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LEGISLATIVE HEARING ON S. 2800, AMERICA'S WATER INFRASTRUCTURE ACT OF 2018

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

MAY 17, 2018

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

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LEGISLATIVE HEARING ON S. 2800, AMERICA'S WATER INFRASTRUCTURE ACT OF 2018

THURSDAY, MAY 17, 2018

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:21 a.m. in room 406, Dirksen Senate Office Building, Hon. John Barrasso (chairman of the committee) presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Boozman, Wicker, Fischer, Moran, Rounds, Ernst, Sullivan, Cardin, Whitehouse, Gillibrand, Markey, and Van Hollen.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Good morning. I call this hearing to order.

Last week, our Committee held the first legislative hearing on S. 2800, America's Water Infrastructure Act of 2018.

Today I am very pleased to welcome to the Committee R.D. James, who is the Assistant Secretary of the Army for Civil Works. This second hearing on the bill is an opportunity to get the agency's insight and feedback on our legislation. Next week this Committee will mark up the important legislation. We plan to add a bipartisan manager's amendment to the bill to further improve it.

America's Water Infrastructure Act is a bipartisan piece of legislation. I introduced it along with Ranking Member Carper, the Transportation and Infrastructure Subcommittee Chairman Inhofe and Subcommittee Ranking Member Cardin. The bill is now also sponsored by Senator Capito and Senator Van Hollen, Senator Wicker, and Senator Boozman.

At least week's hearing we heard broad support for the legislation from State leaders, from farmers, from civil engineers, and from other stakeholders. The Committee has received letters and statements of support from a wide-ranging number of organizations, including the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the American Society of Civil Engineers, the National Audubon Society, and the National Rural Water Association.

Water infrastructure is important to every community in this Country. These systems support economic growth and competitiveness; they provide water for cattle and for crops. They are used to ship goods; they deliver drinking water and address wastewater; they keep homes safe from dangerous floods; and they provide water in times of drought. I can't overState the importance of the

Nation's water infrastructure system. The America's Water Infrastructure Act will help deepen nationally significant ports and fix aging dams and irrigation systems. This bill will maintain the navigability of inland waterways and increase water storage in the West. It is reform legislation to get projects moving and make Government more efficient.

America's Water Infrastructure Act will cut bureaucratic red tape. The legislation will give local leaders and stakeholders a greater role in deciding which Army Corps projects should be priorities. It is good news for small, for rural, and for inland States. Local leaders know which projects would have the best impact on their communities, the greatest impact.

The bill includes a study by the National Academy of Sciences on how to improve, structure, and manage the Army Corps. This study will let us know how to further reform the agency.

Our legislation includes permitting reform for important water storage projects. These reforms should allow for the development of more water storage, which is critical to communities in Wyoming and across the West.

The successful Water Infrastructure Flexibility Act program, or WIFIA, is reauthorized in this bill. This will further authorize millions of dollars to accelerate investment in the Nation's water infrastructure. Under WIFIA, those dollars will leverage $2 billion in investment.

Programs like WIFIA get taxpayers more bang for the buck. And we are working on additional changes to the bill that will help smaller rural communities leverage WIFIA dollars to build needed infrastructure.

The bill is bipartisan. It is fiscally responsible. It will have a real impact in rural America and across the Nation, so I look forward to continuing to work with my colleagues on this Committee to advance this important infrastructure legislation.

With that, I would like to turn to the Ranking Member and cosponsor of the bill, Senator Carper.

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Mr. Chairman, thank you so much. I apologize for being late. I was invited to be part of the roundtable that focused on the cost of inaction, a conversation on U.S. infrastructure, a business roundtable with Jamie Diamond and a fellow named Brendan Bechtel, the CEO of Bechtel, Larry Willis, who is the President of AFL–CIO transportation trades, Congressman Rodney Davis, Republican from Illinois.

We focused on infrastructure and why we are unable to get anything done. Finally, I had to leave near the end of the show, and I apologized and I explained why I was coming and why we are trying to show some leadership here on this Committee to actually get something done on the water infrastructure part of our Nation's needs.

I am delighted to be here and partnered with our Chairman. I am glad to be a partner with Jim Inhofe and Ben Cardin as the chairs and ranking members of the relevant Transportation and Infrastructure Subcommittee.

I am proud of the bipartisan work that we have done thus far on this legislation and, again, I hope it will serve as a model for what we can get done along with other committees if we work together going into the future, and that is what we intend to do.

I also want to thank Secretary James for joining us again today. We just appreciate so much the help that you and your team have provided to date so that our legislative process can move quickly and smoothly.

As I said before and I am sure you will hear me say again today, coastal issues are mighty important to Delaware, the lowest lying State in the Country, and the water resources bill is critical to our State's economy, as it is to the economies of many States that are represented here today.

Delaware's economic reliance on the Corps work is not unique. Over 99 percent of the U.S. overseas trade volume moves through waterways that the Corps maintains. Think about that. Over 99 percent of the U.S. overseas trade volume moves through waterways that the Army Corps of Engineers maintains.

The Corps' inland waterways and locks form a freight network, really sort of a water highway, that provides access to international markets through our ports. They also serve as critical infrastructure for the U.S. military.

Our bill authorizes investments in this system in multiple ways. Most notably at the request of Secretary James and of many Senators both on and off this Committee, the bill better positions the Corps to be an active partner with ports, with communities, with States, with Tribes, and other stakeholders in growing and expanding our Nation's economy.

Putting our local stakeholders at the table with the Corps will enhance the process and help the Corps become a more viable partner in projects that promote long-term economic growth.

We have heard from many Senators that reinvestment in this partnership is much needed and that our Committee needs to address criteria that the Corps uses to budget for projects.

For the better part of a decade, now, the executive branch has calculated water project costs and benefits in a way that has led to a backlog of unfunded and uncompleted, but needed, projects. Our bill works to address this problem by authorizing new funding and project planning requirements at the Corps' most local level, the individual Corps districts.

This legislation requires local participation in the development of these new district plans, too. Hopefully, this participation will allow for a more transparent and long-term look at the Corps' activities, while also building a greater groundswell of support for increased appropriations for the Corps' initiatives.

Our legislation also authorizes investments in both our inland and our coastal waterways. I am particularly proud of a provision that will support the selection of natural infrastructure alternatives as a practical solution in situations where and when the development of gray or more traditional infrastructure alone may not work.

The Army Corps of Engineers also works to reduce risk to human safety and property damage from flooding. Flooding alone currently costs the United States billions of dollars annually. As the 2017

hurricane season illustrated, our Nation needs to be ready for the next extreme storm or flood event because it almost certainly is coming.

The total cost for extreme weather and climate events in 2017 exceeded $300 billion. Let me say that again. The total cost for extreme weather and climate events in 2017 exceeded $300 billion, a new annual record in the United States. In truth, it is no longer a matter of if the next extreme weather event is coming; it is just a matter of when.

Our bill allows the Secretary of the Army to waive the cost share for hazard mitigation related feasibility studies so that we can be shovel-ready before the next storm, before the next storm hits. Additionally, the bill modifies the Corps' existing emergency authorities to allow the agency to participate in storm damage recovery for a longer period of time, make more resilient infrastructure decisions, and, where appropriate, cost share infrastructure replacement so resources can go further.

As we have heard already, I think, here today, the American Society of Civil Engineers Infrastructure Report Card currently gives our Country's dams, levees, and inland waters a D, for deplorable, for decrepit, for decaying, representing an overall backlog of unconstructed projects totaling some $96 billion. Our bill also reauthorizes the Corps' dam safety programs and makes much needed changes as proposed by civil engineers.

Clearly, we have a good deal of additional important work to do to move this bill across the goal line; however, the cumulative efforts of a number of people, many of them in this room today, have enabled us to get off to a good start. If we continue to work hard, and in a bipartisan fashion, I believe we will enact water resources legislation that will strengthen our Country in many ways, and in a timely manner, and maybe set an example that other committees in both the House and the Senate will choose to emulate.

In closing, Mr. Chairman, I want to thank you, our colleagues, Jim Inhofe, Ben Cardin, your staffs, our staffs for your leadership on this bill.

We welcome Secretary James back before our Committee. We look forward to hearing from you today and using your input, along with that of many other stakeholders, to craft legislation that we can all be proud of.

Thank you.

Senator BARRASSO. Thank you, Senator Carper.

We will now turn to our witness, R.D. James, Assistant Secretary of the Army for Civil Works.

I want to remind the Secretary that your full written testimony will be made part of the official hearing record, so please try to keep your statement to about 5 minutes so we will have time for questions. We all look forward to your testimony. Please proceed.

STATEMENT OF HON. R.D. JAMES, ASSISTANT SECRETARY OF THE ARMY CIVIL WORKS

Mr. JAMES. Thank you, Mr. Chairman and members of the esteemed Committee. I am honored to be back before this Committee today to discuss the water infrastructure needs and challenges of this Nation and S. 2800, America's Water Infrastructure Act 2018.

I am R.D. James, the Assistant Secretary of the Army for Civil Works.

The Administration is reviewing this bill and does not have a position at this time. Today I would like to discuss the Civil Works program and some of the reforms I am already leading with the Corps or which the Administration has proposed to help meet the Nation's water resource challenges going forward.

The Civil Works program of the Corps has three main missions: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. In this regard, the Corps works with our Nation's coastal ports to maintain their channels, operates and maintains the inland waterways, supports State and local flood risk management activities, works to restore significant aquatic ecosystems, and operates and maintains multipurpose dams, as well as the reservoirs behind them.

There are about 250 million day visits a year for recreation at Corps lands and reservoirs, making the Corps one of the top Federal recreation providers. The infrastructure that the Corps maintains includes 13,000 miles of coastal navigation channels, 12,000 miles of inland waterways, 715 dams, 241 locks, 195 navigationsites, 14,700 miles of levees, and hydro plants at 75 locations with 353 generating units.

These projects provide risk reduction from flooding in our river valleys and along our coasts, facilitate the movement of approximately 2 billion tons of waterborne commerce, and provide up to 24 percent of our Nation's hydropower.

During my tenure on the Mississippi River Commission, river engineers proved to me that flood control and navigation on major rivers work hand-in-hand. Flood control structures enhance navigation. Navigation improvements facilitate passing floods. Reservoirs, floodways, and backwater areas must be reserved for use in both river flooding and in drought.

The Corps has proven its ability to manage these structures as a system to protect lives and promote commerce. However, much of this infrastructure was constructed in the first half of the 20th century and today requires a significant amount of resources to maintain. The current paradigm for investing in water resources development is not sustainable.

The Corps continues to work on policy and administrative changes that can improve infrastructure delivery cheaper and faster. I am looking at the organization myself, the authorities, policies, regulations, and procedures, to expressly identify opportunities for increased efficiency and effectiveness. This includes efforts to reduce redundancy and delegate authority for decisionmaking to the most practical and appropriate levels.

Delegating decisionmaking authority for numerous programs, including Section 408 permissions, down to the district has streamlined the process and shortened the time it takes to reach a decision. I am committed to positioning the Corps for success, to move dirt cheaper and faster.

Our Civil Works water infrastructure allows us to live better, safer lives and more fully realize the natural benefits from this great Nation. The way we promote and protect our water resources affects our Nation's economy, its environment, and its public safety.

The Army Corps stands ready to lead in addressing the water resource demands and challenges of the 21st century.

I look forward to working with this Committee on these very important issues. I appreciate your efforts to raise many of these issues in your new bill.

Thank you, Mr. Chairman and members of the Committee. This concludes my statement. I look forward to your questions.

[The prepared statement of Mr. James follows:]

STATEMENT OF HON. R.D. JAMES, ASSISTANT SECRETARY OF THE ARMY CIVIL WORKS

Mr. Chairman and Members of the Committee:

I am honored to be back before this Committee today to discuss the water infrastructure needs and challenges for the Nation, and S. 2800, America's Water Infrastructure Act, 2018. I am R.D. James, the Assistant Secretary of the Army for Civil Works. The Administration is continuing to review this bill and does not have a position at this time. Today, I would like to discuss the civil works program and some of the reforms I am already leading with the Corps or which the Administration has proposed to help meet the Nation's water resources challenges going forward.

As stated in previous hearings, the U.S. Army Corps of Engineers (Corps) has played a significant role in the development of the Nation's water resources. The Civil Works program of the Corps has three main missions:

- commercial navigation,
- flood and storm damage reduction, and
- aquatic ecosystem restoration.

In this regard, the Corps works with our Nation's coastal ports to maintain their channels; operates and maintains the inland waterways; supports State and local flood risk management activities; works to restore significant aquatic ecosystems; and operates and maintains multipurpose dams, as well as the reservoirs behind them. There are about 250 million day-visits a year for recreation at Corps lands and reservoirs, making the Corps one of the top Federal recreation providers.

The infrastructure that the Corps maintains includes 13,000 miles of coastal navigation channels (including the channels of the Great Lakes), 12,000 miles of inland waterways, 715 dams, 241 locks at 195 navigationsites, 14,700 miles of levees, and hydropower plants at 75 locations with 353 generating units. These projects help provide risk reduction from flooding in our river valleys and along our coasts, facilitate the movement of approximately two billion tons of waterborne commerce, and provide up to 24 percent of the Nation's hydropower.

Much of this infrastructure was constructed in the first half of the twentieth century and today requires a significant amount of resources to maintain. The current paradigm for investing in water resources development is not sustainable.

The Corps continues to work on policy and administrative changes that can improve infrastructure delivery. My staff and I are looking at the organization, authorities, policies, regulations, and procedures to expressly identify opportunities for increased efficiency and effectiveness. This includes efforts to reduce redundancy and delegate authority for decisionmaking to the most practical and appropriate level. Delegating decisionmaking authority for numerous programs, including Section 408 permissions, down to the district level has streamlined the process and shortened the time it takes to reach a decision. I am committed to positioning the Corps for success.

The way that we use our water resources affects our Nation's economy, its environment, and public safety. The Corps stands ready to help in addressing the water resource demands and challenges of the 21st Century. I look forward to working with the Committee on these very important issues.

Thank you, Mr. Chairman and Members of Committee. This concludes my statement. I look forward to answering any questions you or other Members of the Committee may have.

Senate Committee on Environment and Public Works
Hearing entitled, *"Legislative Hearing on S.2800, America's Water Infrastructure Act of 2018"*
May 17, 2018
Questions for the Record for Assistant Secretary R.D. James

Chairman Barrasso:

1. Secretary James, the current benefit-cost ratio calculation or BCR does not consider the unique importance of flood risk management projects in rural areas with lower property values. Severe floods in rural areas destroy property and livelihoods. America's Water Infrastructure Act of 2018 creates an additional framework to the BCR calculation to fix this inequity. What examples can you share where this was an issue in your decades of experience working on water infrastructure projects? Do you see a benefit to rural areas with the new additional BCR framework that is in this bill?

Answer: The Administration is reviewing this legislation, which you introduced a week ago on May 8, 2018. At this point, we have not yet developed a position on this legislation.

The Corps uses performance standards to allocate the funds provided in the Budget. The Corps uses the benefit-to-cost ratio to rank some of its projects based on their economic return to the Nation. However, the Corps uses other metrics as well. The Budget includes significant funding to address flood risks in rural areas.

The Corps continues to explore options for evaluating non-monetary benefits from projects. In some cases, it is already possible to use such metrics alongside the benefit-to-cost ratio to inform investment decisions.

2. Secretary James, last year this committee held a hearing regarding this country's growing invasive species problem. It is clear that once established, invasives become increasingly difficult and expensive to eradicate, and they ultimately end up costing our economy billions of dollars each year. In Wyoming, my constituents and I want to protect our waters from invasive such as Zebra and Quagga Mussels. America's Water Infrastructure Act includes language to increase funding for watercraft inspection stations in the Upper Missouri River Basin, and in the Snake River Basin. Can you explain why watercraft inspection stations in the vicinity of reservoirs are important to fight fighting this invasive scourge?

Answer: The primary vector for transferring quagga and zebra mussels across river basins is private recreational vessels and associated trailers. In addition to reservoirs, any water way or body of water with ramps and/or access points that accommodate trailered watercraft is vulnerable to aquatic invasive species. The best way to prevent establishment of these invasive mussels is to stop introduction through public education and inspections, which can occur at the existing watercraft inspection stations. Currently, inspection and decontamination programs vary by state. Some conduct inspection and decontamination primarily at ramps located on

waterbodies, while others rely on highway stations. Both approaches are effective in fighting aquatic invasive species.

3. Secretary James, the Continuing Authorities Program or "CAP" as carried out by the Corps of Engineers is vital to many rural communities. In particular, one of its several authorities, commonly referred to as section 205, concerns flood risk management challenges. This includes projects that address ice jams, which are a serious concern to Wyoming residents in towns like Worland and Greybull. The bill we are discussing today provides additional authorization of appropriations for the CAP program and increases the per-project caps. Can you give your views on how important these CAP programs are to the Corps in addressing water resource problems nationwide?

Answer: The Continuing Authorities Program (CAP) allows the Corps to provide support to many communities for water resource solutions that are smaller and less complex than the projects that require specific congressional authorization.

Ranking Member Carper:

4. There have been proposals across the Administration aimed at streamlining decision-making processes to deploy projects more quickly. We have heard from tribal nations that they are in favor of deploying more infrastructure in their communities where it is badly needed, but they also want to ensure that their legal rights and interests are accounted for throughout decision-making and development processes.

   What pre-decisional guidelines and policies does USACE anticipate implementing to ensure tribal rights to lands, natural resources, and cultural, sacred and historic sites are considered?

Answer: At this time, the Corps is not developing any new pre-decisional guidelines and policies in regards to Tribal consultation. The Corps has a Tribal Consultation Policy that was signed in 2012. This Policy outlines the Corps' responsibilities to federally-recognized Tribes as well as a framework for consulting with them. Fundamental to the Corps' Tribal Consultation Policy is that it recognizes the sovereign status of Tribal governments and the Corps' obligation for pre-decisional government-to-government consultation.

5. As mentioned in your testimony, the Army Corps is looking at ways to delegate decision-making authority to other entities. Tribes have a unique trust relationship with the United States, and part of that relationship is to ensure that the federal government provides certain protections to tribes from regulatory encroachment by states.

   How does the Army Corps intend to ensure that tribal rights, lands, resources, and historic and cultural sites are protected in situations where a state or other entity is requesting delegated decision-making authority?

Answer: The decision whether to approve requests for a State or Tribe to assume responsibility for permitting some activities regulated under the Clean Water Act Section 404 program is made

by the Environmental Protection Agency and they would be better positioned to respond to questions regarding the process for making those decisions and the consideration given to protection of tribal rights, lands, resources, and historic and cultural sites.

Senator Sanders:

Water Infrastructure

6. On June 21, 2017, the Vermont Congressional delegation sent a letter to Lieutenant General Semonite, who at the time was the U.S. Army Corps Commanding General, requesting that the U.S. Army Corps of Engineers (Corps) develop implementation guidance for Section 1177 of the Water Infrastructure Improvements for the Nation Act. On July 28, 2017, the Corps responded to the Vermont Congressional Delegation with a letter stating that the Corps was "currently drafting implementation guidance, which should be finalized no later than the fall of 2017." That implementation guidance still has not been issued. Please provide a status update and where specifically the Corps is in the drafting process. Given the agency's delay, it is my hope that the implementation guidance for Section 1177 will be published by July 2018. Will this guidance be published by July 2018?

Answer: Implementation guidance for Section 1177 has not been completed but will be completed as soon as possible.

Puerto Rico

7. Please provide a timeline of the Army Corps of Engineers' (Corps) work on emergency power restoration in Puerto Rico in response to the damage caused by Hurricane Maria. After the Corps received their mission assignment from FEMA on September 30, 2017, when exactly did the Corps arrive on the main Island of Puerto Rico and begin working to restore power? When did the Corps arrive and begin the work to restore power on the Islands of Vieques and Culebra?

Answer: FEMA assigned the Corps the grid power restoration mission on September 28, 2017. Corps staff already residing in Puerto Rico as well as additional staff from the Jacksonville District office were already on the island at that time. The following shows some of the key dates of the Corps efforts to restore power in the aftermath of Hurricane Maria:
September 28, 2017 – FEMA notifies Corps of grid power restoration mission.
October 4, 2017 – Corps received Mega Power mission to provide generator at two Puerto Rico Power plants (Palo Seco and Yabucoa).
October 8, 2017 – Corps awards contract to provide 50 Megawatt power generation at Palo Seco power plant to stabilize the grid (Weston Corporation).
October 10, 2017 – Corps executes contract with DLA to purchase initial power restoration material.
October 13, 2017 – the Corps 249th Prime Power arrives in Puerto Rico to begin repair of distribution lines.
October 16, 2017 – Corps awards contract (Fluor) for transmission and distribution line repair.
October 19, 2017 – Corps awards contract (PowerSecure) for transmission and distribution line repair.

November 7, 2017 – Corps awards contract (APTIM Federal Services) to provide 25 Megawatt power generation at Yabucoa power plant to stabilize the grid.
December 4, 2017 – Corps, in coordination with PREPA, installs two 1.8 megawatt generations to act as a "mirco-grid" power plant to provide the island of Culebra with power.
February 14, 2018 – Corps installs three 1.8 megawatt generators on the island of Vieques to act as a "mirco-grid" to provide stable power to the island.
March 16, 2018 – Amendment to Mission Assignment (MA #16) extends the 100% federal cost-sharing through May 18, 2018.
March 23, 2018 – Amendment to Mission Assignment (MA #16) executed for additional electrical grid repair work to be completed by May 18, 2018.
April 6, 2018 – Contract modification extension was issued to PowerSecure for additional electrical grid restoration work
May 17, 2018 – Funds obligated for Mission Assignment (MA #33) with a 10% Puerto Rico cost-share for grid restoration work to begin on May 19, 2018 – to be performed by non-Corps contractors with materials supplied by the Corps.

8. Based on the Corps' experience working on Puerto Rico's electric infrastructure and a life cycle cost analysis of rebuilding the electric grid, do you believe it would be more cost effective to simply rebuild the same grid infrastructure that was in place before Hurricane Maria, given that grid infrastructure's demonstrated vulnerability to extreme weather events? Does it make economic sense to rebuild the same electric infrastructure on either Vieques or Culebra?

Answer: Per the Stafford Act, the Corps' power restoration work in Puerto Rico was to replace, in kind, the system that was in place before the hurricanes. For the most part, that meant line-for-line, pole-for-pole, and wire-for-wire. However, there were exceptions, primarily where the cost of a different solution is less than restoring to the pre-storm condition. For example, in some cases the original poles might have run up an undeveloped stretch of mountainous terrain or through wetlands. The Corps was able to change the installation, if a better solution was identified, such as running the new poles along a road near that mountain or near that wetland, after a review for cost, schedule and any right-of-way issues.

Per the Stafford Act, the Corps mission also has included meeting current code requirements, where the power system did not meet them prior to the storm. Therefore, the grid was upgraded to current Puerto Rico Electric Power Authority standards. In addition, new lines and new poles replaced decades-old infrastructure. Therefore, the replacement system will be more resilient going forward than was the pre-existing grid.

9. What measures has the Corps taken to improve its ability to respond to future hurricanes in Puerto Rico, should it be called upon again to do so by FEMA?

Answer: USACE continues to participate in and contribute to discussions among the Federal agencies on lessons learned in Puerto Rico following Hurricane Maria, including consideration of the geography of the island, and the challenges in getting people, equipment, and supplies to its coastal and interior regions in the aftermath of a disaster. These discussions will inform

future local and Federal planning and preparedness efforts, and will cover issues such as training, exercises, and the stockpiling of equipment and supplies.

The Corps continues to maintain staff in FEMA's Joint Recovery Office tracking the residual recovery efforts. In addition to maintaining the capacity to surge personnel into Puerto Rico both in advance parties and post-storm response elements to carry out FEMA Stafford Act Emergency Support Function #3 (Public Works and Engineering missions), the Corps maintains an "Antilles Field Office" that maintains liaison with the Puerto Rico Electrical Power Authority and FEMA Region II.

10. On May 8th, in his testimony to the U.S. Senate Committee on Energy and Natural Resources, Department of Energy Assistant Secretary for Electricity Bruce Walker stated:

    The Governor [of Puerto Rico] and [the Puerto Rico Electric Power Authority] should immediately ensure that updated, effective mutual aid agreements are primed to quickly provide support during the next event.

    In your professional opinion, how would updated, effective mutual aid agreements impact the delivery of disaster relief resources – including food, medical supplies, emergency responders, emergency power generation equipment, and workers to repair damaged electric infrastructure – to Puerto Rico in the event of a future hurricane?

Answer: The Corps is not involved in Mutual Aid Agreements with local utility authorities and that question would be better directed to the Department of Energy and/or FEMA.

11. Please provide the Corps' best estimate as to how much money was spent on diesel as of May 31, 2018 for emergency power generation on the main Island of Puerto Rico. Please also provide separate estimates as to how much money was spent on diesel as of May 31, 2018 for emergency power generation on the Islands of Vieques and Culebra.

Answer: The Corps spent approximately $110 million on diesel fuel as of May 17, 2018 for emergency power generation on the main island of Puerto Rico. The Corps spent approximately $57 million for the Palo Seco Mega power generators and $21 million for the Yabucoa Mega generator. Approximately $32 million was spent on the remaining emergency power generators (spot generators). In addition, as of May 17, 2018, the Corps has spent approximately $900,000 on diesel for emergency power generation on the Islands of Vieques and Culebra.

12. In your professional opinion, is the electric grid in Puerto Rico ready for the next hurricane season? Is the grid infrastructure prepared to withstand another Category 4 hurricane?

Answer: The restored system should be more resilient going forward than was the pre-existing grid.

Senator Sullivan:

13. Assistant Secretary James, since your last appearance before the Committee I am pleased to acknowledge that the planning charrette for the Arctic Deep Draft Port project in Nome has occurred. This first step included the City of Nome as the local sponsor, and strong participation by the Army Corps' Alaska District team, as well as representatives from other federal and state agencies. While this is progress, I am concerned about any remaining reluctance to utilize all available statutory authorities to allow this project to move forward. The next milestone will be in late June when the initial alternatives are presented, followed by more direct involvement by Army Corps headquarters in the review process.

    We have discussed how Nome, and the majority of communities in Alaska, do not "fit" into the traditional national economic determination formula, which led Congress to enact provisions that allow for non-economic factors to form the basis for authorizing a project. I have led the effort to include national security interests as important factors for an Arctic Deep Draft Port, which is in addition to the factors included in the Remote and Subsistence Harbor provision.

    I understand that Army Corps policy requires the preparation of an economic evaluation, but this should not preclude moving forward under all the authorities congress has provided – including alternative, non-economic authorities. Will you commit to me that Army Corps headquarters will embrace all available statutory authorities to allow this project to move forward in an efficient and expeditious manner?

Answer: The Corps' current focus is to complete the planning process for this project. The Corps anticipates meeting the alternative milestone this summer as planned. Additional funding to complete the study phase of this project will be considered in the future along with other programs, projects, and activities across the Nation competing for the available resources.

Senator BARRASSO. Well, thank you very much, Secretary James. We appreciate your being here. There are a number of members, obviously a big turnout, are interested in this topic.

Let me start with this. 2017 was a record year for runoff in the Upper Snake River Basin around Jackson Lake in northwest Wyoming. It experienced significant amounts of flooding. As of last month, runoff predictions for this year were 136 percent of average, which is presenting, again, another significant risk of flooding.

Landowners and stakeholders from around the area have been contacting my office with concern for how the Army Corps and the Bureau of Reclamation have managed the spring runoff out of Jackson Lake and down the Snake River.

I sent you a letter on April 18th regarding this issue and I ask unanimous consent that this be entered into the record, and it will be without objection.

[The referenced information follows:]

May 15, 2018

Senator John Barrasso
Chairman,
Committee on Environment & Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Senator Tom Carper
Ranking Member,
Committee on Environment & Public Works
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Senator Jim Inhofe
Chairman,
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Ranking Member,
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509 Hart Senate Office Building
Washington, DC 20510

Re: Strong Support for Inclusion of the SRF WIN Act in America's Water Infrastructure Act

Dear Chairman Barrasso, Ranking Member Carper, Senator Inhofe and Senator Cardin,

The nation's leading construction, engineering, municipal, conservation, public works, infrastructure finance, labor and manufacturing organizations, strongly support the Securing Required Funding for Water Infrastructure Now Act - the SRF WIN Act - and your efforts to reauthorize the Water Resources Development Act. We believe the inclusion of the SRF WIN Act in the America's Water Infrastructure Act will make a really good bill even better. The bipartisan SRF WIN Act, cosponsored by Senators Boozman, Booker, Inhofe, Feinstein, Barrasso, Manchin, Capito, Casey, Cornyn and Baldwin, is a fiscally responsible approach to providing States over $10 B annually for critical improvements to our nation's rural and urban water infrastructure.

The SRF WIN Act utilizes the substantial leveraging of Federal infrastructure funding established through the Water Infrastructure Finance Innovation Act (WIFIA) Program – PL 113-121 - to finance the existing Clean Water Act and Safe Drinking Water Act State Revolving Funds (CWA and SDWA SRFs). State Finance Authorities have been successfully financing wastewater infrastructure projects through the CWA SRF for the past 30 years and drinking water infrastructure through the SDWA SRF for the past 20 years. State Finance Authorities have solicited and assessed thousands of water infrastructure project proposals submitted by large and small communities in every state and Congressional District. States currently have thousands of vetted water infrastructure projects awaiting SRF funding.

State Finance Authorities are in an ideal position to combine new WIFIA leveraged funding with existing SRF Funds to expeditiously finance thousands of existing and vetted water infrastructure projects. Under current law, State Finance Authorities are eligible recipients of WIFIA funding and are able to bundle existing water and wastewater projects into a single WIFIA loan proposal. On July 19, 2017, EPA gave preliminary "approval" to a $436 M WIFIA loan to construct drinking water and wastewater projects across Indiana. The SRF WIN Act

builds upon the Indiana experience to dramatically improve the workability of WIFIA and expand the utilization of this innovative water infrastructure financing tool to all states.

Specifically, the SRF WIN Act amends the existing WIFIA program to:

- **Expedite consideration of WIFIA loan applications** – requires EPA to approve an application from an SRF within 180 days of receipt. The current WIFIA program has taken years to approve less than a dozen projects. Sec. 2 (e) Expedited Review of Applications

- **Enhance leveraging of WIFIA funding** – all State SRFs have AAA Bond Ratings allowing for a $100 M appropriation to yield $10 B in WIFIA Loans to states. Sec 2 (f) Authorization of Appropriations

- **Remove Application Fees** – the elimination of Application Fees will save SRF borrowers approximately $250 - $500 K per application. Sec. 2 (c) (3) Application Fees

- **Enhance Funding for SRF Administration of New WIFIA Funding** – SRFs can use WIFIA to cover reasonable costs of administration. Sec. 2 (c) 2 Administrative Costs

- **Protect Current SRF and WIFIA Funding** – No funds are available for the SRF WIN Act if appropriations for the SRFs and WIFIA are less than amount appropriated in FY 2018. Sec. 2 (f) (3) No Impact On Other Federal Funding

- **Provide Loan Interests Rates that Encourage Participation in WIFIA by All States** – funds are available to states in the form of low interest loans – at or below the Treasury Rate. Sec. 2 (d) (C) Distribution of Loans

- **Provide WIFIA Funding for Potentially Thousands of Water Projects** – removing barriers to SRF participation in WIFIA and providing incentives to SRF participation in WIFIA will enable States to bundle all of their priority drinking water and wastewater projects, both large and small projects, into a single State project for EPA approval. A single State SRF WIFIA project could include over 100 individual water and wastewater projects. Sec. 2 (b) Financial Assistance to State Loan Funds

Providing State Finance Authorities WIFIA loans is the most effective and efficient means for the Federal government to support water and wastewater construction projects across the nation. The SRF WIN Act enjoys broad bipartisan support in the Senate and advances significant, fiscally responsible, investments in our nation's water infrastructure. This legislation merits inclusion in the America's Water Infrastructure Act.

The WIFIA program was initially authorized in the Water Resources Development Act (WRDA) and we believe the significant improvements to WIFIA contained in the SRF WIN Act should be addressed in WRDA '18 – the America's Water Infrastructure Act. We greatly appreciate your commitment to improving our nation's water infrastructure and look forward to working with you in the coming days to secure broad bipartisan support for passage of the American's Water Infrastructure Act.

Sincerely,

- **American Council of Engineering Companies – ACEC**
- **American Composite Manufacturers Association - ACMA**
- **American Public Works Association – APWA**
- **American Society of Civil Engineers – ASCE**
- **Arkansas Natural Resources Commission - ANRC**
- **Arkansas Rural Water**
- **Associated General Contractors of America – AGC**
- **U.S. Chamber of Commerce**
- **Council of Infrastructure Finance Authorities - CIFA**
- **Ducks Unlimited – DU**
- **Grasslands Water District -- GWD**
- **Hydraulic Institute – HI**
- **International Union of Operating Engineers – IUOE**
- **Laborers International Union of North America – LIUNA**
- **Land Trust of Arkansas – LTA**
- **Milwaukee Metropolitan Sewer District - MMSD**
- **National Association of Clean Water Agencies – NACWA**

- **National Electrical Contractors Association - NECA**
- **National Rural Water Association – NRWA**
- **North America's Building Trades Unions - NABTU**
- **NEW Water**
- **Riceland Foods**
- **Rural Community Assistance Partnership – RCAP**
- **United Association of Plumbers and Pipefitters - The United**
- **Vinyl Institute – VI**
- **Water Reuse Association - WRA**
- **Water Infrastructure Network – WIN**
- **Water Systems Council – WSC**
- **Water Well Trust - WWT**

Senator BARRASSO. What assurances can you give me that you are working with local entities, as well as the Bureau of Reclamation, to minimize flooding in this area?

Mr. JAMES. Senator, it is my understanding that the Corps is working hand-in-hand with the Bureau of Rec and local sponsors in that area to prevent flooding in the future or reduce the risk of flooding in the future.

Senator BARRASSO. I appreciate that very much and we will continue in close communication to make sure that that is able to be accomplished. Thank you.

One of the things that you mentioned is move dirt faster and cheaper, in your comments. I think that was your phrase. You know, an adequate and affordable water supply is crucial to so many rural communities, farms, cities alike, and what we have seen is reservoirs, such as the Big Horn Reservoir in Wyoming, has lost significant water storage capacity due to sediment buildup. So, when we talk about moving dirt faster and cheaper, it is not just aboveground; it is also in our reservoirs.

The America's Water Infrastructure Act increases water supply in existing reservoirs by developing programs, sediment management plans, for these reservoirs through partnerships, partnerships between the Corps and the Bureau of Reclamation.

So, if signed into law, will you make it also a priority to fully implement this provision so that rural and western communities in need can have the benefits of that full water storage capacity of the reservoirs by moving that dirt faster and cheaper?

Mr. JAMES. Sir, absolutely I will. In the West, as I have realized from talking to you in the past, the water resource itself is what you are after and what you are losing by sediment. In other parts of the Country we are losing flood control storage due to the same type sediment. This has to be addressed on a nationwide basis.

One of the issues I think we will run into on that is the disposal of the sediment. We know how to get it out, but what do we do with it? And we may need to talk about that in the future and have some leadership from your Committee.

Senator BARRASSO. Well, thank you very much, and thanks for that national commitment to deal with that. I am very grateful.

As you know, the President has made rebuilding America's infrastructure a top priority in this Administration. The President has talked about leveraging Federal dollars to maximize investments being made in water infrastructure, and I believe this bill does that through programs like the WIFIA program, Water Infrastructure Finance and Innovation Act, that you are very familiar with.

My question is, from your perspective, will this legislation really help fulfill some of the key principles outlined by President Trump on rebuilding America's water infrastructure in a timely and an effective manner, with more of the focus on rural America, as well as more local control in decisionmaking?

Mr. JAMES. Sir, in my opinion, it will. It addresses several things, including more work with the local sponsors, direct work with local sponsors, input from local sponsors. We have been lacking that for many years now.

The other thing is I noticed in the bill that, instead of addressing individual harbors and individual dredging needs along the East

Coast, that they be looked at as a system so we know where the sediment is going after we dredge it. And then the work you have put into this bill as far as helping move obstacles away from the Corps so we can do the job better as you direct it.

Senator BARRASSO. My final question before turning to Senator Carper is several critical water resource development projects are currently in review at the Corps but not ready for authorization by Congress because a signed chief's report or other decisions documents have not yet been completed.

Can you talk to me a little bit about what steps the Corps is taking to accelerate these project reviews so that projects are ready for authorization in America's Water Infrastructure Act before the bill is actually signed into law?

Mr. JAMES. Well, sir, that is actually one of my complaints, is that we are not getting from day one to day X soon enough as a Corps of Engineers; and then, oh, by the way, once we get to authorization and get some appropriations, I don't think we are getting to day one on moving dirt as soon as I would like to see us as a Corps of Engineers.

I look forward to working with this Committee. I have some ideas on that as we move forward today and I want to share them with you.

Senator BARRASSO. Well, we look forward to that. Thanks so much for your being here today.

Senator CARPER.

Senator CARPER. Thanks, Mr. Chairman.

The first question I have today for you, Secretary James, deals with the structure of the Corps. As you may recall, our legislation currently includes a U.S. GAO study on benefit-cost analysis. Our bill also asks the National Academy of Sciences to study several things, including, one, how the Corps can increase transparency; two, if we should use a system-wide, rather than project-based, authorization process for water projects; and the third thing we are asking the National Academy of Sciences to study and give us their thoughts on is whether the Corps' structure and organization should be modified.

There has been a fair amount of public discussion, as you know, about this last topic, and that is whether the Corps of Engineers is appropriately housed within the Department of Defense. In March of this year, Representative Bill Shuster, Republican, Chairman of the Transportation and Infrastructure Committee in the House, publicly announced that he was working on legislation to move the Army Corps of Engineers' Civil Works program from the Department of Defense and potentially place it within the U.S. Department of Transportation. At that time, Interior Secretary Ryan Zinke voiced that he wanted the Civil Works program moved to his department, the Department of the Interior.

We understand informally that Representative Shuster has decided he is not going to run for reelection and may not be pushing for that movement right now, of the Army Corps to the Department of Transportation, but we would be interested in knowing your views on this topic. Do you anticipate that the studies that are envisioned in our Senate bill will better position the Corps to tackle our Nation's tough infrastructure challenge? Your thoughts, please.

Mr. JAMES. Senator, I haven't seen what the President has planned yet in his agency review. I understand that it is not just the Corps; it is the other agencies as well he is wanting to look at and see how we can all do a better job for this Nation. I haven't seen that; I think that is coming soon.

Without having seen that, I still have ideas of my own. It is obvious that this Committee has ideas from looking through the bill or reading the bill more than once, and I can't tell you the outcome of what is going to happen. I can tell you that I think your new bill postures the Congress for a good discussion with the President on what should happen.

I really don't think I should reply as to what I think should happen because it really is not going to matter; it is what this Committee and the President decides. But I do think this bill puts a good posture on current thinking by the Senate as it deals with, particularly, the Corps of Engineers, if not some of the other agencies as well.

We all know, I know and I can State, that the expeditious nature in which we move forward in the Corps of Engineers does not suit me, I will tell you. I think it is a combination of both laws of the past and rules and regulations and engineering circulars of the past. Inside the Corps, the director of Civil Works, who is here with me, Mr. James Dalton, has been working very hard over the last 10 months looking at themselves, trying to streamline themselves, trying to make themselves more effective.

Since I have been on the job, I have attacked the same problem. We have made headway. Now, whether it is enough to suit the Senate and the President, we will see.

Senator CARPER. I have another question, but if we have a second round I will followup with that question at that time. Thank you.

Senator BARRASSO. Thank you, Senator Carper.

Senator INHOFE.

Senator INHOFE. Thank you, Mr. Chairman.

Let me, first of all, make a comment from our experiences here. We have been on this Committee a long period of time. We have gone through several of the WRDA bills and other legislation, and one of the problems we have had is just the overabundance of redundancy. You have an application out there, then you go through and you have all the different bureaucracies to work with.

The President has said that, in talking about infrastructure plans, he has highlighted several areas that can help get our projects constructed faster. He is talking about such as you don't really need a 404 and 408, you could do that with one application. Or in areas where you have a Federal decision, one bureaucracy to work with.

Is there anything that you could share with us that you have shared with the President that is going to try to take away the burdensome over-regulations?

Mr. JAMES. I will do my best, sir. You mentioned the 404 and the 408. Those processes have both been moved down to the district level. They have both been combined as one permitting process. They are somewhat different. The 404 basically deals with the wetlands; the 408 deals with protecting Federal structures from en-

croachment or adverse effects from close-by infrastructure. But we have put those together hopefully to speed up that process.

The other thing that I had begun to notice in the permitting process of the Corps, it was becoming punitive rather than just a permit that you come to seek to do a project. Now, that is not in all cases at all, but I have seen it.

Senator INHOFE. And I have seen it too, and I am glad you mentioned that because that gets to my other question that I am very much concerned about, and that is that over the past year we have talked about the abuses of the Clean Water Act. It is 401 State certification process. Now, under the law, the 401 process gives States the option to evaluate with a maximum of 1 year, but they are supposed to be evaluating as to the compliance with the Clean Air Act.

So, if there is a State who just doesn't like something, an application that has been made, they can stall it for the year, and then they hold the applicant over a barrel by saying we will either deny it or you withdraw it. And what has happened is there are a lot of them, to just give you an example, on the pipelines trying to reach in the eastern part of the United States, they have been unable to do it because of this bureaucracy that is out there in the efforts to stop that type of legislation from going through, so they hold up a permit under 401 and, as a result of that, the people are the ones who are being punished.

A good example is, in Boston they are importing their natural gas from Russia. Now, we are producing more here than Russia is. We could be doing that here. Why is that? Because they can't get it because of the pipeline situation and the obstruction that is out there.

Now, there should be a good legislative fix to that, and I would think that hopefully you have had some time to look at that, and it could be that we could define that so that they can't use the 401 as a stall tactic unless it is something that actually does violate the Clean Water Act or in some way is consistent, so it can't just be used for an obstacle.

Have you thought about that?

Mr. JAMES. Yes, sir. I am personally aware of the 401 water quality certification of States. I have seen exactly what you said happen in the past. I think it could be addressed legislatively without stepping on the priorities and the needs of a State simply by saying if it is not addressed within a year, that the Federal Government would assume that they have nothing to say about it.

Senator INHOFE. Well, I like your idea better.

Mr. JAMES. You said it hurt those people with the gas line. Where I have seen it is in flood control projects. Back then we would go through the recon, the feasibility, pre-engineering and design, the EIS, and get ready to go to build a project, and couldn't get water quality certification from the State. So that not only cost the local people money, because it was all cost-shared; it cost the Federal Government. And ultimately, on some of those projects, it actually killed those projects, so that money that was spent was just down the rat hole.

Senator INHOFE. I think you and I both have great examples of that.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you very much, Senator Inhofe.

Senator CARDIN.

Senator CARDIN. Well, Mr. Chairman, first, I want to thank you and Senator Carper for continuing the tradition of our Committee on this legislation. I very much appreciate the manner in which we have all been engaged in trying to advance a bipartisan WRDA bill, so thank you very much. I am proud to work with you on this bill.

Secretary James, I want to first thank you. During your confirmation hearings, I made a suggestion, would you be willing to visit our Poplar Island environmental restorationsite. The next thing I know, I got a call from your office telling me that you had planned to visit. The problem was I couldn't make it the day that you scheduled, so your office called back and rescheduled it so we could be together, so I just thank you very much for the courtesies that were extended. On April 5th the weather was a lot better than the weather today, and we were fortunate that we had at least decent weather. It was cold, but it was at least clear and we could see, firsthand, Poplar Island.

Poplar Island was started by the work of Senator Sarbanes before I came to the Senate and it is an environmental restorationsite for disposal of materials coming out from dredging. As I have explained previously, finding sites for disposal material is not always easy.

In this case it is easy because we took an island that had eroded to about 5 acres and restored it to 1,000 acres, and it is restored through the use of disposal materials, but done in a way that it is an environmental restorationsite, which is critically important in the Chesapeake Bay for the environmental reasons of the Chesapeake Bay and preserving the historic nature of that Bay.

So, we are very proud of how that has transpired. We have challenges, and I am going to followup with Senator Inhofe's point because I agree with him completely. There are a lot of well-intended rules, but sometimes those rules can block the ability to keep projects on schedule, on time; and that is of a particular concern to me on our locations for dredge material.

Poplar Island still has several years remaining to be able to receive dredge material, but we need to get planned on our next site, which is Mid-Bay, which is not too far away from Poplar Island, and everyone is in agreement. The Army Corps has done their work on it, they are in agreement, and we are now proceeding with completing Poplar Island and then transitioning to Mid-Bay. Everyone is in agreement; all the work has been done.

We had hurdles in this year's appropriation bill, and one of the problems was that the President's budget reclassified Poplar Island from an environmental restoration project to a navigation project. The economics of that would not work at Poplar Island. It won't have a major impact on Poplar Island because Poplar Island is finished, but if that philosophy were to be continued to Mid-Bay, it would make it almost impossible for Mid-Bay to be done.

We had a great discussion, and I think that was pretty clear. I am pleased to see, Mr. Chairman, it looks like in the House appropriation bills they have already taken care of this particular problem. But I just mention that because these are hurdles.

In your response to I think it was Senator Carper's point or Senator Barrasso's point about you don't make the decisions, I agree with you on the way you said this, but this Committee, working with the appropriators, working with you, want to make sure that we don't have any unintended consequences and we keep on schedule, so we are going to need your help.

One of the things we need to do is design the engineering of Mid-Bay, and we believe we need to do that in this budget cycle. It could be done next budget cycle, but it is better if it is done in this budget cycle, and we may be looking to you for help as to how we can make sure we stay on schedule to complete Poplar Island and transition to Mid-Bay.

You told me during this meeting that you will be fully cooperative, and I appreciate that. My reason for bringing it up now is mainly to thank you for your personal attention and ask that we continue to work together with this Committee, with the appropriators, with OMB and the other agencies to make sure that we keep these two projects on schedule; critically important to the economy of Maryland and the entire region, with the Port of Baltimore and the other ports that are connected hereto with the deeper harbors, as well as the restoration of our environment and the Chesapeake Bay. So, I thank you and just ask that you continue to work with us so that we can make sure that we are together moving these projects forward.

Mr. JAMES. Sir, I also enjoyed our visit. It was sunny that day and I didn't have a cap, so I got a slight burn on top, but I got over it.

Senator CARDIN. I had a cap.

Mr. JAMES. But thank you for the kind words, and I will continue to work with this entire Committee to try to move forward water resources in this Country.

Senator CARDIN. Thank you.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Cardin.

Senator FISCHER.

Senator FISCHER. Thank you, Mr. Chairman.

And thank you, Mr. Secretary, for being here today. As I have discussed with you before, Nebraska utilizes a unique system of 23 natural resource districts governed by locally elected boards to manage our State's waters resources, and often these NRDs are the local sponsors of water infrastructure projects with the Corps and are on the front lines to protect our communities.

Building off of Senator Inhofe's comments regarding the 408 permitting process, I appreciate that the Corps is taking a look at this cumbersome project that we have to go through; however, it is the Omaha district that has caused the problem, and, as Senator Inhofe said, it is the people, the taxpayers that are being punished.

The Omaha district held up this permit for 5 years, at the cost of nearly $8 million. Are you aware of what is going on there and, if so, how do you plan to address that?

Mr. JAMES. No, ma'am, the only way I can address that is that I think that 408 is to be completed by the end of May this year. I am not fully aware of all the circumstances in that. I will share

with the Committee, later, my thoughts on what should happen when that happens.

Senator FISCHER. OK. I do understand that the Omaha district office has indicated that that permit will be issued to the NRD by the end of this month, but I still remain astounded at the time and the money that has been spent on a single permit.

I am encouraged, sir, by your expressed commitment to improve the Army Corps' decisionmaking process for permitting issues like this example.

Mr. Chairman, I do ask unanimous consent to place into the record a letter that Secretary James sent on April 20, 2018 to levee district operators. In this letter, Secretary James, you specifically point to improving the Army Corps' Section 408 permitting process as a priority.

Senator BARRASSO. Without objection.

Senator FISCHER. Thank you, sir.

[The referenced information follows:]

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

APR 20 2018

Hello Corps team mates.

I am proud to serve as the 12th Assistant Secretary of the Army for Civil Works. I have worked closely with the U S Army Corps as a Civil Engineer Member of the Mississippi River Commission for 36 years. My life's work has been as a farmer and businessman in Southeast Missouri. While I have tremendous respect for the Corps, one of the driving forces in accepting this position is a desire to improve the Corps decision-making processes, as well as that of other federal agencies, so as to advance the Civil Works needs of the nation.

As you are all aware, the President has a distinct interest in rebuilding infrastructure in our nation. The Army Corps has and will play a vital role in the planning, engineering and implementation of water resources projects. The Administration began work to shape the infrastructure agenda immediately following the inauguration and we have been directly engaged in the White House led process since its inception. Our proactive engagement has enabled the formulation of legislative, policy and administrative actions required to substantially and comprehensively modernize both the permitting and civil works programs. The areas requiring legislation are reflected in the Legislative Outline for Rebuilding Infrastructure in America that was released by the White House on January 30th.

Our direct engagement, as well as feedback from the Administration's outreach efforts, has heightened the President's interest in modernizing the Corps to improve execution of its responsibilities. I view the President's interests in the Corps as a tremendous opportunity to address long standing challenges and more importantly, shape the future of infrastructure in this country.

At the request of the President, the National Economic Council is leading an interagency policy process to modernize Corps decision-making processes and involves all pertinent federal agencies and executive offices of the President. The initial focus of the policy process is on improving our permitting (Section 404/10) and permissions (Section 408) processes. Work to modernize civil works decision-making processes is expected to begin shortly.

As legislative action is considered by Congress, our efforts in support of the Administration's Infrastructure Initiative are now focused on actions we can advance through updated policy and/or rulemaking for permitting and civil works programs. My intent is to advance actions in a prioritized fashion and through executive interaction with other federal agency officials.

I fully recognize the value of our collective work. I expect our team to prioritize efforts on many fronts to ensure we seize on this great opportunity and deliver for our nation. My intent is to work with the Corps and the Administration to remove roadblocks and streamline processes to ensure success. We can no longer accept the inefficiencies that arise from such roadblocks which delay the implementation of projects and increase project costs unnecessarily.

Let us all focus on results, not the process; the end goal is to save money, reduce time, and "move dirt". Thanks in advance for all of your support and hard work, it is appreciated and noticed!!

R.D. James
Assistant Secretary of the Army
(Civil Works)

Senator FISCHER. Secretary, can you explain what improvements to the permitting process that you are looking at implementing in the future and how these actions are going to be reinforced?

Mr. JAMES. Yes, ma'am, I will, the ones I can remember. We have made several on 404s and 408s. I guess one of the most significant is we pushed those back down, those permit decisions to the district level; out of headquarters, out of the divisions. They are closer to the actual job site, they are closer to the sponsors, so that should help that situation.

We have also reduced the requirement of the project requirement before it receives the 408 permit as far as the timing of the permit release, the amount of information the Corps needs before they will release a permit.

There are several more. If I may, ma'am, I would like to send you a note or come see you about them. There is a nice list of things we have done; I just can't recall all of them right now.

Senator FISCHER. Thank you. I would appreciate that.

Mr. JAMES. Yes, ma'am.

Senator FISCHER. I would also like to draw your attention to another issue that is facing our NRDs, this time related to the Army Corps' transparency and accountability in the cost-sharing for water resource projects. As partner with the Corps on water resource projects, our NRDs work with the Corps to share in the planning and the construction costs; however, our NRDs have experienced issues with the Corps after project completion related to closing out the account and the issuance of reimbursement.

For example, an environmental restoration and flood reduction project that boasts additional recreational benefits was completed in 2013. The local NRD is still waiting for the Omaha district to close out that account and reimburse the NRD to the tune of nearly $800,000.

Mr. Secretary, can you please share with us the action you will take to break through this systemic red tape and facilitate project closeout projects, while also ensuring that non-Federal partners are reimbursed in a timely manner for their contributions to these projects?

Mr. JAMES. Yes, ma'am. I noticed in the Committee's bill that you all have addressed this same topic pretty well, but, as the ASA, I definitely intend to address it. There is absolutely no reason that a closeout should take over 6 months. I assume the Corps would probably want a year, but absolutely no more than a year. It is not that big a deal. I mean, even with projects that don't have reimbursements coming, just the normal everyday process of closing out a project, I have read, since I have been here, several times a project was completed in X year and closeout will be completed in X year.

I will have to get more information on that. There may be a lot that I don't know, but I don't think so.

Senator FISCHER. Thank you, sir. I appreciate it. Our local taxpayers that provide the revenue for our NRDs also appreciate you looking into it. Five years is not acceptable.

Thank you.

Senator BARRASSO. Thank you, Senator Fischer.

Senator WHITEHOUSE.

Senator WHITEHOUSE. Thank you, Chairman.

Welcome back, Mr. James. It is good to have you here. As you can imagine, we all work here on this Committee pretty hard to try to get our priorities into the WRDA bills, so, when they pass into law, it can be a little bit frustrating when nothing seems to happen in response to the law that we have passed.

I would like to flag two things for you from the 2016 WRDA bill and ask you to give a little shake to the machinery to see if we can get some action.

The 2016 WRDA bill, in Section 1173, directed the Corps to undertake a National Academy of Sciences study on the use and performance of innovative materials. By law, that report was due this December. To date, we don't believe the Corps has even started it. Can you give that a little shake and see if we can get some attention to that?

Mr. JAMES. Yes, sir, I will. I am not familiar with that, but I will find out.

Senator WHITEHOUSE. That is why I brought it up here.

And more generally, if you could followup with me a little bit on what steps might be undertaken to get the Army Corps engineering manuals and other guidance to a place where they reflect the fact of these innovative materials that are being developed.

It is important to us in coastal States, because some of the more traditional materials don't survive well in salt water, and salt water is increasingly intruding, so these innovative materials matter; and if the engineering manuals that set the standards for them don't exist, they are left out of the equation in ways that are not fair and are not efficient.

You will help on that?

Mr. JAMES. I understand that, sir, and I will get with the Corps to see what it looks like now and make improvements along this line, if we don't have it, and I assume we don't.

Senator WHITEHOUSE. I appreciate it. We will followup.

The other WRDA thing from 2016 was the Corps' authority to remove debris like derelict pilings from waterways. The Army Corps had taken the position that they weren't obstacles to navigation because you could navigate around them. To me, that is the definition of an obstacle to navigate, is that you have to navigate around it, but, never mind, we got that solved by putting it in the law; and yet, to date, it doesn't appear that the Corps has ever utilized this authority nor even developed its implementation guidelines. I would really like to have this not be ignored, so if you could followup with that as well, I would appreciate it.

Mr. JAMES. Yes, sir, I read that in the law. I was not familiar with it, but I will check with the Corps on that particular problem.

Senator WHITEHOUSE. You can appreciate my sense of bemusement.

Mr. JAMES. I am just going to say this. I am not sure if it is an appropriation problem or actually not doing the job problem.

Senator WHITEHOUSE. Well, let's solve it, whatever it is.

Mr. JAMES. Well said.

Senator WHITEHOUSE. And I have spoken to your local commander, as well, about this.

The last issue is the continuing one that I raised when we first met before your confirmation, about the disparity between coastal and inland funding under the Corps Flood and Coastal Storm Damage Reduction Account. When I first raised it with you, we were looking at the Fiscal Year 2018 budget, and the ratio was $30 inland for every $1 coastal. The Corps' Fiscal Year 2019 budget proposal, which is $1.49 billion for this account, has $40 million marked for coastal projects, so the ratio has actually gotten worse since you and I first spoke about it. It used to be 30 inland dollars for every 1 coastal dollar; now it is 37 inland dollars for every coastal dollar.

For coastal States, particularly ones that are facing sea level rise and a whole lot of new hazards that weren't anticipated a half century ago, we would really like to find a way to adjust that. So, again, I call this problem to your and to my colleagues' attention, and we will continue to try to find ways to make sure that there is a little bit more balance here between the upland and inland side of this. When it is called the Coastal Storm Damage Reduction Account, you would like to have coastal have more than a 1 out of 38 ratio for dollars spent.

Mr. JAMES. I understand that. I do recall our discussion last time. I would like to have the opportunity to get with the Corps, see what their budget priorities are on inland versus coastal, the reasoning and all that goes with preparing a budget, and get back with you.

Senator WHITEHOUSE. May I come and visit with you and your folks and be a part of that discussion?

Mr. JAMES. Absolutely.

Senator WHITEHOUSE. Great. We will set that up.

Mr. JAMES. OK.

Senator WHITEHOUSE. Thank you, Chairman.

Thank you, Mr. James. Appreciate your leadership at the organization.

Senator BARRASSO. Thank you, Senator Whitehouse.

Senator WICKER.

Senator WICKER. Mr. Secretary, thank you for being with us. One recurring problem that we have are the delays which take place when multiple agencies have conflicting regulations and differing policies on what is required for approval of a project, so let me, first of all, applaud the Administration goals to streamline NEPA and the regulations at multiple agencies to achieve NEPA compliance, and hope that projects can be built in a timely manner.

As it relates to NEPA compliance for large infrastructure projects, how can the Corps take a more active leadership role in streamlining decisionmaking and uniform application of requirements?

Mr. JAMES. Sir, if that can happen, it is going to happen. I will have to tell you that on those type projects we deal with at least three other agencies. A lot of the times those agencies drag their feet; they wait until the end of an EIS process to protest where everybody stands and, therefore, extends the process. I understand this inside and out. One thing about the President, I think he has realized this himself, and, through one Federal decision, I think all of that is going to be better. I think it will require that the agencies

have to coordinate throughout the process of NEPA and come out with one decision at the end. That has not been happening; we have been having multiple agencies, multiple decisions, as you know, sir.

Senator WICKER. OK. Well, you know, I am going to be nice and not ask you to name these particular agencies, but I think I know what you are talking about. Clearly, we are all one Country and you are part of one Administration, so I hope that your optimism there about getting that fixed can actually come to reality.

Let me ask about cost-benefit analyses. When considering the viability of projects, there are two different standards used to determine a favorable cost-benefit ratio. One is the Corps of Engineers' approach; the other is Office of Management and Budget. The Corps considers a project to have a favorable cost-benefit ratio at one level, but then OMB has a much higher threshold. For example, when calculating the cost-benefit, the Corps will use the cost of money, the actual interest rate, when determining the true cost of the project; OMB considers projects with an automatic 7 percent interest rate.

Do you agree that all agencies should settle on a single cost-benefit ratio that is required for Federal approval?

Mr. JAMES. I can't say that I agree, sir. All I can say is to reiterate what you just said. For authorization, the Corps does submit projects that have a benefit-cost ratio greater than one at the going rate, I think, on Treasury bonds, which right now is like 2.75. That is not to say that the Administration doesn't appropriate funds at a completely different and unrelated benefit-cost ratio. That is the Administration's prerogative and that is where we are with it right now, and I don't think I just told you anything you don't already know.

Senator WICKER. OK. Well, I will simply voice this to everyone listening, including my colleagues. It would seem that we ought to be able, as Federal legislators, to get all of the agencies to agree on a single way to do the cost-benefit ratio, rather than have conflicting standards.

With that, I thank you for your service and I yield back my time.

Senator BARRASSO. Thank you, Senator Wicker.

Senator MORAN.

Senator MORAN. Chairman, thank you very much.

Secretary James, thank you for your presence here. I told you the last time that you were here that when I hear your voice, I am comforted, and it is still true today, and I hope that the answers to my questions, in addition to the way you speak, will be comforting as well.

I am here on what I think is a significant and important issue for about 300 farmers in Kansas. The topic starts in Nebraska, with the Harlan County Lake. It is a Corps lake. The Bureau of Reclamation then contracts with the Corps to provide water to irrigators. In this case, the Bureau of Reclamation is the administrator of the irrigation contracts with the Bostwick Irrigation District and has the responsibility for collecting the costs associated with that irrigation annually.

The Corps allocates between certain accounts the expense of maintaining and improving that lake structure and the irrigation

district in Kansas then, their members, have to pay a portion of those costs. The key is how the Corps of Engineers determines whether the cost is in one pot or in another. In this case, after the rebuilding of 18 gates at the lake, the determination was made—incidentally, it was announced that this was necessary for a design flaw in the gates—but the determination was made to allocate those costs in a way that then caused them necessarily to be paid for by the irrigators.

We are certainly thankful that the dam safety project has been completed, but the way the costs are allocating is going to put my farmers in very dire circumstances. The design flaw of the flood gates at Harlan County Dam were replaced because of the design flaw, and the Corps of Engineers incorrectly categorized that as normal O&M project.

The Corps stated, "The gates were designed for no friction, but there was a lot of friction in the gate bearings, so the project was very necessary to prevent the failure of the gates." All 18 of those gates were repaired and the Corps described this as a complex dam project.

It sure sounds to me like this project is a safety of a dams project, and the 2015 GAO report agrees with that. But, as a result of determining that this is normal O&M by the Corps, less than 300 farmers are on the hook for roughly $9.5 million bill, or about $220 per acre.

We calculated the average farm income in Kansas has been about $37,000 a year. The cost of this project for them is about $35,000 for every 160-acre quarter. Those numbers don't compute and, as you can imagine, my irrigators are fearful for their livelihoods.

So, Mr. Secretary, I don't know the calculation that went through the Corps of Engineers in determining whether they considered this an O&M project or a dam safety project, but the result is dramatic upon people who earn a living as a result of having access to the water from Harlan County Reservoir, and I need your help in fixing it. How can you help me?

Mr. JAMES. I will advise the chief of engineers to look directly into it and get me an answer, at which time I will relate to you. If the answer is not satisfactory, we will go further from there.

Let me address, if I can have a moment, water supply in reservoirs. They are completely different out West than they are in the Midwest and South. In the Midwest and South, most of those reservoirs we call flood control reservoirs because that is what they are. During heavy rain events, January through April, they hold water back that we don't have to introduce into the rivers and flood people.

Then, later, after the rainfall stops, we draw them down. Well, right now, in my part of the world, we draw them down to a recreation pool. And then later, like in September, October, November, we draw them down to a winter pool, which you draw the water out of them so they can hold more water during the wet season.

Now, OK, so there is recreation on them and there is flood control on them, and now, then, across this Nation we are seeing the need for water supply out of these reservoirs, whether they be like your reservoir or like the South and Midwest reservoirs. My con-

cern is two or threefold. No. 1, we all have sediment in our reservoirs, so we are losing it there. We have recreation in most of them; therefore, we are losing flood control there. Not during the summer months, but all the recreators want us to extend the length of time in both directions that we hold that recreation pool. And then you come along with water supply; same difference.

Now, as far as I am concerned, and I have to think more about this, but right now I am not sure water supply should be a charge. That pool is going to be there. That reservoir is there. Now, I know in the 1944 and the 1952 Acts of this Congress, that is when this basically started, but if you have a reservoir for flood control or for droughts out West holding water for that, it doesn't take any more maintenance for water supply than it does without water supply. I don't think we, as the Corps, maintain water supply intakes.

So, I want to look into this and see where it came from, see what the law says and address it, because it is beginning to affect this whole Country, not just what you are talking about, sir. And I intend to be doing that over the next whenever I can, and I would be glad to get back with you on it. But as far as your particular problem, I will talk to the chief.

Senator MORAN. My understanding of what you are describing, which I appreciate your knowledge, but I also appreciate your understanding of the experience, in most of our lakes, the problem for irrigators is in most years there is not enough water for them to access to irrigate. They still have costs associated with their irrigation district they have to pay even when they are not receiving water; and in this case the Corps made a decision that when they are receiving water, to some degree, at least, but they are going to pay for the cost of replacing all those gates as if it was normal maintenance of that dam and gate structure, and that defies reality and the consequences are dramatic.

I appreciate the sympathy that you expressed and your understanding of, in arid, dry country, or, in our case, we are in a drought again, that water is very expensive when we get it. It is even more expensive when we can't get it, and we are still paying for things that are unassociated with our use of that water.

Mr. JAMES. Is that a Corps reservoir?

Senator MORAN. It is a Corps reservoir, yes, sir.

Mr. JAMES. What was it built for at the time?

Senator MORAN. Flood control.

Mr. JAMES. That is what I thought.

Senator MORAN. Just what you described.

Mr. JAMES. That is what most of them are built for, is flood control.

Senator MORAN. I had to ask because it is in Nebraska.

Mr. JAMES. I understand, sir. I am sorry, I didn't mean to put you on the spot, but it would have made a difference in what I am going to do.

Senator MORAN. No, you have inspired me because you have said several times today I don't know the answer, so I was willing to admit that as well.

[Laughter.]

Senator MORAN. Thank you.

Senator BARRASSO. Thank you, Senator Moran.

Senator ROUNDS. Thank you, Mr. Chairman.

I would like to followup on what Senator Moran has been talking about here a little bit with regard to what I think is a similar issue. I appreciated the time that you spent with me in my office yesterday concerning the flood issues on the Missouri River and the possibilities of future floods, and the amount of attention that I think we have to do with regard to focusing on flood control as being the primary responsibility under the 1944 Flood Act and the mainstem dams of the Missouri River. I appreciated your comments.

Along that same line, we talked about a number of different issues, and one of them had to do with the surplus water rule which is being proposed right now and is due for final action in September of this year. I would ask, and I think part of what Senator Moran has been talking about is along a similar line, and that is that you have an opportunity over the next several months to fix something which started under the previous Administration and I believe was a wrong move, and that is for the Corps of Engineers to actually demand that individuals in the upper mainstem dams of the Missouri River actually be required to pay for water that is coming out of the Missouri River where we have States rights, which clearly take precedence to the water flowing through.

I am just going to lay out a couple of examples, and I would like your thoughts on them because I would like the rest of the Committee to see the challenge that you face, coming in at this point, with the impact of what this surplus water rule has done and what it would look like in terms of trying to enforce.

We spoke about the Corps of Engineers most recently denying a contractor who was putting in a boat ramp on the Owyhee Reservoir, and they requested to take 90,000 gallons out of the Reservoir, which right now runs through at the rate of about almost 39,000 cubic feet per second—that is about four-tenths of 1 seconds worth of flow release coming through—and it was denied because of the surplus water rule. They wouldn't give access, they wouldn't give right-of-way to go on down and take the water out to put in a boat dock, a recreational thing on the Reservoir. They made them go elsewhere to get the water.

In addition to that, we have a case where we have the Randall Community Water District, which has been negotiating for upgrading their water intake on the Missouri River, and, in doing so, the Corps of Engineers has required that they sign a surplus water agreement to get access to the water, where they already have a line in the water but they wanted to make upgrades. I know that this apparently is on your desk today and you shared with us a little bit about the frustration, the concern yesterday that you had with why these folks should be signing a surplus water agreement on something like this in the first place.

My question is could you share with the Committee what your finding with regard to the guidelines that you find yourself walking into as to the surplus water rule that is being proposed and the limitation that the Corps is currently using to stop users along the river from accessing their legally entitled water permits issued by the State of South Dakota and other States by simply saying they

are not going to give them access across Corps take lines as a negotiating position?

Can you share a little bit about some of things you found out there and the direction that you would like to go with regard to fixing these issues?

Mr. JAMES. Sir, as you know, I haven't had full discovery of the problems. We have talked. I understand the basic problem in that part of the world, but I go back to my statement a moment ago. I am not sure why we charge for water. If we have a reservoir that we built for flood control, and we have to mow the grass and fix slides on that reservoir and gates and overflow structures, what has that got to do with anybody taking water out of that reservoir?

Senator ROUNDS. Well, with all due respect, every State up and down the Missouri River has a legal access to the water flowing through. Now, there is a limitation because you have to respect the rights of other States down the line, but to suggest that the Corps would restrict access to an entity up and down the river from getting access, getting a legal right-of-way to get to the water that they are entitled to seems to me to be a terrible overreach of federalism.

Mr. JAMES. Well, I think that is. Surely, what that was was a 408 permit. It should be about a 24-to 36-hour turnaround.

Senator ROUNDS. Rather than a 36-month turnaround?

Mr. JAMES. Yes, sir. Absolutely. I mean, look at the equipment they are going to bring in. Look at the condition of the land that they are going to traverse on. Look at where they are going with the equipment. You and I could make the determination.

Senator ROUNDS. It seems to me that a moratorium since 2007–2008 would seem to be inappropriate to me. Would you agree?

Mr. JAMES. Yes, sir.

Senator ROUNDS. Would you just commit that you will fix something before this proposed rule, which I think would be found inappropriate by the courts finally, but this proposed rule that is coming up in September, would you agree that you will get something done before it is finalized?

Mr. JAMES. I am absolutely going to try.

Senator ROUNDS. Can you do a little better? Can we get some kind of either you are agreeing with it so we can get this thing resolved in the courts or agree that maybe there is a better way to do it? Can we get that far, anyway?

Mr. JAMES. I will tell you what I will do. I will put a hold on it until I have time to find out all the truth.

Senator ROUNDS. In the meantime, would that mean that we still have people having a tough time getting access across Corps right-of-way? Would you do something about that as well, rather than making them wait on these right-of-way permits until that rule is eliminated?

Mr. JAMES. No, sir, I can't do anything about that. I can, through the Director of Civil Works, contact all the districts to try to—you know, a lot of this stuff is just do what is right.

Senator ROUNDS. Absolutely. Why should a rural water system or a water system in South Dakota that already has access to this, when they want to make an upgrade, have to be held up and be held hostage to signing a new water storage agreement to get addi-

tional access rights to the same water that they have a current legal right to have with a Federal agency saying, I am sorry, but we are not going to upgrade your access to the water? That seems to me to be something that we should be able to fix, and it should not take an act of Congress to do it.

Mr. JAMES. Well, sir, I hope you are right. I hope it doesn't. I hope I can fix it.

Senator ROUNDS. I think the new Administration, with your help, and I think you understand it, I think you guys can resolve this thing. I am not going to put you on the spot any more than what I already have, except to say that I hope that this Administration is different than the last one when it comes to federalism and the attitude that the Federal Government should be controlling access to water which is legally available to citizens in the States up and down the Missouri River. I hope we can come to an agreement on that fairly quickly, sir.

Mr. JAMES. Yes, sir. Thank you.

Senator ROUNDS. Thank you. And I do appreciate your interest in trying to resolve it. Thank you.

Mr. JAMES. Thank you, sir.

Senator BARRASSO. Thank you, Senator Rounds.

Senator ROUNDS. Thank you.

Senator BARRASSO. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

Welcome, Mr. James. It is our obligation to assist those communities adversely impacted by sea level rise and climate change to adapt to the new reality and protect their properties and livelihood. But when the town of Sandwich, Massachusetts attempted to use sand from the Federal Cape Code Canal that otherwise would be dumped into the ocean to protect their town, Federal requirements became a major obstacle. The U.S. Army Corps of Engineers required the homeowners to provide easements ceding away their coastal property line forever, even though the sand from the Beneficial Use Project would only remain on the beach for 5 years, and, ultimately, the town was unable to use Federal funding for this essential shoreline protection project.

Mr. James, do you believe that it is reasonable for the Army Corps of Engineers to require property owners to provide easements in perpetuity for Beneficial Use Projects if the sand is only going to last for a few years, say 5 years, as was the case in Sandwich, Massachusetts? Wouldn't it be more appropriate for the easements to last as long as the sand remains on the beach?

Mr. JAMES. Neither one, sir. I think the landowner, the homeowner, the town, whatever, should pay them a dollar to allow them to put the sand on the beach, and you wouldn't get into any easements. You may have to do $100, but you shouldn't have to do that. The same exact thing happened in Grand Isle, Louisiana, exactly the same thing.

Senator MARKEY. I am going to work, if I may, with you and the Committee. I plan on filing an amendment on this subject, because I think we have to find some way of working reasonably here with these communities.

Mr. JAMES. Yes, sir.

Senator MARKEY. We need to strike an appropriate balance. And you are from Louisiana?

Mr. JAMES. No, sir, Missouri.

Senator MARKEY. Oh, Missouri.

Mr. JAMES. Well, I am actually from Kentucky, but I live in Missouri.

Senator MARKEY. I see.

So the Town of Sandwich, again, on Cape Cod, has suffered from coastal erosion over several years, which may be a result of the Federal Cape Cod Canal interrupting the natural flow of sediment, that is, the sand flows into the channel rather than onto the beach because of the Federal Cape Cod Canal; and the town is currently seeking assistance from the Corps to nourish, that is, to place sand on the beach using a special program that was established to mitigate the damage caused by other Federal projects, for example, the channels and the sea walls.

Under this program, the Corps typically pays for the entire cost of the restoration, and the reason why is simple: if Federal infrastructure is causing harm to our communities, it is the Federal Government's obligation to make those communities whole. Yet, the Corps may require communities to pay half of the cost of maintaining those beaches after they are restored, that is, placing more sand on them once the sand has eroded.

But that is not in the spirit of the law. In the last Congress, my provision in the Water Infrastructure Improvements for the Nation Act required the Corps to pay the full cost of feasibility studies conducted under this program, and I think we should do the same for future renourishment of these projects.

Do you agree with that approach, Mr. Secretary?

Mr. JAMES. Yes, sir, I do, in this instance. I read that in the bill and I didn't have any problem with that. You know, it is a different story, but all over this Country, again, like the reservoirs and the water supply, but a challenge over this entire Country has to do with sediment.

Now, whether in your case you need some or whether in the case of the flood control reservoirs they need to get rid of some, the case of the Lower Mississippi River, which needs to get rid of a lot; and the trouble that we are running into at this point in time is disposal areas for the sediment. It has become a major problem; it is keeping dredging done—it is going to be interesting to see how we get sediment out of flood control reservoirs and what we are going to do with it.

Senator MARKEY. I have one more quick question, if I may.

Mr. JAMES. Oh, I am sorry.

Senator MARKEY. No, I thank you. We are operating under time constraints here and there is a roll call, but I thank you for that.

While New England has tremendous shoreline protection needs, we do not have a lot of sand, making it more challenging for Federal, State, and local partners to nourish our shorelines, so we have to find more efficient uses of this scarce resource to preserve our ability to fortify our communities against the detrimental impacts of climate change.

Secretary James, would it be helpful if we established an intergovernmental task force comprised of various Federal, State, and

local partners with jurisdiction over sediment to make recommendations for more efficient use of sediment across the Country?

Mr. JAMES. Sir, I am not a believer in task force or committees. I noticed in this bill we had several things that we are going to have people do this or do that as far as the Corps projects and the Corps goes. I consider them a waste of time. Now, if you want to get some experts out of the agencies you are dealing with and make them accountable, then that is a different story.

Senator MARKEY. I appreciate that. So maybe we can work together on that.

Mr. JAMES. I hope to, yes, sir.

Senator MARKEY. We need an integrated way of viewing this issue, so maybe it is an interagency task force to accomplish that.

Thank you.

Senator BARRASSO. Thank you, Senator Markey.

Senator BOOZMAN.

Senator BOOZMAN. Thank you.

And thank you, Mr. Secretary, for being here. We appreciate your frankness and, again, your willingness to work with Congress.

I would like to talk to you quickly, because we have votes in a few minutes, about the backlog of operations on the McClellan-Kerr Arkansas River Navigation System, which I know you are very, very familiar with. Currently, we have an estimated $153 million backlog; $140 million of that is classified as critical by the Corps. As you know, failure of any one of these components could severely impact the system and even cause it to shut down, which would be devastating to our farmers and the people that depend so much on that.

So, I guess what I would like to do is see if you could look closely. We would like to work with you, perhaps have a meeting, visit with you or whoever you feel like is appropriate of your staff, and see if we could, again, for those that are so, so very critical—I think there is 20 critical maintenance needs that there is a 50 percent chance of failure in the next 5 years—visit with you and see if we can somehow get those included in your workplans that are coming up in the next year or two.

Mr. JAMES. Senator Boozman, I would be glad to get with you, get some members of my team together that knows what they are talking about. My biggest concern right now on the McClellan-Kerr is the Three Rivers.

Senator BOOZMAN. Yes.

Mr. JAMES. Now, I was down there probably 6 years ago, and that is a crucial, critical point in that navigation system.

Senator BOOZMAN. And that is a failure of not if, but when that is going to happen.

Mr. JAMES. Absolutely, sir. May I suggest something to you? May I suggest that you, before we meet, may I suggest that you have that colonel, that district engineer come up and either brief you or be at our meeting?

Senator BOOZMAN. No, for sure. He is really, again, your team is good about the colonel, his staff, about helping us with that; and I understand exactly what you are saying, that is a critical area also. Another area that we would like to work on is going to a 12-

foot channel, which would make it such that you could haul 40 percent more product. We talk a lot about the environment, trying to be efficient and not use as much fuel, so that makes all the sense in the world.

Hopefully, we can get together in the not too distant future and, again, talk about some of these things that really are critical. I have great interest, I know Senator Inhofe has great interest in the project that you mentioned, Three Rivers. The other, just the maintenance on things that are likely to fail in the next 5 years, and then this 12-foot channel that we have been together fighting the delegations for many years.

Mr. JAMES. I would be happy to meet with you, sir, anytime, just let me know.

Senator BOOZMAN. No, we appreciate that, and I really do appreciate that attitude which you have exhibited not only for the Committee, but for Congress, that is very refreshing.

Something else that has come up is the discussion about reorganizing the Corps of Engineers. Can you talk a little bit about that? The Administration, I believe, is preparing to release a report to satisfy Executive Order 13781, recommending restructure of the Corps of Engineers. Can you take just a minute or two and talk a little bit about what is going on with that?

Mr. JAMES. Senator, I don't think it would do any good for me to take a minute or two of your time because I haven't seen any preamble on that or anything yet, and for me to sit here and talk about it would be guessing. Hopefully, it will, when it does come out, it will be similar to the one Federal decision that it will be a direction for all the agencies, hopefully some of this is, but as far as what he intends to do with individual agencies—and this order, by the way, I do know this, is for all the agencies, it is not just for the Corps. He and his team are looking at all the agencies that serve him.

Senator BOOZMAN. Very good. Well, we appreciate you and your staff, your willingness to serve.

Mr. JAMES. Thank you, Senator.

Senator BOOZMAN. Thank you very much, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Boozman.

Final question, Senator Carper?

Senator CARPER. Again, thanks so much for being here today, for working with us and serving our Country. As you know, the OMB budget process is one that is internal to the White House and to the Administration, and there is a separation of powers issue with budgeting. By this I mean we don't tell, legislative branches, we don't tell this President or any President how to write his or her budget. That said, this Committee does have some concerns, as you know, over how the Corps budgets and implements the Fiscal Year budgets that are passed by Congress.

My question is a fairly straightforward one. Do you feel that the provisions of this legislation, of America's Water Infrastructure Act, are sufficient to increase transparency and local stakeholder involvement? Do you feel the provisions in this legislation are sufficient to increase transparency and local stakeholder involvement?

Mr. JAMES. Senator, it is apparent to me that you all spend a lot of time on those two issues and, yes, I do feel like it does.

Senator CARPER. All right, that is my last question. We will have some questions for the record.

Thank you again for working with us and the leadership that you are providing. Thanks so much.

Mr. JAMES. Thank you.

Senator BARRASSO. Thank you, Senator Carper.

No more questions for today, but as you know, Mr. Secretary, members may submit followup questions for the record, so we are going to hold the hearing record open for the next 2 weeks. I just really want to thank you for your time, your testimony, and for your honesty with the Committee and forthright approach. Thank you very much, Mr. Secretary.

Mr. JAMES. Thank you, Mr. Chairman.

[Whereupon, at 11:43 a.m. the committee was adjourned.]

[Additional material submitted for the record follows:]

conserving
natural resources
for our future

Wyoming Association of Conservation Districts
517 E. 19th Street - Cheyenne, WY 82001 - Phone: 307-632-5716 - Fax: 307-638-4099
www.conservewy.com

July 20, 2018

The Honorable John Barrasso, Chair
Environment & Public Works Committee
U.S. Senate
307 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper, Ranking Member
Environment & Public Works Committee
U.S. Senate
513 Hart Senate Office Building
Washington, DC 20510

Re: Wyoming Association of Conservation Districts Support of legislation "America's Water Infrastructure Act of 2018" substitute

Dear Chairman Barrasso, Ranking Member Carper and Members of the Committee,

On behalf of the Wyoming Association of Conservation Districts, representing Wyoming's 34 local Conservation Districts, I write to you to express our strong support for the floor substitute of the "America Water Infrastructure Act of 2018".

Wyoming's Conservation Districts are local political subdivisions of state government authorized under §§ 11-16-101 *et. seq.*, and governed by 170 elected district officials. The Districts are charged with the responsibility of providing for the conservation of Wyoming's natural resources through the delivery of technical and program assistance to private landowners and as cooperating agencies with state and federal land management agencies. These responsibilities include, but are not limited to, water development, utilization and conservation.

The Conservation Districts, working in conjunction with private landowners, irrigation districts, watershed improvement districts and state and federal agencies are participants in the development of water resources as well as maintenance and improvement of water resource infrastructure.

Water, its development, utilization and conservation is paramount to all activity in the state of Wyoming. Regardless of the use, agriculture, recreation, municipality, industry, etc., it is the number one priority for all quality of life and economic stability.

The "***America's Water Infrastructure Act of 2018***" substitute contains important provisions to Wyoming, along with numerous other states. The authorization and work to further ensure the full use of Wyoming's water resources by for Fontenelle Dam and Reservoir, provisions to address the agency's ability to be responsive to flooding impacts, such as the significant ice jams experienced in Wyoming and impacting our local communities, as well the establishment of the Board of Appeals for administrative review of "purpose and need determinations" are just a few of the important provisions contained in the legislation.

Overall the Act is important to the maintenance, development and management of our water resources and we thank you for your work in advancing this important Act and the amendments.

Respectfully,

Shaun Sims
President

cc: WACD Board of Directors
Wyoming's Conservation Districts