ongoing, which was supported by the Congress. It has reinvigorated the community around that area.

I hosted a public meeting with the Army, the Corps, and DC residents and officials to discuss the proposed rule. And DC residents overwhelmingly oppose restrictions on recreational and commercial access to the channel. At the meeting, you may remember, your agency could not provide a security rationale, or address whether less restrictive measures would provide the same security for Fort McNair.

So then I wrote the Secretary of Defense, the new Secretary, Lloyd Austin, to direct the U.S. Army Military District of Wash-

ington and the Army Corps of Engineers to withdraw the proposed rule, and to bar these agencies from proposing a similar one.

In response, the Army indicated the proposed rule would be paused. And that is where my question comes in, that it would not be finalized until an appointee of President Biden can review it.

So now we are 6 months into the Biden administration. Can you provide an update on the pause? Is there an appointee yet?

General SPELLMON. Ma'am, I can't give you an update.

First, there is not an appointee. Mr. Connor has been nominated, and is going through the confirmation process right now.

Ma'am, just very quickly, any security concerns at the public meeting would have come from the commander of the Military District of Washington, not the Army Corps of Engineers. We are involved because this is a Federal navigation channel.

As you know, the President elevated this decision by an Executive order to a political appointee, Mr. Connor, once he is confirmed. And this action, the details, are now here in my headquarters from our Baltimore District. If Mr. Connor asks me for my military advice, I will dive into the details, get familiar, and I will give him my best recommendation.

Ms. NORTON. I certainly would appreciate that. We are still waiting.

Now, I have another question, as well. The Washington aqueduct, that has been an issue for me, I think, ever since I have been in Congress, because it is owned and operated by the Corps, but it provides public water not only for Washington, DC, but for the Virginia suburbs. So it is very important to us.

Now, I recognize that the Corps does not receive appropriations here. It is paid for only by taxpayers. Your agency has highlighted to me the need for an appropriation to continue to maintain the aqueduct without passing on the costs to users. So I understand the difficulty.

Now, let me pose two alternatives. Former President Trump and the Secretary of the Army supported selling the aqueduct to the private sector, but I oppose that. This is public water. Or to State and local government. I didn't think that was practical. It would require funding from them. Alternatively—and that is my question—a new quasi-governing body, similar to the Tennessee Valley Authority, might be a good fit for the Washington aqueduct, and help us solve this problem.

What is your view?

General SPELLMON. Yes. So, ma'am, we have been asked for a wide variety of assessments on what is the best way to move forward to this, and we have provided those assessments to the Secretary. Ma'am, we will keep the communication channels wide open with you as this dialogue continues.

But you are correct, we receive no Federal funding. This project is maintained by local—by ratepayers.

Ms. NORTON. And that is the problem. Did you say you have already provided recommendations to the Secretary?

General SPELLMON. Ma'am, on the quasi-Federal, local—I am not familiar. I will follow up on that. But there have been other requests from Members of Congress for different types of assessments, and we are going to provide that for you, as well.

Ms. NORTON. I wish you would follow up with the administration on this alternative, because I don't think that there is any good alternative right now available to us, and I——

Mrs. NAPOLITANO. The gentlewoman's time has expired.

Ms. NORTON. Thank you, Madam Chair.

Mrs. NAPOLITANO. Thank you, Ms. Norton. We will proceed to the next speaker, and it is Mr. Weber, followed by Mr. Brown, followed by Ms. Wilson.

Mr. Weber.

Mr. WEBER. Thank you, ma'am. I appreciate that. These are some questions that may have been asked—I had to step out for another event, so I apologize if they are.

This month both the Corps and the EPA agencies announced it would redo the Trump administration's navigable waters rule, and rewrite the definition of, "waters of the United States." We call it WOTUS. I have serious concerns with this action, as the Obama administration's rule failed to take into account genuine stakeholder feedback, placed burdensome and confusing requirements on not only farmers, but small businesses, local communities, individuals, and on and on and on.

So my question is, how does the Biden administration plan to solicit and incorporate true feedback from those affected by the regulation?

If you can tell me the plan, and who is going to be in charge of it, those would be questions for Acting Secretary Pinkham. What is the plan, and who is in charge of it, and how do we get feedback on it?

Mr. PINKHAM. Representative Weber, the strategy is still under development yet, and I will be working side by side with EPA on establishing a series of sessions, listening sessions, so that we can gather the input from all the stakeholders, and they would be held by stakeholders. Also, we are looking at holding regional convenings.

And you are right, this is going to be about honest listening, really looking at what are the concerns from the various perspectives, and making the decisions on how can we find a good, balanced rule that provides people with a sense of durability, so that we can move forward. So we are committing to—and it is going to be time-consuming, and it should be time-consuming and deliberative, to solicit as much input as we can take.

I perceive this being an exhaustive, but necessary effort.

Mr. WEBER. So right now, Mr. Secretary, we don't—the rule has not been canceled. Is that correct or not correct?

Mr. PINKHAM. At this time the rule has not been canceled.

Mr. WEBER. Do you foresee it being canceled in the foreseeable future?

Mr. PINKHAM. You know, I am—that is going to take a lot more discussions with some of our interagency partners on, you know, what are the immediate steps, and no commitment on the most immediate steps of whether it is going to be canceled or not.

Mr. WEBER. Of course, it is a big thing for me. I am from Texas. I am from an agrarian State, and not to mention an industrial State. We have a lot of energy and stuff in our State. So it is a big concern for my district.

Would you say, or do you know at this point, is there a priority assigned to this “rule change”?

What is the number? Number 1, 12, 28?

Mr. PINKHAM. Well, I guess for Army Corps Civil Works, I would say it is certainly within my top three priorities to work on this—

Mr. WEBER. Top three priorities?

Mr. PINKHAM. Yes.

Mr. WEBER. So is that to say, Mr. Pinkham, that you have problems with the rule the way it is currently in place?

Mr. PINKHAM. Well, Congressman Weber, I think everybody has concerns with the rule, as it currently exists. And some of the concerns even involve kind of interpretation, and how we apply it on the ground, kind of misalignment of how do we define what is a historic or a formerly converted cropland, and differences of interpretation. So certainly, there are some concerns even about how we apply it on the ground.

Mr. WEBER. So if this is one of your top three concerns, as you stated, going in—actions to take care of, what are the top three concerns?

You just stated one concern. What is your next top concerns with the rule?

Mr. PINKHAM. Well, I would say one of my other top concerns is working on the budget right now, making sure that we are—

Mr. WEBER. But I mean as a—Mr. Pinkham, I mean as it relates to the rule, the WOTUS rule. What are the top three issues with the rule?

How do you define the cropland that has been previously designated?

And what is your number 2 and number 3 concern with the rule?

Mr. PINKHAM. Oh, OK, I am sorry, Congressman Weber. I must have misunderstood your question, but—

Mr. WEBER. All good.

Mr. PINKHAM. Yes, you know, well, I think the—my biggest concern is the fact that there is a lot of divisiveness over the interpretation of the rule. And you are hearing both sides of the spectrum. You know, how can we kind of mediate the differences, to make sure that people continue to practice good, sound agriculture, and know that their farms will be productive, and stay within the family?

And at the same time, how do we prepare for the changing climate conditions? We have got drought in some areas.

So one is finding a rule that everybody agrees on, or as much agreement as possible. So that is number 1.

Number 2 is to make sure that we find ways that we can avoid kind of the complications of applying it on the ground.

And I guess the third one is, just to make sure that we have got good community engagement, that we have a strong outreach effort, and don't leave any voices left unheard.

Mr. WEBER. Have you ever heard the saying—

Mrs. NAPOLITANO. The gentleman's time has expired.

Mr. WEBER. Well, thank you, ma'am, and I will yield back. Thank you.

Mrs. NAPOLITANO. Thank you, Mr. Weber.

Mr. Brown, you are on the list now. You may speak.

Mr. BROWN. Thank you, Madam Chair. I want to thank you and your colleagues on the Water Resources and Environment Subcommittee for allowing me to waive on this morning.

General Spellmon, as you know, the Anacostia watershed is one of the most urbanized watersheds within the Chesapeake Bay region. And 86 square miles are located in Prince George's County, Maryland, the greater part of which I have the privilege to represent. I don't represent the land, I represent the people around the watershed.

In 2018 the Chief of Engineers, and your immediate predecessor, signed the Chief's Report for the Anacostia watershed study in Prince George's County, and this report allowed for the authorization of the project in the Water Resources Development Act of 2020.

The continued enhancement of the Anacostia watershed is critical to the environmental health of my district and the State of Maryland. Protecting and restoring the Anacostia River will benefit all of the residents living in its watershed, as well as future generations. And I am very pleased to see that President Biden included \$30 billion in construction funds in his budget request. These funds will be used to restore degraded in-stream habitat, and create opportunities for fish passage as part of the Anacostia watershed restoration project. And I believe it is imperative that the Appropriations Committee fund this project at the level in the budget presented or requested by the President.

So, General Spellmon, the President's budget request provides for robust funding for this project. Can you speak to the local and regional benefits of this project, and why it is a good investment of Federal dollars?

And also, from your perspective, what are the next steps for this project?

General SPELLMON. Yes, Congressman Brown. First I will tell you we are very excited about this project. We appreciate Congress authorizing this in WRDA 2020, and we certainly appreciate the President's budget request of \$30 million.

We believe we are on a path that we could get—if dollars are appropriated to start this work in October of 2022—and this will be less than a 2-year effort—it is going to restore 7 miles of river habitat at six locations, and restore fish passage at 4 miles. Again, sir, those are the highlights. We are very much looking forward to working with the State and our partners there in moving this project forward.

Mr. BROWN. Right. Well, look, I really appreciate it. I appreciate you, your leadership team, everyone at the Corps of Engineers for what you do, not only in my district and the National Capital region, but around the Nation. So thank you.

And thank you, Madam Chair, for giving me the opportunity to pop in on your subcommittee hearing.

Mrs. NAPOLITANO. Thank you, Mr. Brown.

Ms. Wilson, you are recognized.

Ms. WILSON. Thank you so much, Chair Napolitano and Ranking Member Rouzer, for calling this important hearing. And thank you to today's witnesses for illuminating President Biden's budget pri-

orities to protect our waterways, increase infrastructure resiliency, and fund critical projects.

As the founder and cochair of the Florida Ports Caucus and a Representative of Miami-Dade County, today's discussion is of critical importance to me and my fellow Floridians. Florida's top two industries—tourism and agriculture—largely depend on our waterways. As a result, a robust water infrastructure system and effective flood mitigation efforts are critical to Florida's economy and public health. I look forward to working with the Army Corps of Engineers and local Miami leaders to find effective solutions to mitigate destructive storm surges along the south Florida coast.

Now, more than ever, it is imperative to provide increased funding for critical programs such as the Clean Water State Revolving Fund programs that address water pollution, and funding to preserve the Everglades.

Mr. Pinkham, I am glad to see that the funding level has increased to \$350 million for the south Florida Everglades restoration program. However, I am concerned about the ability to fund the \$7 billion needed to complete all of the Everglades restoration projects. In your opinion, with the current funding levels, are we still on schedule to meet the 2030 deadline?

If not, what are your plans to meet it?

[No response.]

Ms. WILSON. This is for Mr. Pinkham.

Mr. PINKHAM. Representative Wilson, I—

[Audio malfunction.]

Mr. PINKHAM [continuing]. And if I could defer to whether we are on time or on—if I could defer that question to General Spellmon, who has a deeper history and understanding of the project.

Ms. WILSON. No problem.

General SPELLMON. Ma'am, I would be happy to take that on.

Currently, the south Florida ecosystem restoration program receives—this year will receive 70 percent of our aquatic ecosystem restoration budget, nationally, 70 percent. At that funding level, it would take us about 17 years to complete the 68 projects in the SFER program. Even if Florida received 100 percent of my aquatic ecosystem restoration project, it would take over 13 years to complete that program.

So I think we have got to think about this differently. I have some ideas that I am working and pushing my team on. For example, the wetland attenuation feature associated with the Lake Okeechobee water restoration project, this is water supply north of the lake. That is about a \$1 billion additional reservoir. I have challenged my team to come back to me: Can we add additional aquifer storage recharge wells at \$5 million apiece, and get the same water supply benefit?

I have challenged my team to look harder at research and development. Are there other ways that we can get after these harmful algal blooms that are plaguing the State, not just around Lake Okeechobee, but everywhere, to come up with more meaningful solutions, aside from billion-dollar projects? So we are taking that on, as well.

And last, I will tell you I am trying to accelerate this schedule by the use of a rare tool that the administration has and offers us,

and that is a continuing contract authority. So I would like to apply that in fiscal year 2023 to the Everglades Agricultural Area Reservoir. We know, we can prove it mathematically, that on projects of that size and scope, we can save years and hundreds of billions of dollars in project execution by just having that authority. It brings down risk for our contractors, there is less contingency, and we are just more effective.

Ms. WILSON. OK, thank you. I hope I don't run out of time, but last year, Lieutenant General Spellmon, the Army Corps of Engineers released its first proposal for the Miami-Dade County Back Bay study to find solutions to protect the vulnerable south Florida coast from storm surges. This proposal included constructing a 20-foot-high seawall along 6 miles of coastline, which would bisect neighborhoods, lower property values, and impact tourism. Local leaders voiced their concerns about this proposal.

Can you commit today that the Corps will work with local leaders to ensure that alternative, nature-based solutions are incorporated into future proposals?

General SPELLMON. Ma'am, absolutely. This was one of several proposals that we put on the table, and that is why we do that [inaudible] critical feedback from the public.

But as I said in my opening statement, we absolutely want to do more engineering with nature everywhere we work across the Corps. You have my commitment.

Ms. WILSON. Thank you, and I yield back.

Thank you, Madam Chair.

Mrs. NAPOLITANO. Thank you, Ms. Wilson. We appreciate that. And that wraps up all the Members on queue to ask questions.

But, General, I understand that the Corps mission has the three missions, but I would like to submit that we support the study that you are doing on the water storage and delivery. I sure am—I am—well, somehow we need to add the water storage and delivery to your mission, because it is so important. You have so many dams, you have so much water that you can help ease the drought sections in many areas.

General SPELLMON. Ma'am, I would just say there are over 1,500 dams in the State of California. A small percentage of those are the Corps'. Some are from the Bureau, but many are State.

In a perfect world, I would recommend we would have a forecast-informed reservoir operations validation done on all of those, just because of the greatness that we saw at Lake Mendocino. I think we are going to repeat that at Prado. I think we are going to have a similar effect up at Howard Hanson Dam in the State of Washington. I think we need to do more of that type of research and development.

Mrs. NAPOLITANO. May we follow up with you on that, sir?

[No response.]

Mrs. NAPOLITANO. May we follow up with you on that, sir?

General SPELLMON. Yes, ma'am.

Mrs. NAPOLITANO. All right, sir. As you heard from many of the Members, both sides, your budget is not enough to take care of all the backlog. Is there any way of actually assessing the backlog that you have, so that we have an idea of how much more we need to infuse into Army Corps to get the job done?

General SPELLMON. Ma'am, that is——

Mrs. NAPOLITANO. Because it——

General SPELLMON. I am sorry.

Mrs. NAPOLITANO. It is a security issue. It is an environmental issue. It is a Congress issue, especially dredging.

General SPELLMON. Ma'am, I would—that is a long answer. I would love the opportunity to have my team sit down with you and your staff, and walk you through how we see our current backlog.

Mrs. NAPOLITANO. Thank you very much, sir. I appreciate that. I look forward to it.

We will not have a second round. Sorry, Mr. Mast and Mr. Graves. Please submit the questions in writing for the committee to follow up with you.

And I do ask unanimous consent that the record of today's hearing remain open until such a time as our witnesses have provided answers to any questions that may be submitted to them in writing.

And also, please forward a copy to the subcommittee, so we are able to understand the issues.

And unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

And without objection, so ordered.

I would like to thank all our witnesses. General, you have been great; Mr. Pinkham, you have been very helpful. Mr. Lyash and Mr. Avila, I am sorry for the delay and ask forgiveness for the indulgence you have been put through.

Thank you very much.

General Spellmon, our gratitude to the men and women of the Corps for the fine job in always performing for our Members. As you can see, some of them are very grateful.

And I would like to make sure that we thank our staff on both sides for the great job they have done.

If no other Members have anything to add, the committee does stand adjourned. Thank you, and goodbye.

[Whereupon, at 2:02 p.m., the subcommittee was adjourned.]

SUBMISSIONS FOR THE RECORD

Prepared Statement of Hon. Sam Graves, a Representative in Congress from the State of Missouri, and Ranking Member, Committee on Transportation and Infrastructure

Thank you, Chair Napolitano, for holding this hearing, and thank you to our witnesses.

It is important that we learn the views and priorities of the agencies represented here.

Out of these agencies, the Corps plays a significant role in promoting waterborne transportation and providing flood protection.

America's inland waterway and flood protection infrastructure is especially important to Missouri, where we experienced devastating floods in 2019—dangers that continue to threaten many of the same areas.

As such, I look forward to hearing about the Corps' plans when it comes to improving flood control and navigation, on the Missouri and Mississippi Rivers.

I am extremely concerned, however, about the Corps' plans to re-write the Trump Administration's Navigable Waters Protection Rule and the definition of "Waters of the United States".

The current rule provided much needed clarification for farmers, homeowners, small businesses, and local governments on the extent of waters covered by the Clean Water Act.

We will be watching this process closely, but it's hard to imagine the administration's decision to initiate a new rulemaking is anything other than a plan to bring back burdensome regulations for our agriculture and business sectors, state and local governments, and private citizens.

I want to remind the Corps that the Obama administration utterly failed to properly incorporate feedback from those stakeholders who would have to live and work under the regulation, and the result was the deeply flawed WOTUS rule.

I look forward to learning how the Corps plans to proceed on this and to hear from the panel about their agency priorities.

I yield back.

APPENDIX

QUESTIONS FROM HON. DAVID ROUZER TO BOTH LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS AND JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY

Question 1. The Water Resources Reform and Development Act (WRRDA) of 2014 (P.L. 113–121) Section 7001 requires the Army Corps of Engineers (Corps) to submit an annual report to Congress by February 1 of each year. However, Congress has yet to receive this year's report.

Question 1.a. When can we expect to receive the report?

ANSWER. The report is under review and will be transmitted to Congress when that review is completed.

Question 1.b. What is the cause for delay?

ANSWER. The report is under review and will be transmitted to Congress when that review is completed.

Question 2. Can you please give us an update on the status of implementing guidance on the Water Resources Development Act (WRDA) of 2020 (P.L. 116–260)?

ANSWER. There are 32 sections of WRDA 2020 that require written guidance. The Office of the Assistant Secretary of the Army for Civil Works and Corps staff are working expeditiously to complete the drafting of that guidance. I have approved 20 guidance documents so far and we are making great progress on the remaining sections. I expect to approve and make the remaining the guidance publicly available in the near future.

Question 3. How is the Corps engaging stakeholders and Congress as it works to implement WRDA 2020? How can the Corps and stakeholders work together for more efficient, timely, and less costly project development and implementation?

ANSWER. We conducted a 60-day public comment period during which the public and stakeholders were encouraged to provide written comments on any section of WRDA 2020. Additionally, the Office of the Assistant Secretary of the Army for Civil Works and the Corps co-hosted five virtual stakeholder meetings in which stakeholders discussed concerns with specific sections of WRDA 2020. Stakeholders who contacted our point of contact were able to discuss their concerns with the provision.

Question 4. If Congress adopted the President's proposed budget reduction for the Corps, would this require the Corps to cancel any contracts? If so, please supply the Committee with a list of project terminations proposed by the President's budget request and their associated remaining-benefit to remaining-cost ratios and their associated termination costs. Does the President's proposal presume Congress will continue to fund these projects?

ANSWER. No, if Congress enacts the President's budget for the Corps, it would not require the cancellation of any contracts.

Question 5. What was the basis for deciding which on-going projects, studies, and new construction starts would be supported in the President's budget request?

Question 5.a. The President's budget request for the Corps describes the objectives utilized to develop the request:

“In developing the Budget, consideration was given to advancing three key objectives including: 1) increasing infrastructure and ecosystem resilience to climate change and decreasing climate risk for communities based on the best available science; 2) promoting environmental justice in disadvantaged communities in line with Justice40 and creating good paying jobs that promote a chance to join a union; and 3) not funding work that directly subsidizes fossil fuels including work that lowers the cost of production, lowers

the cost of consumption, or raises the revenues retained by producers of fossil fuels.”

ANSWER. The FY 2022 Budget press book includes performance guidelines for both the Construction and Operation and Maintenance accounts.

Question 5.b. Can you please explain the third objective of “not funding work that directly subsidizes fossil fuels including work that lowers the cost of production, lowers the cost of consumption, or raises the revenues retained by producers of fossil fuels”?

ANSWER. Consistent with Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, the Budget begins the process of no longer directly subsidizing fossil fuel subsidies, helping to transition to a low carbon economy, while also supporting efforts to help fossil fuel workers transition to good-paying, cleaner, greener jobs. The President asked all Federal agencies, including the Corps, to begin the process of identifying and eliminating direct fossil fuel subsidies within their programs. Agencies are working to identify appropriate actions that they can take to support this policy objective.

Question 5.c. What types of work under the purview of the Corps would be considered to directly subsidize fossil fuels?

ANSWER. The Army Corps is working with OMB on this issue.

Question 5.d. How will the Corps determine if an activity “lowers cost of production, lowers the cost of consumption, or raises the revenues retained by fossil fuels”?

ANSWER. The details of implementation are under development.

Question 5.e. What staffing expertise does the Corps currently have to determine these considerations?

ANSWER. The Army retains economists and experts in commercial navigation, including the Waterborne Commerce Statistics Center responsible for capturing information on vessels, tonnage, commodity, origin, and destination from vessel operating companies. These data and information are intended to assist the Corps commercial navigation mission by providing statistics used to analyze the feasibility of new projects, and to set priorities for new investments and for the operation, rehabilitation, and maintenance of existing projects. Users of the data include government agencies, private industry, academia, and the general public.

Question 5.f. Would work that “lowers the cost of consumption” include the cost for consumers who purchase fossil fuels for home and transportation-related energy? Would this include lowered costs of gasoline, diesel, home heating oil or natural gas purchased by consumers?

ANSWER. The details of implementation are under development.

Question 6. In your testimony, you discussed how the President’s budget request would support the Corps’ essential missions—commercial navigation, flood risk reduction, and restoring aquatic ecosystems. This budget request includes \$8 million for charging infrastructure for federally owned vehicles.

Question 6.a. While this may be included in other areas of the President’s budget request, how does this proposed expense support, or why it is even mentioned within, these essential Corps missions?

ANSWER. The Corps leases approximately 4,200 vehicles from the General Services Administration to support Civil Works activities. As the Corps transitions to electric vehicles for staff use, charging station infrastructure will be required at Corps facilities.

Question 6.b. Can you please explain the justification for this request and how it fits within these Corps mission areas?

ANSWER. Vehicles are needed for staff to support the Corps’ mission. See attached FY22 Justification Sheet for more details.

Question 6.c. Is the Corps looking to use mission area funds to pay for internal operating expenses?

ANSWER. The Electric Vehicle Fleet and Charging Infrastructure is its own line item as an operation expense in the Operation and Maintenance account.

Question 7. How many Chief’s Reports are expected to be signed by the end of 2021?

ANSWER. The Commanding General for the U.S. Army Corps of Engineers is expected to sign 14 Chief’s Reports in calendar year 2021. Six Chief’s Reports have been signed and 20 are projected for FY 2022.

Question 8. This month, both the Corps and EPA (the “Agencies”) announced that they plan to rewrite the Navigable Waters Protection Rule (NWPR), including the

definition of “Waters of the United States” (WOTUS). There are many concerns that as the Obama Administration’s rule failed to take into account stakeholder feedback, and placed burdensome and confusing requirements on farmers, small businesses, local communities, and other regulated entities.

Question 8.a. How does the Biden Administration plan to solicit and incorporate substantive feedback from those affected by this regulation?

ANSWER. The agencies are committed to meaningful stakeholder engagement to ensure that a revised definition of “waters of the United States” reflects the experience of and input received from landowners, the agricultural community, states, Tribes, local governments, businesses, community organizations, environmental groups, and underserved and overburdened communities with environmental justice concerns. This included virtual public listening sessions, as well as dedicated stakeholder conversations with agricultural, industry, environmental and environmental justice groups, and state, local and tribal leaders, from August through October 2021. In addition, the agencies intend to hold roundtables in 10 geographically-focused regions in early 2022.

Question 8.b. What specific steps do you intend to take to engage the states in substantive consultation to ensure their concerns are fully addressed in a final rule?

ANSWER. The agencies are committed to meaningful stakeholder engagement to ensure that a revised definition of “waters of the United States” reflects the experience of and input received from all stakeholders, and recognize the importance of the role of such input from our co-regulators, the states, territories and Tribes. The agencies have engaged in and will be engaging in additional stakeholder conversations with state, local and tribal leaders. In addition, the agencies intend to hold roundtables in 10 geographically-focused regions in early 2022.

Question 8.c. When does the Administration plan to issue a notice of proposed rulemaking?

ANSWER. The agencies published a proposed rule in the Federal Register on December 7, 2021, the first step in a two-part rule process to restore the regime in place prior to the 2015 implementation of the definition, updated to be consistent with relevant Supreme Court decisions.

Question 8.d. Will EPA or Army Corps be doing outreach or both?

ANSWER. The Environmental Protection Agency and the Department of the Army will both be doing outreach in a joint manner.

Question 9. Knowing that there are significant geographic variations across the U.S. and that a single set of standards will not fit all, how do the Agencies plan to address these differences in any new rule? Should there be a role here for state and local governments and water districts in identifying regional differences and fashioning a workable solution? What are the Agencies going to do to work with states and localities to address these concerns?

ANSWER. The agencies recognize that there are regional variations in precipitation rates and common geomorphologic conditions that affect typical stream flow regimes across the country which need to be considered in the development of a durable definition of WOTUS. The agencies will engage stakeholders and states and Tribes across the country to ensure their regional perspectives are considered.

Question 10. Many States and local governments and their representative organizations are concerned that the Agencies will not sufficiently consult with them, and that the rulemaking could impinge on state authority in water management. Do you consider the states and local government a partner in our Nation’s intergovernmental system? Or just another stakeholder group in this discussion? Will the Agencies engage the states and local government in substantive consultation when promulgating or revising rules, taking into account and specifically addressing the concerns raised by the states and local governments, to ensure their concerns are fully addressed in any final rule?

ANSWER. The agencies are committed to meaningful engagement with states, Tribes, and local governments. This engagement included dedicated dialogues with state, territories, local and Tribal leaders; formal consultations with intergovernmental partners under E.O. 13132 (federalism) and E.O. 13175 (Tribal consultation); and government-to-government consultations with the Tribes. Additional opportunities for similar dialogues will occur for the second step of the rule process as well as another opportunity for consultation with states and local governments, territories, and Tribes. In addition, the agencies intend to hold roundtables in 10 geographically-focused regions in spring 2022.

Question 11. Do the Agencies plan to prepare a detailed response to public comments, which will respond to each issue raised in each comment? Will you commit

to having the Agencies prepare a detailed response to public comments, which will respond to each issue raised in the comments, before proceeding to finalize a rulemaking?

ANSWER. The agencies remain committed to following the requirements of all applicable laws and regulations as we conduct these rulemaking efforts and will provide a response to comments as part of any final rule.

Question 12. There is a concern that a new NWPR rule would end up having a significant impact on a substantial number of small entities, but that the Agencies will fail to conduct a Small Business Advocacy Review (SBAR or “SBREFA”) panel before proceeding with this new rulemaking. Will you commit to formally examining the impacts of any new proposed rule on small entities? Will you conduct an SBAR panel, as required by the Small Business Regulatory Enforcement Fairness Act (P.L. 104–121) before proceeding any further with this rulemaking?

ANSWER. The agencies commit to robust stakeholder engagement, which will include small entities (e.g., small businesses) and hosted a listening session with small entities in August 2021; presentation materials and a recording are available at <https://www.epa.gov/wotus/2021-waters-united-states-public-meeting-materials>. The agencies also participated in two environmental roundtables hosted by the SBA in January 2022. The agencies remain committed to following the requirements of all applicable laws and regulations as we conduct these rulemaking efforts.

Question 13. Please provide details and definitions for what the Corps considers “significant environmental damage” and “ongoing environmental harm”, as cited in the announcement for the decision to repeal the current NWPR.

ANSWER. The Navigable Waters Protection Rule (NWPR), the announcement for the decision to repeal the NWPR, and the proposal to repeal the NWPR were issued jointly by the EPA and the Army. Upon review of the NWPR, the agencies determined that the rule was reducing Clean Water Act protections, and this lack of protections is particularly significant in arid states, like New Mexico and Arizona, where nearly every one of over 1,500 streams assessed has been found to be non-jurisdictional under the NWPR. The agencies are also aware of 333 projects that would have required Clean Water Act Section 404 permitting prior to the NWPR, but would not have done so under that rule. After conducting that review, the agencies announced their intent to revise the definition of “waters of the United States” to better protect our nation’s vital water resources that support public health, environmental protection, agricultural activity, and economic growth. As described in the proposed repeal of the NWPR, a broad array of stakeholders—including states, Tribes, local governments, scientists, and non-governmental organizations—saw significant impacts to critical water bodies under the NWPR. The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of “waters of the United States” and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 14. The Agencies have been inconsistent when describing their plans for the NWPR. In the press release announcing reconsideration, the Agencies suggested they will first repeal the NWPR and reinstate the pre-2015 definitions, followed by a second rulemaking to redefine WOTUS. But in litigation filings, the Agencies said they have “decided to commence a new rulemaking to revise or replace the rule.” Which of these paths do the Agencies intend to take? Have the Agencies already determined that they will repeal the NWPR? Can the Agencies commit to maintaining an open mind on whether it may be appropriate to merely revise the NWPR, as opposed to outright repealing or replacing the rule?

ANSWER. The agencies initiated a new rulemaking process that proposes to put back into place the pre-2015 definition of “waters of the United States,” updated to reflect consideration of Supreme Court decisions. The proposed rule was published in the federal register on December 7, 2021. The agencies will also consider changes through a second rulemaking that they anticipate proposing in the future, which would build upon the foundation of the proposed rule. The agencies are committed to meaningful state, Tribal, and stakeholder engagement throughout the process so that we can incorporate experience of and input received from all stakeholders.

Question 15. You recently stated that the NWPR “resulted in a 25 percentage point reduction in determinations of waters that would otherwise be afforded protection.”¹ But that figure does not seem to align with the data analysis that the Agencies disclosed upon announcement.

¹EPA, *Army Announce Intent to Revise Definition of WOTUS* (June 9, 2021), <https://www.epa.gov/newsreleases/epa-army-announce-intent-revise-definition-wotus>.

Question 15.a. What methodology did the Agencies use to arrive at this 25% figure?

ANSWER. The agencies' remand motion and declarations filed in the litigation, as well as the documents reviewed and other supporting information can be found at <https://www.epa.gov/wotus/request-remand-and-supporting-documentation> which includes the data sources and analysis. The analysis provided in the technical support document and supporting materials for the current proposed rule constitute the most up to date and comprehensive analysis. This secondary analysis included a full year of data. This information is available in the technical support document and supporting materials for the current proposed rule found at: <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 15.b. What data or database did the agencies use as the baseline for comparison to the NWPR?

ANSWER. This information is available in the technical support document and supporting materials for the current proposed rule, found at: <https://www.epa.gov/wotus/revising-definition-waters-united-states>. The data is sourced from the U.S. Army Corps of Engineers' Operation and Maintenance Business Information Link, Regulatory Module (ORM2) database.

Question 15.c. What is the geographic distribution of this reduction in jurisdiction (nationwide or isolated to certain regions)?

ANSWER. Upon review of the NWPR, the agencies determined that the rule reduced Clean Water Act protections. This lack of protections was particularly significant in arid states. As described in the agencies' proposed replacement rule, a broad array of stakeholders—including states, tribes, local governments, scientists, and non-governmental organizations—saw significant impacts to critical water bodies under the NWPR. This data was nationwide in scope, although data is not available within ORM2 for the states of Michigan and New Jersey, which have assumed the 404 permitting program.

The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of "waters of the United States" and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 16. The Agencies have expressed "substantial concerns about the lawfulness of aspects of the NWPR."² Yet courts like the Northern District of California ruled that petitioners are unlikely to succeed on the merits of its claims that the NWPR violates either the Clean Water Act (CWA) or the Administrative Procedure Act (APA). This is in stark contrast to the extremely poor track record of the 2015 Rule, which was preliminarily enjoined in numerous courts and invalidated after full merits adjudication by two courts. What precise "aspects" of the NWPR are unlawful in the Agencies' views? How does that justify wholesale replacement or repeal (as opposed to targeted revisions)?

ANSWER. The NWPR has been vacated by two courts on the grounds that it was unlawful, and remanded to the agencies by six additional courts. On August 30, 2021, the U.S. District Court for the District of Arizona remanded the NWPR and vacated the rule, finding that "[t]he seriousness of the Agencies' errors in enacting the NWPR, the likelihood that the Agencies will alter the NWPR's definition of 'waters of the United States,' and the possibility of serious environmental harm if the NWPR remains in place upon remand, all weigh in favor of remand with vacatur." *Pascua Yaqui Tribe v. EPA*, No. 4:20-cv-00266, 2021 WL 3855977 at *5 (D. Ariz. Aug. 30, 2021). On September 27, 2021, the U.S. District Court for the District of New Mexico also issued an order vacating and remanding the NWPR. *Navajo Nation v. Regan*, No. 2:20-cv-00602 (D.N.M. Sept. 27, 2021). In vacating the rule, the court agreed with the reasoning of the Pascua Yaqui court that the NWPR suffers from "fundamental, substantive flaws that cannot be cured without revising or replacing the NWPR's definition of 'waters of the United States.'" Slip. op. at 6. Six other courts also remanded the NWPR without vacatur or without addressing vacatur. As described in the agencies' declarations requesting remand of the NWPR, the agencies have concerns about the lawfulness of aspects of the NWPR and the harmful effects of the NWPR on the nation's waters. The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of "waters of the United States"

²Declaration of Jaime A. Pinkham, *Conservation Law Foundation v. EPA*, (D. Mass.) Case No. 20-cv-10820-DPW, available at https://www.epa.gov/sites/production/files/2021-06/documents/2_conservation_law_found_d._mass._-_jaime_pinkham_declaration_final_signed_508c.pdf.

and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 17. The Agencies have represented to a federal court that they “have noted on-the-ground effects of the NWPR since the rule went into effect,”³ citing vague and speculative “concerns”⁴ raised by stakeholders that the NWPR “is resulting in significant, actual environmental harms.”⁵ What, if anything, have the Agencies done to evaluate and verify whether any of the claimed activities are occurring or whether any activities involve discharges into “newly deemed non-jurisdictional” wetlands and streams?

ANSWER. Upon review of the Navigable Waters Protection Rule, the agencies determined that the rule is reducing Clean Water Act protections, and this lack of protections is particularly significant in arid states, like New Mexico and Arizona, where nearly every one of over 1,500 streams assessed has been found to be non-jurisdictional. The agencies are also aware of 333 projects that would have required Clean Water Act Section 404 permitting prior to the Navigable Waters Protection Rule, but no longer do. The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of “waters of the United States” and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 18. Declarations you and Assistant Administrator Radhika Fox submitted refer to 333 projects “that would have required Section 404 permitting prior to the NWPR, but no longer do under the NWPR.”⁶

Question 18.a. Have the agencies verified that each project has moved forward?

ANSWER. The agencies do not perform inspections or compliance checks on work which they determine do not require authorization under the Clean Water Act. However, the fact that such landowners requested authorization does signal an intent to perform work.

Question 18.b. For those projects that have moved forward:

Question 18.b.i. Did the Agencies confirm that each involves an actual discharge to “newly deemed non-jurisdictional” waters?

ANSWER. The agencies do not perform inspections or compliance checks on work which they determine do not require authorization under the Clean Water Act. However, the fact that such landowners requested authorization does signal an intent to perform work.

Question 18.b.ii. Did the Agencies confirm that no state agency regulated the project?

ANSWER. The agencies do not perform inspections or compliance checks on work which they determine do not require authorization under the Clean Water Act. However, the fact that such landowners requested authorization does signal an intent to perform work.

Question 18.b.iii. What findings have the Agencies made concerning water quality impacts of these projects?

ANSWER. The agencies do not perform inspections or compliance checks on work which they determine do not require authorization under the Clean Water Act. However, the fact that such landowners requested authorization does signal an intent to perform work. In addition, the U.S. Army Corps of Engineers regulates the discharge of dredged and/or fill material under Section 404 of the Clean Water Act and does not regulate water quality under Section 401 of the Act.

Question 18.b.iv. When will the Agencies disclose those findings?

ANSWER. The agencies do not perform inspections or compliance checks on work which they determine do not require authorization under the Clean Water Act. However, the fact that such landowners requested authorization does signal an intent to perform work. In addition, the U.S. Army Corps of Engineers regulates the discharge of dredged and/or fill material under Section 404 of the Clean Water Act and does not regulate water quality under Section 401 of the Act.

Question 19. You and Assistant Administrator Fox have asserted in sworn declarations that “[p]rojects are proceeding in newly non-jurisdictional waters in states

³ Defendants’ Memorandum of Law in Support of Motion for Voluntary Remand without Vacatur, *Conservation Law Foundation v. EPA*, (D. Mass.) Case No. 20-cv-10820–DPW, available at https://www.eenews.net/assets/2021/06/09/document_pm_01.pdf.

⁴ *Supra* n.2.

⁵ *Supra* n.2.

⁶ *Supra* n.2.

and tribal lands where regulation of waters beyond those covered by the CWA are not authorized.”⁷

Question 19.a. What factual support do you have for this claim?

ANSWER. The agencies’ remand motion and declarations filed in the litigation, as well as the documents reviewed and other supporting information, can be found at <https://www.epa.gov/wotus/request-remand-and-supporting-documentation>. The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of “waters of the United States” and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 19.b. What projects are proceeding and in which states?

ANSWER. The agencies’ remand motion and declarations filed in the litigation, as well as the documents reviewed and other supporting information, can be found at <https://www.epa.gov/wotus/request-remand-and-supporting-documentation>. The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of “waters of the United States” and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 19.c. Have the Agencies confirmed that each of these states do not have laws in place that address discharges to ephemeral streams or wetlands that are not jurisdictional under the NWPR?

ANSWER. The agencies’ remand motion and declarations filed in the litigation, as well as the documents reviewed and other supporting information, can be found at <https://www.epa.gov/wotus/request-remand-and-supporting-documentation>. The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of “waters of the United States” and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 19.d. Have the Agencies confirmed that any of these unnamed projects involve discharges to newly non-jurisdictional waters?

ANSWER. The agencies’ remand motion and declarations filed in the litigation, as well as the documents reviewed and other supporting information, can be found at <https://www.epa.gov/wotus/request-remand-and-supporting-documentation>. The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of “waters of the United States” and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 20. The Agencies have found that in New Mexico and Arizona, nearly all of the more than 1,500 streams has been deemed a non-jurisdictional ephemeral resource, “which is very different from the status of the streams as assessed under both the Clean Water Rule and the pre-2015 regulatory regime.”⁸ Under the pre-2015 regime, however, ephemeral resources were not per se jurisdictional, but instead had to undergo case-by-case determinations to see if there was a “significant nexus.” What data do the Agencies have to show that any of these streams would have been jurisdictional under a case-by-case determination for “significant nexus”?

ANSWER. The agencies’ remand motion and declarations filed in the litigation, as well as the documents reviewed and other supporting information, can be found at <https://www.epa.gov/wotus/request-remand-and-supporting-documentation>. The agencies provide more detail about their concerns about the NWPR, and information that supported their analysis, in their proposed revision of the definition of “waters of the United States” and supporting documents, available at <https://www.epa.gov/wotus/revising-definition-waters-united-states>.

Question 21. If there is a hurricane and it floods a section of farmland in my district, which then drains into the Cape Fear River and then the Atlantic Ocean, would that constitute a “Water of the United States”?

ANSWER. “Waters of the United States” are defined in regulation at 33 C.F.R. 328.3. An approved jurisdictional determination (AJD) is the tool used by the U.S. Army Corps of Engineers to help implement Section 404 of the Clean Water Act (CWA) and Sections 9 and 10 of the Rivers and Harbors Act of 1899 (RHA). An AJD makes a definitive determination of whether aquatic resources within a parcel meet the definition of “waters of the United States.” AJDs are completed on a case by case basis and are based on accurate and reliable, site specific information. Only an

⁷ *Supra* n.2.

⁸ *Supra* n.2.

AJD can provide such determination as presented in the question. The agencies do not regulate land, but rather “waters of the U.S.”

QUESTIONS FROM HON. GREG STANTON TO BOTH LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS AND JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY

Question 1. As I understand, construction of the Rio de Flag project in Flagstaff, Arizona, is delayed because BNSF Railway and the City of Flagstaff have not completed the construction and maintenance agreement that fully defines how to project will cross BNSF's existing railroad tracks and the real estate acquisition is not complete.

Question 1.a. Assuming the City of Flagstaff is able to acquire the real estate, could the Corps proceed with downstream phases of the project while the City and BNSF continue to work out a plan for crossing the railroad tracks?

ANSWER. Two Construction Maintenance Agreements (CMAs) are required to successfully implement the project. BNSF has made the execution of both CMAs contingent on the construction of other track improvements to be constructed by the City separate from the Federal project; including approximately six miles for a third main track that would run through the City of Flagstaff. The Corps could proceed with construction of the downstream phases of the project using the funds appropriated in FY 2020 to complete those phases of the project once the City acquires the necessary real estate and BNSF signs the first of the two CMAs.

Question 1.b. Will you commit to maintaining the Rio de Flag project in an active, continuing status to ensure the funding Congress has provided will be available when it is needed for construction?

ANSWER. Yes. The Corps is committed to maintaining the project in an active status in accordance with law and policy. We will continue to work with the City of Flagstaff and assist them in their efforts to obtain the necessary real estate easements and instruments including the two Construction Maintenance Agreements with BNSF.

Question 2. Congress had previously provided the Corps an authority for a pilot program which allowed the Corps to advance funds for sponsors to implement construction (Section 1043(b) of WRRDA 2014).

Question 2.a. Did the pilot program help accelerate any Corps projects, and if so, could a similar authority help accelerate the Rio de Flag project if the City of Flagstaff wanted to investigate that program?

ANSWER. An examination of 1043(b) pilot program, to assess impacts on the delivery of Corps projects, has not yet been undertaken.

Use of Section 1043(b) is not expected to accelerate completion of the Rio de Flag project. The primary factor affecting the schedule and timeline to initiate physical construction of remaining features is the ability of the non-Federal sponsor to obtain the necessary real estate easements and instruments including the two Construction Maintenance Agreements.

QUESTIONS FROM HON. JENNIFFER GONZÁLEZ-COLÓN TO BOTH LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS AND JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY

Question 1. There is a strong demand for USACE construction in Puerto Rico, including my two priorities, the Caño Martín Peña Ecosystem Restoration Project and the San Juan Harbor Navigation project.

Question 1.a. What can you tell us about the status and prospects of this project?

ANSWER. With respect to the Caño Martín Peña Ecosystem Restoration Project, funding for the completion of plans and specifications for the first construction contract is included in the Administration's Fiscal Year 2022 budget request. Should FY 2022 funds be appropriated and received, it is estimated that pre-construction, engineering and design (PED) could be complete within 10 months. San Juan Harbor has been fully funded for PED and design is scheduled for completion in Spring 2022. Both projects will be considered by the Administration in future Budgets and Work Plans for new start Construction funding. The Caño Martín Peña Ecosystem Restoration Project received \$163,287,000 (Construction) in IIJA funding in January 2022. The funding will be used to physically complete and fiscally closeout the project. The project did not receive DRSSA or FY2022 Work Plan funding. San Juan Harbor received \$45,561,000 (Construction) in IIJA funding in January 2022. The

funding will be used to initiate, complete and fiscally closeout the project. The project did not receive DRSSA or FY2022 Work Plan funding.

Question 1.b. Have you identified any issues that hinder its inclusion in the Work Plan under the construction account, how do we overcome that?

ANSWER. The Army and the Corps are working to gain clarity on this.

Question 1.c. Could I count on reaching out to your office work with mine and with the non-federal sponsor to determine how we can best improve the outlook to get the start?

ANSWER. Yes.

Question 2. Also critical is the San Juan Harbor Navigation Project, which I have also brought up with appropriators. This is our principal port, handling most of Puerto Rico's waterborne trade and most of its cruise passengers, a key point of operation for the U.S.-flagged merchant fleet. The project has the necessary Chief's Report and we are looking for it to be budgeted for a start as well.

Question 2.a. What is the outlook for this project? Is it an agency priority?

ANSWER. The San Juan Harbor Improvement project was fully funded for construction in the FY2022 Infrastructure Investment and Jobs Act. Pre-construction, engineering and design is essentially complete and a Project Partnership Agreement will be executed in the 4th quarter of FY2022.

Question 2.b. What can we do to help move it forward and be budgeted and included in the work plan? What do you need from the Congress?

ANSWER. No action from Congress is required at this time.

Question 3. In areas like coastal erosion or river channeling there is a strong call from communities for solutions that preserve as much of the natural shoreline as possible rather than just walling it. In the Rincón coast, after an initial study recommendation of a full revetment, the Puerto Rico Department of Natural Resources has proposed a review of alternatives, including a modified version of the limited offshore breakwater. I did exchange correspondence with the prior Acting Assistant Secretary on the matter.

I would like to be updated to the communications between USACE and the Department on this, and to encourage looking favorably at that alternative that protects the value of the shore as well as controlling erosion. Let me know how we can enable the Corps to do this.

Question 3.a. How do we make it easier for the agency to consider these alternatives?

ANSWER. The Corps will coordinate with your office regarding the status of the Puerto Rico Coastal Storm Risk Management (CSRM) Study.

Question 3.b. How is the Corps approaching the community interest in preserving shores and riverbanks with more natural or nonstructural measures?

ANSWER. The Jacksonville District, in collaboration with the non-Federal partner, is looking at the natural feature and nature-based feature alternatives along with their long term costs and benefits. The Jacksonville District and the non-Federal partners also are collaborating with the public and stakeholders to ensure all benefit types are assessed and receive equal consideration.

Question 4. Under the Investigations Account, already finished the study phase and pending moving to the construction are the Río Guayanilla and Río Grande de Manatí at Ciales projects pointed out for expedited attention last year, and still pending for investigations Río Inabón/Ponce, Yauco and Aibonito, among others.

Many of these projects are often reported as "being in the Congressional queue" but many in the local leadership do not quite understand what that means. They ask if that means that I have a say in their going forward, or if it means it comes up in the next budget.

Question 4.a. How can we best communicate to local leaders the status of the projects in the so-called "queue"?

ANSWER. The Executive Branch does not have such a "queue." The Budget includes which studies the Executive Branch proposes to fund each year based on a myriad of factors, including economic performance.

Question 4.b. Would it be viable to have our office keep advised of what makes the "queue" and what moves in it?

ANSWER. The Corps maintains lists of projects that are included in the Budget and/or receive funding through regular or supplemental appropriations at <https://www.usace.army.mil/Missions/Civil-Works/Budget/>.

Question 5. What can you advise us about the possibility or need for assumption of maintenance of harbors in Guayama, Yabucoa and Guayanilla in Southern Puerto Rico—harbors that were first built by private entities but that are now important and necessary for future economic activity? Would this require administrative or legislative action? If the latter, would you work with our office to help create the necessary measures?

ANSWER. Maintenance of private harbors is typically a non-Federal responsibility. Assumption of maintenance of the harbors in Guayama, Yabucoa and Guayanilla in Southern Puerto Rico would require legislative action.

Question 6. Section 1156 of WRDA of 1986, as amended by WRRDA of 2014, provided a waiver of the local match for projects originally of \$200,000 and then adjusted the limit to \$430,000. Is it the Corps' estimation that this is still a reasonable waiver amount? Should this be made a continuous inflation adjustment?

ANSWER. Section 135 of WRDA 2020 amended Section 1156 of WRDA 1986 and directs the Secretary to adjust the dollar amount on an annual basis for inflation.

Question 7. Of any other Puerto Rico Projects, what is the latest status of those that are already ongoing, or have been approved for start?

ANSWER. The published plans for the Bipartisan Budget Act of 2018 and the Disaster Response Assistance Act of 2019 included over \$2.5 billion of emergency supplemental funds to accomplish work in Puerto Rico for six large construction projects, two small construction projects, five studies, two Operation and Maintenance projects, and two projects that received Flood Control and Coastal Emergencies (FCCE) funds. The Corps has obligated approximately \$192 million of the funds provided.

The Army Corps has completed the following work:

- Four flood and storm damage reduction studies: Rio Culebrinas, PR; Rio Grande de Manati, PR (Ciales); Rio Guayanilla, PR; and the San Juan Metro Area Coastal Storm Risk Management Study, PR;
- construction of two small streambank stabilization projects (Section 14 of the Continuing Authorities Program): Rio Grande de Loiza, PR and Salud Creek at San German, PR;
- operation and maintenance of two projects: Arecibo Harbor, PR and Mayaguez Harbor, PR; and
- repairs to one FCCE projects: Rio Puerto Nuevo, PR.

Remaining work includes one flood and storm damage reduction study—Puerto Rico Coastal Storm Risk Management Study, PR, which is scheduled to complete in May 2024 and construction of six large flood and storm damage reduction projects:

- Rio de La Plata, PR
- Rio Grande de Arecibo, PR
- Rio Grande de Loiza, PR
- Rio Guanajibo at Mayaguez, PR
- Rio Nigua at Salinas, PR
- Rio Puerto Nuevo, PR

The Corps has also recently completed work at another FCCE project: Rio Grande de Manati, PR.

Question 8. In the case of those that are still pending approval, pending funding, pending New Start or “in the queue”, could the Corps identify what needs to be done to facilitate, expedite or obtain the necessary approvals?

ANSWER. Potential non-Federal sponsors are encouraged to work with local Corps District offices to discuss any water resources challenges with which the Corps might assist.

QUESTIONS FROM HON. MICHAEL GUEST TO BOTH LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS AND JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY

Question 1. Southwest Mississippi has continued to experience annual flooding that has left the batture lands in Jefferson, Adams, and Wilkinson Counties under water for a majority of the year. In conversations with the Vicksburg District of the U.S. Army Corps of Engineers, I understand that much of this is caused by continued sediment rising in the channel along the Old River Control (ORC) Structure. Although there is a large bend in the river where the ORC is that may contribute to this sediment, there are also multiple sediment-heavy waters, including the Homochitto River and Bayou Pierre, that empty into the river near this point. Pre-

vious projects, such as the Delta Headwaters Project, have been used to address sedimentation of the river in order to curtail flooding.

Question 1.a. Has the Army Corps explored the possibility of expanding the Delta Headwaters Project to areas outside of the Mississippi Delta in order to prevent sedimentation of the river where continual flooding is occurring as a result of MR&T structures?

ANSWER. No. While the cause of sedimentation in specific locations of the river is due to many variables, the Mississippi River Valley as a whole has seen increased flooding mostly due to unprecedented amount of rainfall in recent years.

Question 2. The batture land of Mississippi has enjoyed centuries-long prosperity in terms of agricultural productivity. However, that has reversed in the last decade, where fields have been unable to be planted, mature trees harvested, and petroleum extraction halted due to months of high water. The economic strain this has put on an already distressed population is troublesome. Citizens within the Morganza Spillway, which has rarely received the high water that Mississippi has, have USACE easements that pay them for use of their land for flooding purposes. However, citizens in Southwest Mississippi must instead incur losses from unplanted fields and rotted trees, which impacts counties' tax revenues.

Question 2.a. What are some ways that the Army Corps of Engineers is looking to address this long-term annual flooding and the economic impact it is putting on Mississippians and the communities?

ANSWER. In order to assess annual long-term flooding impacts, a comprehensive study of the Lower Mississippi River basin, from Cape Girardeau, Missouri, to the Gulf of Mexico has been funded and initiated.

Question 2.b. Will you commit to working with me, my colleagues, and the Mississippi Delegation to try to find a long-term solution to annual flooding in the batture land of Mississippi?

ANSWER. Yes.

QUESTIONS FROM HON. GARRET GRAVES TO BOTH LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS AND JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY

Question 1. Congress funded a number of Louisiana projects in the Bipartisan Budget Act of 2020, including the Comite Diversion and West Shore Lake Pontchartrain:

Question 1.a. What is the status of these efforts?

ANSWER. Both Comite Diversion and West Shore Lake Pontchartrain are BBA-18 projects. The Comite Diversion Project consists of construction of a 12-mile canal in East Baton Rouge Parish to divert Comite River floodwaters to the Mississippi River. The project is being advanced in close partnership with the Louisiana Department of Transportation and Development (LaDOTD), with construction complete or ongoing on eight of the project's 16 construction contracts. As the non-Federal sponsor, LaDOTD is responsible for providing all Lands, Easements, Rights of way, Relocations, and Disposal sites (LERRDs), the delivery of which is a major focus of the project effort. It is anticipated that LaDOTD will provide all project LERRDs by the end of calendar year 2021, with the exception of the relocation of the Florida Gas Company pipeline (Channel Segment 3 construction contract). Delivery of LERRDs in this timeframe will allow USACE to award five of the eight remaining construction contracts by the end of calendar year 2021, and two more construction contracts in the first quarter of calendar year 2022 (these seven contracts are scheduled to be completed by the end of calendar year 2022). The timeline for award and completion of the Channel Segment 3 construction contract is currently unknown as it is dependent on LaDOTD successfully negotiating the relocation of the Florida Gas pipeline.

The West Shore Lake Pontchartrain Project includes construction of an 18-mile levee system spanning two parishes, and ring levees/non-structural measures in a third parish. The project is being advanced in close partnership with the non-Federal sponsors, Coastal Protection and Restoration Authority and Pontchartrain Levee District, with seven of the project's 24 construction contracts either completed or ongoing. The non-Federal sponsors have acquired most of the real estate along the main project alignment and continue negotiations to acquire access along utility corridors. The remaining construction contract awards are scheduled for FY 2022. Planning is ongoing to address the required mitigation for unavoidable impacts to the human environment that will result from the construction of this project.

Question 1.b. How is the Corps addressing any delays?

ANSWER. With regards to the Comite Diversion Project, delays on this large infrastructure project have been reduced by breaking project reaches into additional segments where provision of LERRDs have been completed and awarding contracts for approximately half of the diversion footprint. The issue that could cause future delays is the relocation of the Florida Gas Company pipeline, which is the responsibility of the non-Federal sponsor (LaDOTD).

With regards to the West Shore Lake Pontchartrain Project, the Corps continues to work with the non-Federal sponsors on real estate acquisition and mitigation to move the project forward.

Question 1.c. What is the most recent update on milestone goals and completion for the projects?

ANSWER. Comite Diversion: The six ongoing construction contracts are on schedule for completion by the end of calendar year 2022. Subject to LaDOTD granting full and clear authorization for entry, USACE is scheduled to award five of the remaining eight construction contracts by the end of calendar year 2021, and two more construction contracts in the first quarter of calendar year 2022 (these seven contracts are scheduled to be completed by the end of calendar year 2022). The timeline for award and completion of the final contract (Channel Segment 3) is currently unknown as LaDOTD continues to negotiate the relocation of the Florida Gas pipeline.

West Shore Lake Pontchartrain: The remaining 17 construction contracts are scheduled to be awarded by the end of FY2022, with project completion scheduled for December 2024.

Question 2. What is the status of the WRDA 2020 authorized feasibility studies for the following projects:

Question 2.a. Amite River, flood control;

ANSWER. This study is being conducted using Bipartisan Budget Act of 2018 funding at full Federal expense and in close coordination with the state of Louisiana. Based on recent communication from the state, the Corps and the state are actively working on the next steps of the study.

Question 2.b. Grand Isle, modification of project for erosion and hurricane protection;

ANSWER. Section 204 of WRDA 2020 authorizes, subject to the availability of appropriations, the Secretary to provide assistance to a non-Federal interest developing a proposal for modification of the project for beach erosion and hurricane protection, Grand Isle, Louisiana, to include periodic beach nourishment, for consideration in the annual Section 7001 report. As of the date of this hearing, the Corps has not undertaken a study to evaluate options for such assistance.

Question 2.c. Tangipahoa, flood risk management.

ANSWER. As of the date of this hearing, the Corps has not undertaken this study.

Question 3. The Morganza to the Gulf Project in Terrebonne and Lafourche Parishes in Louisiana has been, to date, entirely constructed with local funds, providing significant flood protection to the community which has already been tested by a number of weather events.

In 2005, Hurricane Rita resulted in 11,000 flooded homes in Terrebonne Parish. However in 2019, a similar event, Hurricane Barry, resulted in only 11 flooded homes. This dramatic decrease is directly because of the quality of the infrastructure our local agencies have been able to implement on their own over the past 15 years.

Louisiana's Coastal Protection and Restoration Authority recently sent a letter to your office requesting that Morganza be considered for inclusion in the 1043 pilot program.

Question 3.a. Now that this project has received a new start for construction, is the Morganza project being considered for inclusion in the 1043 program?

ANSWER. As of the date of this hearing, the State of Louisiana, Coastal Protection and Restoration Authority has not submitted a letter to USACE requesting that the Morganza to the Gulf Project be considered for inclusion in the Section 1043(b) pilot program.

Question 3.b. The Corps is authorized to move forward with up to 20 projects as part of the pilot program. What other projects are being considered for construction under Section 1043?

ANSWER. Prior to the enactment of WRDA 2020, the USACE executed two PPAs for implementation of projects under Section 1043(b): McCook Reservoir, IL Flood Risk Management Project and Clear Creek, TX Flood Risk Management project. USACE has not received any formal requests to advance other specific projects at this time.

Question 4. Section 351 of WRDA 2020 included a provision which provides for renegotiation of interest and prepayment *without* interest for the SELA, WBV, and LPV Projects. The provision also included additional crediting for work performed on the Louisiana Coastal Area. A letter was sent to both Mr. Pinkham and General Spellmon on this subject by the LA delegation earlier this month.

Question 4.a. Where is the Corps on providing guidance on the payback provision of Section 351 of WRDA 2020?

ANSWER. No implementation guidance is required to implement Section 351 of WRDA 2020. As stated in my response letter to the Louisiana Congressional delegation, in accordance with Section 351, which amends Section 103(k) of WRDA 1986, if the State of Louisiana pays at least \$200 million for the LPV, WBV, or SELA project on or before September 30, 2021 and pays the remaining cash contribution under the deferred payment agreement for that project, respectively, by September 30, 2023, the U.S. Army is required to accept those amounts as payment in full, without any interest required on the deferred cash contribution, for that project. The State of Louisiana made the necessary payments for the LPV and WBV Projects before September 30, 2021. No payment was made for the SELA Project prior to September 30, 2021.

Question 4.b. Where is the Corps on providing guidance on the crediting provision?

ANSWER. No guidance is required.

Question 5. The Lower Mississippi Comprehensive Management Study (Section 213 of WRDA 20) seeks to gain a science-based understanding of *today's* river, and requires the Corps to make actionable recommendations to Congress including structural or operational modifications to existing water resources development projects, construction of new projects, and changes to operation and maintenance practices. This approach anticipates that the Corps will be empowered to utilize its multiple mission sets (i.e. hurricane and storm damage reduction, flood risk management, navigation, and ecosystem restoration) to *dynamically* manage its structures and assets for *multiple mission benefits*.

Question 5.a. Where is the Corps in moving forward with this study?

ANSWER. The implementation guidance for this study is posted at <https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll5/id/35898>. Per that guidance, the study must be selected as a MR&T new start investigation and compete for funding in the MR&T account for study initiation. The project was selected as a new start in the FY2022 Work Plan.

Question 5.b. Has the Corps engaged the States along the river where the study is to be conducted?

ANSWER. The Corps would engage with interested parties and stakeholders, as well as the states along the Lower Mississippi River, as part of this study.

Question 5.c. Is the Corps contemplating the cost share structure for this study?

ANSWER. The authorized cost-share for this study is 50% Federal and 50% non-Federal.

Question 5.d. How would a multi-state cost-share on the study work?

ANSWER. The Corps would execute an agreement with multiple sponsors specifying that each sponsor is jointly and severally liable for the non-Federal obligations for the study.

Question 5.e. Is the Corps concerned that a multi-state costs share detract from the exigency of efforts to improve conditions on the river?

ANSWER. No. The Corps acknowledges the challenges in identifying non-Federal cost share partners and negotiating a cost share agreement with partners from up to seven states, but does not expect multi-state costs sharing will detract from the exigency of efforts to improve conditions.

Question 6. The Corps previously indicated it was revising the E.R. 405–1–12, Chapter 12 Real Estate Guidance, last modified in May of 1998. In comments regarding the implementation of Section 125 of WRDA 2020 on the BUDMAT program, multiple commenters noted that the Corps should reconsider its policy of mandating fee acquisition for ecosystem restoration projects, specifically including beneficial use projects.

This mandating of fee / full ownership estates for ecosystem restoration has been a hindrance to projects in Louisiana, California (Sacramento River), and the Upper Mississippi River, including preventing non-federal sponsors from working with landowners in cooperative and potentially economically beneficial endeavors. The in-

flexible policy has nationwide negative impacts and delays efforts to restore rapidly deteriorating areas.

Question 6.a. When is the Corps expecting to release the drafts of that guidance for vetting by the public, including non-federal sponsors?

ANSWER. Section 125 (a) of WRDA 2020 implementation guidance is under review.

Question 6.b. Has any effort been made to revise the Chapter 12 Guidance to bring into conformity with Section 1115 of WRDA 2018 which mandates consideration of state laws and acquisitions procedures in developing estates for Corps projects?

ANSWER. Section 1115 of WRDA 2018 says that state laws and acquisition procedures shall be considered “to the extent that such procedures are generally consistent with the goals of a project or action.” As part of our real estate acquisition process all applicable state laws are considered. My office issued updated guidance in April 2019 in response to this legislation. The guidance established that Corps districts would obtain the minimum real estate interest needed to protect the federal investment. Fee simple, easements, etc. will be analyzed on a project-by-project basis by the Corps to determine the appropriate real estate interest required. The guidance notes that “[s]tate or local statutory restrictions on a non-Federal sponsor’s capability alone will not be sufficient to justify deviation from the interests identified in paragraph 12–9 of ER 405–1–12.”

Question 6.c. Is an effort being made to revise the procedure by which non-standard estates can be approved, including delegating such authority to the district commanders and real estate staff who best understand local conditions?

ANSWER. This issue is being reviewed to determine if changes are warranted.

Question 7. Section 125 of WRDA 2020—Beneficial Use of Dredged Material

Question 7.a. What efforts is the Corps making to revise the federal standard to better consider the ecosystem restoration benefits of beneficial use of dredged material as part of the USACE analysis into whether the cost-benefits of beneficial use meets the federal standard least-cost alternative?

ANSWER. WRDA 2020, Section 125 requires consideration of the Corps to include economic and environmental benefits when calculating the federal standard and requires more regular stakeholder engagement. My staff, in consultation with the Corps, is investigating the courses of action available regarding how the federal standard is calculated.

Question 7.b. What specific efforts are being made to modify the federal standard to apply the directives under Section 125 to develop and apply methodologies that better evaluate, calculate and factor the ecosystem restoration benefits of beneficial use into the federal standard in determining the least cost alternative for dredge disposal?

ANSWER. My staff, in consultation with the Corps, is investigating the courses of action available regarding how the federal standard is calculated.

Question 7.c. How does the Corp intend to better develop mechanisms to calculate the tangible value in the intangible benefits of beneficial use project, including the ecosystem services and hurricane storm damage risk reduction and flood protection benefits provide by such projects?

ANSWER. The Corps has established methodologies for evaluating flood and coastal storm damage and aquatic ecosystem restoration benefits.

Question 8. Section 212—Report on Status of Restoration in the Louisiana Coastal Area (LCA)

Question 8.a. What is the status of this report? It is due by the end of the year.

ANSWER. No activities have occurred, nor have any reports or recommendations been made available to date.

QUESTIONS FROM HON. JOHN GARAMENDI TO JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY

Question 1. Assistant Secretary Pinkham, does the Army Corps of Engineers now have a reasonably accurate National Levee Database of the levees and their condition?

ANSWER. The majority of levees across the Nation have been located and identified, with some limited gaps in unmapped areas. The National Levee Database contains detailed information on 2,000 levees with ties to Corps authorities. It includes the condition of each levee and the risks to the levee system. Other levee information has been collected from various sources such as states and other federal agencies and has been included where applicable. The Federal Emergency Management

Agency (FEMA), the largest contributor of levee locations to the National Levee Database, added 5,000 levee locations that were captured through its production of flood hazard maps.

Question 2. As the Corps continues to update the National Levee Database, do you have a refined estimate for what it would cost to do the necessary maintenance and repairs for every deficient levee in the United States? The most recent estimate I have indicates \$80 billion in need, from the American Society of Civil Engineers.

ANSWER. No. The Corps does not have an estimate of the cost to do the necessary maintenance and repairs for every deficient levee in the United States. In 2018, the Corps developed a cost estimate to address performance deficiencies that could lead to a levee breach (i.e. overtopping, seepage, slope stability, erosion, or malfunctioning closure) for 1,600 federally authorized and locally maintained levee systems. The cost estimate also included non-structural factors related to evacuation planning. The total cost estimate was developed by analyzing performance issues for portions of 350 federal levees ranging from very high to moderate risk and developing specific cost estimates. The resulting cost estimates were then extrapolated to the 1,600 levee systems for a total estimated cost of \$21 billion. The cost estimates did not include routine maintenance. More information on the cost estimate published in 2018 can be found in the USACE Levee Portfolio Report 2018 at <https://usace.contentdm.oclc.org/utils/getfile/collection/p266001coll1/id/6922>. The Corps intends to update this cost estimate with the best information, including any changed conditions or levee improvements that have been accomplished.

QUESTIONS FROM HON. MICHELLE STEEL TO JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY

Question 1. Before being elected to Congress, I served on the Orange County Board of Supervisors. During my time on the Board, I worked with the LA Army Corps District to fund and complete the Surfside-Sunset & Newport Beach Replenishment Project on the Orange County coastline.

This issue has a long history more than 60 years ago, the construction off the coast by the federal government narrowed our beaches, and in the time since, the coastline has eroded. Erosion is a major safety issue, not to mention it's hurting our wildlife and our Orange County ecosystem. The Army Corps started fixing this damage by adding sand back to our beaches, but they stopped funding the project in 2000.

In 1962, the Department of the Army conducted a study and presented their findings to Congress on October 2nd. In that study, there was a proposed measures to "mitigate adverse effects of previously constructed projects" and "its views concerning responsibility for such mitigating measures." House Document 602 acknowledged that the Federal government was responsible for the disruption to the naturally occurring replenishment process. On October 23rd, 1962, Congress accepted the findings from the study and passed Public Law 87-874 which approved and authorized the Orange County replenishment. The law also declares that there will be "periodic beach nourishment with no time limit on Federal aid authorized." This project was last modified by Chief of Engineers on September 1963. The Army of Civil Works acknowledged that this "project is a periodic continuing construction project."

Mr. Pinkham, you mentioned that "this Budget relies on a foundation of strong relationships between the Corps and local communities, which allow us to work together to help develop, manage, restore, and protect the Nation's water resources."

Question 1.a. From 1962 through today, the tangible benefits of this project have exceeded the estimated annual cost. Why do you feel justified in not funding this authorized project that your own office acknowledged is a "periodic continuing construction project"? What do I report back to my constituents and local governments who feel forgotten by the Federal government?

ANSWER. The Army will continue to consider this project for funding along with other programs, projects and activities across the Nation that are competing for available Federal resources.

Question 1.b. Every day this project goes unfinished, the taxpayers of Orange County are left on the hook to pay more and are living with a higher risk of a natural disaster. Congress passed a law declaring "periodic beach nourishment with no time limit on Federal aid authorized" for this project. Why is your office no longer budgeting for future stages despite its recognition that this is an important ongoing concern?

ANSWER. The Army will continue to consider this project for funding along with other projects, projects and activities across the Nation that are competing for available Federal resources.

Question 1.c. Are you concerned with the heightened risk of safety issues including loss of life and cost to municipalities if these floods continue? The extreme high tides are coming in, as we speak, local officials have worked on emergency procedures. When storms come in and businesses wash away, who will be held responsible?

ANSWER. The Army Corps considers potential risk to public safety and storm damage impacts in its evaluation of projects for future funding.

QUESTION FROM HON. MICHAEL GUEST TO JAIME A. PINKHAM, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, DEPARTMENT OF THE ARMY

Question 1. The US Army Corps of Engineers' Engineer Research and Development Center provides crucial civil works research that impacts our nation's waterways and surface transportation systems. A robust and sustained U.S. Army Corps of Engineers Civil Works research, development, testing, and evaluation program could play a key role in addressing some of today's biggest civil works challenges and in laying the groundwork for future technologies critical for American competitiveness. President Biden has indicated a desire to reinvest in American science, and an investment in a robust and sustained U.S. Army Corps of Engineers Civil Works R&D program would align with these goals. Consolidation of ongoing research efforts into a dedicated Research, Development, Testing, and Evaluation account would increase transparency about these critical efforts and provide a strong foundation to meet future civil works needs.

Question 1.a. Will you commit to working with the Administration and the Office of Management and Budget to stand up a dedicated Research, Development, Testing, and Evaluation account within the next President's budget to work to address our country's civil works needs?

ANSWER. I will continue to give full consideration to research and development needs.

QUESTIONS FROM HON. GRACE F. NAPOLITANO, ON BEHALF OF HON. CONOR LAMB, TO LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

Question 1. Lieutenant General Spellmon, on May 13, 2021, Congressman Lamb sent a letter to the Office of Management and Budget's Acting Director, as well as to you at the U.S. Army Corps (Corps) of Engineers outlining strong, bipartisan Congressional support for the Upper Ohio Navigation Project in Pennsylvania's 17th Congressional District. My understanding is that Rep. Lamb has mentioned this project to you before and he remains grateful for your previous visit to see the project firsthand.

The Upper Ohio Navigation Project has received approximately \$40 million in funding to date. The Energy and Water Development Appropriations Subcommittee included seven new starts for construction in the FY2021 appropriations bill, H.R. 133, including one for an inland waterways lock and dam modernization project. The Upper Ohio Navigation Project fortunately received this new start for construction in January 2021.

However, Congressman Lamb was disappointed to see that the project was not included in the President's Budget Request. As you may recall, the three locks included in the Upper Ohio Navigation Project are the oldest of the entire Ohio River system—all more than 70 years old. The current condition of these locks, especially the Montgomery Lock, is a state of critical structural and operational degradation. They are increasingly at risk of structural or operational failure that could halt navigation for a year or longer. In addition to impacting commercial freight, pool loss from a failure would affect municipal and industrial water intakes, recreation, and wildlife habitats.

It is Rep. Lamb's understanding that the Corps primarily uses transportation rate savings when computing benefits for navigation projects and does not consider water supply, recreation, or potential future private sector investments. He would argue these aspects should also factor into consideration.

Question 1.a. The Water Resources Development Act (WRDA) of 2018 (P.L. 115–270) directed the Corps to enter into an agreement with the National Academy of Sciences (NAS) to study the economic principles and analytical methodologies currently used by the Corps to formulate, evaluate, and budget for water resources development projects and report to Congress on the results of the study. Could you

provide an update on the progress the Corps has made with respect to this Congressional directive?

ANSWER. As of the date of this hearing, the Corps has not requested the National Academy of Sciences to undertake this study.

Question 1.b. What is the Corps' plan to recapitalize the navigation facilities on the upper Ohio River with the knowledge that it may not be budgetable, based on the Office of Management and Budget's (OMB) budgeting processes, which I would argue fail to consider the full costs and benefits associated with the Upper Ohio Navigation Project outlined above?

ANSWER. The Army will consider this project for Construction funding, along with other programs, projects and activities across the Nation that are competing for the available Federal resources.

Question 1.c. As you put together the FY2022 Corps Work Plan, can you commit to giving the Upper Ohio Navigation Project, full and fair consideration given the urgent state of the project and its significant benefits for my region and our country?

ANSWER. Yes.

QUESTION FROM HON. JOHN GARAMENDI TO LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

Question 1. Lieutenant General Spellmon, do you agree that capping the post-construction costs—Operations, Maintenance, Repair, Replacement, and Rehabilitation (OMRRR)—for aquatic ecosystem restoration projects with no physical infrastructure might increase willingness for local agencies to partner with the Army Corps on these projects?

ANSWER. I cannot speculate on a non-Federal sponsor's decision to partner on a project.

QUESTIONS FROM HON. MICHAEL GUEST TO LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

Question 1. The US Army Corps of Engineer's Continuing Authorities Program (CAP) 205 Flood Damage Reduction fills a critical need nationally, supporting projects that are too large for sponsors or cannot be funded through emergency funding but are crucial for safety and need to be completed in a timely manner. Many of these communities and project areas are left to push local divisions to try to prioritize their projects, creating a growing backlog.

Question 1.a. How many pending CAP 205 applications were there 5 years ago; how many pending applications today?

ANSWER. In 2016, there were 110 pending requests and in 2020 there were 120 pending requests.

Question 1.b. How many CAP 205 projects have been completed annually over the last 5 years by division and district?

ANSWER. There were 23 identified CAP 205 construction completions over the last 5 years.

- FY 2016—Six projects: Great Lakes and Ohio River Division—Louisville District; Mississippi Valley Division—St. Louis and St. Paul Districts; North Atlantic Division—three in New York District.
- FY 2017—Three projects: North Atlantic Division—New York District; South Atlantic Division—Jacksonville and Charleston Districts.
- FY 2018—Three projects: North Atlantic Division—New England and Philadelphia Districts; Great Lakes and Ohio River Division—Buffalo District.
- FY 2019—Four projects: North Atlantic Division—Philadelphia District; Northwestern Division—Omaha District; Southwestern Division—two in Fort Worth District.
- FY 2020—Seven projects: Great Lakes and Ohio River Division—Louisville District; Mississippi Valley Division—Memphis and St. Paul Districts; North Atlantic Division—New England District; Pacific Ocean Division—Alaska District; South Atlantic Division—Memphis District; South Pacific Division—Albuquerque District.

Question 1.c. How many new start CAP 205 projects have been awarded for each of the last 5 years, nationally, by division, by district?

ANSWER. There were 39 new CAP 205 projects initiated over the last five fiscal years using regular appropriations (summarized below). Two additional CAP 205

projects were started in North Atlantic Division using Hurricane Sandy supplemental funds. There were also 10 projects that were small enough to be converted from authorized studies into the CAP program (Two projects each district—Philadelphia, Omaha, Seattle, Chicago and Honolulu).

- FY 2016—14 projects: Mississippi Valley Division—St. Louis, Rock Island and St. Paul Districts; North Atlantic Division—Baltimore and New England Districts; Great Lakes and Ohio River Division—Huntington, Louisville and Chicago Districts; South Atlantic Division—Two in Jacksonville District; South Pacific Division—Two in Los Angeles District; Southwestern Division—Two in Fort Worth District.
- FY 2017—Nine projects: Mississippi Valley Division—Two in Rock Island District; North Atlantic Division—Baltimore and Philadelphia Districts; Northwestern Division—Walla Walla District; Great Lakes and Ohio River Division—Nashville and Chicago Districts; Southwestern Division—Two in Fort Worth District.
- FY 2018—No projects.
- FY 2019—Eight projects: Mississippi Valley Division—St. Louis District; North Atlantic Division—New England District; Northwestern Division—Omaha District; Great Lakes and Ohio River Division—Chicago District; Pacific Ocean Division—Alaska District; South Atlantic Division—Jacksonville District; South Pacific Division—San Francisco District; Southwestern Division—Little Rock District.
- FY 2020—Eight projects: Mississippi Valley Division—Vicksburg District; North Atlantic Division—New England District; Northwestern Division—Omaha District; Great Lakes and Ohio River Division—Chicago District; Pacific Ocean Division—Honolulu District; South Atlantic Division—Wilmington District; South Pacific Division—Albuquerque District; Southwestern Division—Little Rock District.

Question 1.d. What criteria does headquarters, and the divisions use to prioritize and allocate new start CAP 205 projects annually?

ANSWER. Based on direction in the statement of managers for CAP included in the annual Appropriations Act, new projects can be initiated after all eligible work for on-going projects have been allocated funding and an affordability analysis is prepared to evaluate the affordability of new projects over the upcoming two years. Once the addition of new start projects is affirmed based on the affordability analysis, a list of CAP 205 projects with an updated Letter of Intent and funding need expressed in the current fiscal year will be ranked based on prioritization within a region, timeframe since original sponsor request, and external stakeholder interest.

QUESTION FROM HON. DAVID ROUZER TO JEFFREY J. LYASH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TENNESSEE VALLEY AUTHORITY

Question 1. If the Biden Administration wants to decrease the carbon footprint of federal facilities such as the numerous Department of Defense (DOD) and Department of Energy (DOE) facilities that TVA serves, how important is it to our national security that the government support power generation that is reliable and resilient, such as small modular reactors (SMRs), which I know you are exploring at your Clinch River Site?

ANSWER. Reliable, resilient, affordable and clean energy is critical to the daily lives and national security of the people of the Tennessee Valley and the nation. As TVA and others set goals for delivering increasingly cleaner energy, the federal government's support for the development and deployment of new technologies is essential.

TVA supplies highly reliable, low-cost energy for a seven-state region through one of the nation's most diverse generation portfolios. About 60% of our energy supply today comes from carbon-free sources. We have reduced our carbon emissions by 63% since benchmark levels in 2005; we are working to achieve a reduction of 70% by 2030 and have a path to achieve about 80% by 2035.

Nuclear power is TVA's single largest source of carbon-free energy, providing more than 40% of all the energy we supply for the 10 million people we serve. Nuclear power is the most reliable and least expensive form of baseload power generation—energy that is available in large quantities to fuel homes, businesses and industries around the clock.

TVA's aspirational goal is to achieve net-zero carbon emissions by 2050. We recognize that closing the last 20% gap in carbon emissions depends on the development of emerging technologies at a commercial scale and at a cost that will enable their deployment. These technologies include carbon capture and sequestration, long-du-

ration energy storage, alternative fuels such as hydrogen, and, importantly, advanced nuclear technology.

TVA's mission of service includes national defense. TVA has proudly supported the unique energy needs of the Oak Ridge, Tennessee, national defense and research complex since its inception during the early days of the Manhattan Project. We currently provide approximately 290 megawatts of electric power to Department of Energy and Department of Defense installations throughout our service region. TVA and the Oak Ridge National Laboratory (ORNL) partner in a number of initiatives, and we have opportunities to work together to reduce carbon emissions through advanced technologies that include small modular reactors (SMRs).

In December 2019, TVA received the nation's first Early Site Permit from the Nuclear Regulatory Commission for a small modular reactor at our Clinch River Site in Oak Ridge. An SMR demonstrated at scale at the Clinch River site could supply enough carbon-free energy to offset emissions from not only ORNL's energy supply—currently approximately 31% of DOE's total carbon footprint—but also from the energy TVA supplies to almost all of the federal government's other facilities across our 80,000-square-mile service area.

Further deployment of SMRs could enhance national security by positioning the SMRs with a micro-grid power network that could be isolated from the region's main power transmission system in times of natural or national emergency. This approach would provide a resilient and reliable energy supply dedicated to meeting the energy needs of critical federal facilities, such as Oak Ridge National Laboratory.

As a recognized leader in nuclear technology and as a part of the federal government, TVA has the expertise and regulatory approval to expand development of advanced nuclear technology to help support our nation's energy and security needs.

However, the costs and risks associated with first-of-a-kind demonstration technologies—specifically SMRs—are significant. The federal government can play a vital role in supporting technological developments that would help ensure a resilient, reliable and cleaner energy supply for DOE and DOD facilities in the Tennessee Valley and across the country.

We look forward to future opportunities to work in partnership with ORNL, the Department of Energy and other agencies as we strive to help develop energy technologies on behalf of the nation.

QUESTION FROM HON. MICHAEL GUEST TO JEFFREY J. LYASH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TENNESSEE VALLEY AUTHORITY

Question 1. The Tennessee Valley Authority provides crucial resources to families and businesses across the Tennessee Valley, including access to economic development project funding and needed, affordable electric resources. Mississippi has the second-largest TVA coverage area among all states in the TVA, yet currently holds no positions on the TVA board. The absence of representation on the board leaves out a huge population of Mississippi stakeholders who use TVA resources every day. Additionally, new structure under the TVA groups my state into a region with much of Eastern Tennessee, a region with different issues and concerns than Mississippi. I am disappointed in the President's decision not to fill a board member position from the State of Mississippi, as well as the TVA's decision to group the state under the new West Region.

Question 1.a. Does TVA currently have a plan on how to better represent the second largest stake-holding state within the Authority's board structure?

ANSWER. We appreciate your interest in the TVA Board. In compliance with the TVA Act, and as a federal agency, TVA does not directly or indirectly influence the Executive Branch's choice of nominees or influence the confirmation process. The Act also covers eligibility qualifications of Board members and outlines the confirmation process for nominees, which are to be appointed by the President by and with the advice and consent of the Senate.

Regardless of state representation on TVA's board, our mission of service and new organizational structure in the regional model ensure that the local needs and interests of the communities TVA serves are equitably understood and represented.

TVA's service area in Mississippi is a vital and valued part of our integrated public power model, and we are honored to serve the people and communities of the state. TVA provides reliable, affordable electricity generation and transmission service to 28 local power companies in Mississippi and employs a team of approximately 250 Mississippi-based professionals (FY20) to help ensure we are meeting the needs of local power companies and their residential and business customers.

Of the 28 local power companies, 27 have elected to become long-term partners with TVA, reflecting their high degree of engagement and partnership with TVA on

our activities and long-term planning. Local power companies within your district, including Starkville Utilities, play significant roles in thought leadership and innovative project implementation with TVA.

TVA is also moving to a regional model to provide more value and increase our knowledge and responsiveness to the needs of our local communities. By increasing TVA's presence locally, we aim to build trust with your constituents and deliver solutions for each community's unique strengths and challenges.

Mississippi and western Tennessee comprise TVA's West Region due to the service territories of our local power companies, and due to similarities in local geography, demographics, and economic dependencies.

Additionally, as we fully develop our regional operating model, we intend to create regional community panels of local business, civic, and philanthropic leaders to provide local counsel on the best use of TVA's resources in their area to maximize impact. We look forward to engaging panel members from Mississippi in the near future through this new working body, and we are committed to continuing to carrying out TVA's mission of service.

QUESTIONS FROM HON. GRACE F. NAPOLITANO TO DANIEL AVILA, ACTING COMMISSIONER, U.S. SECTOR OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION

Question 1. With respect to the Nogales wastewater treatment plant (WTP), your testimony states that effluent exceedances are often noted and that at the Nogales WTP, detection of heavy metals sometimes occur. Improving the pipeline integrity is necessary but you do not address what can be done to treat the heavy metals in the flow that do arrive at the WTP from international sources. The heavy metals in the flows coming into the United States will not be reduced with improved pipelines.

Can you provide us with your plan on addressing the heavy metal flows into the United States?

ANSWER. The United States has spent considerable time and money to improve the wastewater treatment capacity and pretreatment programs in Nogales, Sonora. Under a North American Development Bank/EPA grant, the city of Nogales, Sonora was able to construct a wastewater treatment plant that reduced wastewater flows to the United States. With funds from multiple U.S. entities, a wastewater systems study was conducted and determined that three industrial parks in the city of Nogales, Sonora are discharging the heavy metals of concern. Due to a lack of further funding, it has not been possible to conduct more intensive surveys to identify the exact industrial sources of the metals and any legal recourse. U.S. officials wrote to U.S. companies located in Mexico, asking them to address the discharges.

Further, the USIBWC holds quarterly meetings with agencies from both countries to raise the concern about the metals to regulatory bodies and the regulated communities in Nogales. The USIBWC monitors the wastewater flow from Mexico and notes any metals levels of concern to the Mexican Section of the IBWC and submits formal requests for Mexican agencies to address the issue. Heavy metals will likely remain a challenge in the medium- to long-term, in light of Mexico's heavy industrial presence along the U.S. border. USIBWC will work with the U.S. Department of State to press the Mexican government to fund regulatory agencies to the levels needed to find, sanction, and/or close the discharges.

Question 2. Your testimony states that 5 of the 6 dams that the IBWC and Mexico manage on the Rio Grande are either "urgent, potentially unsafe" or "high priority, conditionally unsafe". Your testimony further delineated the efforts you are taking to improve flood control levees along the Rio Grande, yet you are not seeking funds for the Safety of Dams Program.

How do you intend to address dam safety at the five dams identified as problematic?

ANSWER. USIBWC will use \$20 million in unobligated carryover funds from previous fiscal years to develop and implement risk mitigation plans for the dams jointly operated by the U.S. and Mexican Sections. The dam of greatest concern—Amistad—has received a Dam Safety Action Classification (DSAC) of "Urgent, Potentially Unsafe." The Principal Engineers of the U.S. and Mexican Sections have agreed on a risk mitigation project for Amistad and the Sections seek to complete the necessary IBWC Minute, with a binding binational cost share, in the coming months.

The U.S. Section has received the appropriations needed to fund its share of the project and the Mexican Section is obtaining its share. Inspections of the other dams—Falcon, Anzaldua's, American, and Retamal Dams will continue on schedule (every 5 years) and monitoring/seepage systems will be evaluated for necessary repairs and upgrades.

Question 3. In October of 2020, two days before Mexico would be in violation of the 1944 Treaty for delivery of water to the United States, Minute 325 was signed which allocated 105,000 acre-feet of water from Amistad and Falcon International reservoirs from Mexican ownership to U.S. ownership. Mexico's delivery of water to the U.S. occurs on 5-year cycles and has been problematic.

Can you please identify if the U.S. and Mexican Sections of the IBWC have formulated a plan to move forward to ensure future on-time deliveries of water to avoid future water challenges on both the Mexican and U.S. sides of the border?

ANSWER. The two Sections of the Commission are working in partnership with the State of Texas and Mexico's National Water Commission to address water challenges on both the Mexican and U.S. sides of the border. The Commission's 2020 agreement, Minute No. 325, "Measures to End the Current Rio Grande Water Delivery Cycle without a Shortfall, to Provide Humanitarian Support for the Municipal Water Supply for Mexican Communities, and to Establish Mechanisms for Future Cooperation to Improve the Predictability and Reliability of Rio Grande Water Deliveries to Users in the United States and Mexico," provides tools to address these challenges.

Minute No. 325 formally establishes a binational Rio Grande Hydrology Work Group and a binational Rio Grande Policy Work Group. The Hydrology Work Group, comprised of technical experts from both countries, is developing a binational Rio Grande model that will be used as a tool to analyze potential future water management scenarios. The Policy Work Group provides policy guidance to the Hydrology Work Group and will address legal and policy issues associated with any potential future water management scenarios. Minute No. 325 states the goal for these work groups is to develop a Minute prior to December 2023 that would provide increased reliability and predictability in Rio Grande water deliveries to users in the United States and Mexico. Both of these groups have been meeting regularly this year.

QUESTIONS FROM HON. DAVID ROUZER TO DANIEL AVILA, ACTING COMMISSIONER,
U.S. SECTOR OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION

Question 1. It appears that the IBWC has responsibility for a lot of severely deteriorated infrastructure, including levees, dams, canals, outfall interceptors, and wastewater treatment plants.

Question 1.a. What are the primary reasons for this infrastructure having become so deteriorated?

ANSWER. IBWC infrastructure is used heavily, under conditions that cause rapid deterioration. The wastewater treatment plants, and outfall interceptors receive influent that contains stormwater, sand and debris that causes erosion and deterioration at a much faster rate than that experienced by a plant that only receives wastewater influent. In addition to the official use of USIBWC levees by Customs and Border Protection, there is illegal use by off-road vehicles. Both legal and illegal use cause wear and tear at a much faster rate than the typical levees that are closed off to use by others. Although the canals have been maintained, they have reached the end of their lifespan and are being rehabilitated as required. The dams are regularly inspected and maintained as required.

USIBWC has performed maintenance on its infrastructure as funding becomes available through the budget process. USIBWC focuses on mitigating high-risk items to ensure we can continue to complete our mission. Low-risk items are deferred, since resources do not allow for the performance of all maintenance requirements in the short term.

Question 1.b. What has the IBWC been doing to maintain its infrastructure, so it does not become so deteriorated?

ANSWER. USIBWC has taken steps to maintain infrastructure and reduce further deterioration by requesting a new appropriation specifically for deferred maintenance. USIBWC received a \$7 million appropriation for deferred maintenance in fiscal year 2019. The agency has identified deferred maintenance projects and developed a plan with cost estimates and a schedule in order to request future appropriations under the Deferred Maintenance Program.

USIBWC also currently receives between \$47 and \$49 million in appropriations for construction to rehabilitate levees and other related infrastructure to improve flood control and water conveyance, renovate facilities, provide security to critical infrastructure, ensure dam safety and improve wastewater treatment. The agency recognized the need for action by increasing our appropriation request by \$20 million from \$29 million a few years ago. In USIBWC's Strategic Plan, we formulated an action plan that prioritizes new construction within our resource constraints, as well as deferred maintenance to address our border infrastructure and wastewater concerns.

Question 1.c. Please describe the IBWC's asset management program for maintaining and improving its infrastructure.

ANSWER. The USIBWC asset management program is centered on mission fulfillment and risk mitigation. Each field office performs annual risk assessments and identifies deficiencies. Annual work plans are created to address immediately the highest-risk deficiencies, while projects to address low-risk deficiencies are planned for the out-years. Opportunities for improving or upgrading our infrastructure are also identified annually and captured in the annual updates to our 10-year Capital Plans.

These plans are tied to our agency-wide Strategic Plan to ensure we are completing actions identified by the agency as priorities and assessing progress through performance metrics.

Question 2. How much money has the United States spent directly on Mexican wastewater infrastructure to combat problems and deterioration?

ANSWER. Although the United States Section of the IBWC executes critical coordinating and advisory functions with Mexican counterparts to improve sewage treatment and address transboundary flows, the USIBWC does not spend appropriated federal funds on wastewater infrastructure located in Mexico except when specifically authorized. However, the U.S. has contributed to several binational wastewater projects that are located in the United States and that treat Mexican wastewater at the South Bay International Wastewater Treatment Plant, the Nogales International Wastewater Treatment Plant, and the Nuevo Laredo International Wastewater Treatment Plant and collection system. These IBWC binational projects have served to treat Mexican wastewater and prevent the entry of that wastewater into the United States without treatment. With continued partnership and authority IBWC will continue to address the issue of aging infrastructure and expanding treatment capacity to serve the growing population.

The EPA has the authority to co-fund projects that are located in Mexico to improve the wastewater collection and treatment systems in that country through the Border Water Infrastructure Program and that the EPA and entities like NADBANK and BECC have invested substantially in Mexican-side infrastructure. We refer you to EPA for the most up-to-date figures regarding expenditures on Mexican wastewater infrastructure.

PRESIDENT BIDEN'S FISCAL YEAR 2022 BUDGET REQUEST: AGENCY POLICIES AND PERSPECTIVES (PART 2)

WEDNESDAY, JULY 14, 2021

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

The subcommittee met, pursuant to call, at 11:01 a.m., in room 2167 Rayburn House Office Building and via Zoom, Hon. Grace F. Napolitano (Chair of the subcommittee) presiding.

Members present in person: Mr. Rouzer.

Members present remotely: Mrs. Napolitano, Ms. Johnson of Texas, Mr. Garamendi, Mr. Lowenthal, Mr. Malinowski, Mr. Delgado, Mr. Pappas, Mr. Carbajal, Mr. Stanton, Mr. Webster, Dr. Babin, Mr. Bost, Mr. LaMalfa, Mr. Mast, Miss González-Colón, and Ms. Mace.



Committee on Transportation and Infrastructure
U.S. House of Representatives
 Washington, DC 20515

Peter A. DeFazio
 Chairman

Katherine W. Dedrick, Staff Director

Sam Graves
 Ranking Member

Paul J. Sans, Republican Staff Director

JULY 12, 2021

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Water Resources and Environment
 FROM: Staff, Subcommittee on Water Resources and Environment
 RE: Subcommittee Hearing on “President Biden’s Fiscal Year 2022 Budget Request: Agency Policies and Perspectives (Parts I and II)”

PURPOSE

On Wednesday, July 14, 2021, at 11:00 a.m. EDT, the Subcommittee on Water Resources and Environment will hold a hearing in the Rayburn House Office Building, Room 2167, and via Zoom, to receive testimony related to “President Biden’s Fiscal Year 2022 Budget Request: Agency Policies and Perspectives (Part II)”. The subcommittee received testimony from the remaining federal agencies under the jurisdiction of the subcommittee on Thursday, June 24, 2021.¹

The purpose of these hearings is to provide members with an opportunity to review the FY 2022 budget request and the administration’s program priorities for the authorities under the jurisdiction of the subcommittee.

At the July 14th hearing, the subcommittee will hear testimony from the Environmental Protection Agency (EPA), the Great Lakes St. Lawrence Seaway Development Corporation (GLS), the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), the Agency for Toxic Substances and Disease Registry (ATSDR) at the Centers for Disease Control and Prevention (CDC), and the National Oceanic and Atmospheric Administration (NOAA).

At its June 24th hearing, the subcommittee received testimony from the U.S. Army Corps of Engineers (Corps), the Tennessee Valley Authority (TVA), and the U.S. Sector of the International Boundary and Water Commission (IBWC) within the Department of State.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

The administration’s FY 2022 budget request for the EPA totals \$11.241 billion, including \$5.130 billion for State and Tribal Assistance Grants, \$3.427 billion for Environmental Programs and Management, and \$1.533 billion for the Hazardous Substance Superfund program. The FY 2022 budget request is \$1.968 billion more than the FY 2021 enacted budget for the EPA.

¹ Accessible at <https://transportation.house.gov/committee-activity/hearings/president-bidens-fiscal-year-2022-budget-request-agency-policies-and-perspectives-part-i>.

Summary of FY 2022 Budget Request ²

(in millions)

Program	FY 2021 Enacted	FY 2022 Authorized	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
				\$	%
Science and Technology	\$729.3	No Authorization	\$830.0	\$100.6	13.8%
Environmental Programs and Management	2,761.6	No Authorization	3,427.5	665.9	24.1%
State and Tribal Assistance Grants	4,313.9	No Authorization	5,130.0	816.1	18.9%
<i>Clean Water SRF</i> ¹	1,638.8	No Authorization	1,870.7	231.9	14.1%
<i>Drinking Water SRF</i> ¹	1,126.1	No Authorization	1,357.9	231.8	20.6%
Water Infrastructure Finance and Innovation Program (WIFIA) Account.	65.0	No Authorization	80.1	15.1	23.3%
Hazardous Substance Superfund	1,205.8	No Authorization	1,533.8	328.0	27.2%
EPA Office of Inspector General	43.5	No Authorization	54.3	10.8	24.9%
Other ²	154.1	No Authorization	185.5	31.5	20.4%
Total	\$9,273.1		\$11,241.3	\$1,968.2	21.2%

¹ The State and Tribal Assistance Grants (STAG) program includes several grant programs other than the SRFs.² This number is the sum of the following EPA line items:

- Building and Facilities (B&F)—\$33.8 million (FY21 enacted) to \$62.8 million (FY22 request);
- Inland Oil Spill Program—\$20.1 million (FY21 enacted) to \$22.4 million (FY22 request);
- Leaking Underground Storage Tanks (LUST)—\$92.2 million (FY21 enacted) to \$92.4 million (FY22 request); and
- E-Manifest—\$8.0 million (FY21 enacted) & (FY22 request).

CLEAN WATER

The Committee on Transportation and Infrastructure has jurisdiction over programs aimed at protecting the nation's water quality. The EPA, through its own programs and in partnership with states and tribes, seeks to improve water quality in rivers, lakes, and coastal waters through investment in wastewater infrastructure, water quality standards, permitting programs, water quality monitoring, wetlands protection, and research, among other activities. The EPA's Office of Water operates the EPA's water quality protection programs.

Clean Water State Revolving Fund: The FY 2022 budget request proposes \$1.870 billion in federal capitalization grants for the Clean Water State Revolving Fund (Clean Water SRF), which is \$231.9 million more than the FY 2021 enacted level. The Clean Water SRF is the primary federal program for funding wastewater infrastructure projects and activities throughout the nation. Clean Water SRF funds are used for capitalization grants for state clean water infrastructure programs, which, in turn, fund locally developed wastewater infrastructure projects and activities.

In previous Congresses and the current Congress, the subcommittee held numerous hearings on financing water infrastructure projects. These hearings examined the growing funding gap that now exists between wastewater infrastructure needs and current levels of spending, the challenges facing low-income and rural communities in affording wastewater infrastructure investment, and the resiliency needs of our nation's water infrastructure. In June 2021, the Committee on Transportation and Infrastructure ordered H.R. 1915, the bipartisan Water Quality Protection and Job Creation Act of 2021, as amended, favorably reported to the House of Representatives by a vote of 42–25, and this legislation was incorporated as Division H of H.R. 3684, the INVEST in America Act and approved by the House on July 1, 2021 by a vote of 221–201. This legislation would reauthorize the Clean Water SRF and other wastewater infrastructure grant programs for an additional five years.

Water Infrastructure Finance and Innovation Act Program (WIFIA): Authorized by the Water Resources Reform and Development Act of 2014 (WRRDA, P.L. 113–121), the WIFIA program provides low-interest federal loans or loan guarantees to eligible entities for a wide range of nationally and regionally significant water and wastewater projects. The most recent authorization level (FY 2021) for the WIFIA program was \$50 million; however, the WIFIA program is not authorized for FY 2022. The President's budget request for FY 2022 is \$80.1 million for the WIFIA program, while the FY 2021 appropriated level was \$65 million.

Environmental Programs and Management: (EPM): This account provides funds for internal programmatic activities. The President's budget request would increase

² See <https://www.epa.gov/sites/production/files/2021-05/documents/fy-2022-epa-bib.pdf>; see also <https://www.epa.gov/sites/production/files/2021-05/documents/fy-2022-congressional-justification-all-tabs.pdf>

funding for the EPM account by \$665.9 million (24.1 percent) from the FY 2021 appropriated level of \$2.761 billion to \$3.4 billion.

Geographic (Regional) Programs: The EPA's regional programs provide an opportunity to target regionally specific environmental problems and to work closely with state and local partners. The FY 2022 budget request increases funding for the EPA's Great Lakes Restoration Initiative (GLRI) to \$340 million (+\$10 million), the Chesapeake Bay Program to \$90.5 million (+\$3 million), Gulf of Mexico to \$22.4 million (+\$2.4 million), Lake Champlain to \$20 million (+\$5 million), San Francisco Bay to \$12 million (+\$3 million), Long Island Sound to \$40 million (\$9.6 million), Puget Sound to \$35 million (+\$1.25 million), and Lake Pontchartrain programs to \$1.73 million (+\$295,000).

Additionally, the administration proposes a \$141,000 funding increase for the National Estuaries Program from the FY 2021 enacted level of \$31.82 million (section 320 of the Clean Water Act) to \$31.9 million.

[NOTE: On June 15, 2021, the House of Representatives passed under suspension three Clean Water regional program bills from the Committee on Transportation and Infrastructure, including legislation to authorize federal appropriations for the Puget Sound (H.R. 1144), the San Francisco Bay (H.R. 610), and the Lake Pontchartrain Basin (H.R. 1921) programs. The EPA regional programs are funded from the EPA's EPM account.]

State and Tribal Assistance Grants (STAG): This account provides categorical grants to states and tribes as part of the cooperative partnership between federal government, states, and tribes. The President's budget request would increase funding for the State and Tribal Assistance Grants account from the FY 2021 appropriated level of \$4.313 billion by \$816.1 million (18.9 percent) to \$5.1 billion. [NOTE: On June 15, 2021, the House of Representatives passed under suspension H.R. 2008 to reauthorize federal appropriations for EPA's non-point source pollution grant program (section 319), which is funded from the STAG account.]

The President's FY 2022 budget request would provide \$234.6 million in grants to states to establish and maintain state water pollution control programs under section 106 of the Clean Water Act. This is a \$4.6 million increase from the FY 2021 appropriated level of \$230 million. Section 106 funding is used by individual states to carry out state clean water programs, including Clean Water Act permitting, monitoring, and enforcement.

SUPERFUND AND BROWNFIELDS

Superfund Program: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, P.L. 96-510) established the Superfund program in 1980. The EPA's Office of Land and Emergency Management (OLEM) runs the Superfund program. Superfund is the federal program established to clean up the nation's uncontrolled and/or abandoned hazardous waste sites. The law makes designated responsible parties pay for the hazardous waste cleanups wherever possible and provides for a hazardous substances trust fund, commonly referred to as the Superfund, to pay for remedial cleanups in cases where responsible parties cannot be found or otherwise be held accountable. Superfund is also available for responding to emergency situations involving the release of hazardous substances. The EPA addresses the highest priority sites by listing them on the Superfund National Priorities List (NPL). The administration's FY 2022 budget request provides \$1,533.8 billion for the Superfund program, a \$328 million increase from the FY 2021 appropriated level of \$1.205 billion.

Brownfields: Brownfields consist of properties for which the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. These sites can consist, for example, of former industrial properties, gas stations, or dry cleaners. The EPA established the Brownfields Initiative in 1995 to better enable the federal government, states, and communities to work together to address, cleanup, and reuse brownfields sites. The Small Business Liability Relief and Brownfields Revitalization Act (P. L. 107-118) authorized funding for the EPA to award brownfields assessment, cleanup, and revolving loan fund grants, as well as provided limited Superfund liability protections for certain innocent landowners and bona fide prospective purchasers. The EPA's OLEM manages the Brownfields program.

The President's FY 2022 budget request would provide \$201.374 million for the EPA's brownfields program, including \$130.982 million in site assessment and cleanup grants (STAG account); \$46.195 million for authorized state brownfields programs (STAG account); and \$24.197 million for the EPA's management of the Brownfields program (EPM account). Of all the brownfields-related activity included in the President's budget, the account that funds actual, on-the-ground, brownfields site assessment and remediation activities proposes funding at \$130.9 million, which

would be a \$40.0 million increase from the FY 2021 level. In the 115th Congress, the Brownfields Utilization, Investment, and Local Development Act (P. L. 115–141) included an authorization of \$200 million for FY 2022 for this specific purpose.

U.S. ARMY CORPS OF ENGINEERS (CORPS)

The Corps studies, constructs, operates, and maintains water resources development projects for the nation, usually through cost-shared partnerships with non-federal sponsors. Authorized mission activities include navigation, flood control, shoreline protection, hydropower, dam safety, water supply, recreation, environmental restoration and protection, and disaster response and recovery.

Summary of FY 2022 Budget Request ³

(in millions)

Program	FY 2021 Enacted	FY 2022 Authorized	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
				\$	%
Investigations	\$153.0	No Authorization	\$105.8	-\$47.2	-30.8%
Construction	2,692.6	No Authorization	1,792.4	-900.3	-33.4%
Operation and Maintenance	3,849.7	No Authorization	2,502.9	-1,346.8	-35.0%
[Harbor Maintenance Trust Fund] ¹	n/a	No Authorization	\$1,625.9	-	-
Regulatory	210.0	No Authorization	204.4	-5.6	-2.6%
Expenses	206.0	No Authorization	199.3	-6.7	-3.3%
Office of the Assistant Secretary of the Army	5.0	No Authorization	5.0	0.0	0.0%
Mississippi River and Tributaries (MRT)	380.0	No Authorization	\$269.7	-110.3	-29.0%
Inland Waterways Trust Fund (IWTF)	113.0	No Authorization	52.15	-60.85	-53.8%
FUSRAP	250.0	No Authorization	[250.0] ²	-	-
Flood Control and Coastal Emergencies (FCCE)	35.0	No Authorization	35.0	0.0	0.0%
Total	\$7,894.3		\$6,792.5³	-1,101.8	-13.9%

¹The President's budget distinguishes between Operation and Maintenance expenditures for non-navigation projects and O&M expenditures utilizing Harbor Maintenance Trust Fund expenditures. When compared with the FY 2021 appropriated levels for O&M activities (\$3.849 billion), the FY 2022 President's budget allocates a total of \$4.295 billion for O&M activities, for an increase of \$446 million (or 11.58 percent).

²Funds for the Formerly Utilized Sites Remedial Action Program (FUSRAP) program are included in the FY22 budget request under the Department of Energy's Office of Legacy Management, but would still be performed by the Corps. If such funds were included in the FY22 budget request for the Corps, the total request would be \$7.042 billion, which would be a decrease of \$875 million (-10.8%) from the FY21 enacted level.

The water resources development projects and programs of the Corps support vital economic and environmental needs of this nation. These projects provide for continued economic growth, job creation, and economic stability while protecting human lives and property, ensuring reliable waterborne transportation of goods, and restoring valuable natural resources.

The administration's FY 2022 request for the Corps of \$6.793 billion would be a reduction of \$1.101 billion from the FY 2021 enacted level for the agency.

Sources of Appropriations for FY 2022:

General Fund	\$5.067 billion
Harbor Maintenance Trust Fund	\$1.625 billion
Special Recreation User Fees	\$47 million
Inland Waterways Trust Fund	\$52.15 million

Investigations: The President's budget request would provide a total of \$113 million for the Investigations program, consisting of \$105.8 million from the Investigations account and \$7.1 million from the Mississippi River and Tributaries account. This program funds studies to determine the need, feasibility, and economic and environmental benefits of potential water resources projects. The investigations account is used to fund the study of potential projects related to river and harbor navigation, flood control, shore protection, environmental restoration, and related purposes. This account also funds the restudy of authorized projects, miscellaneous investigations, and plans and specifications of projects prior to construction.

The budget focuses on ongoing work and on promoting efforts to provide local communities with technical and planning assistance to enable them to reduce their

³See Fiscal Year 2022, Civil Works Budget of the U.S. Army Corps of Engineers, accessed at <https://usace.contentdm.oclc.org/digital/collection/p16021coll6/id/42>

flood risk, with emphasis on non-structural approaches. The budget would include \$29 million for technical and planning assistance programs that will help local communities identify and address their risks associated with climate change, \$17 million for research and development, \$4 million to complete dredged material management plans necessary to enable the disposal of dredged material from seven Great Lakes projects and two Mississippi River projects over the next 20–25 years, and \$1 million to incorporate climate resilience into planning and policy guidance for how the Corps formulates future projects.

The budget requests funding to initiate seven new studies: Central and Southern Florida Flood Resiliency Study, FL (flood and storm damage reduction); Boise River, Garden City, Ada County, ID (flood and storm damage reduction); Great Lakes Coastal Resiliency Study, IL, IN, MI, MN, OH, PA, NY, & WI (flood and storm damage reduction); Spring Creek South, Jamaica Bay (Howard Beach), Queens, NY (aquatic ecosystem restoration); Little Narragansett Bay, RI (navigation); Waccamaw River, Horry County, SC (flood and storm damage reduction); and Little Goose Creek, Sheridan, WY (aquatic ecosystem restoration).⁴ The budget also requests funding to complete 15 ongoing studies.⁵

Construction: The Construction account would provide \$1.889 billion for the construction of Corps projects, consisting of \$1.792 from the Construction Account, \$63.7 million from the Harbor Maintenance Trust Fund (HMTF), and \$32.6 million from the Mississippi River and Tributaries account. The budget includes requests for four construction new starts, including: McClellan-Kerr Arkansas River Navigation System, Three Rivers, AR (navigation); West Sacramento, CA (flood and storm damage reduction); Anacostia Watershed Restoration, Prince George's County, MD (aquatic ecosystem restoration); and Norfolk Harbor and Channels, VA (Deepening) (navigation).⁶ The budget also proposes sufficient funding to complete construction of four ongoing projects.⁷

The 2022 budget would include \$350 million for the South Florida Ecosystem Restoration (SFER) (Everglades) program, a \$100 million increase, or forty percent, from the 2021 enacted level. SFER funding was also included in the administration's infrastructure proposal, the *American Jobs Plan*.⁸ Taken together, a robust amount of funding is proposed for SFER, enabling significant progress on ecosystem restoration. In an effort to improve the resilience of the nation's ports and waterways, the plan would also include \$2 billion over five years to cover the federal share of coastal navigation construction projects and \$780 million to cover 65 percent of the cost to complete construction of on-going capital improvement projects and major rehabilitation of existing inland navigation construction projects.

The budget proposes modifying the performance criteria for projects funded on the basis of their economic return to the nation, by lowering the threshold benefit-to-cost ratio (BCR) (previously at 2.5 to 1) to 2.0 to 1 or greater at a seven percent discount rate.

Operation and Maintenance (O&M): The President's budget would provide a total of \$4.295 billion for the O&M program, consisting of \$2.503 billion from the O&M account, \$1,557 billion from the HMTF, and \$235.3 million from the Mississippi River and Tributaries Account.

The budget would provide \$75 million to advance near-term climate resilience efforts by specifically targeting operation and maintenance activities that are focused on improving climate resilience and/or sustainability at existing Corps-owned projects, \$60 million for work needed to mitigate for adverse impacts from existing Corps-owned projects, \$20 million to improve cybersecurity at existing Corps-owned projects, and \$13 million to complete major rehabilitation studies at six inland waterway locks and dams projects. These funds will be used in addition to the \$2 billion over five years proposed in the *American Jobs Plan* for the maintenance and repair of existing navigation channels and navigation locks and dams on the nation's inland waterways that support commercial navigation.

Harbor Maintenance Trust Fund (HMTF): The President's budget proposes to spend \$1.626 billion from the HMTF for eligible projects and activities with an emphasis on operation and maintenance, including dredging, of completed projects, the highest amount ever proposed in a President's budget since enactment of the HMTF in 1986. The budget requests \$787 million to address the top 50 U.S. coastal ports across the nation, which handle around 90 percent of the waterborne cargo that is

⁴ See id.

⁵ See id.

⁶ See id.

⁷ See id.

⁸ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>.

shipped to or from the United States. The budget also requests \$252 million for operation and maintenance of Great Lakes-projects, \$58 million for projects that support access by Native American tribes to their legally recognized historic fishing areas, and \$63 million for five construction projects that will accommodate disposal of material dredged from coastal navigation projects. The budget also highlights funding in the *American Jobs Plan* that proposes an additional investment of \$2.8 billion over five years for activities in coastal ports that are HMTF eligible.

Mississippi River and Tributaries (MR&T): The President's budget request includes a total of \$275 million, consisting of \$269.688 million from the Mississippi River and Tributaries account and \$5.312 million from the HMTF, for ongoing work in the lower Mississippi River and its tributaries, with emphasis on the 1,600 miles of levees and related features on the main stem of the lower Mississippi River and in the Atchafalaya Basin.

Flood Control and Coastal Emergencies (FCCE): The President's budget request includes \$35 million for preparedness and training for floods, hurricanes, and other natural disasters.

Formerly Utilized Sites Remedial Action Program (FUSRAP): The President's budget request proposes to transfer financial responsibility for FUSRAP sites back to the Department of Energy. *NOTE: The Department of Energy budget request includes \$250 million for management of the FUSRAP program.*

Inland Waterways Trust Fund (IWTF): The President's budget request proposes to spend \$52.150 million from the IWTF to begin construction on the McClellan-Kerr Arkansas River navigation system, Three Rivers, AR project, which will reduce the risk of a breach between Arkansas and White Rivers during high water that would likely result in a loss of navigation on the Mississippi River. The budget also includes \$420 million in funding proposed in the *American Jobs Plan* over the next five years to cover 35 percent of the cost to complete construction of on-going capital improvement projects and major rehabilitation of existing inland navigation construction projects.

Veteran's Curation Program and Collections Management: The President's budget proposal includes \$6.5 million for the Veteran's Curation Program, which provides rehabilitation and training for veterans using the archaeological collections of the Corps.

NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

Summary of FY 2022 Budget Request ⁹

(in millions)

Program	FY 2021 Enacted	FY 2022 Authorized	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
				\$	%
Watershed and Flood Prevention Operations	\$175.0	Such Sums as May be Necessary.	\$175.0	0.0	0.0
Watershed Rehabilitation Program	10.0	No Authorization.	10.0	0.0	0.0
Watershed Protection and Flood Prevention Program ...	50.0	\$50.0	\$50.0	0.0	0.0
Total	\$235.0	\$50	\$235.0	0.0	0.0

The NRCS authorized to give technical and financial help to local organizations planning and carrying out watershed projects for flood protection, agricultural water management, recreation, municipal and industrial water supply, and wildlife enhancement.

The President's budget proposes \$50 million in mandatory funding for the Watershed Protection and Flood Program, which was created in the Agriculture Improvement Act of 2018 (P.L. 115-334) through amendments to the Watershed Protection and Flood Prevention Act (P.L. 83-566).

In addition, the budget proposes level funding of \$175 million for Watershed and Flood Prevention activities authorized by the Flood Control Act of 1944 (P.L. 78-534) and the Watershed Protection and Flood Prevention Act of 1954 (P.L. 83-566). This program directs NRCS to work with localities to plan and install flood prevention improvements and share the cost for improvements in flood prevention, agricultural water management, recreation, and fish and wildlife development. Further,

⁹ <https://www.usda.gov/sites/default/files/documents/2022-budget-summary.pdf>

the FY 2022 budget proposes an increase of \$10 million in funding under this program for small watershed operations authorized under P.L. 83–566. This program provides federal resources to small watersheds of 250,000 acres or less for both for technical and financial assistance of flood prevention and watershed projects on private land for the conservation, development, utilization, and disposal of water, and for the reduction of sediment and erosion damages.

The President's budget highlights a proposal to increase funding for the Watershed and Flood Prevention Operations program by \$100 million per year (totaling \$1 billion over ten years).

Lastly, the President's budget proposes level funding for the Watershed Rehabilitation Program at \$10 million for FY 2022. This program provides financial and technical assistance to communities for planning and financing the rehabilitation of federally constructed flood prevention dams that have reached the end of their design lives. The program is authorized under Section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), as amended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)

Summary of FY 2022 Budget Request ¹⁰

(in millions)

Appropriations Account	FY 2021 Enacted	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
			\$	%
National Ocean Service (NOS)	\$628.2	\$862.4	\$234.2	37.2%
Office of Oceanic and Atmospheric Research (OAR)	614.1	815.7	201.6	32.8%
Total ^{1,2}	\$1,242.3	\$1,678.1	\$435.8	35.1%

¹ Table totals the discretionary funding for NOS and OAR, and does not highlight accounts outside the jurisdiction of the Committee on Transportation and Infrastructure.

² Total includes funding for both operations, research, and facilities, and procurement, acquisitions, and construction accounts.

The Subcommittee has jurisdiction over various NOAA programs and activities, including responsibilities under the Clean Water Act, the Coastal Zone Management Act Reauthorization Amendments (P.L. 101–508), the Marine Protection, Research and Sanctuaries Act (P.L. 100–688), Superfund (P.L. 99–499), the Oil Pollution Act (P.L. 101–380), the Nonindigenous Aquatic Nuisance Prevention and Control Act (P.L. 104–332), the Harmful Algal Bloom and Hypoxia Research and Control Act (P.L. 105–383), and the Estuary Habitat Restoration and Partnership Act of 2000 (P.L. 105–457). The Subcommittee's jurisdictional interest in the NOS includes coastal water pollution and natural resource damages.

The President's FY 2022 budget requests \$815.67 million for discretionary funding for the OAR, \$201.58 million more than the FY 2021 enacted level of \$614.09 million.

The President's FY 2022 budget requests \$862.4 million for discretionary funding for the NOS, \$234.2 million more than the FY 2021 enacted level of \$628.2 million. The National Coastal Zone Management (CZM) Program is part of the NOS. The FY 2022 request includes level the following:

- *Coastal Zone Management Grants (\$108.5 million)* within the CZM Program. These grants support actions of states and other grantees authorized under the Coastal Zone Management Act (CZMA). Some of this work supports section 6217 of the Coastal Zone Reauthorization Amendments Act for controlling coastal non-point pollution. The CZM Program is a voluntary partnership between the federal government and coastal states, Great Lakes states, and territories to address coastal issues. This is a \$30 million increase over the FY 2021 enacted level.
- *National Centers for Coastal Ocean Science (NCCOS) Competitive Research Funding Support for Ecological Threats (\$22 million)*. The NCCOS competitive research program provides grants to academic institutions to conduct ecological research that advances NOAA's missions—including for algal blooms.
- *National Sea Grant Program (\$130 M)*. This program funds a network of 34 Sea Grant programs located in coastal states and territories, as well as more than 3,000 scientists, researchers, students, and outreach experts from more than

¹⁰ <https://www.noaa.gov/sites/default/files/2021-06/NOAA%20FY22%20CJ.pdf>

300 institutions. This funding number includes the total of funds from the National Sea Grant College Program and Marine Aquaculture program.

The President's FY 2022 budget proposes to increase funding for Coral Reef Restoration and Threat Abatement Initiatives by \$10 million to \$43 million. This program funds efforts to protect and restore coral reefs, diagnose and treat coral reefs, and partners with USGS in support of research and epidemiology of coral disease.

GREAT LAKES ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION (GLS)

Summary of FY 2022 Budget Request ¹¹

(in millions)

Program	FY 2021 Enacted	FY 2022 Authorized	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021 Enacted	
				\$	%
Total	\$38.0	No Authorization	\$37.7	-\$0.3	-0.8%

The St. Lawrence Seaway is a 328 nautical-mile deep-draft waterway between the Port of Montreal and Lake Erie. It connects the Great Lakes with the Atlantic Ocean via the lower St. Lawrence River. The Seaway includes a network of 15 locks and connecting channels located in Canada and the United States. Thirteen of the locks belong to Canada and the remaining two locks, located in Massena, New York, belong to the United States.

The U.S. portion of the Seaway was authorized in 1954, and is operated by the GLS, an agency within the DOT. The Canadian portion of the Seaway is operated by the Great Lakes St. Lawrence Seaway Management Corporation, a private corporation established in the 1990s and owned by the nine largest Canadian users of the Seaway.

The President's budget request for the GLS from the HMTF is \$37.7 million. This would fund the daily operations and maintenance of the U.S. portion of the St. Lawrence Seaway (\$23.2 million) and Seaway infrastructure investment (\$14.5 million).

Operational, maintenance, and capital asset renewal needs for the U.S. portion of the St. Lawrence Seaway are derived from appropriations from the HMTF and revenues from other sources.

TENNESSEE VALLEY AUTHORITY (TVA)

Summary of FY 2022 Budget Request ¹²

The TVA is the nation's largest government-owned wholesale power producer established by the Tennessee Valley Authority Act (16 U.S.C. 831) in 1933. TVA supplies power to nearly ten million people over an 80,000 square mile service area covering Tennessee, and parts of Mississippi, Alabama, Georgia, North Carolina, Virginia, and Kentucky. In addition, TVA's non-power program responsibilities include the multi-purpose management of land and water resources throughout the Tennessee Valley.

Initially, federal appropriations funded all TVA operations. Direct federal funding for the TVA power program ended in 1959, and appropriations for TVA's environmental stewardship and economic development activities were phased out by 1999. TVA currently receives no federal appropriations but operates and maintains its assets through commercial and residential rates, and the authority to issue federally secured bonds.

¹¹ <https://www.transportation.gov/sites/dot.gov/files/2021-05/GLS-FY-2022-President-Budget-Request.pdf>

¹² See https://www.tva.com/docs/default-source/1-float/tva_annual_performance_report_final_05.21.21853293c8-12c6-43e3-96e6-5058b2d21607.pdf?sfvrsn=fb9f903__3; see also https://www.whitehouse.gov/wp-content/uploads/2021/05/oia_fy22.pdf.

*UNITED STATES SECTOR OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION
(IBWC)*

Summary of FY 2022 Budget Request ¹³

(in millions)

Appropriations Account	FY 2021 Enacted	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021	
			\$	%
Salaries and Expenses	\$49.8	\$52.0	2.2	4.4%
Construction	\$49.0	\$46.8	-2.2	-4.4%
Total	\$98.8	\$98.8	0.0	0.0

First established in 1889, the IBWC has responsibility for implementing the boundary and water treaties between the United States and Mexico and settling issues that may arise along the 1,952-mile common border. The IBWC is an international body, composed of a United States sector and Mexico sector, each headed by an Engineer-Commissioner appointed by the respective President. The United States sector of the IBWC receives its policy guidance from the U.S. Department of State and the Mexico sector of the IBWC receives its policy guidance from Mexico's Secretariat of Foreign Relations. The U.S. IBWC is headquartered in El Paso, Texas, and the Mexico IBWC has its headquarters in Ciudad Juarez, Chihuahua.

The President's budget request for U.S. IBWC Salaries and Expenses is \$51.97 million, which is an increase of \$2.2 million over the FY 2021 enacted amount. The budget request for U.S. IBWC construction activities is \$46.8 million, which is a decrease of \$2.2 million from FY 2021 levels.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY (ATSDR)

Summary of FY 2022 Budget Request ¹⁴

(in millions)

Appropriations Account	FY 2021 Enacted	FY 2022 President's Budget	Diff. of FY 2022 Pres. Budget and FY 2021	
			\$	%
Total	\$78.0	\$81.8	\$3.6	4.8%

The ATSDR is the nation's public health agency for chemical safety. The agency's mission is to use the best science, take responsive action, and provide trustworthy health information to prevent and mitigate harmful exposures and related disease.

ATSDR was created by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (P.L. 96-510), more commonly known as the Superfund law, and was formally organized in 1985.

Under its CERCLA mandate, the agency's work falls into four functional areas: (1) protecting the public from hazardous exposures; (2) increasing knowledge about toxic substances; (3) educating health care providers and the public about toxic chemicals; and (4) maintaining health registries. In recent years, ATSDR has focused on pathways of potential exposure to toxic chemicals, including food, water, air, and consumer goods.

The administration's FY 2022 budget request for ATSDR is \$81.75 million, which is \$3.75 million more than the FY 2021 appropriations for the agency.

¹³ https://www.state.gov/wp-content/uploads/2021/05/FY-2022-State_USAID-Congressional-Budget-Justification.pdf

¹⁴ <https://www.cdc.gov/budget/documents/fy2022/FY-2022-CDC-congressional-justification.pdf>

WITNESSES (PART II)

- The Honorable Radhika Fox, Assistant Administrator, Office of Water, U.S. Environmental Protection Agency
- Ms. Nicole R. LeBoeuf, Acting Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration
- Mr. Terry Cosby, Chief, Natural Resources Conservation Service, United States Department of Agriculture
- Dr. Patrick Breyse, Director, Agency for Toxic Substances and Disease Registry
- Mr. Craig H. Middlebrook, Deputy Administrator, Great Lakes St. Lawrence Seaway Development Corporation

Mrs. NAPOLITANO. Good morning, everybody. I call this hearing to order. All my witnesses are here. I am glad to see you all. Thank you very much.

This hearing will focus on President Biden's fiscal year 2022 budget request and his administration's priorities for the upcoming year, especially the drought.

This hearing is the second of two hearings on these topics in order to hear from multiple agencies in this subcommittee's jurisdiction.

Let me begin by asking unanimous consent that the chair be authorized to declare a recess at any time during today's hearing.

And, without objection, so ordered.

I also ask unanimous consent that Members not on the subcommittee be permitted to sit with the subcommittee at today's hearing and ask questions.

Without objection, so ordered.

It is the responsibility of each Member seeking recognition to unmute their microphone prior to speaking and to mute it when finished. To avoid any inadvertent background noise, I request that every Member keep their microphone muted when not seeking recognition to speak. Should I hear any inadvertent noise in the background, I will request that the Member please mute their microphone.

And, finally, to insert a document into the record, please have your staff email it to DocumentsT&I@mail.house.gov.

Today we will hold our second hearing on the President's fiscal year 2022 budget request and the policy goals and objectives of the Biden administration.

Let me begin by commending the Biden administration for restoring critical funding and respect to the agencies under the jurisdiction of this subcommittee, particularly EPA, Environmental Protection Agency, and NOAA, National Oceanic and Atmospheric Administration.

Each of the agencies here today play a critical role in management and stewardship of our water resources. Whether through regulatory efforts, conservation programs, or treatment and research of water contaminants and impacts on human health, your work is more important than ever as we face increasing threats from climate change, extreme drought, and emerging pollutants.

This budget will help leverage additional funding from the State, local, and nonprofit partners as well as make Federal knowledge and expertise more accessible to communities. Many of the programs provided by your agencies assist State and our local governments by providing technical assistance and expert-level knowledge for conserving land, managing water systems, mapping sea level rise, and creating easy-to-use public websites to widely share your data. It is important that these agencies work together and communicate their work effectively.

I am very pleased to see that President Biden has proposed to reverse the destructive funding cuts and undo the damaging regulatory rollbacks of the previous administration. Robust funding for these agencies and their programs is important to the delivery of clean water, to understanding the potential health impacts of emerging contaminants, the conservation and the preservation of

wetlands and aquatic ecosystems, and the movement of goods and economic competitiveness of our regions.

Additionally, across the country, our communities and environment are under unprecedented strain as we deal with the effects of climate change. Much of the West is facing extreme heat and drought. These are dangerous conditions for humans and our whole planet. I am extremely interested in hearing from these witnesses how we can better manage our resources today and understand and prepare for future needs and challenges. We must take swift action to mitigate ongoing and future harm to all of our environment.

Most critically, I fervently hope the administration moves quickly to replace the Trump “dirty water rule,” which was the greatest undermining of the Clean Water Act in its history, and I urge its complete and immediate repeal. The longer this harmful regulation stays on the books, the more we will forever degrade and destroy our rivers and wetlands.

I am also very pleased that the Biden administration is already taking action to make environmental justice a core part of every Federal agency’s mission. For too long, minority and economically disadvantaged communities, the poor communities, have borne a disproportionate share of the burden of industrialization and pollution and have also been overlooked for necessary public health and environmental investment—a situation even made worse by the impacts of climate change. Addressing this disparity will improve public health, spur economic development in these communities, and create a more equitable society.

Today, I look forward to hearing from our witnesses on your budget priorities and learning how you are planning to restore your offices to their sworn duties and mission areas that were so neglected over the past 4 years.

[Mrs. Napolitano’s prepared statement follows:]

Prepared Statement of Hon. Grace F. Napolitano, a Representative in Congress from the State of California, and Chair, Subcommittee on Water Resources and Environment

Today, we will hold our second hearing on the president’s fiscal year 2022 budget request and other policy goals and objectives of the Biden administration.

Let me start by commending the Biden administration for restoring critical funding and respect for the agencies under the jurisdiction of this Subcommittee, particularly the Environmental Protection Agency and the National Oceanic and Atmospheric Administration.

Each of the agencies here today play a critical role in the management and stewardship of our water resources. Whether through regulatory efforts, conservation programs, or the treatment and research of water contaminants and impacts on human health, your work is more important than ever as we face increasing threats from climate change, extreme drought, and emerging pollutants.

This budget will help leverage additional funding from state, local, and non-profit partners, as well as make federal knowledge and expertise more accessible to communities.

Many of the programs provided by these agencies assist state and local governments by providing technical assistance and expert level knowledge for conserving land, managing water systems, mapping sea-level rise, and creating easy to use public websites to widely share data. It is important that these agencies work together and communicate their work effectively.

I am pleased to see that President Biden has proposed to reverse the destructive funding cuts and undo the damaging regulatory rollbacks of the previous administration.

Robust funding for these agencies and their programs is important to the delivery of clean water, understanding the potential health impacts of emerging contaminants, the conservation and preservation of wetlands and aquatic ecosystems, and the movement of goods and economic competitiveness of regions.

Additionally, across the country, our communities and environment are under unprecedented strain as we deal with the effects of climate change. Much of the west is facing extreme heat and drought. These are dangerous conditions for humans and our planet. I am interested in hearing from these witnesses on how we can better manage our resources today and understand and prepare for future needs and challenges.

We must take swift action to mitigate ongoing and future harm to our environment. Most critically, I hope the Administration moves quickly to replace the Trump Dirty Water Rule—which was the greatest undermining of the Clean Water Act in its history—and I urge its complete and immediate repeal. The longer this harmful regulation stays on the books, the more we will forever degrade and destroy our rivers and wetlands.

I am also pleased that the Biden administration has already taken action to make environmental justice a core part of every federal agency's mission. For too long, minority and economically-disadvantaged communities have borne a disproportionate share of the burden of industrialization and pollution, and have been overlooked for necessary public health and environmental investment—a situation made even worse by the impacts of climate change. Addressing this disparity will improve public health, spur economic development in these communities, and create a more equitable society.

Today, I look forward to hearing from our witnesses on your budget priorities and learning how you are planning to restore your offices to their sworn duties and mission areas that were so neglected over the past four years.

Mrs. NAPOLITANO. I ask unanimous consent to include in the record the statement of Chairman DeFazio.

And, without objection, so ordered.

[The information follows:]

Prepared Statement of Hon. Peter A. DeFazio, a Representative in Congress from the State of Oregon, and Chair, Committee on Transportation and Infrastructure

Thank you, Madam Chair, for holding today's hearing.

Today's hearing is another important opportunity to examine President Biden's budget request and administration priorities. I am pleased to be discussing a budget that finally demonstrates a federal commitment to protecting our nation's waters and environment, investing in science and research, and maintaining our water infrastructure. It is a budget that recognizes the critical role that the federal government plays in sustaining our economy, our environment, and our quality of life.

First and foremost, I am glad to see across-the-board increases to programs under the Environmental Protection Agency—a total increase of 21.2 percent over the previous enacted levels. The last administration acted with particular malice towards our environment, consistently under-funding critical EPA programs and personnel and working to dismantle or weaken over 100 environmental laws. It is time to finally reverse that pattern.

Increased funding to the Clean Water State Revolving Fund Program, which the House recently reauthorized through the INVEST in America Act, will allow municipalities to upgrade and maintain their wastewater infrastructure. In fact, I would argue that wastewater investment needs are still greater than the amount included in this request.

The EPA also receives increased funds for both regulatory and non-regulatory programs, which work to protect our natural resources and improve our water quality across the nation. The EPA has a lot of work to do to restore its core mission areas, and these dollars will be necessary for that pursuit.

One of the largest single-program increases is to the Superfund and Brownfields program; I hope to hear from the EPA's Office of Land and Emergency Management later this year on how the additional funds will be spent and directed towards addressing environmental injustices.

Other agencies before us today are also well-supported in this budget. In many cases, these programs have significant community-level impacts, such as watershed

restoration, flood prevention, coastal protection, and measures to increase community resiliency to climate change. Additionally, investment in critical research and innovation programs will help prepare us for climate change impacts and inform decisions on water contaminants and their prevention. Properly funding these programs will restore and protect our waterways, will allow our local and national economies to thrive, and will help us to meet the complex challenges of the 21st century.

Aside from the specifics of the budget request, I hope to hear from the agency officials before us today about their priorities and policy objectives for the new administration.

The Trump administration spent four years trying to make the critical missions of the federal government significantly harder or impossible to execute.

This included attacks on bedrock water protections to benefit corporations, dismantling climate policies, and weakening other environmental laws to the point of obsolescence. Fortunately, the Biden administration immediately paused several such rulemakings, but there is still work to be done to reverse the worst of them and ensure they are not allowed to devastate our natural resources and communities.

One of the most important, at least for this committee, will be the rewrite of the Navigable Waters Protection Rule, known as the Trump Dirty Water Rule. This rule has removed Clean Water Act protections from up to 71 percent of streams, and more than 50 percent of wetlands. That is simply unconscionable.

I was pleased to hear the announcement that the Biden administration will overturn the Dirty Water Rule; however, I believe this rule must be immediately repealed and then replaced.

EPA Administrator Regan stated that the Trump Dirty Water Rule “is leading to significant environmental degradation,” and I agree.

Every day that the Dirty Water Rule remains in place, countless waters and wetlands are polluted, degraded, or destroyed, and American families will pay the cost of this destruction through more polluted waters, less protected drinking water sources, greater flood risk, and a degraded environment.

This is too high a cost to pay for inaction and I will continue to push the president and the administrator for the immediate repeal of the Dirty Water Rule.

I am also deeply concerned with coal-fired power plant regulation reversals of the last administration, namely the rollback of pollution discharge requirements and the storage of coal-combustion waste. There is no such thing as “clean coal;” these power plants produce waste that includes arsenic, lithium, mercury, and selenium. We know each one is detrimental to the health of our waterways and should be prevented from entering it either directly or through seeping coal ash ponds into our groundwater.

Madam Chair, one other issue that was uniquely missing from the last administration was ensuring agency actions were developed with significant community engagement. This means meaningful involvement and consultation with tribes, rural communities, economically-disadvantaged communities, and minority communities.

Addressing environmental justice considerations and community engagement needs to become the norm again as we address how our environmental laws are developed and applied, and how our federal agencies communicate and discuss potential impacts of federal actions on local communities.

As we look forward to real federal investment and implementation of the policy goals of the Biden administration, I hope to see continued support for the protection of our communities and our environment. We must be determined in restoring and renewing our federal commitments to our vital natural resources, the health of our communities, and protection of our waters.

Thank you, Madam Chair.

Mrs. NAPOLITANO. At this time, I am pleased to yield to my colleague, the ranking member of the subcommittee, Mr. Rouzer, for any thoughts he may have. Mr. Rouzer, you are recognized.

Mr. ROUZER. Thank you so much, Chair Napolitano. I appreciate your holding this hearing.

And I would also like to thank our witnesses for being here today.

As noted, today’s hearing will focus on the President’s fiscal year 2022 budget proposal for the Environmental Protection Agency, the Great Lakes St. Lawrence Seaway Development Corporation, the

U.S. Department of Agriculture's Natural Resources Conservation Service, the Agency for Toxic Substances and Disease Registry at the Centers for Disease Control and Prevention, as well as the National Oceanic and Atmospheric Administration.

I would first like to focus my comments on actions involving the EPA. I am appreciative—I am, in fact, very appreciative that we have high-level representation from the Agency's political leadership here at our hearing. Thank you for joining us today, Ms. Fox, and congratulations again on your recent Senate confirmation. And I want to share that I certainly very much enjoyed our recent visit.

I am, however, growing increasingly concerned that this administration is reversing reasonable policies put in place by the previous administration. Now, I certainly understand that different administrations will have different policy priorities and approaches. That is to be expected. However, it seems as though some of these actions have very little merit, considering most stakeholders have been very happy with the commonsense policy clarifications that were made under the Trump administration.

A few examples include the reversal of the Clean Water Act section 401 certification rule and the unprecedented—I might add—mass firing of all members of two advisory panels. I am not going to go into all the details of that, but I did make note of it.

And then, of course, there is the announced effort underway to rewrite the Trump administration's rule defining "waters of the United States," or WOTUS, as we call it around here, for purposes of the Clean Water Act.

Three weeks ago, this subcommittee hosted Jaime Pinkham, Acting Assistant Secretary of the Army for Civil Works. And I will say again today what I said about WOTUS when he was here, as I certainly think that it bears repeating. While not a surprise to hear that the Biden administration is proposing to take this action on WOTUS, it is no less a disappointment.

The system we have in place now, in our opinion, works very well. It is fair to our Nation's farmers, ranchers, businesses of all types, city planners, et cetera. A return to anything close to the 2015 WOTUS rule would be a failure, and the regulatory burden placed on average Americans and the effect on the economy would be highly detrimental.

As I said when this rewrite was announced, no bureaucrat in Washington should be able to dictate what our farm families, small businesses, local governments, and citizens do on their property after a significant rainfall. So, outreach to solicit, truly listen to, and meaningfully address stakeholder concerns is obviously going to be of paramount importance.

And so, while I certainly appreciated Mr. Pinkham's appearance here, I still have a few questions. After that hearing, in fact, I wrote a letter to him and to you, Ms. Fox, pointing out the concerns many Members of Congress still have on this particular issue. I was joined by 125 of my colleagues here in the House on that letter.

Now, I know you believe stakeholder outreach is important, and I think we would all like to hear whatever specifics you may be able to provide regarding that timeline and other details as to how stakeholder engagement will be achieved.

On another topic, I would like to highlight an issue very important to me as well as many others in my home State of North Carolina and other States too, which is PFAS. We need a rational, scientifically informed approach to address this issue. And under the chemical safety laws passed by Congress, this responsibility rests with the EPA.

I understand that EPA is actively moving forward with developing important scientific information as part of implementing a PFAS action plan. Implementing this plan and establishing a safe consumption standard is a difficult, time-consuming, and expensive process. I look forward to getting a progress report on these activities and hearing how this is coming along under the guidelines of EPA's scientists and chemical safety experts.

In addition to the EPA, we also have folks here from four other important agencies, as I mentioned before. Between them, these agencies have a diverse set of missions, including maintaining one of North America's most important waterways, helping farmers and ranchers with their conservation needs, protecting our country's coastal zones, and completing the nexus between public health and chemical safety. I look forward to hearing how they complete their objectives and what challenges they face in carrying out those respective duties.

Again, thank you to our witnesses.

[Mr. Rouzer's prepared statement follows:]

Prepared Statement of Hon. David Rouzer, a Representative in Congress from the State of North Carolina, and Ranking Member, Subcommittee on Water Resources and Environment

Thank you, Chair Napolitano. I appreciate your holding this hearing, and I would also like to thank our witnesses for being here today. As noted, today's hearing will focus on the President's Fiscal Year 2022 budget proposal for the Environmental Protection Agency (EPA), the Great Lakes St. Lawrence Seaway Development Corporation (GLS), the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS), the Agency for Toxic Substances and Disease Registry (ATSDR) at the Centers for Disease Control and Prevention (CDC), and the National Oceanic and Atmospheric Administration (NOAA).

I would like to first discuss actions involving the EPA. I am appreciative that we have high-level representation from the Agency's political leadership at our hearing. Thank you for joining us today, Ms. Fox, and congratulations again on your recent Senate confirmation. I enjoyed our visit yesterday.

I am however growing increasingly concerned that this administration is reversing reasonable policies put in place by the previous administration.

Now, I certainly understand that different administrations will have different policy priorities and approaches. However, it seems as though some of these actions have very little merit considering most stakeholders have been very happy with the commonsense policy clarifications that were made under the Trump Administration.

A few examples include the reversal of the Clean Water Act Section 401 Certification Rule and the unprecedented mass firing of all members of two advisory panels.

And then, of course, there is the announced effort underway to rewrite the Trump Administration's rule defining "Waters of the United States" (or "WOTUS") for purposes of the Clean Water Act.

Three weeks ago, this subcommittee hosted Jaime Pinkham, Acting Assistant Secretary of the Army for Civil Works, and I'll say again today what I said about WOTUS when he was here, as I certainly think it bears repeating.

While not a surprise to hear that the Biden Administration is proposing to take this action on WOTUS, it is no less a disappointment.

The system we have in place now works. It is fair to our nation's farmers, ranchers, construction businesses, city planners, and everyone else. A return to anything

close to the 2015 WOTUS rule would be a failure, and the regulatory burden placed on average Americans and the effect on the economy would be highly detrimental.

As I said when this re-write was announced, no bureaucrat in Washington should be able to dictate what our farm families, small businesses, local governments, and citizens do on their property after a significant rainfall. So, outreach to solicit, truly listen to, and meaningfully address stakeholder concerns is going to be of paramount importance.

While I certainly appreciated Mr. Pinkham's appearance here, I still have questions. This is why shortly after that hearing I led a letter to him and to you, Ms. Fox, pointing out the concerns many members of Congress still have on this issue [<https://republicans-transportation.house.gov/components/redirect/r.aspx?ID=479416-71706684>]. I was joined by 125 of my colleagues here in the House on that letter.

I know you believe stakeholder outreach is important, and I think we would all like to hear whatever specifics you may be able to provide regarding that timeline and other details as to how stakeholder engagement will be achieved.

On another topic, I would like to highlight an issue very important to me as well as many others in my home state of North Carolina and other states too, which is PFAS. We need a rational, scientifically informed approach to address this, and under the chemical safety laws passed by Congress, this responsibility rests with EPA. I understand that EPA is actively moving forward with developing important scientific information as part of implementing a "PFAS Action Plan." Implementing this plan and establishing a safe consumption standard is a difficult, time consuming, and expensive process. I look forward to getting a progress report on these activities and hearing how this is coming along under EPA scientists and chemical safety experts.

In addition to the EPA, we also have folks here from four other important agencies, as I mentioned before. Between them, these agencies have a diverse set of missions, including maintaining one of North America's most important waterways, helping farmers and ranchers with their conservation needs, protecting our country's coastal zones, and completing the nexus between public health and chemical safety. I look forward to hearing how they complete their objectives and what challenges they face in carrying out their respective duties.

Mr. ROUZER. And, Madam Chair, I would like to ask unanimous consent to include for the record a copy of the letter that I and 126 other Members sent to Michael Regan and Mr. Jaime Pinkham with regard to the WOTUS rule.

Mrs. NAPOLITANO. So ordered.

[The information follows:]

Letter of June 25, 2021, to Hon. Michael Regan, Administrator, U.S. Environmental Protection Agency and Jaime Pinkham, Acting Assistant Secretary of the Army for Civil Works, Department of the Army, Submitted for the Record by Hon. David Rouzer

JUNE 25, 2021.

The Honorable MICHAEL REGAN,
Administrator,
U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue N.W., Washington, D.C. 20460.

Mr. JAIME PINKHAM,
Acting Assistant Secretary of the Army for Civil Works,
108 Army Pentagon, Room 3E446, Washington, DC 20310-0108.

DEAR ADMINISTRATOR REGAN AND ACTING ASSISTANT SECRETARY PINKHAM:

We are writing to you in response to the June 9, 2021 announcement by the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (collectively, the "Agencies") regarding the Agencies' intent to revise the definition of the "waters of the United States" (WOTUS) under the *Clean Water Act*.¹ This could negatively impact the Navigable Waters Protection Rule, which the Trump Administration issued to provide long-awaited clarity on the extent of waters covered by the *Clean*

¹ Press Release, EPA, *Army Announce Intent to Revise Definition of WOTUS*, June 9, 2021, available at <https://www.epa.gov/newsreleases/epa-army-announce-intent-revise-definition-wotus>; see, e.g., 33 CFR § 328.3; 33 U.S.C. § 1251 et seq.

Water Act for farmers, homeowners, private property owners, manufacturers, small businesses, water districts, and local governments while maintaining the United States' world-renowned standards of environmental protection.²

We are concerned that the approach the Agencies intend to take in revising this important regulation will regress from the clarity provided by the Navigable Waters Protection Rule, and will reimpose a vastly overbroad interpretation of Federal jurisdiction over waters around the Nation. We are also concerned that, rather than soliciting and genuinely listening to input from the general public, small businesses, regulated community, and Federal and state resource agencies regarding the appropriate scope of *Clean Water Act* jurisdiction and the range of issues to be covered by those regulations, the Agencies intend to proceed with a rulemaking that will once again confuse regulated parties and lead to the same misinterpretations of legal standards as the Obama Administration's WOTUS rule.³ We are gravely concerned that the Agencies will let the flawed Obama WOTUS rule dictate the scope and content of any new rule the Agencies might now promulgate. The Agencies must *not* let institutional capture predetermine the outcome of a rulemaking, which we fear is going to happen here.

Public input from those stakeholders who will be most affected by a new regulation is crucial to any transparent rulemaking process. It is essential that, before the Agencies begin drafting any new rule, they first issue an advance notice of proposed rulemaking (ANPRM) to solicit input from the general public, regulated community, and resource agencies on the scope of *Clean Water Act* jurisdiction and the range of issues to be covered by the regulations, to support any revisions to the definition of "waters of the United States."⁴ If the Agencies decide to move forward with a rulemaking after the ANPRM, we expect they will undertake a robust economic analysis, including a cost-benefit analysis, for whatever proposed rule might be developed. This economic analysis must include an accurate quantification and monetization of the consequences anticipated from the proposed rule.⁵

In addition, the *Regulatory Flexibility Act* requires the Agencies to assess the impact of this proposed regulation on "small entities," which are defined as including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations.⁶ Because of the scope of this rule and the way in which "waters of the U.S." has previously been expanded, we expect to see a thorough regulatory flexibility analysis of the economic impact on small entities. Finally, because of the EPA's role in this rulemaking, we expect that the Agencies will convene an "advocacy review panel" pursuant to the *Small Business Regulatory Enforcement Fairness Act's* requirement to hear from representatives of small entities affected by the proposed rule.⁷ We are hopeful that the Agencies will not again fail to calculate the significant impact of this rule like they did in 2014, leading to a failure to hold a small business advocacy review panel in the future.⁸

The Obama Administration's overreaching WOTUS rule had a disastrous effect on farmers, businesses, and families.⁹ That rule drew substantial opposition from states, local governments, and citizens across the Nation challenging the overbreadth of the definitions included.¹⁰ The regulatory burden placed on average Americans and the effect on the economy would be detrimental if the Agencies were to remove the definitions included in the Navigable Waters Protection Rule, especially as we look to restart the economy after the COVID-19 pandemic. If we want to help get Americans back to work, the Administration cannot continue to propose partisan executive and legislative actions which will only slow down or reverse the economic recovery. Instead, we must have reasonable regulation to enable Americans to thrive and to grow our Nation's economy, including in rural and other underserved parts of the country. To do this, the Agencies must keep in mind the multitude of concerns and issues previously raised about the Obama Administration's

²*The Navigable Waters Protection Rule: Definition of "Waters of the United States,"* Final Rule, 85 Fed. Reg. 22250 (Apr. 21, 2020).

³*Clean Water Rule: Definition of "Waters of the United States,"* Final Rule, 80 FR 37054 (June 29, 2015) (Obama Administration WOTUS rule).

⁴See 5 U.S.C. § 553.

⁵See OMB Circular A-4, Executive Order 12866, and Executive Order 13563.

⁶5 U.S.C. §§601-612.

⁷5 U.S.C. § 609(b).

⁸SBA Office of Advocacy letter to Administrator McCarthy (Oct. 1, 2014), available at https://www.sba.gov/sites/default/files/Final_WOTUS%20Comment%20Letter.pdf.

⁹American Farm Bureau Federation "Clean Water Act, WOTUS," available at <https://www.fb.org/issues/regulatory-reform/clean-water-act/>.

¹⁰Snider, Annie, "9 more states sue Obama admin over hot-button rule," *Greenwire*, June 30, 2015.

WOTUS rule and maintain the updated definitions of the Navigable Waters Protection Rule.

Regulation of the Nation's waters must be done in a manner that responsibly protects the environment without unnecessary and costly expansion of the Federal government in order to prevent unreasonable and burdensome regulations and to protect small businesses, farmers, and families. Consequently, it is critical that the Agencies take the proper steps to ensure that any new regulations provide an appropriate and clear definition of "waters of the United States," and be consistent with the *Clean Water Act* and the governing U.S. Supreme Court decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* and *Rapanos v. United States* concerning the extent of waters covered by the Act.¹¹

We will be closely monitoring the process as a new rulemaking is initiated. We are aware this is a significant rulemaking and we strongly urge the Agencies to maintain the positive changes that were put into place under the Trump Administration's Navigable Waters Protection Rule. This Administration must cast aside ideological biases and carefully consider how this regulatory action will impact those who must live and work under this rule. With all the other crises confronting our nation, it makes little sense to unravel a final rule that has taken decades of Agency action, litigation, and legislation to settle. Instead, we encourage the Administration to focus its attention and resources on the more pressing economic and international issues confronting our nation such as inflation, the border crisis, the safety of our communities, reopening schools, and protecting America from our adversaries who seek to do us harm.

Thank you for your prompt attention to this matter.

Sincerely,

SAM GRAVES,
*Ranking Member, Committee on
Transportation and Infrastructure.*

DAVID ROUZER,
*Ranking Member, Subcommittee on
Water Resources and Environment.*

GT THOMPSON,
*Ranking Member, Committee on
Agriculture.*

CATHY MCMORRIS RODGERS,
*Ranking Member, Committee on
Energy and Commerce.*

BRUCE WESTERMAN,
*Ranking Member, Committee on
Natural Resources.*

BLAINE LUETKEMEYER,
*Ranking Member, Committee on Small
Business.*

KEVIN MCCARTHY,
Republican Leader.

STEVE SCALISE,
Republican Whip.

ELISE STEFANIK,
Republican Conference Chair.

TOM MCCLINTOCK,
Member of Congress.

LOUIE GOHMERT,
Member of Congress.

DOUG LAMBORN,
Member of Congress.

DAN NEWHOUSE,
Member of Congress.

KAT CAMMACK,
Member of Congress.

CLAY HIGGINS,
Member of Congress.

MIKE ROGERS,
Member of Congress.

TIM BURCHETT,
Member of Congress.

AUGUST PFLUGER,
Member of Congress.

ERIC A. "RICK" CRAWFORD,
Member of Congress.

SCOTT PERRY,
Member of Congress.

BOB GIBBS,
Member of Congress.

DUSTY JOHNSON,
Member of Congress.

STEVE CHABOT,
Member of Congress.

PETE STAUBER,
Member of Congress.

MIKE BOST,
Member of Congress.

TOM RICE,
Member of Congress.

BETH VAN DUYN,
Member of Congress.

ANN WAGNER,
Member of Congress.

MICHAEL C. BURGESS, M.D.,
Member of Congress.

JAY OBERNOLTE,
Member of Congress.

MICHELLE STEEL,
Member of Congress.

PAUL GOSAR,
Member of Congress.

BEN CLINE,
Member of Congress.

RICK ALLEN,
Member of Congress.

RUSS FULCHER,
Member of Congress.

¹¹ *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001); *Rapanos v. United States*, 547 U.S. 715 (2006).

TROY NEHLS,
Member of Congress.
 CHRIS STEWART,
Member of Congress.
 ASHLEY HINSON,
Member of Congress.
 GREG PENCE,
Member of Congress.
 DOUG LAMALFA,
Member of Congress.
 BARRY LOUDERMILK,
Member of Congress.
 DON YOUNG,
Member of Congress.
 JACKIE WALORSKI,
Member of Congress.
 ROB WITTMAN,
Member of Congress.
 TED BUDD,
Member of Congress.
 JAMES R. BAIRD,
Member of Congress.
 MICHAEL T. MCCAUL,
Member of Congress.
 AUSTIN SCOTT,
Member of Congress.
 LIZ CHENEY,
Member of Congress.
 JAKE LATURNER,
Member of Congress.
 JOHN JOYCE,
Member of Congress.
 RODNEY DAVIS,
Member of Congress.
 JODEY C. ARRINGTON,
Member of Congress.
 TOM EMMER,
Member of Congress.
 SCOTT FRANKLIN,
Member of Congress.
 DAVID KUSTOFF,
Member of Congress.
 KEVIN HERN,
Member of Congress.
 CHRIS JACOBS,
Member of Congress.
 DIANA HARSHBARGER,
Member of Congress.
 KEVIN BRADY,
Member of Congress.
 RICHARD HUDSON,
Member of Congress.
 KEN CALVERT,
Member of Congress.
 ROBERT LATTA,
Member of Congress.
 DANIEL WEBSTER,
Member of Congress.
 PETE SESSIONS,
Member of Congress.
 TOM COLE,
Member of Congress.
 TROY BALDERSON,
Member of Congress.
 JEFF DUNCAN,
Member of Congress.

MO BROOKS,
Member of Congress.
 BUDDY CARTER,
Member of Congress.
 LAUREN BOEBERT,
Member of Congress.
 MATTHEW ROSENDALE,
Member of Congress.
 MICHAEL CLOUD,
Member of Congress.
 TRACEY MANN,
Member of Congress.
 MIKE KELLY,
Member of Congress.
 JERRY CARL,
Member of Congress.
 GUY RESCHENTHALER,
Member of Congress.
 JAMES COMER,
Member of Congress.
 TOM TIFFANY,
Member of Congress.
 JULIA LETLOW,
Member of Congress.
 MARIANNETTE MILLER-MEEKS,
Member of Congress.
 VICKY HARTZLER,
Member of Congress.
 MICHELLE FISCHBACH,
Member of Congress.
 BRIAN BABIN,
Member of Congress.
 CLIFF BENTZ,
Member of Congress.
 BLAKE MOORE,
Member of Congress.
 JAMES COMER,
Member of Congress.
 GLENN GROTHMAN,
Member of Congress.
 DARIN LAHOOD,
Member of Congress.
 ROBERT ADERHOLT,
Member of Congress.
 BILL JOHNSON,
Member of Congress.
 MARJORIE TAYLOR GREENE,
Member of Congress.
 MARK AMODEI,
Member of Congress.
 MICHAEL GUEST,
Member of Congress.
 JIM HAGEDORN,
Member of Congress.
 RANDY FEENSTRA,
Member of Congress.
 GUS BILIRAKIS,
Member of Congress.
 RANDY WEBER,
Member of Congress.
 BARRY MOORE,
Member of Congress.
 DEBBIE LESKO,
Member of Congress.
 JACK BERGMAN,
Member of Congress.

ADAM KINZINGER,
Member of Congress.
 FRANK LUCAS,
Member of Congress.
 GARRET GRAVES,
Member of Congress.
 DARRELL ISSA,
Member of Congress.
 WILLIAM TIMMONS,
Member of Congress.
 BURGESS OWENS,
Member of Congress.
 DAVID G. VALADAO,
Member of Congress.
 ADRIAN SMITH,
Member of Congress.
 STEPHANIE BICE,
Member of Congress.
 MIKE GALLAGHER,
Member of Congress.
 DAVID MCKINLEY,
Member of Congress.
 TIM WALBERG,
Member of Congress.
 CLAUDIA TENNEY,
Member of Congress.

THOMAS MASSIE,
Member of Congress.
 MARK GREEN,
Member of Congress.
 BILL POSEY,
Member of Congress.
 STEVE WOMACK,
Member of Congress.
 LISA MCCLAIN,
Member of Congress.
 YOUNG KIM,
Member of Congress.
 DAN BISHOP,
Member of Congress.
 JIM BANKS,
Member of Congress.
 JASON SMITH,
Member of Congress.
 CHUCK FLEISCHMANN,
Member of Congress.
 ANDREW GARBARINO,
Member of Congress.
 RALPH NORMAN,
Member of Congress.

Mr. ROUZER. Thank you, Madam Chair. I yield back.

Mrs. NAPOLITANO. Thank you, Mr. Rouzer.

And while I agree on some of the points you make, I think that the “dirty water rule” also affects people, and that is my biggest concern. So thank you for your opening statement.

And now we will proceed to hear from our witnesses who will testify here today. Thank you all for being here and welcome.

On today’s panel, we have Assistant Administrator Radhika Fox, Office of Water, U.S. Environmental Protection Agency, who just was named officially Assistant Administrator. Congratulations, Ms. Radhika Fox.

We also have Acting Assistant Administrator Nicole LeBoeuf of the National Ocean Service at the National Oceanic and Atmospheric Administration.

Also, Mr. Terry Cosby, Chief of the Natural Resources Conservation Service, United States Department of Agriculture.

Next, we have Dr. Patrick Breysse, Director of the Agency for Toxic Substances and Disease Registry.

Then our final witness—but not the least—Deputy Administrator Craig Middlebrook of the Great Lakes St. Lawrence Seaway Development Corporation.

Without objection, your prepared statements will be entered into the record, and all witnesses are asked to limit their remarks to 5 minutes.

Ms. Fox, congratulations again. Welcome, and you may proceed.

TESTIMONY OF HON. RADHIKA FOX, ASSISTANT ADMINISTRATOR, OFFICE OF WATER, U.S. ENVIRONMENTAL PROTECTION AGENCY; NICOLE R. LEBOEUF, ACTING ASSISTANT ADMINISTRATOR, NATIONAL OCEAN SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION; TERRY J. COSBY, CHIEF, NATURAL RESOURCES CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE; PATRICK N. BREYSSE, Ph.D., CIH, DIRECTOR, NATIONAL CENTER FOR ENVIRONMENTAL HEALTH AND AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY, CENTERS FOR DISEASE CONTROL AND PREVENTION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND CRAIG H. MIDDLEBROOK, DEPUTY ADMINISTRATOR, GREAT LAKES ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION, U.S. DEPARTMENT OF TRANSPORTATION

Ms. FOX. Thank you so much, Chairwoman Napolitano, Ranking Member Rouzer, and members of the Subcommittee on Water Resources and Environment.

I am Radhika Fox, Assistant Administrator for Water at the U.S. Environmental Protection Agency, and I am so grateful for the opportunity to appear before you today to discuss EPA's \$5.2 billion budget request for our national water program.

This fiscal year 2022 budget request supports key areas of investment that will provide safe drinking water and reliable wastewater service to support the environment, protect public health, and power our great U.S. economy. The budget request would give EPA the tools that we need to revitalize our Nation's water infrastructure and to support States, Tribes, and local partners to achieve our shared goals.

I often say as I'm walking the halls of EPA, this is water's moment, and that is because I truly believe that smart and equitable investment in water is central to addressing the key challenges facing our Nation: COVID-19, the need for economic recovery, climate change, and the call for racial justice.

And that is why the Biden-Harris administration is moving quickly in our investments in water infrastructure. For example, in the first 100 days of the administration, EPA closed more than \$1.3 billion in WIFIA loans in multiple communities. These investments will generate nearly 9,000 jobs and improve water quality for 4 million Americans.

Additionally, EPA announced the availability of \$2.7 billion for our well-worn, well-run State revolving funds. And what is so exciting is that the President's budget request would really build on these successes, build on this track record. The budget includes \$80 million for the WIFIA program, \$3.3 billion for the SRFs, and \$600 million in grants that would address the pressing water needs in the diverse communities across America.

With these resources, I believe that EPA could make tremendous progress in our mission to protect public health, the environment, reduce exposure to harmful contaminants like lead and PFAS, while also creating jobs and setting the stage for long-term economic development.

And the potential benefits to communities could be even greater with the proposed bipartisan infrastructure framework, which pro-

poses a historic \$55 billion to enhance EPA's existing and successful water infrastructure programs. For example, this funding could put plumbers and pipefitters to work, replacing 100 percent of the Nation's lead service lines so that every American can have safe drinking water.

I can assure you that the Office of Water will do our work in a way that recognizes that it is low-income people, rural communities, Tribal communities, and communities of color that have been disproportionately impacted by water-related challenges, whether that is contamination, flooding, affordability, or climate stress. We believe we must do right by these communities, and that is our focus.

In terms of tackling the climate crisis, President Biden is taking a whole-of-Government approach, and EPA's Office of Water is proud to be a part of it. We are working closely with our water sector partners to ensure that infrastructure investments keep climate and resilience at the forefront while also undertaking mitigation efforts that reduce greenhouse gas emissions.

And we are doing all of our work in a way to ensure that our regulatory efforts are practical, implementable, durable, and informed by the lived experience of all stakeholders who are impacted by the decisions that we make at the Office of Water.

Under Administrator Regan's direction, this is an EPA that is utilizing sound science, following the rule of law, and undertaking rulemaking in close partnership with our State and Tribal co-regulators and informed by robust stakeholder engagement.

We are truly an EPA that is about partnership and collaboration. For example, none of our shared goals would be possible without strong collaboration between the executive and the legislative branches, and that is why I am so honored to join you today.

Once again, Chairwoman Napolitano and Ranking Member Rouzer and members of the subcommittee, thank you. Thank you very much for the opportunity to join you today, and I very much look forward to your questions and the discussion.

[Ms. Fox's prepared statement follows:]

Prepared Statement of Hon. Radhika Fox, Assistant Administrator, Office of Water, U.S. Environmental Protection Agency

Thank you, Chairman Napolitano, Ranking Member Rouzer, and members of the Subcommittee.

I am Radhika Fox, Assistant Administrator for the U.S. Environmental Protection Agency's (EPA's) Office of Water. I am grateful for the opportunity to appear before you today to discuss EPA's budget request for water programs for Fiscal Year 2022. The National Water Program's FY 2022 President's Budget is \$5.2 billion of EPA's total \$11.2 billion request. This budget request supports key areas of investment that will help provide safe water for drinking, reliable wastewater service, and power our great economy by giving EPA the tools necessary to revitalize our nation's water infrastructure, to work with states, Tribes, and local partners, and to ground equity and climate into all of our work. Water is central to addressing the key challenges facing our nation—from COVID-19 to economic recovery, climate change, and equity.

The Biden-Harris Administration is moving quickly to support our state and local partners and to invest in needed water infrastructure. In the first 100 days of the Administration, EPA closed more than \$1.3 billion in job-creating Water Infrastructure Finance and Innovation Act (WIFIA) loans to multiple communities, which will support total project investments of over \$2.6 billion. These investments will gen-

erate nearly 9,000 jobs and improve water quality for nearly 4 million people. Additionally, in April of this year EPA announced the availability of a further \$6.5 billion in water infrastructure funding under the WIFIA and state infrastructure financing authority WIFIA (SWIFIA) program, which is estimated to create an additional 40,000 jobs. In March 2021, EPA announced the availability of \$2.7 billion for State Revolving Funds (SRFs) to assist states, Tribes, and territories with infrastructure projects that help provide safe drinking water and protect surface waters in communities across the United States. The FY 2022 President's Budget requests \$3.3 billion for State Revolving Funds (SRFs) to assist states, Tribes, and territories. The FY 2022 President's Budget requests \$80 million for the WIFIA program to unlock more affordable credit to communities and create jobs by rebuilding and repairing our nation's water infrastructure. The FY 2022 President's Budget also requests \$600 million for drinking water and wastewater grants including the Water Infrastructure Improvements for the Nation Act (WIIN Act) grant programs and the Innovative Water Infrastructure Workforce Development grant program.

In collaboration with its state and local partners, EPA has demonstrated that investing in water infrastructure provides multiple benefits to communities. Through water infrastructure, we can improve public health and environmental protection by reducing exposure to harmful contaminants like lead and per- and polyfluoroalkyl substances (PFAS), while creating jobs and setting the stage for long-term economic development. With strategic partnerships and community leadership, water infrastructure can address key challenges facing communities.

This experience underscores the community benefits that can be created by the Bipartisan Infrastructure Framework, which represents the largest water infrastructure investment in American history. The proposed \$55 billion would be used to enhance EPA's existing and successful water infrastructure programs to meet significant water infrastructure investment needs. For example, the Bipartisan Infrastructure Framework would invest in needed water infrastructure upgrades across the country to support our wastewater systems, reduce pollution that affects the environment and public health, bolster climate resiliency, and address contaminants such as PFAS. This funding will also put plumbers and pipefitters to work, replacing 100 percent of the nation's lead pipes and service lines so every American can turn on a faucet or a fountain and drink clean water.

Under the Biden-Harris Administration and Administrator Regan's leadership, the Agency is embedding equity into everything it does. We must ground our actions in the understanding that low-income people, Tribes, rural communities, and communities of color are disproportionately impacted by water related challenges—from contaminated water resources to flooding to climate stress. For the first time in FY 2021, funding for our WIFIA program will prioritize projects that benefit disadvantaged communities. This priority shows EPA's commitment to public health, equity, and affordability for our highly successful WIFIA program. Affordability is another challenge the water sector must navigate, and EPA is currently assisting the Department of Health and Human Services in the design of a \$600 million water rate assistance program for low-income communities.

Embedding equity into our investments and rulemaking is also essential to our response to the climate crisis. Communities of color, Tribes, rural communities, and low-income people disproportionately feel climate stress in the form of drought, flooding, heat islands, invasive species, and sea level rise. President Biden is committed to making progress on climate through whole-of-government solutions. He called for cutting greenhouse gases and highlighted how critical infrastructure investments can create more resilient water systems, generate jobs, and produce innovative clean technology. The Office of Water will work with the water sector to ensure that infrastructure investments keep climate and resiliency at the forefront, play a key role in reducing greenhouse gas emissions, and mitigate the impact of climate change on communities. This call to action is essential and long overdue and will help protect our communities from the worst threats of climate change including unprecedented super storms, floods, and droughts. In 2020 alone, we saw how damaging climate disasters can be with 22 separate weather events that cost \$95 billion in damaged homes, businesses, and infrastructure. Investments in water infrastructure can help to reduce the impacts of severe climate disasters and ensure our systems are resilient to the challenges these events present. Making our infrastructure more robust is key to securing better opportunities and outcomes for our nation.

We are also working to ensure that our regulatory efforts protect the health of the American people. In order to achieve this goal, the Agency will utilize sound science, follow the rule of law, and undertake our regulatory rulemaking in a manner that is transparent, grounded in partnership with our co-regulators in the states and Tribes, and informed by robust stakeholder engagement. We intend to do this

with the goal of developing durable policies across the Office of Water, including the Lead and Copper Rule, definition of Waters of the United States, Clean Water Act section 401, and actions on PFAS.

Our ability to achieve these bold goals will be determined by the strength of our partnerships. None of these goals will be possible without strong collaboration between the Executive and Legislative branches. That is why I am so honored to join you today. Once again, Chairwoman Napolitano, Ranking Member Rouzer, and Members of the Subcommittee, thank you for the opportunity to discuss the FY 2022 President's Budget for the EPA's National Water Program. I look forward to answering any questions you may have.

Mrs. NAPOLITANO. Thank you very much, Ms. Fox. That was tremendous.

Mr. LeBoeuf [sic], you are next. You may proceed.

Ms. LEBOEUF. Thank you, Chairwoman Napolitano, Ranking Member Rouzer, and members of the subcommittee, for this opportunity to testify today.

I am Nicole LeBoeuf, NOAA's Assistant Administrator for Ocean Services and Coastal Zone Management. My statement will offer highlights of NOAA's fiscal year 2022 proposed budget, illustrating that investing in NOAA is more important than ever before as we turn our attention to the threat of climate change.

NOAA's ability to understand and predict our changing planet is essential to communities around the country that are impacted by extreme events like hurricanes, floods, droughts, and wildfires, as well as the chronic impacts of heat waves and sea level rise.

In 2020 alone, there were 22 environmental disasters in the United States, each with economic losses exceeding \$1 billion. So it is fitting that a subcommittee that resides within the House Transportation and Infrastructure Committee is requesting today's hearing. NOAA's climate data tools and services are fundamental to sustaining our Nation's transportation, military, supply chain, and other built infrastructure essential to our economic prosperity and our very way of life.

From the depths of the ocean to the surface of the sun, NOAA's mission, not just to understand our Earth systems but to deliver services and decision support, makes NOAA uniquely capable of helping our Nation build infrastructure that is resilient to the impacts of a changing climate.

From safeguarding our coastal military installations from the effects of sea level rise and utilizing nature-based infrastructure in highway planning to assisting emergency responders to create more disaster-resilient communities, the American people need NOAA's data and tools more than ever.

Beyond infrastructure, NOAA is being increasingly called upon by private industry and the public to provide a wide range of fundamental climate services and decision support. Through investments and research, observations and forecasting, restoration and resilience, and equitable delivery of services, in fiscal year 2022, NOAA will deliver new and improved climate tools, products, and services to decisionmakers, communities, businesses, and the public.

In fiscal year 2022, NOAA requests \$1.5 billion over fiscal year 2021 enacted levels, over half of which—\$855 million—to specifically expand climate research, support regional and local decision-

making, and help the most vulnerable communities prepare for climate change.

NOAA is requesting an increase of \$149.3 million to improve our understanding of climate change on time scales from weeks to several decades, enhancing our ability to predict precipitation, drought, and the impacts of climate change on fisheries, farms, protected species, and other living marine resources.

In fiscal year 2022, NOAA's request includes an increase of \$368.2 million to upgrade our ocean and coastal observing systems and to better integrate NOAA's marine navigation, weather, and environmental information into public- and private-sector decision-making.

Building on our world-class weather predictions, NOAA proposes to build a seasonal forecast system to better inform regional and local adaptation and planning for nature-based infrastructure, food production, finance and national security.

NOAA seeks to improve short-term forecasts, to include fire weather prediction and longer term modeling of climate variability to better understand the interrelatedness between wildfires, weather, and climate change.

Along the coast and in the ocean, where conditions are changing rapidly, NOAA proposes to enhance core services, such as measuring sea level rise, to help decisionmakers safeguard the well-being of coastal communities.

NOAA seeks to expand longstanding programs, like the National Sea Grant College Program and NOAA's Coastal Zone Management Program, to help local communities by empowering NOAA's partners with on-the-ground expertise.

NOAA is requesting an increase of \$259.3 million for ecological restoration and community resilience, including through research on blue carbon sequestration, in places that provide fish habitat, storm and erosion protection, and water quality improvements.

Investments in the National Marine Sanctuaries and the National Estuarine Research Reserve Systems, as well as the National Coastal Resilience Fund, will engage communities, provide employment, and generate a wide array of economic and climate resilience cobenefits.

In pursuit of climate solutions and economic prosperity, NOAA proposes an increase of \$20.4 million to support offshore wind development so that Americans may expand clean energy usage while protecting marine resources, fisheries, and other important ocean activities.

And NOAA is requesting \$57.9 million to improve our equitable delivery of climate services to help vulnerable communities prepare for extreme weather and climate disasters.

Measuring and predicting climate change impacts are core to NOAA's mission, as is delivering climate solutions to all Americans. We welcome the opportunity to work with you so that NOAA's delivery of climate science and services may be more fully deployed to meet the needs of our Nation in preparing for the impacts of climate change.

Thank you, and I look forward to your questions.

[Ms. LeBoeuf's prepared statement follows:]

**Prepared Statement of Nicole R. LeBoeuf, Acting Assistant Administrator,
National Ocean Service, National Oceanic and Atmospheric Administration**

Chairwoman Napolitano, Ranking Member Rouzer, and Members of the Committee, thank you for the opportunity to testify today regarding the President's FY 2022 budget request. The Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) appreciates the continued support of Congress, the Administration, and our broad and diverse base of stakeholders.

For FY 2022, NOAA proposes a budget of \$6,983,329,000 in discretionary appropriations, an increase of \$1,543,531,000 from FY 2021 Enacted. This budget supports NOAA's goal of scaling up efforts to research and mitigate impacts of the climate crisis through investments in NOAA's data, tools, and services including research, observations and forecasting, restoration and resilience, ecologically sound offshore wind development, and equity at NOAA through programs that touch everyday lives. It also includes additional investments in fleet support and satellites to ensure the continuity of vital observations, and space weather observations and prediction services to protect critical infrastructure that provides the backbone of this country's economic vitality and national security.

CLIMATE

The atmosphere, ocean, water, and land ecosystems all show indicators of a warming and changing climate. To persist and thrive in this changing world, the Nation must make well-informed choices and embrace solutions that pave the way for a viable economy and the sustainable infrastructure to support it.

Communities around the country are struggling with the effects of extreme events like hurricanes, floods, droughts, wildfires, heat waves, and fisheries collapse. In 2020, there were 22 weather and climate disaster events in the United States that each had losses exceeding \$1 billion.¹ The 2020 wildfires in California—the worst in the state's history—are a paramount example of the environmental and socio-economic devastation that environmental events can wreak on communities, businesses, and the environment. NOAA's FY 2022 budget requests an additional \$855.1 million over enacted levels to help meet the Administration's climate science goals, including implementation of Executive Order (EO) 14008 on Tackling the Climate Crisis at Home and Abroad, by expanding investments in climate research, supporting regional and local decision making with climate data, tools, and services, and helping the most vulnerable communities improve adaptation, mitigation, and resilience to climate change.

For over 50 years, NOAA has provided science, service and stewardship to the nation. NOAA develops actionable climate science and information needed to help solve the climate crisis. NOAA leverages diverse authorities for climate, weather, fisheries, coasts, and the ocean; huge stores of environmental data and observations; world-renowned expertise; and networks of public, private, and academic partnerships to co-develop and deliver the most up-to-date knowledge and actionable products to meet the needs of decision makers. This information is critical to resilience-building, national security, and economic vitality; the protection of life and property; the sustainable use of our resources; and the preservation and resilience of our natural environment. From sun to sea, NOAA takes a comprehensive earth system approach.

Through the following targeted investments to support an integrated approach to the climate crisis, NOAA will be on track to develop and deliver new and improved climate tools and products that provide useful climate information and services to decision makers, communities, businesses, and the public, including:

Research: NOAA will strengthen core research capabilities. Foundational research will improve products and services and will help communities prepare for and adapt to impacts of extreme weather and climate events that have become more frequent and costly in recent decades.

Observations and Forecasting: NOAA will expand its delivery of the best-available climate observations and information (physical, biological, social, economic assessments, predictions and projections) to understand, mitigate, prepare for, and adapt to future conditions, especially in frontline and underserved communities that are disproportionately vulnerable to the impacts of climate change.

¹NOAA National Centers for Environmental Information, *U.S. 2020 Billion-Dollar Weather and Climate Disasters*, (2020), <https://www.ncdc.noaa.gov/billions/>

Restoration and Resilience: NOAA will invest in ecological restoration and community resilience, and address an increasing demand for NOAA's science and services needed to enhance natural and socioeconomic resilience of our ocean and coasts through our expertise, robust on-the-ground partnerships, and place-based conservation activities. NOAA will support the Administration's goal to conserve at least 30 percent of the Nation's lands and waters by 2030, collaborate with the new Civilian Climate Corps, and coordinate with partners on other related whole-of-government initiatives.

Offshore Wind: NOAA will further the Administration's goal to deploy 30 gigawatts of offshore wind in the U.S. by 2030, while protecting biodiversity and promoting ocean co-use.

Equity: NOAA will enhance its consideration of equity dimensions across the organization, from management, to policies, to service delivery. NOAA will cultivate a more diverse, climate-ready workforce of the future that builds upon NOAA's long history of investments in graduate and postgraduate training, fellowships, and extension programs.

Collectively, these investments will support our efforts to build resilient communities, economies, businesses, and ecosystems.

Research

NOAA science plays a critical role in informing the Nation and the world about current and projected changes in the climate system. Standing on the firm foundation of world-class earth system and climate science, NOAA provides data, tools, and services that reach every American every day.

To strengthen core research capabilities to respond to increasing demand for the data, tools, and services that this research provides, NOAA is requesting an increase of \$149.3 million. We will improve understanding of climate change on time scales from weeks, to decades, to centuries. We will build on this understanding to improve precipitation, fire weather, and sea level rise forecasts, and identify impacts of climate change on fisheries, protected species, and living marine resources to improve management. Of these funds, NOAA will commit \$40 million to the Advanced Research Projects Agency for Climate (ARPA-C), harnessing NOAA's restoration and conservation efforts to help sequester carbon while also protecting marine ecosystem diversity.

NOAA will research the ways in which our ocean influences, and is influenced by, climate change. For example, the total amount of excess heat absorbed by the ocean, or how the ocean's role as a sink for anthropogenic carbon will change over time are still not fully quantified. It is imperative that NOAA dedicates research towards understanding and projecting coastal inundation from rising seas, high lake levels, heavier precipitation, shrinking sea ice, and more frequent extreme weather events associated with our warming climate.

NOAA will invest additional resources to improve predictions and projections in a research environment. In particular, NOAA will improve precipitation predictions across weather and climate timescales for transition to operations through the Precipitation Prediction Grand Challenge Initiative. This is a cross-NOAA effort to advance subseasonal-to-seasonal and seasonal-to-decadal forecasts, and will be conducted in collaboration with our academic research partners, and will include more skillful precipitation forecasts using NOAA's Unified Forecast System. In addition, NOAA will develop a global high-resolution model to improve the understanding and prediction of extreme events.

As we increase our understanding of the changing climate in the short and long term, we will simultaneously research and develop new and improved tools for decision makers to address extreme impacts such as sea level rise, fire weather, and impacts on living marine resources. NOAA will enhance our Effects of Sea Level Rise (ESLR) extramural grant program in partnership with the Department of Transportation, to support research that informs adaptation planning and coastal management decisions in response to sea-level rise, flooding, and inundation threats, including evaluation of nature-based solutions for enhancing the resilience of coastal transportation infrastructure. NOAA also proposes an increase to develop a collaborative and integrated fire weather research program to enable new research into the coupled modeling for both the short-term fire-atmosphere and sub-seasonal to climate-scale modeling systems.

Our research will address the needs of sustaining a healthy "blue economy," which includes tourism, recreation, commercial fishing, renewable energy, and more. Last year the Bureau of Economic Analysis, in partnership with NOAA, released initial findings showing that the U.S. marine economy contributed about \$373 billion to the Nation's gross domestic product in 2018 and grew faster than the na-

tion's economy as a whole.² The NOAA Climate and Fisheries Initiative will significantly increase fisheries surveys, sampling, and analysis capabilities to deliver information on the changing distribution and abundance of commercial and recreationally valuable species due to climate change so that decision makers can determine best management strategies. In addition, NOAA will build a national ocean/ecosystem modeling and prediction system spanning U.S. coastal waters, the Arctic, and the Great Lakes, leveraging its global climate modeling system. This research will develop tools for decision makers to prepare for changing conditions in the ocean and Great Lakes, reduce climate impacts, and increase the resilience of all living marine and Great Lakes resources and the communities that depend on them.

Through the ARPA-C initiative, NOAA will pioneer research on blue carbon, carbon stored in ocean and coastal ecosystems, and factors that influence sequestration. This will lead to a better understanding of the effectiveness of certain climate mitigation strategies, such as different renewable energy choices and the role of coastal and ocean ecosystems, including in National Marine Sanctuaries and National Estuarine Research Reserves in carbon sequestration.

NOAA's data are critical for every Federal agency that seeks to better understand the impacts of climate change on their specific mission. To ensure these data are actionable, NOAA convenes and works directly with other Federal agencies to produce climate science and to support the agencies who need to use our science within their missions. One of the primary interagency collaborations is through the U.S. Global Change Research Program (USGCRP), under which NOAA co-leads the quadrennial National Climate Assessment and multiple interagency working groups focused on adaptation and resilience, international collaboration, climate and human health, sustained assessments, and the social sciences of climate and global change.

Observations and Forecasting

Measuring and predicting climate change impacts are core to NOAA's mission. NOAA proposes a \$368.2 million budget increase to enhance and improve climate observations and forecasting to assist the Nation to become safer and more resilient under a changing climate.

NOAA provides timely, actionable access to global, national, regional, and local environmental data from satellites, radar, surface systems, atmospheric greenhouse gas sampling stations, ocean buoys, uncrewed systems, aircraft, and ships. In FY 2022, NOAA will continue to invest in these platforms to meet the increasing demand for observations. We will continue tracking marine ecosystem conditions to provide critical information for marine industries like fisheries, shipping, and offshore wind. We will also continue to track local environmental conditions that inform farming, forestry, building and construction, resource planning, disaster preparedness, and more. NOAA's local weather stations, climate monitoring stations, and research facilities across the country will continue to maintain long-standing climate records, such as temperature and rainfall observations, taken by experts and community scientists. These records are made publicly available and used to prepare, plan, and execute critical decisions at the local level. NOAA uses these data to establish a baseline normal state against which to compare new environmental states over time.

NOAA's ocean observing system is the basis for forecasting both natural climate variability, as well as the impacts of long-term climate change on our ocean resources and on ocean patterns that, in turn, drive our weather. The FY 2022 request will allow NOAA to begin addressing gaps that can be filled to improve forecasts. NOAA provides more than 50% of global in-situ ocean observing through our Argo and Tropical Pacific Observing System, to help us monitor the changing ocean environment. Enhancement and reconfiguration of the existing Tropical Atmosphere Ocean (TAO) moored array, implementation of the Tropical Pacific Observing System (TPOS) backbone observations, and calibrations of the radiation sensors across the observing network are essential to improving NOAA's climate forecast capabilities. These observations, supported by uncrewed platforms like ocean gliders, are also essential to describing the present state of the ocean, detecting long-term changes, and providing necessary operational weather, marine, and climate services worldwide.

The FY 2022 request will allow NOAA to support and maintain long-term atmospheric observations, which serve as a baseline and record of trends for the release and sequestration of carbon dioxide, methane, other important greenhouse gases,

²Bureau of Economic Analysis and NOAA, *Ocean Economy*. (2020), <https://www.bea.gov/data/special-topics/ocean-economy>

and other atmospheric aerosols and particles that affect climate, weather, and human health. NOAA will invest in our fleet of aircraft to continue to monitor long-term atmospheric and climate change trends. We will complete the acquisition of the G-550, which improves hurricane forecasting approximately 15–25%. We will also conduct critical maintenance on our two P-3 Hurricane Hunter aircraft, which have unique airborne data collection tools.

One of the greatest forecasting challenges facing NOAA is the need to improve precipitation forecasts across timescales from weather to climate. Related, there is a critical need for improved projections of how the climate will change on more granular, regional scales and over the next several decades. Investments to fully develop a Seasonal Forecast System will improve climate projections on these scales to better inform regional and local adaptation and resiliency planning for infrastructure, natural resource management, food production, finance, national security, and other sectors. Wildfires are influenced by the weather and climate, and the weather and climate are influenced by wildfires. Of particular interest to NOAA in FY 2022 are the opportunities to improve fire weather and smoke management forecasting. NOAA will work to improve short-term forecasts to better predict fire behavior and the longer-term modeling of interactions between climate variability, climate change, and the likelihood of hazardous wildfire conditions. Tools will be developed in concert with the U.S. Forest Service, the Department of the Interior, and relevant Tribal organizations.

Looking beyond the interior to the coast, investments in improved precipitation forecasts, a modernization of water level and land height observations, and a completion of the operational coastal oceanographic modeling system will together provide real-time inundation alerts, high-tide flooding outlooks, and long-term sea level trends. NOAA will convey this information using a Next-Generation Coastal Inundation Dashboard to allow coastal decision makers to evaluate flood risk at a local level and varying timescales.

NOAA's weather and climate predictions and information must be reliably delivered to users to impact decision making. The FY 2022 request includes a critical investment in the NWS Integrated Dissemination Program plan to address reliability and capacity issues necessary to ensure the provision of weather and climate forecasts and warnings to the public, emergency management partners, and the U.S. weather and climate enterprise. NOAA will invest in dissemination of rapidly increasing open data with the establishment of a NOAA Cloud Program to streamline and accelerate the transition of all NOAA mission areas to the cloud. This, in conjunction with the evolution of NOAA's Open Data Dissemination, will provide worldwide cloud access to NOAA climate and earth system dynamics data crucial to improve climate modeling. NOAA will work with data users to ensure they have access to the data necessary to better understand and decrease climate risks. NOAA must also invest in the transition of legacy telecommunications infrastructure to the government-wide Enterprise Infrastructure Solutions contract, which will adopt modern technologies and a service-based approach. This modernization effort will support all of the observing and forecasting efforts described above.

Restoration and Resilience

Forty percent of the U.S. population live and work in coastal counties,³ making a disproportionate segment of our society and economy at increasing risk from such hazards as hurricanes and coastal inundation. Therefore, NOAA is requesting \$259.3 million in FY 2022 for investments in ecological restoration and community resilience that are integral to NOAA's climate strategy. There is an increasing need for NOAA to create and foster natural and economic resilience along our coasts through direct financial support, expertise, robust, on-the-ground partnerships, and place-based conservation activities. These activities would also support the Administration's efforts to conserve at least 30 percent of the Nation's lands and waters by 2030.

Grants in the FY 2022 request will help states, Tribes, and other landowners plan and implement habitat conservation and restoration projects, including for candidate, proposed, and ESA-listed species, increasing habitat acres restored by over 60 percent. Healthy coastal habitats, such as marshes and coral reefs, protect ecosystems, shorelines, and communities from waves, storms, and floods, and help to prevent loss of life, property damage, and erosion. They also are a key source of livelihoods, through tourism and fishing. In addition, restoration activities and the construction of natural infrastructure employs construction workers, engineers, ecologists, project managers, and heavy-equipment operators, and generates a wide array

³NOAA Office of Coastal Management and U.S. Census Bureau, *American Community Survey Five-Year Estimates*. (2017), <https://coast.noaa.gov/digitalcoast/data/acs.html>

of economic co-benefits. A 2020 reexamination confirmed an initial assessment that a \$10 million investment in ecological restoration of Michigan's Muskegon Lake in 2011, would power up the local economy by approximately \$60 million through increased home prices and recreational visits.⁴

NOAA will work with partners to foster resilience of coastal ecosystems and the communities that depend on them. NOAA requests funds to expand the National Coastal Resilience Fund to help coastal communities and ecosystems prepare for and recover from extreme weather events, climate hazards, and changing ocean conditions. NOAA also will enhance the National Coastal Zone Management Program for coastal states and territories to support community adaptation efforts, including a focus on underserved communities disproportionately vulnerable to hazards. With funding requested in FY 2022, NOAA will remove marine debris, increasing such removal by 60 percent, and foster public awareness of the effects of marine debris. NOAA will continue to partner with the National Fish and Wildlife Foundation through the Fishing for Energy program to provide funding support to commercial fishermen to aid removal, disposal, and prevention of derelict fishing gear and plastic found at sea and aid in economic recovery for this sector.

NOAA will support endangered and threatened marine species through the U.S. Marine Biodiversity Observation Network, to support ecosystem-based management of commercially harvested species through advanced biological observing, modeling, and other innovative tools to inform adaptation strategies. NOAA will combat stony coral tissue loss disease, an especially lethal disease first reported in 2014 that spreads rapidly, causing high coral mortality. NOAA will build capacity for disease detection, prevention, and response efforts, and engage partners, coral reef managers, and regional fisheries managers.

NOAA's active engagement and partnerships with regional users and climate service delivery providers facilitate the uptake and application of NOAA's authoritative information. NOAA's National Sea Grant College Program will increase coastal community understanding of climate risk factors, develop key decision tools, and address critical knowledge gaps for coastal communities. NOAA's Regional Integrated Sciences and Assessments (RISA) program will work with communities to co-produce and operationalize lasting and equitable climate resilience plans in 50 cities around the Nation, prioritizing underserved communities particularly vulnerable to a changing climate. NOAA will improve response readiness in preparation for more emergency events through an investment in our Office of Response and Restoration. This will strengthen the national capacity to respond to emergency events by addressing internal and external preparedness gaps, investing in more efficient response equipment, and initiating a nationwide refresh of the Environmental Sensitivity Index to ensure an accurate understanding of the baseline for timely decisions during a disaster.

NOAA's FY 2022 request supports locally-driven management decisions regarding NOAA trust resources through increased engagement with partners, underrepresented communities, Tribes, and local indigenous groups to strengthen conservation outcomes. For example, in National Marine Sanctuaries, NOAA will double climate vulnerability assessments, promote climate resilience, and enhance work with states and local communities to achieve on-the-ground conservation goals. NOAA will also provide enhanced technical support and increased capacity within the National Estuarine Research Reserve System to further the benefits of blue carbon, to monitor marsh resilience to sea level rise, and to identify conservation corridors and habitat gaps for conservation and restoration planning. NOAA will convene technical experts, decision makers, and stakeholders to ensure that coastal adaptation investments are science-based, community-driven, and offer equitable solutions, making communities and the environment more resilient to climate impacts.

Offshore Wind

Offshore wind development is rapidly expanding in the United States, particularly in the Northeast and Mid-Atlantic, and is being considered along the Gulf and West Coasts as well. This represents a relatively new use of our marine waters and will require scientific and regulatory review to balance energy production with protecting marine resources and fisheries production. NOAA will continue to work closely with the Bureau of Ocean Energy Management (BOEM) to minimize the effects of offshore energy projects on protected resources, fisheries, and important habitats in the region; avoid delays and minimize adverse economic impacts to the fishing industry and related coastal communities; and mitigate impacts to fisheries surveys

⁴ Grand Valley State University, *Muskegon Lake Area of Concern Habitat Restoration Project: Socio-Economic Assessment Revisited*, (2020), <https://www.glc.org/wp-content/uploads/Habitat-socioeconomic-Study-July-2020.pdf>

in the Northeast and Mid-Atlantic. NOAA is requesting a total of \$20.4 million in four complementary areas to enhance interagency engagement, siting, and permitting of offshore energy projects to minimize impacts on our trust resources and constituencies: 1) Offshore energy assessment and scientific advice to support the regulatory process; 2) dedicated resources for offshore energy assessment related to protected resources; 3) increased support for environmental assessments and consultations with BOEM; and 4) development of new fisheries survey design and methods to address anticipated changes in habitats around offshore wind developments. Working in partnership with BOEM and other relevant agencies, these funds will support NOAA's role in achieving the Administration's goal to deploy 30 GW of offshore wind in the U.S. by 2030, while protecting biodiversity and promoting ocean co-use.

Equity

The Biden Administration policies, including those described in EO 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, make it clear that agencies will integrate equity dimensions into the DNA of their organizations—from management, to policies, to service-delivery. Underserved communities are especially vulnerable to weather, water, and climate events, with large disasters posing public health and safety risks and causing poverty rates to increase.⁵ In FY 2022, NOAA requests \$57.9 million to develop a framework to lay the foundation for successfully integrating equity considerations throughout the organization. This will position NOAA to help vulnerable communities better prepare for and respond to extreme weather and climate disasters. For example, in many localities whose budgets have already been constrained by the pandemic, major storms cause local revenues to fall by 6% to 7%, with that figure two times greater for municipalities with a significant racial minority population.⁶

This effort includes investing in NOAA's internal capacity to better respond to the needs of vulnerable populations, assessing key services to identify and address barriers to access to all Americans, funding targeted investments in historically underserved communities, and enhancing NOAA's capabilities, such as the Drought Portal and the Sea Level Rise Viewer. NOAA's concrete goals will be responsive to promoting equitable delivery of government benefits and equitable opportunities as outlined in EO 13985 and provide an action plan to make service delivery more equitable. This includes delivering Spanish-language translation of weather information from NWS offices and enhancing Tribal consultation on substantive policy matters with at least 30% of federally recognized Tribes in FY 2022. NOAA will also establish a NOAA Climate Cooperative Science Center as part of the José E. Serrano Educational Partnership Program with Minority Serving Institutions (EPP/MSI) to train post-secondary students in climate science. NOAA will modify award-winning Digital Coast tools and products to make them more accessible and conduct more robust engagement with underserved and vulnerable coastal communities. The National Sea Grant College Program will also increase, in FY 2022, the number of Sea Grant tools, products, and information services that are used to advance environmental literacy and workforce development services for underserved communities.

NOAA also seeks to strengthen equity efforts internally to accelerate efforts to attract, retain, and develop talent, including from diverse backgrounds. NOAA will enhance recruitment programs and communication tools to support STEM recruitment efforts from Historically Black Colleges and Universities and other MSIs. NOAA will also leverage these institutions through more tailored recruitment in the NOAA Corps recruitment, and the IT Fellowship Program. NOAA will accelerate implementation of the Diversity and Inclusion Strategic Plan and training and outreach for staff, supervisors, and leaders. These investments in supporting equity in our current and prospective workforce will allow NOAA to leverage diversity to provide better services to all Americans.

Fleet

The FY 2022 request includes significant investments for NOAA's observational infrastructure, such as the NOAA fleet, a key component of the NOAA mission. NOAA drives the Nation's economy, protects and creates better opportunities for the American public, and responds to climate-induced impacts with products and services firmly rooted in data. These data depend on NOAA's fleet of 15 ships. The \$5.4

⁵ Hallegatte, S., Vogt-Schilb, A., Rozenberg, J., Bangalore, M., & Beaudet, C. (2020). From poverty to disaster and back: A review of the literature. *Economics of Disasters and Climate Change*, 4(1), 223–247.

⁶ Rhiannon Jerch & Matthew E. Kahn & Gary C. Lin, *Local Public Finance Dynamics and Hurricane Shocks*, (NBER Working Papers 28050, 2020, National Bureau of Economic Research, Inc. 2020)

trillion and 31 million jobs that pass through our Nation's ports,⁷ the \$244.1 billion in sales and 1.74 million jobs connected to the Nation's fisheries,⁸ and resiliency and prosperity of coastal communities all use data from NOAA ships. NOAA's detailed recapitalization plan and transformational maintenance strategy is a targeted approach to provide the Nation the most effective at-sea data. NOAA has made significant advancements in reliability and capabilities and, in turn, increased the days at sea available to support national requirements for data collection.

In FY 2022, NOAA requests \$101 million to support mid-life maintenance on the NOAA Ship Ronald H. Brown and to construct the Southeast Marine Operations Hub to replace Pier Romeo in Charleston, South Carolina, which is the homeport for the Brown and NOAA Ship Nancy Foster. The Brown, NOAA's largest oceanographic research vessel, collects oceanographic and atmospheric data worldwide in direct support of NOAA's climate missions, including data from buoys that drive accurate weather forecasts and climate models and ocean acidification data that informs global carbon models. Upon completion of maintenance, the Brown's expected life span will increase to provide 15 more years of reliable and highly capable support for at-sea data collection.

Satellites

The FY 2022 request also includes significant investments for NOAA's observational infrastructure, such as NOAA satellites, a key component of the NOAA mission. NOAA is committed to a flat \$2.0 billion budget for the National Environmental Satellite, Data, and Information Service (NESDIS) starting in FY 2022 with no outyear increases other than government-wide inflation assumptions. The FY 2022 budget request underscores NOAA's commitment to making crucial, time-sensitive investments to ensure that the Nation's next-generation satellite systems not only improve capabilities, but that they also expand delivery of essential climate, weather, atmospheric, and oceanographic information to meet the needs of the American public. In support of EO 14008, the FY 2022 budget will help NOAA better observe environmental phenomena, including greenhouse gas measurement, connected to climate change-related impacts and patterns, and deliver products, information, and climate services to inform decision makers.

The value of NOAA's data is dependent on users' ability to access and apply it. The FY 2022 budget supports much-needed improvements to NOAA's data infrastructure that will ensure that the data collected are preserved for the future and can be easily accessed in a cloud-based environment. This includes funding to transition NOAA to cloud computing for data ingest, processing, dissemination, and archiving, which will expand the size and diversity of NOAA user communities and data applications.

For decades, the U.S. government was alone in developing Earth observing satellites on behalf of the Nation. Now the government is joined by U.S. companies in the midst of another space race—a race to deploy constellations of satellites for communications and connectivity. The growth of the U.S. space industry has created new opportunities for Federal agencies like NOAA. Plus, there are more sophisticated commercial technologies and capabilities available than ever before to advance NOAA's national mission. NOAA will initiate development of the next generation of cutting-edge earth observing instruments to continue leading the world in this critical science and technology field, setting the global standards for such observations.

NOAA's current constellation has proven its worth and will continue to do so for close to another decade. While robust, NOAA must invest in the development of the next generation of environmental satellites with the needs of all of our communities in mind. Today's funding for future geostationary, low earth orbit, and space weather observations will ensure critical data continuity from legacy systems, while providing significant improvements in data and products that the U.S. requires to meet complex societal and environmental needs. Our program investments also allow us to immediately exploit the National Aeronautics and Space Administration (NASA)'s research satellite observations for NOAA requirements and to integrate critical research observations into NOAA's operational mission.

With advances in technology, NOAA can build a more capable and efficient observing system, one that supports our vision to create an integrated, digital understanding of our Earth environment, that can evolve quickly to help our communities adapt and thrive, and maintain a stable and predictable budget path that avoids outyear cost growth which creates risk to both NESDIS as well as other NOAA pri-

⁷ Martin Associates for the American Association of Port Authorities, *2018 National Economic Impact of the U.S. Coastal Port System*, Spring Conference 2019, <http://www.aapa-ports.org>.

⁸ NOAA, *Fisheries Economics of the United States, Economic Impact Trends, 2017*, (2017) <https://www.fisheries.noaa.gov/national/sustainable-fisheries/fisheries-economics-united-states>

orities. This observing system, composed of satellites deployed by NOAA and our partners in Earth observations, including NASA, the Department of Defense (DOD), European Organization for the Exploitation of Meteorological Satellites (EUMETSAT), and others, will provide advanced, real-time data critical to saving lives and protecting property. It will improve Earth and space weather forecasting and expand capabilities for ocean, air quality, and climate observations. It will also enable NOAA to continue long-term monitoring and continuous services with no gaps in coverage of key climate parameters essential to understanding our changing environment.

In the current world of increasing environmental changes and disasters, NOAA must invest in the next generation of satellites, products, and services to meet the demands for more accurate and expanded environmental information and services for the American public. Continuity of NOAA's current satellites and information services, exploitation of partner research observations, and implementation of NOAA's plans for enhanced observing capabilities of future satellites and for fostering vital partnerships, will directly support the entire weather enterprise and EO 14008.

Space Weather

This request also supports additional capacity for the forecasting of space weather events, which can have far-reaching impacts on our Nation's economy, communications, and national security. An extreme space weather event can severely impact an entire hemisphere and the globe. Impacts might include disruptions to satellite communications, impacts to the terrestrial electric grid, and communication outages to cross polar airline flights, yet current observations and prediction services do not meet the needs of agencies and operators of critical infrastructure to mitigate against these events. The Space Weather Operations, Research, and Mitigation (SWORM) Interagency Working Group, which includes 34 Federal departments and agencies, identified research-to-operations and operations-to-research (R2O2R) as a critical gap in our Nation's ability to improve existing space weather forecast and warning services. To close the gap, the Promoting Research and Observations of Space Weather to Improve the Forecasting of Tomorrow Act (PROSWIFT) (Public Law 116–181) authorizes Federal agencies to develop formal mechanisms to transition space weather research models and capabilities to NOAA.

In FY 2022, NOAA requests \$5 million to build towards a space weather prediction capability that will ensure national and global communities are ready for and responsive to space-weather events. For NOAA's Space Weather Prediction Center (SWPC) to improve these model forecasts, observations, and related watches and warnings, NOAA has identified four goals: implement a formal inter-agency R2O2R Framework; develop and sustain a Space Weather Prediction Testbed; transition new capabilities onto NOAA's operational national infrastructure; and establish two PROSWIFT directed community collaboration efforts, the Space Weather Advisory Group and National Academies Roundtable on Space Weather.

To address the R2O2R gap, NOAA will partner with NASA, National Science Foundation (NSF), DOD, Department of Interior (DOI), and other Federal agencies to implement a formal framework to accelerate space weather research, observations, and model advances into NOAA operations. As a vital component of this framework, NOAA will develop and sustain the Space Weather Prediction Testbed (Testbed) that will leverage the expertise of academia, agencies, and commercial enterprise partners by fostering collaboration to validate, demonstrate, and transition emerging science and technologies into operations. In the Testbed, stakeholders participate in collaborative exercises and experiments using new capabilities under quasi-operational conditions. Following successful validation, the Testbed will demonstrate readiness and then enable the implementation of matured capabilities into NOAA operations.

NOAA will also support two community efforts: the National Academies Roundtable and the Space Weather Advisory Group (SWAG). The Roundtable will discuss approaches and constructs on implementing the R2O2R framework and seek to identify ways to integrate relevant research from across the entire U.S. science and technology enterprise. SWAG will advise SWORM on methods to advance the space weather enterprise of the Nation by improving the coordination and facilitation of R2O2R.

CONCLUSION

NOAA is uniquely positioned to observe and predict the changing climate and communicate the scientific information that underpins necessary actions. NOAA's FY2022 budget request includes significant investment in NOAA's capabilities to de-

velop and deliver climate information and services that enable society to understand, prepare for, and adapt to the changes that we are already seeing and those that are yet to come.

Mrs. NAPOLITANO. Thank you, Ms. LeBoeuf.

I am terribly sorry I said “Mr.” Thank you very much for your testimony.

Mr. Cosby, you may proceed.

[Pause.]

Mrs. NAPOLITANO. You have to unmute yourself, sir.

Mr. COSBY. Chairwoman Napolitano and Ranking Member Rouzer and members of the subcommittee, thank you for the opportunity to provide testimony on the U.S. Department of Agriculture’s Natural Resources Conservation Service’s watershed programs.

NRCS delivers voluntary programs and services that enable producers, agriculture landowners, Tribal nations, and others to enhance their land stewardship activities, improving the viability of agriculture operations and the sustainability of the Nation’s soils, water, and related natural resources of non-Federal lands. About 70 percent of the Nation’s land is privately owned, making stewardship by private landowners and managers critical to the health of our agriculture lands and economies.

NRCS provides science-based technical assistance to help our customers better manage the natural resources of their land. Financial assistance can help offset the cost to install conservation practices that sustain and enhance natural resources and habitats.

Although we administer a wide range of conservation programs, today I will focus on NRCS watershed programs. NRCS watershed programs include a small watershed program, a watershed operations program, and a watershed rehabilitation program. Through these programs, NRCS collaborates with State and local agencies, Tribal governments, and other Federal agencies to prevent damage caused by erosion, floodwater, and sediment.

The vast majority of NRCS watershed projects have been built pursuant to the small watershed program authority, PL-566 projects, under which NRCS works with local government sponsors and individual landowners to solve natural resources and related economic problems within watersheds.

These projects protect our communities, infrastructure, and natural resources through flood prevention and damage reduction, development of rural water supplies, erosion and sediment control, fish and wildlife habitat enhancement and wetland creation and restoration.

To date, NRCS has assisted in construction of 11,800 watershed dams and other work from improvements to mitigate flooding downstream, enhance municipal and industrial water supplies, provide recreational opportunities, and improve irrigation water sources for our farmers and ranchers. These watershed projects help protect more than 180,000 farms, 610,000 businesses, and positively impact more than 48 million people each day.

In 2020, the agency received \$175 million in discretionary funding and \$50 million in mandatory funding. Using these funds, NRCS provided funding to 41 new and 12 backlogged projects in 24 States. NRCS provides technical assistance and cost-sharing for

constructions. Local sponsors assume responsibility for the operations and maintenance of structures once completed.

The watershed rehabilitation program provides assistance with the planning, design, and implementation needed to rehab aging watershed dams. We prioritize dams that pose the greatest risk to public safety. Our efforts can extend the service life of dams, bringing them into compliance with applicable safety and performance standards, or beginning steps to decommission dams that pose a threat to life and property.

In fiscal year 2020, the watershed rehabilitation program received \$10 million in discretionary funding and \$19.9 million in mandatory funding, which helps repair aging infrastructure, creates jobs and commerce, and protects homes and families.

NRCS continues to provide funding and promotes assessments of high-hazard potential dams, monitors costs, and examines the rehabilitation program to ensure equitable delivery in economically disadvantaged areas.

We utilized \$1.1 million to fund 50 dam assessments. These assessments provided communities with technical information about the condition of their dams and alternatives for rehabilitation of dams that do not currently meet Federal dam safety standards.

By December 2021, 5,948 watershed dams will have reached the end of their original designed lifespan. This happens over time because dam spillway pipes can deteriorate, reservoirs may fill with sediment, and many former agricultural lands are now covered by urban sprawl.

A dam failure could pose a serious threat to the health and safety of those living downstream and to the communities that depend on the reservoir. Dam failure also brings serious adverse environmental impacts.

The fiscal year 2022 President's budget proposes discretionary apportionment of \$110 million to the small watershed program, \$65 million for the flood prevention operations program, and \$10 million for the watershed rehabilitation program. It also includes a legislative proposal for mandatory appropriations to increase funding for the watershed and flood prevention operations to \$100 million per year.

In closing, NRCS watershed operations provide critical infrastructure as we face ongoing extreme weather and natural disasters. Farmers, ranchers, foresters, and other landowners are on the front line of the climate crisis. NRCS stands ready to support the implementation of conservation and infrastructure solutions that respond to the severity of the crisis.

I appreciate Congress' continued support for NRCS and our work to ensure the safety and viability of our small watersheds and voluntary conservation on working lands. Thank you for the opportunity to be here with you today.

[Mr. Cosby's prepared statement follows:]

**Prepared Statement of Terry J. Cosby, Chief, Natural Resources
Conservation Service, U.S. Department of Agriculture**

Subcommittee Chairwoman Napolitano, Subcommittee Ranking Member Rouzer, and Members of the Subcommittee, thank you for the opportunity to provide testimony on U.S. Department of Agriculture Natural Resources Conservation Service watershed programs.

NRCS BACKGROUND

The mission of USDA's Natural Resources Conservation Service (NRCS) is to deliver conservation solutions so agriculture producers can protect natural resources and feed a growing world. NRCS provides programs and services that enable people to enhance their land stewardship activities to protect the viability of their agriculture operations and the nation's soil, water, and related natural resources on non-Federal lands. NRCS supports the rural economy by helping private landowners and producers, who make day-to-day decisions about natural resource use and management on non-Federal lands, implement conservation measures through technical and financial assistance. Technical assistance provided to farmers, ranchers, foresters and other private landowners supplies the knowledge and tools they need to conserve, maintain, and restore natural resources on the lands they manage. Financial assistance partially offsets the cost to install conservation practices necessary to sustain and enhance natural resources and improve wildlife habitat. About 70 percent of the land in the United States is privately owned, making stewardship by private landowners and land managers critical to the health of our agricultural economy. In addition to working directly with private landowners, NRCS also works with tribal Nations, units of government, and other eligible sponsors (like water authorities) to deliver technical and financial assistance.

Conservation Technical Assistance: The ability of NRCS to provide Conservation Technical Assistance (CTA) to farmers, ranchers, foresters and landowners across the country is core to our mission. Through CTA, NRCS works with landowners and managers to develop conservation plans that outline the specific conservation activities needed to improve farm operations and enhance farm environmental sustainability. NRCS partners with third-party private sector entities (known as Technical Service Providers, or TSPs) to collaborate and provide technical assistance for conservation planning and activities. Currently, there are 1,250 individuals and more than 100 businesses serving as certified TSPs that are available to help program participants apply conservation efforts through programs such as the Environmental Quality Incentive Program (EQIP), the Conservation Stewardship Program (CSP), the Agricultural Conservation Easement Program (ACEP), the Agricultural Management Assistance Program, Conservation Reserve Program (CRP), CTA, and Watershed programs.

Conservation Programs: NRCS administers a wide range of conservation programs to help private landowners, and most are authorized by the Farm Bill, including EQIP, CSP, ACEP, and the Regional Conservation Partnership Program. These financial assistance programs make it possible to implement the conservation plans that resulted from CTA work. Additionally, while CRP is administered by USDA's Farm Service Agency, NRCS provides technical assistance, conservation planning, and support for conservation practice implementation and management. NRCS conservation programs are carried out through local field offices that provide direct assistance to individual farmers, ranchers, foresters, and other private landowners to restore and improve our shared natural resources. Key priorities about the implementation of these programs and practices are made at the local level, with input from Local Working Groups and State Technical Committees to ensure local needs, which vary greatly across the country, are addressed through voluntary based NRCS programs.

NRCS Watershed Programs

Watershed and Flood Prevention Operations

Through the Watershed and Flood Prevention Operations (WFPO) account, NRCS cooperates with State and local agencies, tribal governments, and other Federal agencies to prevent damage caused by erosion, floodwater, and sediment, to further the conservation, development, utilization, and disposal of water, and advance the conservation and utilization of the land. WFPO includes the Small Watershed Program, the Flood Prevention Operations, and may include activities under the Watershed Rehabilitation Program described in the next section. The vast majority of NRCS watershed projects have been built pursuant to the authority of P.L. 83-566 (PL-566 projects), under which NRCS works with local government sponsors and

helps participants solve natural resource and related economic problems within watersheds. Watershed projects are limited to 250,000 acres and cannot include any single structure that provides more than 12,500 acre-feet of floodwater retention capacity, or more than 25,000 acre-feet of total capacity. Projects may include flood prevention and damage reduction, development of rural water supply sources, erosion and sediment control, fish and wildlife habitat enhancement, wetland creation and restoration, and increased recreational opportunities. NRCS provides technical and financial assistance to support plan development and project implementation. NRCS can offer conservation practices to individual landowners and work with local communities to create vital infrastructure protecting and restoring natural resources. NRCS financial and technical assistance for watershed projects includes dams that not only offer flood control, but can also offer critical fish and wildlife habitat, livestock water, recreation and in some cases municipal water.

Additionally, Flood Prevention Operations includes eleven projects that were specifically authorized under the Flood Control Act of 1944 (P.L. 78-534) and are much larger than PL-566 projects. The Flood Control Act placed a primary focus on watershed protection by preventing floodwater damage and stabilizing stream channels, tributaries, and banks to reduce erosion and sediment transport. The Watershed Protection and Flood Prevention Act extended these authorities to expand NRCS's ability for delivering additional conservation investments beyond those focused solely on flood damages. Through these programs, NRCS has assisted in the construction of 11,800 watershed dams that help mitigate flooding downstream, offer municipal and industrial water supply, provide recreation opportunities, and serve as a source of irrigation for our farmers and ranchers. These dams help protect more than 180,000 farms, 610,000 businesses, and positively impact more than 48,000,000 people each day.

In 2020, the Agency received \$175 million in discretionary funding and \$50 million in mandatory funding for WFPO. NRCS provided funding to 41 new and 12 backlog projects in 24 States. In selecting projects for funding, the agency balanced the needs of remedial, backlog, and new projects. NRCS provided technical assistance and cost sharing for construction. Local sponsors assumed responsibility for the operations and maintenance of structures once completed. These dams protect our communities, infrastructure, and natural resources with flood control. Further, many provide the primary source of drinking water in an area or offer recreation and wildlife benefits.

Watershed Rehabilitation Program

The Watershed Rehabilitation Program provides technical and financial assistance for the planning, design, and implementation to rehabilitate aging watershed dam projects in communities to extend the service life of dams and bring them into compliance with applicable safety and performance standards, or to decommission the dams so they no longer pose a threat to life and property. While the Watershed Rehabilitation Program is a separate account, its activities are included as part of WFPO, and the 2018 Farm Bill authorized \$50 million in mandatory funding for WFPO and the Watershed Rehabilitation Program. The Watershed Rehabilitation Program prioritizes dams that pose the greatest risk to public safety. These dams are classified as high hazard potential in the national dam safety classification system. All high-hazard potential dam project requests from public sponsors will be rehabilitated before dams classified as low or significant hazard potential to public safety. The Watershed Rehabilitation Program provides up to 65 percent of the total cost for dam rehabilitation projects, including the acquisition of land, easements, rights-of-way, project administration, non-Federal technical assistance, and construction. NRCS provides technical assistance to conduct studies, develop rehabilitation plans, develop environmental impact statements, prepare the engineering designs, and provide construction management services. Local sponsors are required to provide 35 percent of the total project cost.

In fiscal year 2020, the Watershed Rehabilitation Program received \$10 million in discretionary funding and \$19.9 million in mandatory WFPO funding. This funding helps to repair aging infrastructure, creates jobs and commerce, and protects homes and families. NRCS continued to provide funding and promoted assessments of high-hazard potential dams, monitored costs, and examined the rehabilitation program to ensure equitable delivery in economically disadvantaged areas. Additionally, we utilized \$1.1 million to fund 50 dam assessments. These assessments provided communities with technical information about the condition of their dams, and alternatives for rehabilitation of dams that do not currently meet Federal dam safety standards.

From 2000 through 2020, 398 dams have been funded for planning. Of those, 254 dams were reauthorized to receive Federal funding to design and construction of re-

habilitation measures in 25 States. There are 122 dams in the planning phase that remain subject to funding priorities. Of the 254 dams that are already authorized for rehabilitation, 166 have been rehabilitated and 67 are in the design and construction phase. Watershed Rehabilitation projects provide enormous benefits for both agricultural and non-agricultural lands. For example, completed projects resulted in an average of \$9,383,748 in annual floodwater damage reduction benefits and more than 1,000 farms and ranches benefiting from program action.

The reality is that many of the communities protected by the watershed dams that NRCS helped to establish are now vulnerable to flooding. Many dams have reached, or will soon reach, the end of their design life. Specifically, by December 2021, 5,947 watershed dams will have reached the end of their original designed lifespan. By 2025, that number will increase to nearly 6,800 watershed dams. This has happened over time because dam spillway pipes have deteriorated, and reservoirs have filled with sediment. Additionally, the area around many dams have changed as homes and businesses have been constructed on what was once agricultural land. A dam failure could pose a serious threat to the health and safety of those living downstream and to the communities that depend on the reservoir. Dam failure also could bring serious adverse environmental impacts.

DAMWATCH®: Dam safety is a critical concern as many of the watershed dams NRCS assisted sponsors with constructing were built in the 1950's, 1960's, and 1970's. Of the 11,800 NRCS assisted dams, 2,423 are high-hazard, meaning the potential for a loss of life should a dam failure occur. Many of these dams are in need of upgrades to meet current public safety standards, and many more are in need of key repairs to man-made components. NRCS has worked to help sponsors mitigate risk with DAMWATCH®. DAMWATCH® is a web-based application developed for NRCS to support watershed project sponsors with monitoring and managing NRCS-assisted dams. DAMWATCH® provides real-time monitoring of rainfall, snowmelt, stream flow, and seismic events that could pose potential threats to dam safety. The application is able to alert essential personnel when dams experience potentially hazardous monitored conditions, allowing for the coordinated deployment of personnel and resources. NRCS and watershed project sponsors utilize DAMWATCH® to manage a proactive response through the application's "one stop shop" for accessing critical documents, databases, monitoring devices, and geospatial information.

FISCAL YEAR 2022 PRESIDENT'S BUDGET OVERVIEW

The Fiscal Year (FY) 2022 Budget proposes an overall increase of \$67 million in discretionary funds for NRCS from the FY 2021 enacted appropriations funding level. This includes a \$42.6 million increase for Conservation Technical Assistance (CTA). Additionally, the budget includes an overall mandatory increase of \$140 million for NRCS. Legislative proposals in the FY 2022 budget include: increased funding for EQIP to address drought resilience; increased funding for RCPP for net-zero agriculture technology initiatives; increased funding for the Watershed and Flood Prevention Operations Program; and increased funding for the Healthy Forests Reserve Program as part of a net-zero technology initiative to encourage land and species protection and restoration. Of note, the Watershed and Flood Prevention Operations program would increase by \$100 million per year, totaling \$1 billion over ten years, to address repair needs. Additionally, the proposed increase to EQIP funding would support the ability of producers to adapt to the climate crisis through technological investments to increase drought resilience. These investments would result in the installation of conservation practices that include the incorporation of new science, technology and research into NRCS conservation practices in order to help producers with irrigation efficiencies, alternative livestock watering systems, and the adoption of resource conserving crop rotations.

WATERSHED AND FLOOD PREVENTION OPERATIONS (WFPO)—FY 2022 BUDGET

The FY 2022 Budget proposes \$175 million in discretionary funding for WFPO. The Agriculture Improvement Act of 2018, commonly referred to as the 2018 Farm Bill, permanently authorized \$50 million in annual mandatory funding to be used for WFPO and the Watershed Rehabilitation Program. Within WFPO, the budget proposes \$110,000,000 for the Small Watershed Program (P.L. 83-566). The other \$65,000,000 is for Flood Prevention Operations, which includes projects that were specifically authorized under the Flood Control Act of 1944 (P.L. 78-534).

The budget proposes \$10,000,000 for the Watershed Rehabilitation Program. Dams installed through the Watershed Protection and Flood Prevention Act, Pilot Watershed Projects authorized by the Agriculture Appropriation Act of 1953, and the Resource Conservation and Development Program are eligible for rehabilitation assistance.

CONCLUSION

NRCS's Watershed and Flood Prevention Operations Program combines the agency's technical, scientific, and financial resources to have the greatest impact on our nation's resources. This program reflects our commitment to local leadership on critical conservation issues and targets the specific needs of communities across the country. NRCS's financial and technical assistance on working lands are a critical component of our nation's infrastructure. We are accustomed to viewing infrastructure as part of our program delivery. However, some of our other activities, such as water supply forecasting network, are also a core aspect of the technology infrastructure that NRCS provides to the nation.

Protecting our Nation's small watersheds is essential to protecting lives, natural resources, and agriculture. As we work to respond to the climate crisis, maintenance and upkeep of these dams and infrastructure is more important than ever in the face of extreme weather and natural disasters. We know that farmers, ranchers, foresters and other landowners are on the frontlines of the climate crisis and NRCS stands ready to support the implementation of conservation and infrastructure solutions that respond to the severity of the crisis. I appreciate Congress's continued support for NRCS and our work to ensure the safety and functionality of our small watersheds and voluntary conservation on working lands. Thank you for the opportunity to submit written testimony.

Mrs. NAPOLITANO. Thank you, sir, for your testimony.

And now we may proceed to Dr. Breysse. You may proceed, sir.

Mr. BREYSSE. Chairwoman Napolitano, Ranking Member Rouzer, and distinguished members of the committee, thank you for the opportunity to appear before you today to discuss how investment in the Agency for Toxic Substances and Disease Registry, also known as ATSDR, are working to protect Americans' health now and in the future.

ATSDR protects communities from harmful effects of exposure to hazardous agents by supporting and building capacity at State, Tribal, Territorial and local health departments, by monitoring and investigating environmental exposures in communities, by preparing for and responding to emergencies, and by developing critical science-based tools and resources.

While ATSDR is uniquely positioned to examine the health impacts of environmental exposures, demand for ATSDR's technical and scientific support exceeds the current capacity of the Agency to respond. Over the past 10 years, ATSDR has seen its purchasing power eroded by relatively flat funding levels, despite increasing demand for our support.

Modest increases in funding in fiscal year 2020 and fiscal year 2021, along with the supplemental COVID-19 funding, have allowed ATSDR to provide marginal enhancements in its support to State and local health departments, to expand its environmental health education activities, to investigate the health impacts of exposure to emerging contaminants, and to develop tools to address environmental risks and aid in emergency response.

The fiscal year 2022 President's budget looks to continue this progress by requesting an additional \$3.75 million to expand geospatial public health analysis activities, which will increase our environmental public health capacity.

In fiscal year 2020, ATSDR awarded approximately \$35 million to 28 health departments, through its cooperative agreement program. Five applicants were approved but unfunded due to funding constraints.

ATSDR also manages a national network of Pediatric Environmental Health Specialty Units to advise parents and healthcare

providers on protecting and caring for children potentially exposed to harmful chemicals. Supplemental COVID-19 funding to these units and to 16 States' cooperative agreement partners allowed them to provide information on safe practices for disinfection of homes and education facilities during the COVID-19 response.

ATSDR and its funded health grantees are investigating exposure to and possible health effects associated with emerging contaminants, such as per- and polyfluoroalkyl substances, also known as PFAS, and ethylene oxide.

ATSDR is conducting PFAS exposure assessments in 10 communities near current or former military bases. And it is conducting a groundbreaking PFAS health study at eight sites across the country.

ATSDR is also working with Pediatric Environmental Health Specialty Units and the National Academies of Sciences, Engineering, and Medicine to provide clinicians with the resources they need to best serve their patients with exposure to PFAS concerns.

ATSDR is supporting several States to address ethylene oxide exposure near medical device sterilization facilities, including working in five communities near these facilities. ATSDR is simultaneously exploring opportunities to study ethylene oxide exposure on a national scale.

ATSDR staff and the geospatial program continue to provide support for 90 sites across the U.S. that are experiencing environmental health concerns. Additionally, the geospatial program developed a COVID data tracker dashboard, addressing data needs for the COVID-19 response. This one-stop source for COVID-19 data allows health professionals to increase their understanding of the novel coronavirus, to reduce the disproportionate burden of the pandemic on communities of color and other groups that have been marginalized, and to explore the impact of recovery on healthcare systems.

ATSDR's geospatial team is currently working on an environmental justice index that we will use to identify communities that experience disproportionately high environmental burdens in the U.S.

ATSDR has a unique mission and responsibility to advance health through the conduction of studies, through the use of innovative data sources, through support for local health departments, the development of guidance for clinicians, and through direct interaction with communities affected by exposure to hazardous substances.

In fiscal year 2022, we will continue working toward our goal of providing science-based evidence to inform actions that protect people from environmental exposures and to improve their health.

Thank you again for the opportunity to be here today and to discuss the important work of ATSDR.

[Mr. Breysse's prepared statement follows:]

Prepared Statement of Patrick N. Breyse, Ph.D., CIH, Director, National Center for Environmental Health and Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services

Chairwoman Napolitano, Ranking Member Rouzer, and Distinguished Members of the House Committee on Transportation and Infrastructure's Subcommittee on Water Resources and Environment, I am Patrick Breyse, the Director of the National Center for Environmental Health at the Centers for Disease Control and Prevention, and the Director of the Agency for Toxic Substances and Disease Registry (ATSDR). It is an honor to appear before you today to discuss how investments in ATSDR are protecting Americans' health, now and in the future.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY (ATSDR)

In 1980, Congress created ATSDR to implement the health-related sections of laws that protect the public from hazardous wastes and spills of hazardous substances. Congress established ATSDR in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) and charged the agency with assessing the presence and nature of health hazards at specific Superfund sites, preventing and reducing further exposure and the illnesses that result from such exposures, and expanding the knowledge-base about health effects from exposure to hazardous substances. Amendments to the Resource Conservation and Recovery Act of 1976 (RCRA) and the Superfund Amendments and Reauthorization Act of 1986 (SARA) broadened ATSDR's responsibilities and authorities in the areas of public health assessments, establishment and maintenance of toxicological databases, information dissemination, and medical education.

ATSDR accomplishes its mission by supporting and building capacity at state, Tribal, territorial, and local health departments; monitoring and investigating environmental exposures in communities; preparing for and responding to emergencies; and developing critical science-based tools and resources. In Fiscal Year (FY) 2019, ATSDR responded to 715 state, community, and Federal requests to address the potential health risks to over 2 million people around the country. During that period, ATSDR and our cooperative agreement partners conducted over 119 assessments to evaluate environmental exposures in communities. Much of this work takes place in the regional offices, where staff can respond quickly during emergencies. Many regional staff served and are serving as liaisons to states during the COVID-19 response, among other deployments.

Toxicological profiles are one way ATSDR provides state-of-the-art science to healthcare and public health professionals. These documents are unique compilations that provide comprehensive and extensive evaluation, summary, and interpretation of available toxicological and epidemiological information on a substance. ATSDR published 17 toxicological profiles in FY 2020 and currently maintains a database of 184 profiles.

The foundation of ATSDR's activities are environmental justice and health equity. Communities economically and socially marginalized continue to bear disproportionate impacts of environmental hazards. It is a top priority for ATSDR to continue to engage these communities to address their concerns and understand how exposures impact health. For example, ATSDR's Region 10 is currently working on five health consultations with American Indian and Alaska Native tribes to evaluate exposures from contaminated sites through drinking water or traditional and subsistence use of resources.

While ATSDR is uniquely positioned to examine the health impacts of environmental exposures, demand for ATSDR technical and scientific support exceeds the current capacity of the agency to respond. Funding in FY 2020 and FY 2021, along with COVID-19 supplemental funds, have allowed ATSDR to provide enhancements in its support to state and local health departments, expand its environmental health education, investigate the health impacts of exposures to emerging contaminants, and develop tools to address environmental risks and aid in emergency response. The President's Budget looks to continue this progress by providing a \$3.75 million increase to support expanded geospatial public health analysis activities: improving technology, enhancing science in environmental modeling, and providing support to states.

SUPPORT TO STATE AND LOCAL HEALTH DEPARTMENTS

ATSDR's Partnership to Promote Localized Efforts to Reduce Environmental Exposure (APPLETREE) cooperative agreement program funds states to detect, respond to, and prevent harmful exposures in communities. In FY 2020, ATSDR

awarded approximately \$35 million to 28 state health departments through APPLETREE. ATSDR also provided an additional \$1.4 million in COVID-19 supplemental funding to 16 state APPLETREE recipients for guidance and community engagement on safe practices for disinfection for homes, schools, and early learning education centers.

State health departments are on the front lines when it comes to responding to environmental exposures and ATSDR's cooperative agreement program builds capacity in states to assess potentially hazardous substances. This increased capacity extends ATSDR's reach and allows health departments to support clinicians, build bridges between health and environmental agencies, and rapidly respond to emergencies. ATSDR provides technical assistance and support for state experts to investigate community health concerns and implement practices to protect people from harmful exposures.

APPLETREE awardees use program funding to identify if and how people are exposed to hazardous substances at specific sites and in communities across the country. They review environmental and health data to identify potential health risks, make recommendations to prevent exposures, and educate communities and local health professionals about site contaminations and potential health effects.

Within current resources, ATSDR has prioritized activities that focus on children as an important susceptible group and ensuring the assessment of potential exposure risks at early care and education facilities for young children. In Missouri, the state health department investigated lead exposures in children enrolled in a Head Start facility built on a lead mining waste pile. Their investigation included on-site blood lead testing to evaluate the children's exposure to lead. One of the 26 children tested had a blood lead level above the reference value and was referred to services for additional evaluation, and soil remediation actions were planned.

ATSDR's support has also enabled awardees to address the health effects of emerging contaminants, such as in North Carolina, where the state health department used APPLETREE funding to enhance their actions addressing per- and polyfluoroalkyl substances (PFAS) exposure. APPLETREE awardees have conducted or are in the process of conducting investigations of PFAS exposure at sites in at least five states. They have also provided technical assistance and health education related to PFAS exposure in over 20 communities across the U.S.

APPLETREE funding is also enabling states to take an innovative approach to address environmental exposures. With ATSDR's support, the California Department of Public Health collaborated with a community on a citizen science project to address concerns about air quality. The health department helped community volunteers install air monitoring sensors, which transmit air quality data to a real-time interactive map that all community members can use to help limit their exposures.

ENVIRONMENTAL HEALTH EDUCATION

Children are particularly sensitive and susceptible to exposures to chemical contaminants, as their organ systems can easily be disturbed by environmental contaminants during rapid stages of growth and development. ATSDR manages a national network of Pediatric Environmental Health Specialty Units (PEHSUs), located in each federal region across the United States, to advise parents and healthcare providers on protecting and caring for children potentially exposed to harmful chemicals. Regional PEHSU units respond to requests for information, offer advice on environmentally related health effects for pregnant women and children, and provide education to healthcare providers, other health professionals, and community members.

The PEHSU network has produced multiple tools to help clinicians, parents, and children understand environmental exposures. For example, they produced the Pediatric Environmental Health Toolkit, a web-based reference that provides examples of everyday environmental interactions for children and steps clinicians and parents can take to decrease harmful exposure.

Uniquely positioned around the U.S. and nationally known as an expert resource in children and women's environmental health, ATSDR's PEHSU and other partners engaged early in the COVID-19 response to deliver timely education and disseminate guidance on safely disinfecting homes, schools, and day care settings during the pandemic. COVID-19 supplemental funds are helping make this guidance more widely available to communities. During a six-month period of the COVID-19 response, the PEHSUs provided approximately 300 consultations to healthcare professionals and over 350 consultations to community members.

INVESTIGATING THE HEALTH IMPACTS OF PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)

ATSDR and state partners utilize biological (e.g., urine, blood) and environmental (e.g., drinking water, dust, air) sampling to better characterize the relationship between how people come into contact with hazardous substances and possible exposure-related health effects.

ATSDR and its funded state health grantees are investigating exposure to and possible health effects associated with per- and polyfluoroalkyl substances (PFAS) in multiple communities across the United States. PFAS are a class of thousands of human-made chemicals that have been used in industry and consumer products, such as grease-proof food packaging and water-repellant fabrics, worldwide since the 1950s. Exposure to these chemicals is widespread, with the CDC's National Health and Nutrition Examination Survey (NHANES) detecting PFAS in the blood of more than 95 percent of the U.S. population¹. More research is needed to determine the health effects in humans, but some studies² suggest exposure may affect cholesterol levels, affect the immune system, and increase the risk for some cancers. ATSDR has worked to address community concerns about PFAS since 2009, with the development of the first health assessment that looked at PFAS exposure in Decatur, Alabama. To date, ATSDR has worked to investigate exposure to and possible health effects associated with PFAS in more than 40 communities across the United States. Most of these communities have concerns about PFAS in their drinking water connected with PFAS production facilities or fire training areas where aqueous film forming foam (AFFF) was regularly used.

To learn more about the relationship between PFAS and health, the National Defense Authorization Act (NDAA) for Fiscal Year 2018 directed ATSDR to complete exposure assessments and a health study to look at PFAS exposure in communities. With funds provided through the Department of Defense Appropriations, ATSDR conducted exposure assessments in ten communities near current or former military bases across the U.S. that are known to have had PFAS in their drinking water. An exposure assessment provides information to communities about the levels of PFAS in their bodies. This information can be used to help reduce exposures. ATSDR has completed sample collection, provided individual results to participants, and released initial community summaries in all exposure assessment sites. The exposure assessments looked at exposure in more than 2,300 individuals from over 1,400 households. In FY 2022, ATSDR will continue to develop individual site reports and an overall PFAS exposure assessment report covering all sites.

ATSDR is using funds provided through Defense Appropriations to conduct a national health study that will look at the relationship between PFAS exposures through drinking water and health outcomes. The Pease Study in New Hampshire serves as the first site in the multi-site health study. Recruitment and sample collection for the Pease Study reopened on October 15, 2020 after a pause to ensure safety of participants and staff from COVID-19. In September 2019, ATSDR awarded research cooperative agreements to seven recipients for the Multi-Site Study to conduct work in seven additional states. This groundbreaking health study will provide information about the health effects of PFAS exposure that can be used in all communities to protect health. Three awardees plan to begin study recruitment by mid-summer 2021, with the remaining four planning to begin in early fall 2021.

ATSDR is also taking steps to ensure that clinicians have the guidance they need to address patient concerns about PFAS exposure. ATSDR is working closely with the Pediatric Environmental Health Specialty Units to offer pediatricians and other healthcare professionals information about PFAS so they can best serve their patients in these communities. ATSDR is also working with the National Academies of Science, Engineering, and Medicine to develop clinician guidance on PFAS testing, how test results should inform clinical care, and how to advise patients on exposure reduction. As part of the ongoing review of scientific information on PFAS, ATSDR recently released the final version of the Toxicological Profile on Perfluoroalkyls that provides a comprehensive and extensive evaluation, summary, and interpretation of available toxicological and epidemiological information. We continue to review the rapidly evolving science on PFAS and will update the toxicological profile as new information emerges.

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2072821/>

² <https://www.atsdr.cdc.gov/ToxProfiles/tp200.pdf>

DEVELOPMENT OF TOOLS TO ADDRESS ENVIRONMENTAL RISKS AND AID IN EMERGENCY RESPONSE

To guide the work of the agency, ATSDR's Geospatial Research, Analysis, and Services Program (GRASP) conducts geospatial information system (GIS) research, analysis, support, training, and technology to better understand how place affects health. The geospatial tools developed by the program are the cornerstone of ATSDR's work to understand the health impact of hazardous exposures.

ATSDR has recently received COVID-19 supplemental funding to develop tools to provide critical support to CDC's COVID-19 response. GRASP has worked on over 70 projects responding to the COVID-19 pandemic, using geospatial analysis to investigate geographic variations and demographic, behavioral, socioeconomic, and infectious risk factors and using innovative visualization methods to communicate complex results. To address data needs for the COVID-19 response, the program developed the COVID Data Tracker (CDT) Dashboard³ using technology and data from multiple organizations to increase the understanding of the novel coronavirus, reduce the disproportionate burden of the pandemic on communities of color and other groups that have been marginalized, explore the impact and recovery of healthcare systems, and to provide timely information to the public. The amount and type of data in the CDT grows every week and has become the one-stop public facing source for almost all COVID-19 data, including vaccination data. The week of June 13, 2021, CDT had about two million views, with over 190 million views since it launched in April 2020.

GRASP has also built upon existing tools to respond to COVID-19. In 2007, the program partnered with emergency response planners at ATSDR and CDC's National Center for Environmental Health (NCEH) to develop the Social Vulnerability Index (SVI)⁴. SVI uses U.S. Census tract data to characterize the social vulnerability of every U.S. community and ranks each community on 15 social factors, including poverty, lack of vehicle access, and crowded housing. Public health officials and local planners can use the SVI to better prepare for and respond to emergency events like hurricanes, disease outbreaks, or exposure to dangerous chemicals. In 2020, the SVI was used to create a Pandemic Vulnerability Index (PVI)⁵ to map populations that are more vulnerable to the spread of COVID-19, providing critical information to public health professionals to aid in decision-making and helping to focus vaccine efforts.

In addition to their work on the COVID-19 response, the geospatial unit continues to provide geospatial analysis support for 90 sites across the U.S. that experienced environmental concerns such as ethylene oxide and other exposures, helping CDC/ATSDR scientists understand relationships between health and environmental, sociodemographic, and behavioral factors and communicate these findings through clear visualizations.

LOOKING AHEAD IN FY 2022

ATSDR will prioritize the development of geospatial health tools and other resources to expand environmental health capacity. These tools will improve CDC/ATSDR's ability to respond effectively and in a timely manner to public health events and explore environmental factors that may influence the progression of infectious disease and other health outcomes. ATSDR's geospatial team is currently working on an Environmental Justice Index project, which will use information on demographic and socioeconomic factors and cumulative environmental exposures to identify communities that experience a disproportionately high environmental burden in the U.S.

Work on emerging environmental contaminants continues to be a priority for ATSDR. These substances fall into one of two categories. The first are new substances for which information about their impacts on human health are still evolving, such as PFAS. The second category of emerging contaminants are known contaminants of concern that have emerging information on their toxicity which needs to be evaluated to assess the potential impact on human health.

Microplastics fall into the first category. They are pervasive in the environment and are small enough to be internalized and transported within the human body. Exposure-dose and health effects have not been established, and studies are complicated due to a lack of standardized methods for identifying and measuring the particles. ATSDR, along with CDC's National Center for Environmental Health, is

³ <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>

⁴ https://www.atsdr.cdc.gov/placeandhealth/svi/data_documentation_download.html

⁵ <https://covid19pvi.niehs.nih.gov/>

working on developing the science to define and prioritize potential health risks and develop initiatives to better characterize and understand whether microplastic exposures are harmful to human health.

ATSDR is also working to address concerns regarding ethylene oxide exposure, which falls into the second category. Recent reviews by EPA⁶ indicate that the cancer risks from ethylene oxide may occur at lower exposure levels than previously thought. Ethylene oxide is used in industrial settings and in the sterilization of medical equipment and some spices. Not all ethylene oxide sterilization facilities are required to report to the Toxics Release Inventory (TRI). For those that did report to TRI in 2019, 67 percent were located in census tracts scored as “high” or “moderate to high” on CDC/ATSDR’s Social Vulnerability Index. ATSDR is supporting several states to address these ethylene oxide exposures, including working with five communities near ethylene oxide sterilization facilities. ATSDR is simultaneously exploring opportunities to study ethylene oxide exposures on a national scale.

FY 2022 BUDGET REQUEST FOR ATSDR

Increases provided in FY 2021 enabled an expansion in the number of states funded through the APPLETREE program. In FY 2022, ATSDR’s budget request will bolster GIS capacity building within state and local health departments, an important priority to enhance health departments’ response to environmental and public health emergencies.

CONCLUSION

ATSDR has a unique mission and responsibility to advance health through studies, use of innovative data sources, support for health departments, development of guidance for clinicians and direct interaction with communities affected by exposure to hazardous substances. In FY 2022, we will continue working toward our goals of providing science-based evidence to inform actions to protect people from environmental exposures and improve health. Thank you again for the opportunity to be here today to discuss the important work of the agency.

Mrs. NAPOLITANO. Thank you, sir, for your testimony.

And we will proceed with Mr. Middlebrook. You may proceed, sir.

Mr. MIDDLEBROOK. Thank you, Chairwoman Napolitano, Ranking Member Rouzer, and members of the subcommittee. I thank you again for the opportunity to talk to you today and present the President’s fiscal year 2022 budget request for the Great Lakes St. Lawrence Seaway Development Corporation. I am happy to share this information with you and to report on the activities of the corporation.

More than 3 billion metric tons of cargo valued at over \$450 billion has transited the St. Lawrence Seaway over its 60-plus-year history. This includes grain, iron ore, steel, project cargoes, and other bulk commodities.

During the 2020 navigation season, nearly 38 million metric tons of cargo moved through the binational waterway. The Saint Lawrence Seaway Development Corporation was renamed the Great Lakes St. Lawrence Seaway Development Corporation by Congress as part of the fiscal year 2021 Consolidated Appropriations Act.

This name change was led by your colleagues to acknowledge the seaway’s longstanding contributions and importance to the Great Lakes region and its economy. Since then, we have been executing this name change, and on May 13th of this year, the 67th anniversary of our creation by Congress, we debuted our new corporate seal.

For fiscal year 2022, the President’s budget requests an appropriation of \$37.7 million from the Harbor Maintenance Trust Fund.

⁶ https://cfpub.epa.gov/ncea/iris/iris_documents/documents/toxreviews/1025tr.pdf

The budget request includes two programs: seaway operations and maintenance, and seaway infrastructure. This request supports the administration's priorities of safety, job creation and economic growth, and transformational infrastructure investments.

The fiscal year 2022 request for the seaway operations and maintenance program is \$23.2 million. This will provide the financial and personnel resources necessary to perform the operational, maintenance, and administrative functions of the corporation, including lock operations, marine services, vessel traffic control, asset maintenance, ballast water management, safety and environmental inspections, and trade promotion and economic development.

Operations and maintenance also includes a request of \$1.5 million for the U.S. portion of the operations and maintenance costs of the binational Seaway International Bridge. The U.S. and Canada share the ownership, management, and operation of this international bridge.

Due to COVID-19 and the cross-border travel restrictions, paid car and truck traffic on the bridge has dramatically decreased to only 10 to 15 percent of average levels. That has resulted in a 70-to 75-percent reduction in toll revenue, and as a result, the bridge is unable to function self-sufficiently.

Last year, the Canadian Government provided Federal funding to supplement the reduced tolls to ensure that the bridge safely remains open. The \$1.5 million request in the fiscal year 2022 budget request will satisfy the U.S. shared commitment to the needs of the bridge.

The budget request for the seaway infrastructure program includes \$14.5 million for 11 maritime infrastructure-related capital projects, including \$6.5 million for the rehabilitation of the diffusers at Snell lock used to dampen the flow of water when the lock is emptied, \$3 million to replace deteriorated and damaged concrete at Eisenhower lock and Snell lock, \$1.5 million to upgrade electrical distribution equipment at the locks and maintenance facilities, and \$1 million to upgrade the machine shop facility used to maintain the new hands-free mooring technology at the locks.

I am happy to report that we were able to operate during the 2020 navigation season without any positive cases of COVID-19 impacting our workforce, even though the majority of our Massena, New York-based operational employees reported to the worksite every day, given our operational nature.

During the winter maintenance cycle, our workforce was impacted by several positive cases. However, additional remedial measures, implemented quickly, reduced the transmission of COVID-19, and the winter maintenance schedule was completed in time for the opening of the 2021 navigation season on March 22nd.

The fiscal year 2022 budget request will help ensure that the Great Lakes St. Lawrence Seaway Development Corporation can continue to operate and maintain the U.S. seaway infrastructure, ensure safe navigation, protect the environment, and promote trade and economic development.

Thank you for including my written statement in the record, and I am happy to answer any questions that you may have.

[Mr. Middlebrook's prepared statement follows:]

Prepared Statement of Craig H. Middlebrook, Deputy Administrator, Great Lakes St. Lawrence Seaway Development Corporation, U.S. Department of Transportation

Chairwoman Napolitano, Ranking Member Rouzer, and Members of the Subcommittee, thank you for the opportunity to submit written testimony for the record regarding the Fiscal Year (FY) 2022 budget request for the Great Lakes St. Lawrence Seaway Development Corporation (GLS or Corporation) (*formerly the Saint Lawrence Seaway Development Corporation*). I am glad to present this information and to report on the activities of the GLS.

The GLS is a wholly owned government corporation within the U.S. Department of Transportation (USDOT) with its funding appropriated since 1987 from the user fee-based Harbor Maintenance Trust Fund (HMTF). Since its creation, the GLS has been funded through appropriations derived from user fees and not from the Treasury's General Fund. Prior to 1987, the GLS's funding was derived from tolls to commercial vessels transiting the St. Lawrence Seaway.

The GLS's mission is to operate and maintain the U.S. infrastructure and waters of the St. Lawrence Seaway, while performing trade and economic development activities designed to enhance the utilization of the Great Lakes St. Lawrence Seaway System. The GLS is primarily responsible for maintaining and operating the Eisenhower and Snell locks located in Massena, New York, and controlling commercial vessel traffic in areas of the St. Lawrence River and Lake Ontario. Since the opening of the St. Lawrence Seaway in 1959, the GLS has directly served commercial marine transportation stakeholders by providing a safe, reliable, and efficient deep-draft international waterway, in cooperation with its Canadian counterpart, the St. Lawrence Seaway Management Corporation (SLSMC).

Over its 60-year history, more than 3 billion metric tons of cargo valued at over \$450 billion has transited the St. Lawrence Seaway, including grain, iron ore, iron and steel, project cargoes, and other raw and bulk commodities. During the 2020 navigation season, nearly 38 million metric tons of cargo moved through the binational waterway.¹

A ship entering the St. Lawrence Seaway at Montreal, Canada, and transiting to Lake Erie crosses the international border 27 times while passing through the St. Lawrence Seaway's 15 locks (2 U.S. and 13 Canadian). As a consequence of this geographic fact, when constructing the Seaway in 1954, the United States and Canada created a binational governance approach for the Seaway through an exchange of diplomatic notes, constituting a binding international agreement between the countries. It was and remains a bold, optimistic, unique, and effective governance approach; all other U.S. inland waterways are operated, maintained, and managed directly by the U.S. Army Corps of Engineers and the U.S. Coast Guard. Due to the geography of the St. Lawrence River and the importance of the sovereignty issues involved, however, the U.S. and Canadian Governments established a binational framework of civilian Federal oversight and control of this international waterway, which today is administered by the GLS and the Canadian SLSMC.

To carry out its mission, the GLS possesses legal authorities that distinguish it from other operating administrations at the U.S. Department of Transportation and from most other Executive Branch agencies. The Wiley-Dondero Act of 1954 (Seaway Act), which created and permanently authorized the GLS, incorporated authorities that were first put into law through the Government Corporation Control Act of 1945. The GLS was created as a government corporation to manage this public infrastructure asset and provide a direct service to customers—moving ships safely and efficiently through a binational waterway. The succinct and plain language of the Corporation's enabling statute allows sufficient flexibility to manage its operations in a business-like manner. Some of the distinguishing attributes include the ability to make and carry out contracts or agreements as necessary to conduct business as well as the ability to acquire real and personal property and sell, lease, or dispose of such property. Together with its mission of providing 24/7 transportation services, these legal authorities help promote a culture within the GLS of accountability and customer service.

The deep degree of trust and operational cross-border interaction that has developed between the U.S. and Canadian Seaway entities over the past 62 years helps maintain a transit experience for Seaway users that is essentially seamless from a ship captain's perspective. It is a remarkable achievement given the operational complexities and multiple jurisdictions that impact that transit.

¹ https://greatlakes-seaway.com/wp-content/uploads/2021/03/tonnage2020_12_en.pdf.

The St. Lawrence Seaway directly serves an eight-State, two-province region that accounts for one-quarter of the U.S. gross domestic product (GDP), one-half of North America's manufacturing and services industries, and is home to nearly one-quarter of the continent's population.

Annual commerce on the Great Lakes Seaway System typically exceeds 180 million metric tons and serves U.S. farmers, manufacturing workers, miners, and commercial interests throughout the Great Lakes region. Virtually every type of bulk and general cargo commodity moves on the Great Lakes Seaway System, including iron ore for the U.S. steel industry; limestone for construction and steel industries; coal for power generation and steel production; grain exports from U.S. farms; general cargo such as iron and steel products and heavy machinery; and cement, salt, and stone aggregates for agriculture and industry. Additionally, the Seaway has emerged as a critical transportation route for the shipment of large components essential to the wind energy industry.

Maritime commerce on the Great Lakes Seaway System provides shippers with nearly \$4 billion in annual cost savings compared to the next least expensive mode of transportation.² The Seaway also produces significant economic benefits to the Great Lakes region. An economic impact study completed in 2018 concluded that maritime commerce on the Great Lakes Seaway System sustains over 237,000 U.S. and Canadian jobs, \$35 billion in economic activity, \$14.2 billion in personal income, and \$6.6 billion in federal, state/provincial, and local taxes each year.³

FY 2022 BUDGET REQUEST

For FY 2022, the President's Budget requests an appropriation of \$37.7 million from the HMTF to fund the GLS's operations and maintenance of the U.S. portion of the St. Lawrence Seaway, as well as capital infrastructure projects to rehabilitate and modernize the GLS's perpetual assets and associated equipment. The request represents a decrease of \$300,000 from the FY 2021 enacted level.

The budget request includes two programs—(1) Seaway Operations and Maintenance and (2) Seaway Infrastructure, which support the Administration's priorities of safety, job creation and economic growth, and transformational infrastructure investments.

The FY 2022 request for the GLS's Seaway Operations and Maintenance program is \$23.2 million to provide the GLS with the financial and personnel resources necessary to perform its operational, maintenance, and administrative functions, including lock operations, marine services, vessel traffic control, asset maintenance, ballast water management, safety and environmental inspections, and trade promotion and economic development.

This program budget request also includes \$1.5 million for the U.S. portion of operations and maintenance costs for the binational Seaway International Bridge. The GLS has an ownership interest with Canada in the binational South Channel Span of the Seaway International Bridge. Due to the pandemic and the associated cross-border restrictions currently enforced between the United States and Canada, paid car and truck traffic on the bridge has dramatically decreased by 80–90 percent of average levels, resulting in significant toll revenue reductions (70–75 percent). The request level was developed based on the assumption that the current bridge toll levels remain constant in FY 2022. Federal funding from the Canadian Government has kept the bridge open and operational since the start of the cross-border restrictions in March 2020.

For its Seaway Infrastructure program, the FY 2022 President's Budget includes a request of \$14.5 million for 11 infrastructure-related capital projects, including \$6.5 million for rehabilitation of the diffusers at Snell Lock used to dampen the flow of water when the lock is emptied; \$3 million to replace deteriorated and damaged concrete at Eisenhower Lock and Snell Lock; \$1.5 million to upgrade electrical distribution equipment at the GLS locks and maintenance facility; and \$1 million to upgrade the GLS's machine shop facility used to maintain the GLS's new Hands Free Mooring Technology.

SAFETY AND RELIABILITY

The continued safety and reliability of the St. Lawrence Seaway is the foundation upon which we can promote and accommodate increases in maritime cargo. The Seaway is already one of the world's safest waterways and that safety record continues

²U.S. Army Corps of Engineers, Great Lakes Navigation System: Economic Strength to the Nation, January 2009.

³*Economic Impacts of Maritime Shipping in the Great Lakes-St. Lawrence Region*, Martin Associates, July 2018.

to improve. Over the past 25 years, the average number of international vessel incidents in the Seaway requiring GLS inspectors has decreased significantly. From 1996–2006, the average number of incidents was 19 per year. However, from 2007–2020, the average number of incidents declined to only 6 per year. This positive development can be attributed to several factors, including the U.S.-Canadian Enhanced Seaway Inspection Program, the use of the Seaway's Automatic Identification System (AIS) vessel traffic management technology beginning in 2002, the use of the Seaway's Hands Free Mooring system beginning in 2018, the well-trained and skilled GLS lock operations and maintenance staff, and a major fleet renewal program implemented by many of the Seaway's commercial carriers.

In addition, since the Seaway's opening in 1959, the GLS has consistently maintained a near-perfect reliability rate of 99 percent for commercial users of its locks in the U.S. sector of the waterway. During the 2020 navigation season (April 1–December 30, 2020), the GLS workforce ably operated and maintained the waterway and lock system at a reliability rate of 99.3 percent and lock availability rate of 99.96 percent, all while managing the impacts of the coronavirus disease 2019 (COVID-19) pandemic. This high mark of success is due primarily to the GLS's efficient management and operations of the locks and control of vessel traffic. Global customers from nearly 50 countries return each year to use the Seaway because of the waterway's strong safety record, efficient operations, and near-perfect reliability rate.

ENVIRONMENTAL STEWARDSHIP

The GLS also ensures strict ballast water management efforts to prevent any new introductions of aquatic invasive species via commercial vessels entering Seaway waters. In 2008, the GLS and Canadian SLSMC implemented regulations jointly requiring all ships with no ballast in their tanks to conduct saltwater flushing of the empty ballast water tanks before arriving in the Seaway. The GLS, along with the U.S. Coast Guard, Transport Canada, and the SLSMC, formed the Ballast Water Working Group (BWWG) to enforce ballast water inspections of all vessels to ensure these regulations are carried out. The BWWG's annual summary report documents the Group's inspection results and findings.⁴ The report measures both the performance of the binational inspection team in inspecting the ballast tanks of incoming ocean vessels and the compliance by the oceangoing trade in meeting U.S. and Canadian ballast water management requirements.

In both cases, the results of the 2020 report are outstanding. In 2020, every ballast tank of every ocean vessel entering the Seaway was assessed—10,628 ballast tanks on 536 vessel transits. The BWWG found that the compliance rate by industry in 2020 for low salinity non-compliant tanks was 98.2 percent.⁵ In those rare instances where salinity levels do not meet the standard, the ballast tanks are sealed and then re-inspected on the vessel's outbound journey to ensure that the tank was not used on its voyage in the Great Lakes. Since 2009, 100 percent of international vessels entering the Seaway have received a ballast water management exam.

The Great Lakes Seaway System has one of the most stringent inspection regimes in world. The effectiveness of the Seaway's ballast water inspection program has been publicly credited as a key factor in dramatically reducing the risk of introduction of invasive species into the Great Lakes. Since 2006, there have been only 2 new aquatic invasive species identified in the Great Lakes that the scientific community considers are possibly associated with ballast water, but the timing of introduction and actual source pathways are uncertain. This can be compared to 15 new aquatic invasive species that were identified from 1993–2006, the equivalent time period before the new regulations, which the scientific community strongly attributes to ballast water. The GLS is proud of its efforts in serving as an environmental gatekeeper to the St. Lawrence Seaway and will continue to perform these important inspections.

INFRASTRUCTURE MODERNIZATION

The locks, channels, and accompanying infrastructure of the St. Lawrence Seaway owned and maintained by the GLS are “perpetual” transportation assets that require periodic and regular capital reinvestment in order to continue to operate safely, reliably, and efficiently. After 50 years of continuous operation with only minimal capital reinvestment, Congress approved the authorization and funding for the GLS's infrastructure renewal program beginning in FY 2009. The start of the pro-

⁴ <https://greatlakes-seaway.com/en/commercial-shipping/transiting-the-seaway/ballast-water/>

⁵ https://greatlakes-seaway.com/wp-content/uploads/2021/03/2020_BW_Rpt_EN.pdf.pdf

gram marked the first time in the Seaway's 50-year history that a coordinated effort to repair and modernize the U.S. Seaway infrastructure had taken place.

From FY 2009–2020, the GLS spent \$179 million on 59 infrastructure-related projects. Major infrastructure projects completed over that time period included maintenance dredging in the U.S. portion of the Seaway navigation channel, lock miter gate and culvert valve machinery upgrades, culvert valve replacements, hands-free mooring installation at the locks, gatelifter upgrades, miter gate rehabilitation, and tugboat replacements, as well as various other structural and equipment repairs and/or replacements. The GLS's infrastructure investments over the past decade demonstrate our country's commitment to the long-standing agreement to jointly operate and maintain the St. Lawrence Seaway with Canada.

The GLS Seaway Infrastructure program is developed annually by Corporation engineering, maintenance, lock operations, and policy staff following annual winter preventative maintenance work and inspections. This capital planning process ensures that aging machinery, equipment, and parts are rehabilitated/replaced; that buildings for employees and the public, grounds, and utilities are sufficiently maintained/refurbished; and that commercial trade continues to move on the Seaway safely and without interruption or delays.

TRADE AND ECONOMIC DEVELOPMENT

The statute that created the GLS provided general authority for the Corporation to undertake trade and economic development activities, and this is an important aspect of our mission. In recent years, Congress has provided additional funding for the GLS to expand this program. The GLS devotes resources to trade and economic development activities aimed at increasing commercial trade through the St. Lawrence Seaway and improving economic conditions in the eight Great Lakes States. The primary benefit is the stimulation of U.S. and Canadian port city economies through increased maritime industry activity, including services and employment to support maritime commerce. In 2015, the GLS designated a Great Lakes Regional Representative who leads this value-added service for the wider stakeholder community.

Initiative activities include facilitating new trade for Great Lakes Seaway System ports, conducting trade research and analysis to assist Great Lakes Seaway System stakeholders in identifying cargo trends and new business, participating in joint marketing efforts with our Canadian counterparts, promoting the Seaway System to prospective customers, and assessing the economic impact of Great Lakes Seaway shipping.

The GLS's trade and economic development activities were instrumental in the 2014 launch of the first regularly scheduled international liner service to a U.S. port on the Great Lakes since the 1970's. Working directly with Great Lakes Seaway System ports, the GLS helps identify ways to increase tonnage traffic in traditional Seaway cargoes as well as in diversifying the types of cargo moving through their port.

Additionally, the GLS has been instrumental in the growth of international cruising activity in the Great Lakes. In January 2020, Viking Cruise Line announced its Great Lakes itineraries and the construction of two Seaway-sized cruise ships. The first ship will conduct its maiden voyage in May 2022. This adds to the nine other cruise vessels that have itineraries in the Lakes. The GLS continues to work with U.S. Customs and Border Protection to find ways to streamline passenger processing and bring more cruise vessels to more ports in the Great Lakes. Stakeholders and customers alike are realizing the benefits from a modernizing vision of the Great Lakes Seaway System and the added value the GLS and Great Lakes/Seaway ports are providing to their communities and to the region.

CURRENT ISSUES

COVID-19—The GLS is happy to report that we were able to operate the entire 2020 navigation season (April 1–December 31, 2020), without any positive cases of COVID-19 impacting our workforce, even though the majority of our Massena-based operational employees reported to the worksite every day. During the winter maintenance cycle, the GLS was impacted by several positive cases of COVID-19; however, additional remedial measures implemented quickly reduced the transmission of COVID-19 and the winter maintenance was completed in time for the opening of the 2021 navigation season on March 22.

Seaway International Bridge—The U.S. and Canada share the ownership, management, and operation of the Seaway International Bridge. The bridge is the only U.S. federally owned international border crossing bridge and is co-owned by the GLS and the Canadian Federal Government through its Canadian Federal Bridge

Corporation, Ltd. (FBCL). The bridge is managed by the Seaway International Bridge Corporation (SIBC), on behalf of the U.S. and Canadian owners.

Due to the COVID-19 pandemic and the associated cross-border restrictions currently enforced between the United States and Canada, paid car and truck traffic on the bridge has dramatically decreased to 10–15 percent of average levels, resulting in the financial inability of the bridge to function self-sufficiently. To date, the Canadian Government has provided federal funding to supplement the reduced bridge tolls to ensure the bridge safely remains open.

Water Levels—Water flows and levels can significantly impact the safe and efficient operation of navigation in the Seaway. If Lake Ontario outflows reach a certain level, it becomes unsafe for commercial navigation to transit through the Seaway. In 2019, Lake Ontario experienced record high water levels and flooding to shoreline communities due to unprecedented precipitation in the region. The 2021 shipping season has not been similarly affected by water level issues, as Lake Ontario is currently in drought conditions.

Lake Ontario water outflows are regulated by the International Joint Commission (IJC) and its International Lake Ontario St. Lawrence River Board (Board) is the entity that manages the outflow rates. Outflows are governed by a water regulation plan, Plan 2014, which the IJC and the Board implemented in January 2017 after many years of interagency and binational discussions regarding the prioritization of uses for the boundary waters. The GLS and the Canadian Seaway have worked closely with the IJC and the Board over the past several years to ensure that the priority rights of the Seaway and commercial navigation established by the U.S. and Canadian Governments in the Boundary Waters Treaty of 1909, reaffirmed by both countries in their concurrence of Plan 2014, and reiterated in the accompanying joint U.S. and Canadian Government documents, including the Supplementary Order of Approval, continue to be respected.

Pilotage—All international vessels entering the Great Lakes St. Lawrence Seaway System are required by U.S. and Canadian regulations to have a certified vessel pilot on board to assist the vessel's captain in navigating the vessel. The oversight of pilotage services is a state-regulated activity everywhere in the United States, except for the Great Lakes, where pilotage is regulated by the U.S. Coast Guard Office of Great Lakes Pilotage pursuant to the Great Lakes Pilotage Act of 1960.

In addition to overseeing the three U.S. pilot districts in the Great Lakes Seaway System, the U.S. Coast Guard also establishes the rates that the U.S. pilots may charge for the provision of their services to vessel owners. Changes in the rate adjustment methodology have been controversial and have been met with criticism and litigation from various U.S. and Canadian commercial navigation stakeholders. The availability and cost of U.S. pilotage services in the Great Lakes Seaway System are crucial components of the Seaway's safety and economic competitiveness. It is essential that the availability of Great Lakes Seaway System pilots be maintained in a manner that ensures safety while promoting the competitiveness of the waterway.

The GLS remains dedicated to safely and efficiently operating the U.S. portion of the St. Lawrence Seaway while also promoting the economic benefits of the marine mode, attracting new cargoes to the Great Lakes Seaway System, and leveraging technology and innovation to enhance the system's performance and safety. Over its more than 60-year history, the GLS has been a model of binational partnership, ensuring that this international waterway is one of the safest and most reliable transportation routes in the world. With the investments being made in the St. Lawrence Seaway by the United States and Canada, it will remain so for many years to come.

Thank you again for the opportunity to submit this statement for the record.

Mrs. NAPOLITANO. Thank you very much, Mr. Middlebrook.

Thank you to all our witnesses, and we will now move to have the questions to the witnesses. And we will use the timer to allow 5 minutes of questions for each Member. If there are additional questions, we may have additional rounds, as necessary.

And beginning the questioning to Ms. Fox: In many places in the West, including my district, we are taking vital steps to fight drought by improving local water capture and groundwater recharge. Many groundwater basins that would be very effective for water storage and supply have had major challenges with historical contamination. Some of the sites are Superfund, some are brownfields, and some are regulated by the Resource Conservation and Recovery Act.

What is EPA doing to specifically address groundwater remediation for basins needed for water supply, especially in drought-prone regions?

Ms. FOX. Thank you so much for the question, Chairwoman Napolitano. And I share your deep concern for the drought that is plaguing the Western States. In fact, we now have 99 percent of the West in drought. That is 14 States, including California, where we are both from. And 60 percent of the West is now in extreme drought.

The EPA is doing several things to really address this issue. For example, the EPA's Office of Water and the Office of Land and Emergency Management are working together on cleaning up groundwater and building long-term drought resiliency.

We are also actively engaged in the White House drought working group, which is led by the Department of the Interior and USDA, to really think about in the short term in this crisis that we are seeing in the West what can we do, what short-term funding options do we have to support communities. We are also actively engaged in the National Drought Resilience Partnership, which is really looking at longer term authorities.

And what I would say, Congresswoman Napolitano, as far as the tools and resources we have available to tackle drought, one of the biggest ones that we have at EPA is really the work that we are doing around water reuse. We have a dedicated water reuse team here in the Office of Water, and they are really working with communities all around the country to make sure that they know what the latest technologies are providing technical assistance and support, trying to coordinate across the Federal family on water reuse and recycling.

We are also really thinking about how to target the funding and financing programs that we have available to this issue. So, for example, States can utilize their Drinking Water Revolving Loan Fund programs for aquifer recharge projects.

And one of the things that I am particularly proud of is with this year's notice of funding availability for WIFIA, we are prioritizing projects that tackle these kinds of issues and tackle climate resilience. It really is going to take all of us working together to make sure that the urgent crisis around drought is addressed.

So thank you for the question.

Mrs. NAPOLITANO. Thank you, ma'am, for the answer.

I have great concern for the protection of the Clean Water Act, and I am troubled that the administration has not addressed the "dirty water rule," and your testimony today doesn't even mention it. Of particular concern to me is the streams that are feeding the great rivers of the arid West only flow in the rainy season and are dry the rest of the year. These are rivers that we rely on for our drinking water, and if they are polluted because of lack of protection for intermittent waters, our residents and businesses will be forced to pay for treatment of contaminated water sources.

What is EPA doing to protect and prevent pollution in these areas?

Ms. FOX. Thank you for the question, Congresswoman. And I share your concerns about the Navigable Waters Protection Rule

and the lack of protections that we have for so many water bodies across America.

That is why Army and EPA have made the determination to undertake a rulemaking to address these issues. As Administrator Regan and I have said, we want to develop a definition of “waters of the United States” that is consistent with the spirit and intent of the Clean Water Act, which is to preserve and protect the integrity of our Nation’s waters.

And we also want a rule that stops the ping pong, Congresswoman. I mean, for over a decade we have had multiple lawsuits. It seems like every time there is an election this rule gets rewritten, and we want to stop that ping pong because at the end of the day, who gets hurt? It is people, and it is our Nation’s waters.

And that is why we are both going to be expeditious as we develop this rulemaking, but we are going to do it in a way that is grounded in learning from the lessons of the past. We are going to understand what worked and what didn’t about the pre-2015 WOTUS definition, what worked and what didn’t around the Clean Water Rule, and then also what worked and what doesn’t about the Navigable Waters Protection Rule.

Mrs. NAPOLITANO. Thank you very much for your answers, ma’am. I appreciate it.

Mr. Rouzer, you are recognized.

Mr. ROUZER. Well, thank you, Madam Chair. And, Ms. Fox, thank you again for being here. It is great to see you, and thank you again for the visit that we had recently. I very much enjoyed the opportunity to talk with you.

A number of things, but I am going to start with this: So a few weeks ago, as I mentioned in my opening comments, Acting Assistant Secretary of the Army for Civil Works Jaime Pinkham testified before this subcommittee. And he, in essence, said this, or I asked him this question: Which agency is going to be the lead on the WOTUS rewrite?

And his response was, quote, “It will be primarily EPA, with a tremendous amount of engagement from the Civil Works program at the Army.”

Would you say that is an accurate assessment? Is that how you understand the relationship there?

Ms. FOX. Well, first of all, it is wonderful to see you again, Congressman Rouzer. And I really enjoyed our discussion about so many water quality issues in North Carolina and really look forward to working with you as I take on this new role.

So the “waters of the United States” is a joint rulemaking, with EPA and Army both having a responsibility. And so it is a big and important rule and so we divide up the work. And we are very collaborative. We actually have biweekly meetings. At the staff level, they meet weekly on many of the technical issues. It is really a collaboration in the finest sense of the word between our two agencies.

Mr. ROUZER. Which agency or is it both of you that will be coordinating the stakeholder outreach, and can you give a timeline on that, any specific details on what that will entail?

Ms. FOX. Yes. We have not ironed out the specific sort of staffing division of responsibility on the stakeholder engagements, but I do

anticipate that EPA Office of Water staff will take on a lot of the administrative coordination, logistical coordination, et cetera, of those stakeholder engagements.

As to your question, Congressman, about the timing, we want to be transparent in the development of this rule, because we know it is so foundational to so many things that communities care about. And so, later this summer, we will be announcing the framework for the rulemaking and also the various stakeholder engagements that will happen.

But just to preview that for you, sir, this summer, later this summer, we intend to do public listening sessions that will be virtual. So any member of the general public can share their feedback with EPA and Army.

We will also do dedicated stakeholder conversations with many of the stakeholder groups that are impacted with that rule. We will meet with agriculture. We will meet with industry. We will meet with environmental organizations, environmental justice groups, and, of course, our State and Tribal coregulators. Local governments and county governments are so important to this. So we will do those targeted stakeholder discussions.

And then we anticipate in the late fall-early winter, we will then have regional roundtables as well. And, really, the regional roundtables, Congressman, really recognize that the way in which “waters of the U.S.” is implemented in different regions, it looks different because the geology, the hydrology are different. And so we really need to understand that application, that implementation on the ground. And so we will be doing those really in all of the 10 EPA regions, like I said, in the late winter.

Mr. ROUZER. One quick question, and this is very important. I remember in 2015 the Obama “waters of the U.S.” rule. I had Democratic mayors, Republican mayors, it was across the board, just a lot of strong concern. There were 31 States and a myriad of stakeholder groups representing farmers, ranchers, miners, really anyone who wanted to do anything on land were very much concerned about the rule.

Who is concerned about the Trump rule, specifically? I know my friends on the other side call it the “dirty water rule,” but I have not heard a word from my Democratic mayors back home or anyone. People seem to be satisfied with this rule. So I am just wondering who you all have specifically heard from.

Ms. FOX. Well, thank you for that question, and thank you for that feedback about the concerns from your constituents on the 2015 rule. Of course, as you know, I was not here in 2015, so I can’t speak to all the particulars.

But what I can say is that with the Navigable Waters Protection Rule, it is being litigated in many courts around the country. In fact, there are 20 State’s attorneys that have expressed their deep concern. And I will say I think that concern, there is cause for concern in thinking about some of the long-term water quality protections.

We have heard, for example, from New Mexico that now over 90 percent of their waters are no longer jurisdictional. And the concern that they have raised to us is that when a water is not jurisdictional, it means that we don’t have the ability to use the permit-

ting process to assess and potentially mitigate water quality impacts. We are not saying no development. We are saying we want to really understand the impacts of the particular development on our Nation's waters. And that is really why this definition is so important.

So we have heard lots of concerns about the 2020 rule. We have heard lots of concerns about the 2015 rule. And, Congressman, that is why Administrator Regan, Army, myself are so committed to really understanding those implementation challenges through our stakeholder engagement process and really trying to find a balance that really protects our waters but is also clear and efficient in its implementation.

Mr. ROUZER. Madam Chair, my time has expired. Thank you.

Mrs. NAPOLITANO. You are very welcome.

I would like to have Ms. Johnson next, followed by Mr. Webster, followed by Mr. Garamendi and Mr. Bost. Ms. Johnson, you are on.

Ms. JOHNSON OF TEXAS. Well, thank you very much. And thank you for having this hearing.

I would like to pose a question first to Ms. Fox. I was pleased to see in your testimony that the EPA, under the leadership of Administrator Regan, is embedding equity in everything that it does.

I wonder specifically what are the primary avenues in which the agency intends to embark upon this goal, and how do you see the EPA accomplishing this, and what do you view as the main obstacles or roadblocks that may be in place that you need to overcome?

Ms. FOX. Thank you for the question, Congresswoman, and it is wonderful to see you again. It has been I think almost a number of years since we have last visited.

So thank you for the question. And I have to say our commitment to equity starts from President Biden and to Administrator Regan.

And what Administrator Regan has done is he has asked each of his national program offices in our 10 EPA regions to look at what regulatory authority, what funding and financing programs we have, what voluntary programs we have—you know, we also have a range of technical assistance tools available to us—and has asked us to assess, you know, are there disproportionate impacts from how we are utilizing these authorities that we have, and can we do better?

So what that means, in the context of the Office of Water, is we are looking at things like, when we do a rulemaking, do we have meaningful community engagement from those who are perhaps disproportionately impacted? And, unfortunately, we haven't always done that. And that is why, for example, as we are looking at the Lead and Copper Rule, we are doing community roundtables with low-income people and communities of color around the country. So we are thinking about, are we being equitable when we do these regulations and rulemaking?

I am very grateful that Congress has bestowed upon the Office of Water a range of funding and financing programs. You know, are those resources going to communities who are most vulnerable when it comes to water quality and quantity challenges? So we are doing that assessment.

And then, Congresswoman, one of the things that I would say as far as do we have all the tools that we need, I would say I think we need more. So, for example, one of the barriers that we face in utilizing some of our grant programs is that the definition of disadvantaged communities doesn't always line up or doesn't always actually target the communities who are most vulnerable. So we may need to come to Congress and present that information to all of you so that we could work on getting those things aligned.

Another thing that I hear from communities all around the country is that they need technical assistance and support to even be able to access the funds that we have. And so we think that it is actually really important to invest more in building the technical and the managerial and the financial capacity of these more vulnerable water systems. And so I think that is another area of promise as we move forward.

And then, of course, you know, the environmental justice programs. The President's budget, the fiscal year 2022 budget calls for a historic investment in environmental justice communities. And so we are keeping our fingers crossed that that makes it into the final budget that Congress passes because we know that the situation is dire all around the country.

Ms. JOHNSON OF TEXAS. Well, thank you very much. I just have a very short amount of time. I will yield back. I yield back.

Mrs. NAPOLITANO. Thank you, Ms. Johnson.

Mr. Webster, you are next. You are on.

Mr. WEBSTER. I am on?

Mrs. NAPOLITANO. Yes, you are. Yes, sir.

Mr. WEBSTER. Thank you, Chair.

I have a question for Mr. Cosby: In the agriculture world, does your area—because we have been talking about global warming and so forth, do you have any impact on the agriculture industry and their harvesting and planting machines and so forth as it comes to internal combustion engines? Do you have anything to do with that?

Mr. COSBY. Thank you for the question, sir. And my agency is—you know, we have a lot of things that we do. And I would like to talk a little bit about the programs that we have to offer to the landowners across this great country through our conservation programs and through our working lands programs.

And it helps these farmers adjust to a lot of things that are happening, and especially with drought and some of the disasters that are happening around the country right now.

We have our EQIP program, our environmental EQIP program that we have, and we administer that throughout the whole country. And we offer those programs to the farmers out there, and it helps them to address a lot of things.

What we do on the land is we sit down with the landowner and we start with a conservation plan. And from that conservation plan, we talk to the landowner about, you know, what are their objectives? What are you trying to achieve on these acres? We walk a lot of times—we walk every acre, and we talk about what the resource needs are for those acres. And we help landowners, inform landowners on what they can do to solve some of those resource

problems. And a lot of times those landowners take those plans, they implement those programs.

But, also, we have our financial assistance programs that we offer to a lot of the landowners to help offset some of the costs of some of these practices that they want to put on. A lot of our practices, they do a lot for climate mitigation, and it helps with erosion, water quality. And so we have a lot of tools in the toolbox to work with landowners around the country to help them with their resource needs, sir.

Mr. WEBSTER. Specifically, let me ask: Most of the harvesting and so forth, there is a museum in my area for International Harvester equipment and all kinds of interesting pieces of equipment. And they are still used, and they are all internal combustion engines.

And I am wondering, is there a battery-powered industry building or coming or thought about in the agriculture industry, do you know?

Mr. COSBY. Sir, what I would like to do is take that question back with me and maybe sit down with you and your staff to look at this a little bit further, but I would like to take that question back.

Mr. WEBSTER. OK. Well, I have got a lot of agriculture in my area, and I am not sure exactly how they are going. One of the things I am talking about is the fact that, in Florida, if you had an electric vehicle, you wouldn't want to leave the State; trying to get out of the State with a hurricane coming with that electric vehicle, in some places, you can't make it, and then to recharge is going to be a little difficult.

But in the area of farming, the recharging stations are not next to you. They are not there. And I am wondering if that industry is—part of what you take back with you and part of what I would like to know about is what is happening in that realm of agriculture that changes footprint, changes the use of internal combustion engines, and allows for farmers still to maintain what they are doing, still to do their work, the crops, feed us, and yet do it in a way that would be the right way.

And, anyway, I look forward to hearing back from you. I yield back.

Mrs. NAPOLITANO. Thank you, Mr. Webster, for yielding back.

Mr. Garamendi, you are recognized.

Mr. GARAMENDI. Thank you, Madam Chair.

And for the witnesses, thank you very much for your statements. I have got about a dozen questions for each of you and certainly not the time to ask them.

Ms. Fox, you have been questioned several times on the “waters of the U.S.” I will add very briefly to that. It is an extremely important issue for California, particularly for my district where I have about 200 miles of the Sacramento River Valley and a lot of agriculture. The 2015 rule created very, very serious problems for agriculture where a drainage ditch, dry most of the year, would be subject to the rule. The Trump rule went too far in the other direction. There is a lot of middle ground there. Listening to the way in which you intend to go about that, it is the right way. Gather the

information. Find the appropriate way to deal with it. Not every agricultural ditch is a “water of the U.S.” or would have impact.

Also please keep in mind that there are other Federal rules that also interact with “waters of the U.S.,” particularly the clean waters programs, discharges, and the like. And so when you explained what you wanted to do and your philosophy, I think you may have merged into the discharge area. In any case, count on us being deeply involved in all of this. Our farmers will be there, and I will be there. I did oppose the 2015, much to the chagrin of my environmental friends but I thought it was too far, too much, and, of course, the Trump administration rule, equally too far in the other direction. I am going to let it go at that. You have already opined on this, and we will deeply be involved in it.

I do have a couple of other questions. Mr. Cosby, not a question but a shout-out and a thank you. The NRCS is extremely important in California. The work that you are doing not only on the farms but now into the forests, working with, for example, the Yuba County Water Agency, trying to figure out how to bring NRCS into the forest for forest health, for water, as well as for fire protection. Please continue. Be strong. Make sure that money goes out to the projects, most of which you have already spoke to.

I had not expected to talk about the Agency for Toxic Substances and Disease Registry program, Mr. Breyse, but I am going to. My work in the House Armed Services Committee is directly related and complementary to what you are doing, and so I would appreciate a conversation with you and my staff about the work that you are doing on this. The registry program that you are talking about, we have a similar program with the military, the OATH Act, and then augmenting that this year to cover many of the things that you are covering. So we have got a meeting that will be scheduled between your team and our team on the House Armed Services Committee.

With regard to the Great Lakes, we are putting together an amendment to the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 so that we can find a way of making sure that boats and ships that move from one environment to another do not transmit nonnative aquatic species. So we look forward to working with you, Mr. Middlebrook, on this issue so that we can once again try to protect our native aquatic species from invasives. So, yeah, you and I and our team are going to have a further conversation.

And, finally, with regard to the NOAA: NOAA, you have icebreakers. You rent icebreakers. I want to know how you are doing that. I want to know how that works. The Coast Guard and the Navy are in desperate need of icebreakers. Maybe your model works. Maybe it doesn't. So let's look at that and have a conversation about it.

So my questions are, hey, we are going to have a conversation on each and every one of these issues. What do you say to that? On board? Thumbs up. Let's do it.

With that, I yield back.

Mrs. NAPOLITANO. Thank you, Mr. Garamendi, very much for your input.

Next we have Mr. Bost. You may proceed.

[Pause.]

Mrs. NAPOLITANO. Mr. Bost?

We will proceed to the next individual, Mr. Pappas.

Mr. PAPPAS. Well, thank you very much, Madam Chair, for the opportunity.

Mrs. NAPOLITANO. I am sorry. I skipped somebody. I am sorry, Mr. Pappas.

It is Mr. Malinowski who is next.

Mr. PAPPAS. OK.

Mr. MALINOWSKI. Thank you, Madam Chair.

So thank to you the witnesses. Very interesting and important testimony.

And I wanted to start with you, Ms. Fox, raising an issue about cybersecurity. Earlier this year, as you know, a water treatment plant in Oldsmar, Florida, was hacked and the intruders apparently attempted to dramatically increase the amount of lye in the water treatment process. It was a near miss that could have been absolutely catastrophic. This is obviously a larger problem. Chris Krebs, the former Director of CISA, speaking to this event, said that the vulnerability at that particular water treatment plant was probably more the rule than the exception around the United States.

I note that EPA has asked for a small increase to \$15 million in its budget to help these kinds of facilities harden their systems. So I wonder, first of all, do you agree with Mr. Krebs that that was more the rule than the exception? And, second, say a little bit about what the money you are requesting will do and whether it is sufficient.

Ms. FOX. Thank you for the question, Congressman.

And one thing that you may or may not know about me is that I used to work for a local water utility. I worked for the San Francisco Public Utilities Commission, and so I saw firsthand, working at a local water utility, how vulnerable water utilities are. So you mentioned the situation in Florida, but we have seen cyber threats, cyber attacks on other water utilities around the country.

This is a critical issue when it relates to preserving public health, and so this is an area—I think what is in the fiscal year 2022 budget is a start, but we are going to need, I think, more tools and resources in order to make sure that our drinking water and wastewater systems are cyber secure. We have, I think, made some really good progress in a voluntary way, working with the Federal family and then working with some of the national water associations, working with the associations that represent our State co-regulators. But I think we need to invest more in these water utilities so that they can develop cybersecurity plans.

I think we need to start asking whether, when a breach happens, is there a requirement that it is reported to the EPA? Because that is currently not the case. So I think that there is a lot that we need to do from a regulatory perspective and from a funding perspective, and I would welcome the opportunity to work with you and this committee on moving some of those issues forward.

Mr. MALINOWSKI. Thank you.

Would that require legislation, or is that a regulatory fix?

Ms. FOX. So I think what one that we are doing with the Office of Water is really, and really at the request of the National Security Council and the President, is what current regulatory authorities do we have that we could utilize to do more on cyber, but we also know that we are going to need, I think, more legislative action in order—

Mr. MALINOWSKI. I meant in terms of specifically the reporting requirement.

Ms. FOX. The reporting, as well as funding, funding directly so that water utilities can make these kinds of investments.

Mr. MALINOWSKI. Good. Thank you.

And then finally just to echo the emphasis that Ms. LeBoeuf provided on climate and climate policy, we had a record-breaking year in 2020 in terms of the number of billion-dollar weather and climate disasters in this country, 22. The previous record was 16, and we have seen the heat waves and what happened in Texas and subways flooded in New York City.

I guess my quick question for you is: Is there any amount of money we can spend on the resiliency and hardening infrastructure that is actually going to insulate us from those kinds of disasters if we don't take dramatic action soon to actually deal with the cause of those disasters, which is the change in climate?

Ms. FOX. It is an excellent question, Congressman.

I think this question is exactly why President Biden is acting so urgently to address the climate crisis. We have had a number of Executive orders that I think illustrate the urgency with which the President wants us to act. The national climate office within the White House is doing an excellent job of convening the Federal family on these issues, and it is why I think we so desperately need the bipartisan infrastructure framework to become legislation. It would really help us make a lot of progress on the climate issue as well.

Mr. MALINOWSKI. Thank you. My time is up.

I yield back.

Mrs. NAPOLITANO. Thank you, Mr. Malinowski.

Now we will proceed to Mr. LaMalfa, followed by Ms. Mace and then Mr. Pappas.

You are on, Mr. LaMalfa.

Mr. LAMALFA. Thank you, Madam Chair. I appreciate it.

As we sit here in the West and northern California, I have at least seven forest fires going on in my area here. And we don't hear talk about it enough. We hear a lot about changing weather patterns but not a lot about the action in order to mitigate drought and to mitigate forests that have an overload, have an over-inventory of trees and brush and dead material that needs to be removed and made something useful of it.

So, if we want to do something about this situation with changing weather patterns, why don't we focus on thinning forests, managing them in a way so they have the inventory per acre that makes them much more survivable, and storing more water when we do get it as rainfall? We are getting less as snowpack lately. And we would have that to carry over into later years. But, you know, those are the eternal discussions that we have and seem to gloss over a lot.

In regards to the WOTUS conversation earlier here, we have had areas up here where people in agriculture have been told they cannot farm their land because it somehow affects the “waters of the United States.” Changing crops, changing from a grain crop to a tree crop has in recent times, before the Trump administration WOTUS action, people were getting fined and getting land even seized from them for changing crops and forming their land in the way that works for actually better water management for them. And so it has really become an out-of-control rule. And as one of my colleagues was mentioning, who is complaining right now about WOTUS as it is, as it has been redefined? So, when we do the ping-pong thing back and forth, we want to change it back to the thing that is very restrictive.

“Waters of the United States” has nothing to do with a farmer’s irrigation ditch, drainage ditch, the land which they are farming themselves. When you want to talk rivers and things like that, fine. You have a conversation. But every drop of water that falls on somebody’s roof, somebody’s driveway, somebody’s ditch, somebody’s field, does not belong to the United States. And that is something that needs to be made clear and understood by this administration and everybody else in Washington, DC.

So, with those struggles we have in agriculture, I want to focus on Chief Cosby there. You mentioned in your issues with NRCS, you want to protect the viability of agriculture operations, the Nation’s soil, water, and related natural resources on non-Federal lands. So let me bring up how things are going in the Klamath Basin which borders northern California and southern Oregon, the Klamath River. It, of course, is facing a catastrophic lack of water supply. The lack of water is partially the Federal Government’s fault. The Klamath project was built, part of it, over 100 years ago to bring water to agriculture that belonged solely to agriculture. Courts have upheld that that water, the augmentation of the existing lake, was water that belongs to agriculture. Yet it is still being pilfered by the Department of the Interior through the Bureau of Reclamation to flush down the stream for either trying to help coho salmon or being forced to stay in the lake ostensibly to try and help the sucker fish. So both ESA and the NEPA both require the water be flushed for those reasons.

So it is really a conundrum as to which way—you keep the water in the lake, you flush it out—either way, none of it is now available for agriculture or the refuges up there or much wildlife that affects the whole Pacific Flyway in place.

So the Bureau this year, the Bureau of Reclamation for the first time ever will not even open the canal to agriculture to send in for irrigation water for products that you and I use all across this country. So it triggers a long process of Government aid approval that would actually be helpful, but it takes months and months. Meanwhile, these folks are on the line with not being able to farm their crops and making a living for lack of that. So they will be waiting for Congress to put together a disaster package. The Bureau has already allocated its entire aid budget.

So the question to you, Mr. Cosby, is: What are the goals you lay out for your agency to protect the viability of agriculture operations? We want farming the basin to continue, but we have to set

up a much faster process to get the aid out. These farmers don't want aid. They would rather farm with the water that actually belongs to them. That said, what can we do to speed up the process to get the aid out so they can get through 2021? We believe the Commodity Credit Corporation is a vehicle we can do that with, partnering with NRCS. CCC does much work already with agriculture, as you know, and so they could be a way for a distribution system for payments, not completely unlike how we tasked SBA to get through the CARES Act and the first part of the COVID business.

So what do you think about the partnership that NRCS can use with CCC to accelerate aid payments for these farmers and ranchers that are up in that basin?

Mr. COSBY. And, Congressman, thank you for your question.

We share your concern about drought and what is happening in the western part of the United States, and NRCS is making some programs available to those farmers and ranchers. It is mainly through our Environmental Quality Incentives Program, which we call EQIP. We have made available——

Mr. LAMALFA. Sir, sir, let me jump in there. Let me jump in there. We have heard of EQIP——

Mrs. NAPOLITANO. Your time is up, Mr. LaMalfa.

Mr. LAMALFA. It is a fine program.

Thank you, Madam Chair.

It's a fine program, but it doesn't do anything near the scale of what we are talking about for the type of damage that is being done up there. And so, when you say we have programs, they are good little programs but they nip at the edges of the size of an agricultural operation. I am a farmer in my real life, too, and they help——

Mrs. NAPOLITANO. Would you mind putting this in writing. Mr. LaMalfa?

Mr. LAMALFA. Yeah, yeah, thank you.

Mrs. NAPOLITANO. Thank you very much.

We will proceed to the next Member of Congress.

Ms. MACE, you are on.

Ms. MACE. Thank you, Chairwoman Napolitano, and Ranking Member Rouzer. I appreciate the time this afternoon, and I appreciate all of our witnesses being here today and especially you, Ms. LeBoeuf, with NOAA.

I am speaking to you today from the historic Charleston Battery right here in downtown Charleston and also behind me right on the water and actually a little bit further behind me, we pan that way, is the South Carolina Department of Natural Resources where NOAA also has a lab and works with our department here.

And while we are not always going to see eye to eye on funding priorities, I know there are some areas where I think we can join together and work together with all of my colleagues here today, and I want to echo how important the work that NOAA does, your organization, in regards to flooding, which is why I am standing in downtown Charleston this afternoon.

Forty years ago, flooding in Charleston, where I am standing today, averaged about two times a year. Today, in 2021, 40 years later, we are seeing over 40 flood incidents every single year, and

it is predicted by 2045, our city will be hit by coastal flooding up to 180 times per year.

Additionally, our region has been hit by several major flooding events over the years, including the 1,000-year flood, which was in October of 2015, Hurricane Matthew in 2016, Hurricane Irma in 2017, and just last week we had a mere tropical storm, which caused tremendous flooding throughout our great city. The Holy City of Charleston, the original sea level rise strategy adopted in 2015, was aided by technical mapping assistance by the Regional Coastal Resilience Grant from NOAA's Office for Coastal Management. The grant was awarded to the South Carolina Sea Grant Consortium on behalf of the Charleston Resilience Network.

I work with the Office of Coastal Resilience and have been out to the NOAA facility here in Charleston. I have seen the important work that NOAA and your office is doing with the digital coast mapping software, something that was very important to me as a State lawmaker and even more important now as a Member of Congress. Today we are learning, quickly learning, that 5-year, 10-year, and further out flood plans are constantly evolving because this issue is rapidly changing literally on a year-to-year basis. And I look forward to hearing from you on how the administration and your office plans to account for the budgeting needs of cities like Charleston, South Carolina, that are facing ever-growing, ever-changing flooding issues.

I also want to add that, as I am sure you know, the city of Charleston is working closely with the Army Corps of Engineers to propose seawall construction in which engineers believe they can save the city from long-term impacts of storm surges until and through 2082. We are all eagerly awaiting the Corps' final report to be released and signed—we are hoping it will be next month. I hope you will be able to speak to your office's coordinating strategists also with the Army Corps of the Engineers.

Again, I appreciate your time today. I see your office at NOAA as critical for the needs of Charleston, of South Carolina, our First Congressional District, and the entire State of South Carolina and I would like to invite you down here anytime to come and visit.

So, with the few moments we have left on my time on the floor, I certainly would love to hear from you, Ms. LeBoeuf, on NOAA and what we can do to help Charleston and our flooding situation here today.

Ms. LEBOEUF. Thank you, Congresswoman Mace, and Charleston is absolutely one of my favorite places in the country, and I share your concern about rising sea levels. In fact, later today, I will be speaking at a media event to release our "High-Tide Flooding Report" for this year. In any home State of Texas, for example, we either tied or broke several records from Galveston to Corpus Christi of more than 20 days of high-tide flooding per year. Just 20 years ago, that was 2 to 3 days per year.

And you are absolutely right. In Charleston, in Pensacola, we saw more than 14 days of high-tide flooding where just 20 years ago it was 1 to 2 days, and so absolutely we are facing some big challenges, and I really appreciate you bringing those up.

We do work closely with the Army Corps of Engineers and advise them with regard to sea-level rise and inundation risks and projec-

tions. We also work closely with the Army Corps on engineering with nature, which is a program that they lead to better understand the value of nature-based infrastructure to protect our coastlines and to provide critical habitat for commercially and recreationally viable species.

With regard to this budget, we are very keen to make sure that we have the water level sensors in place, that we have high-performance computing to be able to predict sea level rise and storm surge risks for all of our coastal communities. For first time in human history, we must plan infrastructure for conditions that we have not yet seen. We have never had to do that before, and so it is essential that NOAA's predictive capabilities and our observations be put to the task and work with other Federal agencies to make sure that our communities are safe and that our Federal agencies are able to complete their missions with climate change in mind.

So thank you so much. I will absolutely take you up on your offer to come to Charleston. It has been too long.

Mrs. NAPOLITANO. Thank you, Ms. Mace.

Ms. MACE. We would—we would certainly—

Mrs. NAPOLITANO. Your time is up.

Ms. MACE [continuing]. Welcome you.

Thank you, Ms. Chairwoman.

Mrs. NAPOLITANO. You are very welcome.

Next we recognize Mr. Pappas. You may proceed.

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

And I appreciate the comments of all of our panelists here today, and I want to focus my questions on the urgent need to address PFAS contamination which is something that my constituents and all of the other Members who are represented here today, their constituents, are grappling with as well. Now I have been encouraged and impressed by the commitment that the administration has taken on PFAS. I think we need aggressive, comprehensive action when it comes to making some forward progress here. It is about time.

And, Ms. Fox, maybe I could turn to you. I know that the Administrator announced the creation of a PFAS council, and you have been appointed as cochair. One of the charges of the council is to develop a multiyear strategy to address public health and environmental impacts from PFAS. So, as we are approaching the first deadline of initial recommendations from the council, I am wondering if you could share any updates on the work on this council and, in addition to that, what resources EPA may eventually need from Congress in order to move as quickly as possible when it comes to setting standards, holding polluters accountable, and protecting public health.

Ms. FOX. Thank you for the question, Congressman Pappas, and thank you for your incredible leadership on PFAS. It is quite inspiring, and I very much enjoyed having the opportunity to hear about your priorities for the people of New Hampshire.

And you are right. I have the incredible honor of cochairing the EPA's PFAS council. And to preview for you some of the recommendations that we will be making, we are really taking again a whole-of-EPA approach. Administrator Regan has directed us to

think really creatively about how we harmonize all of our authorities under the Safe Drinking Water Act, Clean Water Act, CERCLA within the Office of Land and Emergency Management, the Office of Air and Radiation. So we are taking that charge seriously.

Some of the things that we are looking at are research, restrict, and remediate. We want to build the research and scientific base that we have at EPA and across the Federal family, and we want to do that not only on individual PFAS as we have historically done, but also, how do we look at PFAS as a group? So how do we build that research and evidence base? And then, second, we really want to restrict PFAS from entering our land, our air, and our water in the first place. You see what happens, Congressman, when we have that contamination in our communities. So one of the best things that we can do as a Federal family is to restrict PFAS in the first place. So we are looking at that.

And then finally remediate. We have to tackle the PFAS contamination that exists in too many communities around the country, and so that is going to be also a huge priority of this EPA.

As to your question around what we need, right now, we are both looking at our current authorities, our current regulatory authority, and how far we can go on tackling the PFAS contamination, but we may need to come back to you-all for additional authority.

Additionally, we need resources. We are grateful for the resources that we have, and we are trying to use every dollar wisely but the scale of the problem in communities around the country is so great, and that is why I think we have been so pleased and just so inspired by your leadership on this issue and really truly believe this is an area where the executive branch and the legislative branch can make a lot of progress together.

Mr. PAPPAS. Well, thanks for your comments, and it is an issue that many Members are concerned about and working on. The ranking member also mentioned this issue in his opening statement, which I was pleased to hear. I have got legislation, the Clean Water Standards for PFAS Act, which would accelerate efforts to set limits on manufacturers who are still discharging PFAS into our waterways. When we talk about restricting these forever chemicals from getting out into the environment, that is an important step forward.

And in the few seconds that I have left, I am wondering if you would agree that setting PFAS discharge standards for key pollutants is a key pillar in curbing the PFAS crisis and whether that fits within the framework envisioned by Congress when they authorized the Clean Water Act.

Ms. FOX. I agree with you, Representative, and one of the things that I am proud of is that, within the Office of Water, we have started to undertake a rulemaking that is looking at industrial discharges from PFAS manufacturers. So it is something that we intend to move forward with.

Mr. PAPPAS. Well, thanks for that commitment. This work can't wait, and the health and well-being of our constituents and the environment, as well, depends on your work. So we will continue to engage on this.

And I yield back my time, Madam Chair.

Mrs. NAPOLITANO. Thank you very much, Mr. Pappas.

The next order will be Miss González-Colón, Mr. Stanton, Mr. Mast, and Mr. Carbajal.

Miss González-Colón, you may proceed.

[Pause.]

Mrs. NAPOLITANO. Miss González-Colón is not answering.

Mr. Mast, you are on.

Mr. MAST. Thank you, Madam Chair. I appreciate the time today.

My remarks are going to Ms. Fox from the EPA. I have enjoyed speaking to you before, and I would just want to start by saying I really appreciate the work that you-all have done on toxic algal blooms. Everybody on this committee knows this is the biggest thing that I work on because my community is getting poisoned by extremely toxic algal blooms on a regular basis. I just really want to thank you for the yeoman's work that you-all have done on ingestion standards.

And to move a little bit onto that, EPA put out a policy or a standard that set toxic microcystin of cyanotoxins over 8 parts per billion or 8 micrograms per liter is very toxic. It leads to Alzheimer's, ALS, liver failure, kidney failure, neurological things. Am I giving an accurate representation of your findings, ma'am?

Ms. FOX. Congressman Mast, it is wonderful to see you again, and I really enjoyed visiting with you and I want to thank you for your leadership on these issues.

So there are not many published studies on inhalation risks related to toxins produced by—

Mr. MAST. This is ingestion, ma'am, ingestion, going back to what you guys did on ingestion. I am not asking about inhalation. Did I—

Ms. FOX. Yes.

Mr. MAST [continuing]. Give an accurate representation of what you said about ingestion?

Ms. FOX. So we have examined the relative exposure levels between inhalation and incidental ingestion exposures based on available scientific studies and what we determined from that analysis is that the amount of aerosolized microcystins that people are expected to inhale is estimated to be much lower than the amount that is incidentally ingested while swimming.

Mr. MAST. Right. So, if 8 micrograms per liter, somebody is swimming in that, versus if somebody is breathing that, it is not as bad if they are breathing it versus if they are swimming and taking it in. That is fair to say?

Ms. FOX. I would love to check in with my team on this, Congressman, and get back to you because I do not want to misspeak.

Mr. MAST. You were quoted—not you—EPA was quoted by the Corps of Engineers to say the EPA indicates health risks associated with inhalation of these algal blooms is very low. Would you say that that is an accurate representation of what you-all believe?

Ms. FOX. I would—

Mr. MAST. You guys are being quoted as that.

Ms. FOX. Yes, Congressman, if that is the study, yes, I am happy to follow up with you on this. I want to make sure that I am getting the accurate information to you.

Mr. MAST. That is not a study. I am—I actually asked the Corps for the source material. They didn't have it. So I am asking you if they are interpreting—you know, you guys said, the Environmental Protection Agency indicates the highest risk from microcystin exposure is through ingestion. It is kind of like a “duh” thing. Anything has the highest risk is if you drink it and ingest it, but they extrapolated from that that health risks associated with inhalation, therefore, are extremely low.

Ms. FOX. So, Congressman, as you know, there are hundreds of issues that the EPA Office of Water has responsibility for and what you can always rely on and count on me is I am only going to answer questions accurately when I have that information in front of me. So I am not deeply familiar with this particular study. So please let me check in with my career experts, and I will get back to you promptly on this matter.

Mr. MAST. I will. I want to lead you a little bit more on it, though, just so you know what to check into. Like I said, they indicate that or they actually said it is very low. I asked a very pointed question of the Corps because the fact of the matter is they are not just facing algal blooms measured at 8 parts per billion. They are facing algal blooms where they are directly—when I say directly on top of them, I mean directly on top of them for upwards of 10 hours a day at 800 parts per billion.

Does that seem as though the individuals, the Active Duty military personnel and civilian Corps personnel exposed to that, does that seem like a healthy situation to you? That is an opinion question.

Ms. FOX. I am sorry?

Mr. MAST. That is an opinion question. Does that seem healthy to you?

Ms. FOX. Congressman?

Mr. MAST. Yes, ma'am. I hope they will pause the clocks since Ms. Fox just went offline here, until she is back on.

[Technical difficulty.]

Ms. FOX. Can you—somebody needs to get Dominique ASAP. [Directing comment to her staff.]

Mrs. NAPOLITANO. We can hear you.

Ms. FOX. Sorry, Congressman. I don't know what has happened, but we are getting our IT people immediately but—

Mr. MAST. Mrs. Napolitano, if you want to pause and come back to me with my remaining time, I will be open to that.

Mrs. NAPOLITANO. Well, you can hear her. You may not see her, but you can hear her.

Ms. FOX. Is this the camera? I don't know. What is that? Oh. [Directing comments to her staff.]

Can you see me know?

Mr. MAST. I can hear her, but they're not really focused on me, Mrs. Napolitano. Can we pause my time and come back when they are ready?

Mrs. NAPOLITANO. Well, I would like to move on and then come back to you. Is that all right?

Mr. MAST. Thank you, ma'am. I appreciate it, ma'am. Thank you. I will be standing by whenever you are ready to come back.

Mrs. NAPOLITANO. Very fine.

So next we have Mr. Stanton, followed by Mr. Carbajal and Mr. Delgado and then Mr. Lowenthal.

Mr. Stanton, you may proceed.

Mr. STANTON. Thank you very much, Madam Chair. I appreciate the opportunity to ask questions of these outstanding witnesses.

There is no area of our country where the need for significant investments in water infrastructure is more acute than in our Tribal communities. Approximately 12 percent of Tribal homes do not have safe water or basic sanitation facilities, and currently there is a backlog of more than 1,500 sanitation construction projects.

As noted, the U.S. Commission on Civil Rights "Broken Promises Report," infrastructure and investment on Tribal lands has been underfunded for decades. The chronic underinvestment has impacted not only the social, physical, and mental well-being of Tribal members, it has affected the ability of Tribes to fully leverage their economic potential.

The COVID pandemic brought this underinvestment to light again, and no place was more evident than on the Navajo Nation in Arizona. More than one-third of the Nation's population lacks access to running water or indoor plumbing, and many families have fewer than 10 gallons of water at home at any given time. The lack of access to water and basic sanitation helped fuel the spread of COVID on the Nation, which in May of last year had the highest per capita infection rate in the entire country.

Given the tremendous backlog of drinking water and sanitation projects across Indian Country and on the Navajo Nation, where an estimated \$700 million would be needed to connect everyone with safe drinking water and basic sanitation, the National Congress of American Indians has advocated for increasing the Tribal set-aside in both Clean Water and Drinking Water State Revolving Funds.

Administrator Fox, do you agree that increasing the set-aside would be one way to tackle the significant underinvestment in water infrastructure on our Tribal communities?

Ms. FOX. Thank you for the question, Congressman Stanton.

And, yes, I agree with you on the Tribal set-aside. I will say that this is an issue that I have had the opportunity to work on for a number of years. When the COVID-19 pandemic happened, I worked with a range of philanthropic partners and others to try to get more resources to the Navajo Nation, and this is a dire issue. It is also why President Biden has made one of the priorities of this administration to strengthen the nation-to-nation relationship with Tribes.

And just to preview something that is coming down the pike from the Office of Water, Congressman, is we are developing a Tribal water action plan that is really the Office of Water and EPA's commitment to really accelerate action on these critical water issues in Indian Country. And I really look forward to working with you on this moving forward.

Mr. STANTON. Madam Chair, I am hoping maybe in the future we could have a specific hearing on the issue of the water crisis on Tribal nations across the country, and we can learn more detailed information from the EPA and the administration about what steps they are taking to better support our Tribal nations. Sadly, the

COVID crisis was significantly worse as a result of that water crisis.

I now want to turn to the issue of our aging workforce. The Government Accountability Office projects that 30 to 50 percent of the municipal water workforce will be retiring over the next decade, taking with them decades of experience and knowledge. In my State, the Rural Water Association of Arizona has reported numerous vacancies in communities, and systems have been unable to fill positions due to lack of qualified workforce.

Water and wastewater utilities need a pipeline of qualified skilled workers to help ensure clean and safe water for the public and to maintain the infrastructure necessary to keep services for the public and to maintain the infrastructure necessary to keep service areas economically viable, especially in smaller rural communities.

With 93 percent of the water systems in the country in communities of 10,000 or less, finding qualified workers is a significant challenge. How is the Office of Water addressing the shortage of qualified drinking water and wastewater operation professionals, especially in our smaller rural communities?

Ms. FOX. Thank you for the question, Congressman.

This issue of an aging water workforce and the need to build the next generation of water workers is something that I saw firsthand when I worked for the San Francisco Public Utilities Commission. At that utility, we had essentially one-third of our workforce eligible for retirement and what is particularly concerning to me about this issue is is, like the issue around COVID-19 that we just spoke about, that also the retirements are accelerating because of COVID-19.

And so we were really so pleased that Congress has appropriated a couple of million dollars for a water workforce grant program to really invest in these types of workforce training programs. We are going to be announcing the first round of those grants soon.

We have also done some work around technical assistance and those sorts of things. I agree with you that the work that national rural water and rural community assistance programs do in helping again on these workforce issues, very important, and particularly in smaller communities and more rural areas.

And, Congressman, if this is an area where you would like to see the EPA doing more work, it is something I would welcome the opportunity to have a deeper strategy conversation with you on.

Mr. STANTON. Thank you much.

I yield back. I appreciate it.

Mrs. NAPOLITANO. Thank you very much.

We will go back to Mr. Mast. You have 1 minute, sir.

Mr. MAST. Thank you, ma'am.

And thank you, Ms. Fox. Again, I appreciate that you will be getting back to me with things.

This is a very timely issue because I believe that our Active Duty service soldiers and Corps personnel are being poisoned as we speak, breathing in algal blooms 100 times greater than what you said are toxic, the EPA said are toxic, 800 parts per billion microcystin. Unequivocally, the EPA or, rather, the Corps of Engineers, when I asked, are your people being poisoned, soldiers, they

said “no,” and they referenced “because the EPA says health risks associated with inhalation at 8 parts per billion are low.” Now, I am talking about people standing on these things for 10 hours a day in a situation where you are gagging; it is so disgusting, and that is why this is an important opinion question right now.

Do you feel that that is a safe situation for these people to be standing on 800 parts per billion, 10 hours per day? It is an important opinion question, ma’am.

Ms. FOX. Thank you, Congressman, for the question. And I apologize for the technical issues that happened.

And I want to thank you, and I share your concerns for the people who are serving this country. In fact, my husband also served in the Army, and I think what I can just say is that my record on public health is clear. My commitment to you and understanding these issues better and reporting back, I am publicly saying that now, I commit to following up with you on these specifics and I will get back—

Mr. MAST. I know you will follow up.

But does it seem safe to you?

Mrs. NAPOLITANO. You have—your time is up, Mr. Mast.

Mr. MAST. I know you will follow up. Does it seem safe? Only hurting our soldiers here. That is unfortunate.

Mrs. NAPOLITANO. Next we have Mr. Carbajal.

Mr. CARBAJAL. Thank you, Madam Chair.

And thank you to all the panelists and the witnesses that are with us today.

Ms. LeBoeuf, our oceans are facing unprecedented challenges from the warming waters to continued threat from oil drilling. It is clear we need to act to protect these valuable resources that are also drivers of our economies.

One form of protection is through the National Marine Sanctuaries. Data from NOAA estimates that between 2010 and 2012, harvest from commercial fishing in the four existing California National Marine Sanctuaries generated \$70 million in income and supported 1,840 coastal jobs.

In my district, there is widespread support to protect the waters between the Monterey Bay and the Channel Islands Marine Sanctuaries as the Chumash Heritage National Marine Sanctuary. The nomination for the Chumash Marine Sanctuary was formally accepted into the national inventory in October 2015. I appreciate NOAA’s support for extending the nomination last year after it expired. What is the expected timeframe for NOAA to advance this nomination forward?

Ms. LEBOEUF. Thank you for your question, Congressman Carbajal.

The National Marine Sanctuary System is really a jewel in the crown for conserving American waters and the resources that are there and the economies that depend on them and related economies like fisheries. We are committed to considering the sanctuaries along our candidate list, and we very much appreciate support being able to extend the deadline for the Chumash sanctuary proposal.

With regard to being able to address all of the sanctuary proposals on the inventory, that takes resources, and you will see in

our fiscal year 2022 budget that we have asked for increased resources to begin the process needed to really work forward on the proposal of the sanctuary on the inventory, and that includes the Chumash proposal. It takes several steps to get us started. It also requires a lot of public input, which we are committed to taking throughout the process. So giving a timeline is difficult, but I can say, with additional resources, we are eager to begin.

Mr. CARBAJAL. Well, thank you for that information. I can't stress enough the importance of this issue to my constituents. And my hope is, as you look at prioritizing which goes next and which effort is given your time and energy, I sure hope that you give this sanctuary the next priority.

Ms. LeBoeuf, I also want to discuss the importance of offshore wind. As you discuss in your testimony, offshore wind is rapidly developing throughout the United States. President Biden has set an ambitious goal to deploy 30 gigawatts of offshore wind in the United States by 2030. I am pleased to have worked with the administration and other stakeholders, including your department, to advance offshore wind off Morro Bay in my district. This will help create new jobs and allow us to move towards a more resilient future by investing in renewable energy.

In promoting offshore wind, we also need to promote partnerships and co-use of our oceans. Fishermen need to be part of the planning process and are important co-users of our oceans. Can you delve further on how NOAA intends to work with BOEM and stakeholders to achieve this goal?

Ms. LEBOEUF. Absolutely and thank you again for that.

I couldn't agree with you more that there are many very important users in the ocean already. It is a busy place. We just look at the surface of the water and think nothing is going on, but there are a lot of very important industries already in place. And making room for wind energy will be a challenge, but we are confident that we will be able to work with fishermen and other industries to help reduce the potential conflicts between users.

NOAA, for example, is very much involved in helping groups get together to plan and to inform early conversations about siting of offshore wind so we can better understand, working from all the same information, what is under water, what other industries are present, what the risks are, what the environmental conditions are, particularly as any new industry expands rapidly like we anticipate with wind. We will work closely with BOEM to make sure that the fishermen and other ocean users have a voice at the table because their contributions are absolutely vital. And, as always, NOAA will do that with a basis of science and informed decision support at the foundation.

Mr. CARBAJAL. Thank you. I am out of time.

I yield back, Madam Chair.

Mrs. NAPOLITANO. Thank you, Mr. Carbajal.

Miss González-Colón, are you available now?

[Pause.]

Mrs. NAPOLITANO. I guess she is not.

We are now in the closing end of it. I ask unanimous consent that the record of today's hearing remain open until such time as

our witnesses have provided answers to any and all questions that may be submitted to you.

I request unanimous consent that the record remain open 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

And, without objection, so ordered.

I would like to sincerely thank all our witnesses again for their testimony, and, again, congratulations to Ms. Fox on your recent appointment.

If no other Members have anything to add, the committee does stand adjourned.

Thank you. Goodbye.

[Whereupon, at 12:48 p.m., the subcommittee was adjourned.]

SUBMISSIONS FOR THE RECORD

Prepared Statement of Hon. Sam Graves, a Representative in Congress from the State of Missouri, and Ranking Member, Committee on Transportation and Infrastructure

Thank you, Chair Napolitano, for holding this hearing, and thank you to our witnesses.

I am eager to hear from our witness about the agency's priorities; in particular, EPA's plans to re-write the Trump Administration's Navigable Waters Protection Rule and the definition of "Waters of the United States".

The current rule provided much needed clarification for farmers, homeowners, small businesses, and local governments on the extent of waters covered by the Clean Water Act.

We will be watching this process closely, but the administration's decision to initiate a new rulemaking certainly appears to be a plan to bring back burdensome regulations for our agriculture and business sectors, state and local governments, and private citizens.

An example of the egregious impacts of the Obama administration's WOTUS rule was seen in my home State of Missouri, where the rule gave EPA the authority to regulate over 99 percent of Missouri farmland.

I want to remind the EPA that the Obama administration utterly failed to properly incorporate feedback from these stakeholders who would have to live and work under the regulation, and the result was the deeply flawed WOTUS rule.

I look forward to learning how the EPA plans to proceed on this rulemaking and avoid a repeat of the grave mistakes of the Obama administration, and I look forward to hearing from the full panel of witnesses about their agency priorities.

I yield back.

APPENDIX

QUESTIONS FROM HON. DAVID ROUZER TO HON. RADHIKA FOX, ASSISTANT
ADMINISTRATOR, OFFICE OF WATER, U.S. ENVIRONMENTAL PROTECTION AGENCY

Question 1. Your written testimony discusses developing “durable” policy on Clean Water Act section 401 certification. Isn’t it true that some states have interpreted the language in section 401 as allowing them to use that certification authority to impose requirements that go way beyond water quality-related requirements, thereby essentially turning the 401 Certification process into another broad environmental review process like under National Environmental Policy Act (NEPA)? If the language of section 401 is not limited to *water quality* concerns under the Clean Water Act or state law, how does the Environmental Protection Agency (EPA) interpret the scope?

ANSWER. EPA believes that Congress provided authority to states and Tribes under Clean Water Act section 401 to protect the quality of their waters from adverse impacts resulting from federally licensed or permitted projects. EPA recently announced its intent to revise the 2020 Clean Water Act Section 401 Certification Rule after expressing substantial concern that the rule erodes state and Tribal authority. Through this process, EPA will consider strengthening the authority of states and Tribes to protect their vital water resources.

EPA is concerned that the 2020 rule’s narrow scope of certification and conditions may prevent state and tribal authorities from adequately protecting their water quality. Recently, as part of EPA’s initial process of reconsidering and revising the 2020 Section 401 Certification Rule, EPA provided an opportunity for public and stakeholder input to inform the development of a proposed regulation. EPA plans to continue to engage in a sustained dialogue with state and Tribal co-regulator partners and local governments around these issues.

Question 2. After the publication of the 2015 Obama-era rule, 31 states and myriad stakeholder groups, such as those representing farmers, ranchers, construction, miners, and really anyone that wants to build anything, opposed the “Waters of the United States” (WOTUS) rule.¹ Please list the organizations that have complained, or are otherwise opposed to, about the Trump Administration’s “Waters of the United States” (WOTUS) rule.

ANSWER. Many states, tribes, and stakeholder groups have expressed their concerns about the Navigable Waters Protection Rule (NWPR) in public documents and litigation.

The Environmental Protection Agency and U.S. Army Corps of Engineers (the agencies) are in receipt of the U.S. District Court for the District of Arizona’s August 30, 2021 order vacating and remanding the NWPR in the case of *Pascua Yaqui Tribe v. U.S. Environmental Protection Agency*. In light of this order, the agencies have halted implementation of the NWPR and are interpreting “waters of the United States” consistent with the pre-2015 regulatory regime until further notice. The agencies continue to review the order and consider next steps. This includes working expeditiously to move forward with the rulemakings announced on June 9, 2021 [https://www.epa.gov/wotus/notice-public-meetings-regarding-waters-united-states], in order to better protect our nation’s vital water resources that support public health, environmental protection, agricultural activity, and economic growth. The agencies remain committed to crafting a durable definition of “waters of the United States” that is informed by diverse perspectives and based on an inclusive foundation.

The agencies are committed to hearing from voices across the spectrum when developing a durable regulatory definition on which co-regulators, stakeholders, and

¹The Navigable Waters Protection Rule: Definition of “Waters of the United States”, 85 Fed. Reg. 22250, (Apr. 21, 2020), at 33.

communities can rely. As a first step, on July 30, 2021, EPA and the Army announced a series of engagement opportunities, including an opportunity for stakeholders and the public to provide written recommendations and participate in a series of public meetings. In addition, the agencies initiated Federalism and Tribal consultations and announced that the agencies intend to host a series of dialogues with state and Tribal co-regulators this fall.

The agencies also plan to convene regionally focused and inclusive roundtables. These roundtables will allow a full spectrum of the agencies' partners to engage and discuss their experience with definitions of "waters of the United States"—including what has worked and what has not. The roundtables will provide opportunities to discuss geographic similarities and differences, particular water resources that are characteristic of or unique to each region, and site-specific feedback about implementation. The agencies are interested in hearing from all stakeholders, including communities, states, Tribes, local governments, association groups, small businesses, farmers, and families.

Question 3. Clean Water Act Section 101(b) states that "[i]t is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter." This shows it was the intent of Congress to recognize the primacy of states in protecting their own waters over that of the federal government. Do you agree? Are states not in a unique position that enables them to best know where resources are best used for environmental protection? If not, please explain why you think that the federal government is better suited to determine State water plans.

ANSWER. I agree with you that states play a critical role in Clean Water Act implementation, and the agencies look forward to hearing specifically from our state and tribal co-regulators to help inform next steps. A durable definition of "waters of the United States" is essential to ensuring clean and safe water in all communities—supporting human health, animal habitat, agriculture, watersheds, flood management, local economies, and industry. The agencies' July 30, 2021 announcement, which kicked off consultations with states, Tribes, and local governments, as well as a robust public engagement effort on this issue, marks an important step in the agencies' efforts to restore protections and write a rule to define "waters of the United States" that is grounded in science and the law, emphasizes implementation, and prioritizes collaborative partnerships with states, Tribes, local governments, and stakeholders.

Question 4. Last month, both EPA and the Army Corps of Engineers (the "Agencies") announced they would redo the Navigable Waters Protection Rule (NWPR) and re-write the definition of the "Waters of the United States." There are many concerns that the Obama Administration's rule failed to genuinely consider stakeholder feedback and placed burdensome and confusing requirements on farmers, small businesses, local communities, and regulated entities.

Question 4.a. How does the Biden Administration plan to solicit and incorporate substantive feedback from those affected by this regulation?

Question 4.b. What specific steps do you intend to take to engage the states in substantive consultation to ensure their concerns are fully addressed in a final rule?

Question 4.c. Will the Agencies issue an Advance Notice of Proposed Rulemaking (ANPRM) to solicit input from impacted stakeholders?

Question 4.d. When does the Administration plan to issue an NPRM?

ANSWER to questions 4.a. through 4.d. As a first step to developing a durable regulatory definition on which stakeholders and communities can rely, on July 30, 2021, EPA and the Army announced a series of engagement opportunities, including an opportunity for stakeholders and the public to provide written recommendations via an open docket and participate in a series of public meetings. In addition, the agencies initiated Federalism and Tribal consultations and announced that the agencies intend to host a series of dialogues with state and Tribal co-regulators this fall. The agencies also plan to convene regionally focused and inclusive roundtables. These roundtables will allow a full spectrum of the agencies' partners to engage and discuss their experience with definitions of "waters of the United States"—including what has worked and what has not. The roundtables will provide opportunities to discuss geographic similarities and differences, particular water resources that are characteristic of or unique to each region, and site-specific feedback about implementation.

Additional information on the agencies' public engagement efforts can be found at <https://www.epa.gov/wotus/notice-public-meetings-regarding-waters-united-states>.

Question 5. You recently stated the Agencies will “[v]ery imminently” announce a two-step rulemaking process for repealing and then replacing the Navigable Waters Protection Rule (NWPR).² At what point “this summer”³ do you anticipate the Agencies will issue a proposal to repeal the NWPR? Do the Agencies plan to conduct stakeholder outreach and engagement in advance of issuing such a proposal?

ANSWER. See above response to your Question 4. The agencies announced a robust public engagement effort on July 30, 2021, beginning with public meetings in August and extending into the fall and winter with regionally focused and inclusive roundtable discussions.

Question 6. There are significant geographic variations across the United States and a single set of standards will not fit all, how do the Agencies plan to address these differences in any new rule? Should there be a role here for state and local governments and water districts in identifying regional differences and fashioning a workable solution? What are the Agencies going to do to work with states and localities to address these concerns?

ANSWER. See above response to your Question 4. The agencies also have initiated Federalism and Tribal consultations consistent with Executive Orders and Agency guidance. The agencies additionally intend to host a series of dialogues with state and Tribal co-regulators this fall. This is consistent with the robust public engagement effort announced on July 30, 2021, beginning with public meetings in August and extending into the fall and winter with regionally focused and inclusive roundtable discussions. The agencies are interested in hearing from all stakeholders on various aspects of the definition, including communities, states, Tribes, local governments, association groups, small businesses, farmers, and families.

Question 7. Many States and local governments and their representative organizations are concerned that the Agencies’ consultation process with state and local governments will once again be flawed, because the Agencies will not sufficiently consult with them, and that the rulemaking could impinge on state authority in water management. Do you consider the states and local government a partner in our Nation’s intergovernmental system? Or just another stakeholder group in this discussion? Will the Agencies engage the states and local government in substantive consultation, considering and specifically addressing the concerns raised by the states and local governments, to ensure their concerns are fully addressed in a final rule?

ANSWER. The agencies consider states and local governments key regulatory partners. See above response to your Question 4. The agencies have initiated Federalism and Tribal consultations consistent with Executive Orders and Agency guidance. The agencies additionally intend to host a series of dialogues with state and Tribal co-regulators this fall. This is consistent with the robust public engagement effort announced on July 30, 2021, beginning with public meetings in August and extending into the fall and winter with regionally focused and inclusive roundtable discussions. We are interested in hearing from all stakeholders, including communities, states, Tribes, local governments, association groups, small businesses, farmers, and families. I agree with you that states play a critical role in Clean Water Act implementation, and the agencies look forward to hearing specifically from our state and tribal co-regulators—as well as local governments—to help inform next steps.

Question 8. Will you commit to having the Agencies prepare a detailed response to public comments which will substantively respond to all issues raised in each comment before proceeding to finalize this rulemaking?

ANSWER. Yes, the agencies are soliciting written recommendations from the public through a public docket. This feedback will be used to inform the rulemaking process. The agencies also will carefully review all public comments on the forthcoming proposed rules and respond as appropriate.

Question 9. We are concerned that a new rule would end up having direct, significant effects on small entities, and that the Agencies will fail to convene a Small Business Advocacy Review panel before proceeding with this new rulemaking. Will you commit to formally examining the impacts of any new proposed rule on small entities? Will you convene a Small Business Advocacy Review panel before proceeding any further with this rulemaking?

²Hannah Northey, *EPA’s top water official on Biden climate, equity, goals*, POLITICO, July 6, 2021, available at <https://subscriber.politicopro.com/article/eenews/2021/07/06/epas-top-water-official-on-bidens-climate-equity-goals-179726>.

³*Id.*

ANSWER. As the agencies receive and consider feedback from the public—including small businesses—and develop a proposed rule, we will follow the science and the law, including the Regulatory Flexibility Act.

Question 10. Please provide details and definitions for what the Agencies consider “significant environmental damage” and “ongoing environmental harm”, as cited in the announcement for the decision to repeal the current NWPR.

ANSWER. The 2020 NWPR was identified in President Biden’s Executive Order 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle Climate Change*, dated January 25, 2021, which directed federal agencies to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions promulgated, issued, or adopted between January 20, 2017 and January 20, 2021. As a part of the Executive Order 13990 review, the agencies reviewed available data to assess the potential effects of the NWPR, informed by nearly a full year of implementation. The agencies determined that the NWPR is reducing Clean Water Act protections and this lack of protections is particularly significant in arid states like New Mexico and Arizona, where nearly every one of over 1,500 streams assessed through approved jurisdictional determinations has been found to be non-jurisdictional under the NWPR. The agencies also are aware of at least 333 projects that would have required Clean Water Act section 404 permitting prior to the NWPR but no longer do.

Question 11. The Agencies have been inconsistent when describing their plans for the NWPR. In several federal court filings, the Agencies announced that they have “decided to commence a new rulemaking to revise or replace the rule.”⁴ Yet in statements to the press, you have stated that the Agencies “are moving quickly” to a two-step rulemaking process under which, the first step is to repeal the NWPR.⁵ You have stated the Agencies feel “it is important to get the Navigable Waters Protection Rule off the books.”⁶ Have the Agencies pre-determined they are repealing the NWPR and that it is not acceptable to instead revise the NWPR?

ANSWER. The agencies intend to revise the definition of “waters of the United States” to create a durable definition following a process that includes two rulemakings. A forthcoming rule would propose to restore the regulations defining WOTUS that were in place for decades until 2015, with updates to be consistent with relevant Supreme Court decisions. A separate, second rulemaking process would be based on a broader review of the rule.

Question 12. The Agencies have stated that the NWPR “resulted in a 25-percent-age point reduction in determinations of waters that would otherwise be afforded protection.”⁷

Question 12.a. What is the methodology the agencies used to arrive at this 25% figure?

Question 12.b. What data or database did the agencies use as the baseline for comparison to the NWPR?

Question 12.c. What is the geographic distribution of this reduction in jurisdiction (nationwide or isolated to certain regions)?

ANSWER to questions 12.a. through 12.c. EPA and the Army have reviewed approved jurisdictional determinations (AJDs) and identified indicators of a substantial reduction in waters covered under the NWPR compared to previous rules and practices. These indicators include an increase in determinations by the Corps that waters are non-jurisdictional and an increase in projects for which CWA section 404 permits are no longer required. The agencies also have found that preliminary jurisdictional determinations (through which applicants proceed with permitting as though all resources were jurisdictional) are much less common under the NWPR, indicating that fewer project proponents believe waters are jurisdictional from the start.

The 25 percent figure comes from looking at AJDs completed nationwide by the Army Corps of Engineers and recorded in their internal database. The Corps finalized 6,351 AJDs between the NWPR’s effective date of June 22, 2020 and April 15, 2021. When this dataset was adjusted to account for differences in how determination forms were designed under the different regulatory regimes, the Corps found approximately 71 percent of AJDs identified non-jurisdictional aquatic resources and

⁴Defendants Motion for Remand Without Vacatur, *Conservation Law Foundation v. EPA*, (D. Mass) Case No. 20-cv-10820-DPW, available at https://www.epa.gov/sites/default/files/2021-06/documents/clf_memo_of_law_iso_motion_for_remand.pdf.

⁵Northey, *supra* note 2.

⁶*Id.*

⁷EPA, *Army Announce Intent to Revise Definition of WOTUS* (June 9, 2021), <https://www.epa.gov/newsreleases/epa-army-announce-intent-revise-definition-wotus>.

29 percent identified jurisdictional aquatic resources.⁸ In comparison, AJDs made under the 2015 Clean Water Rule and the pre-2015 regulatory regime from the time periods of June 22, 2018 to April 15, 2019, and June 22, 2019 to April 15, 2020, found that approximately 46 percent of AJDs included non-jurisdictional aquatic resources and 54 percent included jurisdictional aquatic resources.⁹ Thus, there is an absolute 25-percentage point reduction in determinations of waters that would otherwise be afforded protection under the different regulatory regimes.

The agencies also looked at the data from the NWPR on an aquatic resource level. Of the 40,211 individual aquatic resources or water features for which the Corps made approved jurisdictional determinations under the NWPR between June 22, 2020 and April 15, 2021, approximately 76 percent were found to be non-jurisdictional. Many of the non-jurisdictional waters are excluded ephemeral resources (mostly streams) and wetlands that are not adjacent under the NWPR.

The agencies are aware of at least 333 projects that would have required section 404 permitting prior to the NWPR, but no longer do under the NWPR. The agencies also are aware that this number is not the full universe of projects that no longer require section 404 permitting under the NWPR, partly because to the extent that project proponents are not seeking any determinations for waters that the NWPR now excludes, such as ephemeral streams, the effects of such projects are not tracked in the Corps database. As a whole, the reduction in jurisdiction is notably greater than the deregulatory effects discussed in the NWPR rule preamble and the economic analysis case studies.

Question 13. The Agencies have expressed in litigation filings that they have “substantial concerns about the lawfulness of aspects of the NWPR.”¹⁰ More recently, you were quoted as saying the NWPR “is not, in [your] view, something that’s sustainable or durable” and that “[w]e need a rule that’s legally defensible.”¹¹ How does your view align with the fact that no court has preliminarily enjoined the NWPR? Please describe in detail what you believe is not “legally defensible” about the NWPR.¹²

ANSWER. The Environmental Protection Agency and U.S. Army Corps of Engineers (the agencies) are in receipt of the U.S. District Court for the District of Arizona’s August 30, 2021 order vacating and remanding the NWPR in the case of *Pascua Yaqui Tribe v. U.S. Environmental Protection Agency*. In light of this order, the agencies have halted implementation of the NWPR and are interpreting “waters of the United States” consistent with the pre-2015 regulatory regime until further notice. The agencies continue to review the order and consider next steps. This includes working expeditiously to move forward with the rulemakings announced on June 9, 2021 [<https://www.epa.gov/wotus/notice-public-meetings-regarding-waters-united-states>], in order to better protect our nation’s vital water resources that support public health, environmental protection, agricultural activity, and economic growth. The agencies remain committed to crafting a durable definition of “waters of the United States” that is informed by diverse perspectives and based on an inclusive foundation.

⁸ Under the NWPR, a single AJD in the Corps’ database can include both affirmative and negative jurisdictional determinations. Under prior regulatory regimes, the Corps’ database was structured such that a single AJD could have only affirmative, or only negative, jurisdictional determinations. Because of this difference, a NWPR jurisdictional determination that includes both affirmative and negative jurisdictional resources was normalized and counted as two separate approved jurisdictional determinations, one affirmative and one negative.

⁹ Due to preliminary injunctions, the 2015 Clean Water Rule and the pre-2015 regulatory regime were being implemented in different parts of the country during a portion of the time periods for which the agencies assessed data. Data used in this analysis for the 2015 Clean Water Rule are from August 16, 2018 (the date that the nationwide stay was lifted) to April 15, 2019, and June 22, 2019 to December 22, 2019 (the Clean Water Rule was replaced by the 2019 Repeal Rule on December 23, 2019). The 2015 Clean Water Rule was never in effect for the entire country due to preliminary injunctions. For the time periods assessed under this analysis, the pre-2015 regulatory regime was in effect nationwide from June 22, 2018 to August 15, 2018, and December 23, 2019 (effective date of the 2019 Repeal Rule) to April 15, 2020. The 2019 Rule Repeal, which reinstated the pre-2015 regulatory regime, was in effect until the NWPR’s effective date of June 22, 2020, but the agencies chose to analysis data for comparable time periods as the data available for NWPR determinations.

¹⁰ Declaration of Jaime A. Pinkham, *Conservation Law Foundation v. EPA*, (D. Mass.) Case No. 20-cv-10820-DPW, available at https://www.epa.gov/sites/production/files/2021-06/documents/2_conservation_law_found._d._mass._-jaime_pinkham_declaration_final_signed_508c.pdf.

¹¹ Northey, *supra* note 1.

¹² Northey, *supra* note 1.

Question 14. The Agencies have represented to a federal court that they “have noted on-the-ground effects of the NWPR since the rule went into effect,” citing vague and speculative “concerns” raised by stakeholders that the NWPR “is resulting in significant, actual environmental harms.”¹³ How do those assertions about ongoing harms align with your more recent statements to the press that the Agencies do not have the “ability to really assess the potential water quality impacts on wetlands, on streams, on a range of things”¹⁴ that allegedly result from activities that can move forward without a permit under the NWPR?

ANSWER. The agencies’ EO 13990 review identified substantial concerns with the NWPR and the agencies determined that additional consideration should be given to certain aspects of the NWPR through notice-and-comment rulemaking, including concern that when interpreting the jurisdictional scope of the CWA the NWPR did not appropriately consider the effect of the revised definition of “waters of the United States” on the integrity of the nation’s waters, as well as concern over the loss of waters protected by the CWA.

Question 15. The Corps’ declaration submitted to federal courts refers to 333 projects “that would have required Section 404 permitting prior to the NWPR, but no longer do under the NWPR.”¹⁵ However, the approved jurisdictional determinations (AJDs) for many of those projects suggests that the jurisdictional status of waters in question was unknown because the Corps engineer answered “N/A” in the section of the form asking about “Associated JDs.”¹⁶ If there was no prior AJD related to the project, what is the Agencies’ basis for claiming that the projects would have required Section 404 permits before the NWPR but no longer do? If there was a prior JD, please provide them.

ANSWER. The agencies are aware of at least 333 projects that would have required section 404 permitting prior to the NWPR, but no longer do under the NWPR. These projects had AJDs carried out for determining that no permit would be required. The reference to associated AJDs refers to separate AJDs carried out on the given project site in association with other actions. Notes on associated AJDs allows for Corps staff to track prior activities on sites.

The agencies also are aware that this number is not the full universe of projects that no longer require section 404 permitting under the NWPR, partly because to the extent that project proponents are not seeking any determinations for waters that the NWPR now excludes, such as ephemeral streams, the effects of such projects are not tracked in the Corps database. The reduction in jurisdiction is notably greater than the deregulatory effects discussed in the NWPR rule preamble and the economic analysis case studies.

Question 16. You recently stated that more than 300 projects “now have the ability to move forward without a permit.”¹⁷ You went on to say that “[w]ithout the ability to really assess the potential water quality impacts on wetlands, on streams, on a range of things, that is concerning to us.”¹⁸

Question 16.a. Does this mean the Agencies have not confirmed that any of those 300 or more projects have moved forward?

Question 16.b. Even if any given project has moved forward, it appears potential impacts on water quality are unclear. Have the Agencies assessed whether there were any discharges, whether any states imposed regulatory requirements, or whether there were any impacts on water quality?

Question 16.c. If the Agencies have assessed any of these things, when will you release those findings?

ANSWER to questions 16.a. through 16.c. The agencies are aware of at least 333 projects that would have required section 404 permitting prior to the NWPR, but no longer do under the NWPR. The agencies also are aware that this number is not the full universe of projects that no longer require section 404 permitting under the NWPR, partly because to the extent that project proponents are not seeking any determinations for waters that the NWPR now excludes, such as ephemeral streams, the effects of such projects are not tracked in the Corps database. The reduction in

¹³ Defendants’ Memorandum of Law in Support of Motion for Voluntary Remand without Vacatur, *Conservation Law Foundation v. EPA*, (D. Mass.) Case No. 20-cv-10820-DPW, available at https://www.eenews.net/assets/2021/06/09/document_pm_01.pdf; *Supra* n.2.

¹⁴ Northey, *supra* note 2.

¹⁵ Pinkham, *supra* note 9.

¹⁶ See e.g.: U.S. Army Corps of Engineers, Regulatory Program, Approved Jurisdictional Determination Form (Interim), Navigable Waters Protection Rule, available at <https://www.swt.usace.army.mil/Portals/41/docs/missions/regulatory/JD/SWT-2016-344%20AJD.pdf>; ver=2020-09-03-084218-473

¹⁷ Northey, *supra* note 2.

¹⁸ *Id.*

jurisdiction is notably greater than the deregulatory effects discussed in the NWPR rule preamble and the economic analysis case studies. Based on this and other aspects of the EO 13990 review, EPA and the Army have substantial concerns about aspects of the NWPR and the harmful effects of the NWPR on the nation's waters. Therefore, we have decided to initiate rulemaking to revise the term "waters of the United States."

Question 17. The Agencies have asserted in sworn declarations that "[p]rojects are proceeding in newly non-jurisdictional waters in states and tribal lands where regulation of waters beyond those covered by the CWA are not authorized."¹⁹

Question 17.a. What basis supports this claim?

Question 17.b. Which projects are proceeding and in which states? Have the Agencies confirmed that each of these states, in fact, do not have laws in place that address discharges to ephemeral streams or wetlands that are not jurisdictional under the NWPR?

Question 17.c. Have the Agencies confirmed that any of these unnamed projects in fact involve discharges to newly non-jurisdictional waters?

ANSWER to questions 17.a. through 17.c. The agencies have heard concerns from a broad array of stakeholders, including states, Tribes, scientists, and non-governmental organizations, that the reduction in the jurisdictional scope of the CWA is resulting in significant, actual environmental harms. These entities have identified specific projects and discharges that would no longer be subject to CWA protections because the waters at issue would no longer be jurisdictional. In many cases permit applications have been withdrawn. For example, stakeholders have raised concerns about dredge and fill activities on large swaths of wetlands in sensitive areas, in the floodplains of jurisdictional waters, or even within several hundred yards of traditional navigable waters, that are proceeding without CWA regulatory protection or compensatory mitigation. Stakeholders also have identified for the agencies many other wetlands and streams, newly deemed non-jurisdictional, which are likely to be filled for commercial and housing developments, mines, water pipelines, and other forms of development without CWA oversight.

Due to the NWPR definition of "waters of the United States," projects are proceeding in newly non-jurisdictional waters in states and tribal lands where regulation of waters beyond those covered by the CWA are not authorized, and based on available information, will therefore result in discharges without any regulation or mitigation from federal, state, or tribal agencies. *See* "Economic Analysis for the Navigable Waters Protection Rule: Definition of 'Waters of the United States'" at 40 (Jan. 22, 2020) (indicating that a large number of states do not currently regulate waters more broadly than the CWA requires, and are "unlikely to increase state regulatory practices" following the NWPR).²⁰ One project example is the construction of a mine that would destroy hundreds of previously jurisdictional wetlands, deemed non-jurisdictional under the NWPR, next to a National Wildlife Refuge.

Question 18. The Agencies found that in New Mexico and Arizona, nearly all of the more than 1,500 streams have been deemed a non-jurisdictional ephemeral resource, "which is very different from the status of the streams as assessed under both the Clean Water Rule and the pre-2015 regulatory regime."²¹ Under the pre-2015 regime, however, ephemeral resources were not per se jurisdictional, but instead had to undergo case-by-case determinations to see if there was a "significant nexus." What data do the Agencies have to show that any of these streams would have been jurisdictional under a case-by-case determination for "significant nexus"?

ANSWER. Ephemeral streams, wetlands, and other aquatic resources provide numerous ecosystem services, and there could be cascading and cumulative downstream effects from impacts to these resources, including but not limited to effects on water supplies, water quality, flooding, drought, erosion, and habitat integrity. The agencies have substantial concerns about the consideration of these effects on the chemical, physical, and biological integrity of the nation's waters in the NWPR rulemaking process.

Question 19. If there is a hurricane and it floods a section of farmland in my district, North Carolina's Seventh Congressional District, which then drains into the Cape Fear River and then the Atlantic Ocean, would that constitute a "Water of the United States"?

¹⁹ Pinkham, *supra* note 9.

²⁰ Available at https://www.epa.gov/sites/default/files/2020-01/documents/econ_analysis_-_nwpr.pdf.

²¹ *Id.*

ANSWER. Uncertainty over the definition of “waters of the United States” has harmed our waters and the stakeholders and communities that rely on them. EPA and the Army look forward to engaging all parties as we move forward to provide the certainty that’s needed to protect our precious natural water resources. We are committed to crafting an enduring definition of “waters of the United States” by listening to all sides so we can build on an inclusive foundation. Our goal is to develop a WOTUS definition that ensures clean and safe water for all while giving you and your district the certainty you need to appropriately address emergency situations like the scenario referenced in your question.

Question 20. In making the decision to replace the NWPR, what public input did the Agencies rely on to drive this action? What groups, associations, entities, or other stakeholders requested the Administration take this action?

ANSWER. Based on a careful evaluation of the record of the NWPR, the agencies have substantial and legitimate concerns regarding the adequacy of consideration of the CWA’s water quality goals in the development of the NWPR. As such, the agencies believe it is appropriate to reconsider these issues—and, in particular, the effects of the “waters of the United States” definition on the chemical, physical, and biological integrity of the nation’s waters—in a new rulemaking. We have initiated a robust and meaningful public engagement effort to hear from all of those impacted by the WOTUS definition, including Tribes, states, local governments, communities, and any other interested stakeholders.

As explained above, the agencies announced a robust public engagement effort on July 30, beginning with public meetings and a recommendations docket in August and extending into the fall and winter with regionally focused and inclusive roundtable discussions. We are interested in hearing from all stakeholders, including communities, states, Tribes, local governments, association groups, small businesses, farmers, and families.

QUESTIONS FROM HON. SALUD O. CARBAJAL TO HON. RADHIKA FOX, ASSISTANT ADMINISTRATOR, OFFICE OF WATER, U.S. ENVIRONMENTAL PROTECTION AGENCY

Question 1. Can you explain the importance of the administration’s request of \$9 million for the Drinking Water System Infrastructure Resilience and Sustainability Program?

ANSWER. This program supports water infrastructure in underserved, small and disadvantaged communities, ensuring access to safe drinking water. It supports the President’s priority of assisting communities and their drinking water systems in the planning, design, construction, implementation, operation, or maintenance of a program or project that increases resilience to natural hazards. Eligible entities will be able to use this increase in funding will target climate resilience for drinking water infrastructure to adapt to or withstand the effects of a malevolent act or natural hazard.

Question 2. Can you provide an update on this program’s implementation?

ANSWER. EPA appreciates Congress’ recent attention toward upgrading and modernizing our nation’s drinking water systems. Congress authorized the Drinking Water System Infrastructure Resilience and Sustainability Program in America’s Water Infrastructure Act of 2018, and Congress provided first-time appropriations for this program in Fiscal Year 2020. EPA is in the final stages of preparing a Request for Applications (RFA) for this inaugural round of funding.

Question 3. As currently structured, the program is only available to assist drinking water systems serving small and disadvantaged communities. Are these the only water systems that face challenges related to climate change and extreme weather, or would wastewater systems and larger drinking water systems also benefit if Congress expanded the program to make them eligible as well?

ANSWER. As you know, there are certainly important differences between the needs of our country’s drinking water systems and our wastewater and stormwater systems. EPA supports several programs that ensure access to clean and safe water for all Americans including underserved, small and disadvantaged communities.

QUESTIONS FROM HON. GREG STANTON TO HON. RADHIKA FOX, ASSISTANT ADMINISTRATOR, OFFICE OF WATER, U.S. ENVIRONMENTAL PROTECTION AGENCY

Question 1. Tribal water systems are facing many of the same challenges as our smaller systems in finding qualified workers, but in many instances, they are often doing so far with fewer resources.

Question 1.a. How is EPA approaching the next generation of tribal operators?

Question 1.b. How can EPA help with future planning for tribal water systems in developing a new workforce?

ANSWER to questions 1.a. and 1.b. EPA's technical assistance and training programs help to ensure that all communities, especially small and underserved communities, have the tools they need to address their pressing water infrastructure and other water quality needs. In addition, EPA provides training and technical assistance and certification for tribal wastewater and drinking water systems to improve their operation and management practices and promote sustainability. Examples of EPA technical assistance and training programs that help tribal communities include the Tribal Public Water System Supervision, the Drinking Water Infrastructure Grants Tribal Set-Aside, WIIN Act Section 2104: Assistance for Small and Disadvantaged Communities Tribal Grant, the Clean Water Indian Set-Aside, Small System Technical Assistance for Drinking Water and Wastewater Grant, and the new Technical Assistance for Small Wastewater Systems Grant programs.

EPA appreciates this Committee's attention to water infrastructure and to our water workforce—including our Tribal water workforce—and I look forward to being a partner with Congress as you consider this important issue.

QUESTIONS FROM HON. PETER A. DEFAZIO TO TERRY J. COSBY, CHIEF, NATURAL RESOURCES CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Question 1. Given the crisis agriculture and other key sectors of our economy are facing from unprecedented drought, do you believe the requested increases in funding are sufficient?

ANSWER. The current crisis caused by the unprecedented drought is severely impacting our communities in the western region of the country. The USDA–NRCS watershed programs are uniquely suited to help these communities to plan, design, and construct infrastructure to help alleviate the long-term effects of drought. Through our watershed protection and flood prevention operations program, we have helped communities install agricultural water management practices that have helped to improve irrigation efficiency. Some of our sponsors are taking advantage of the ability to use the watershed rehabilitation program to add water supply to our rehabilitated watershed dams.

The requested funding will enable USDA–NRCS to help address needs where the Federal investment can strategically serve communities to meet unprecedented drought and other resource challenges created by climatic variability.

Question 2. What is the typical timeline for a Watershed and Flood Prevention Operations (WFPO) project from planning to construction? How would additional funding for the NRCS enable it to expedite completion of WFPO projects so that communities could see more immediate benefits from this program?

ANSWER. NRCS seeks to work with project sponsors to complete watershed planning in 18 months, designs in 18 months, and construction in 2–5 years. These project timelines can vary significantly due to many factors. Some of these include project complexity, potential environmental and cultural impacts, public and stakeholder involvement, agency review timelines, permit acquisition process, varying construction seasons due to climate and weather.

NRCS is committed to our responsibility to use public funds in a manner that is economically, environmentally, and technically defensible. Working through the environmental review process, as well as maintaining quality technical standards, helps to ensure that measures are adequately installed and provide the intended benefits to the local community while protecting life and property.

QUESTIONS FROM HON. GREG STANTON TO TERRY J. COSBY, CHIEF, NATURAL RESOURCES CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Question 1. The Flood Control District (FCD) of Maricopa County in Arizona operates and maintains 16 dams designed and constructed by the Natural Resources Conservation Service (NRCS), including the Powerline, Vineyard, and Rittenhouse Flood Retarding Structures (PVR FRS). The PVR FRS provide 100-year flood protection for a significant portion of the far eastern part of the county, including portions of the cities of Mesa, Gilbert, Queen Creek, and Chandler. According to the 2010 Census, nearly a half million people, thousands of buildings, and critical infrastructure are protected by these structures. Unfortunately, these structures are now more than 50 years old and are in serious need of repair.

In September 2014, NRCS accepted FCD's funding requests for rehabilitation of the Vineyard and Powerline FRS. The Vineyard FRS project began first under a three-phased approach. As the design phase progressed, estimated costs rose significantly, and an additional funds were requested. A Phase 2A construction contract

was awarded in March 2017, but because of the increased cost estimates, the NRCS issued a Cease and Desist Order to FCD in April 2017, halting progress. In April 2019, NRCS requested FCD de-obligate \$31.1 million for the Powerline and Vineyard projects. As an alternative, the FCD requested the projects be phased, but NRCS rejected this approach, noting that phasing of rehabilitation projects would no longer be allowed and, as a result, all funding would need to be in place before work could proceed.

I am concerned that delays due to funding shortfalls and the lack of program flexibility are slowing progress on these critical projects and leaving the residents of Maricopa County at risk.

Question 1.a. Is NRCS willing to re-evaluate its position to allow large-scale projects to be phased so that critical projects, like those in Maricopa County, can proceed?

ANSWER. Although NRCS prefers that rehabilitation of dams be completed without phases, NRCS does allow for a phased approach. All phases must be identified in the authorized plan and associated Environmental Assessment or Environmental Impact Statement, and there must be a final NRCS approved design prior to the start of construction. When phasing a project, the local sponsor must show they have resources to commit to the entire project for the construction to be completed in a timely manner. Each phase must be constructed in a manner that will result in a structure that will independently function in a safe manner until the remaining phases are constructed. The completed phase must be operated and maintained by the sponsor to ensure a safe structure until subsequent phases can be completed.

Question 1.b. If a phased approach is not possible, will you commit to working with me and the FCD to identify options to advance these critical flood protection repair projects in a timely manner?

ANSWER. If a phased approach is not possible, NRCS is committed to working with the local sponsors to identify viable options to complete the rehabilitation of aging infrastructures so that communities are provided the critical flood protection necessary to ensure the safety of those who live, work, and enjoy recreation in these watersheds.