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BUILDING A 21ST-CENTURY INFRASTRUCTURE FOR AMERICA: IMPLEMENTATION OF THE WATER RESOURCES REFORM AND DEVELOPMENT ACT OF 2014 AND THE WATER RESOURCES DEVELOPMENT ACT OF 2016

(115–22)

HEARING

BEFORE THE

SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

OF THE

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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U.S. House of Representatives
Washington DC 20515

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July 14, 2017

SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Water Resources and Environment
FROM:	Staff, Subcommittee on Water Resources and Environment
RE:	Hearing on "Building a 21st Century Infrastructure for America: Implementation of the Water Resources Reform and Development Act of 2014 and the Water Resources Development Act of 2016"

PURPOSE

The Subcommittee on Water Resources and Environment will meet on Wednesday, July 19, 2017, at 10:00 a.m. in 2167 Rayburn House Office Building, to receive testimony from the Senior Official Performing the Duties of the Assistant Secretary of the Army for Civil Works and the Chief of Engineers for the U.S. Army Corps of Engineers (Corps) on implementation of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) and the Water Resources Development Act of 2016 (WRDA 2016), which is Title I of the Water Infrastructure Improvements for the Nation Act (WIIN Act).

BACKGROUND

Army Corps of Engineers

Corps Overview

Currently, the Corps maintains more than 25,000 miles of channels for commercial navigation, and operates and maintains 241 locks at 195 sites. Almost 140 locks are more than 50 years old. The Corps also maintains 926 coastal, Great Lakes, and inland harbors.

The Corps manages more than 700 dams nationwide and has constructed more than 10,000 miles of levees through its flood damage reduction mission. Corps flood damage reduction projects prevent, on average, more than $50 billion in flood damage annually. Every dollar invested in a Corps flood project prevents $8.00 in damage.

The Corps employs over 33,000 people, including more than 800 military personnel. Corps projects provide annual net economic benefits of more than $90 billion, and the total replacement value of Corps infrastructure assets equals approximately $267 billion.

Project Authorization Process Overview

The Corps constructs projects for the purposes of navigation, flood control, shoreline erosion control and protection, hydroelectric power, recreation, water supply, environmental protection, restoration and enhancement, and fish and wildlife mitigation.

The first step in a Corps water resources development project is to study the feasibility of the project. This can be done in two ways. One, if the Corps has previously conducted a study in the area of the proposed project, the new study can be authorized by a resolution, either from the Committee on Transportation and Infrastructure of the House of Representatives or the Committee on Environment and Public Works of the Senate. The Committee on Transportation and Infrastructure has not adopted a new study resolution since 2010 because of process reforms. Two, if the area has not been previously studied by the Corps, then an Act of Congress is necessary to authorize the study. In recent years, most studies have been authorized through a Water Resources Development Act (WRDA).

Once a study is authorized, the Corps prepares a feasibility report, the cost of which is shared 50 percent by the federal government and 50 percent by a non-federal interest. If the feasibility report determines a project is economically justified, environmentally acceptable, and technically achievable, the results and recommendations are submitted to the Congress, usually in the form of a report of the Chief of Engineers, commonly known as a "Chief's Report." If the results and recommendations are favorable, the next step is authorization of the project to implement the Chief's Report. Project authorizations are typically contained in WRDAs, the most recent of which was enacted in 2016. Once authorized, the project is eligible to receive federal appropriations.

Recent WRDAs

Traditionally, WRDAs authorize the Corps to carry out projects used for navigation, flood damage reduction, aquatic ecosystem restoration, and other purposes. Generally, WRDAs are enacted every two years. However, from 2000 to 2013 there were only two WRDAs (2000 and 2007). But in 2014, Congress returned to the two-year cycle, with the passage of WRRDA 2014 and WRDA 2016.

Water Resources Reform and Development Act of 2014

Enacted on June 10, 2014, WRRDA 2014 accelerates the project delivery process by expediting studies, environmental reviews and permits, and encourages non-federal participation in completing projects. WRRDA 2014 also strengthens congressional oversight to increase transparency and accountability in reviewing and prioritizing future water resources development investment.

With the enactment of WRRDA 2014, the Corps is required to develop implementation guidance on more than 200 issues to carry out the law. In the three years since enactment, the Corps has issued more than 90 percent of the implementation guidance. However, the Corps has not issued implementation guidance on other provisions of the bill, including provisions related to acceleration of the project delivery process.

Water Resources Development Act of 2016

The WIIN Act was enacted on December 16, 2016, and Title I contains WRDA 2016, which authorizes Corps water resources projects and activities. It builds off the reforms enacted in WRRDA 2014, including provisions relating to non-federal participation in project completion, credits for non-federal work on projects, and increases direction of harbor maintenance activities. Additionally, WRDA 2016 establishes and reaffirms programs to rehabilitate hazardous dams, carry out projects for the beneficial reuse of dredged material, and coordinate activities with Indian tribes.

With the enactment of WRDA 2016, the Corps is required to issue over 200 pieces of implementation guidance to carry out the law. In six months after enactment, the Corps has issued implementation guidance for all study and project authorizations, and less than 20 percent of required guidance for policy provisions.

Annual Report to Congress

Section 7001 of WRRDA 2014 requires the Secretary of the Army (Secretary) to request proposals from non-federal interests for new project authorizations, studies, and modifications to existing Corps projects. Further, it requires the Secretary to submit and make publicly available, a Report to Congress on Future Water Resources Development (Annual Report) to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works, of those activities that are related to the missions of the Corps and require specific authorization by law.

This section was included in WRRDA 2014 so that Congress could gain greater insight into the water resources challenges facing the Nation and help set priorities for future water resources legislation. Congress intended the Annual Report to be a collective effort of state and other non-federal project sponsor priorities without the concerns of feasibility and cost. The Annual Report is intended to reflect a broad spectrum of activities for Congress, not the Administration, to consider in authorizing future water resources projects. WRDA 2016 authorized eligible studies and projects from the Annual Reports submitted to Congress in January 2015 and January 2016.

The Committee received the third Annual Report in March 2017. The *Federal Register* notice for project submittals to the Corps for the next Annual Report was issued on April 11, 2017. The period for non-federal project sponsors to submit project proposals to the Corps ends on August 9, 2017. The Corps is required to submit the next Annual Report to Congress by February 1, 2018.

Accelerated Project Delivery Process

Important reforms provided by WRRDA 2014 accelerate the project delivery process. WRRDA 2014 limits feasibility studies to three years and $3 million in federal costs per study, and requires all three levels of the Corps (District, Division, and Headquarters) to concurrently review the feasibility study. WRRDA 2014 also revised the environmental review process for water resources projects to enable the Corps to better coordinate with all of the involved federal, state, and local agencies. Additionally, WRRDA 2014 includes a pilot program for public utility companies and natural gas companies to expend funds to expedite the processing of permits within the regulatory program of the Corps.

WRDA 2016, subsequently, builds off these reforms by including railroad carriers in the pilot program. WRDA 2016 further revises the environmental review process for non-federal interests requiring a certification under Section 14 of the Act of March 3, 1899 (33 U.S.C. 408, commonly known as 'Section 408') to alter a Corps project.

Implementation guidance has been issued for many of these accelerated project delivery provisions. However, guidance for other sections relating to the environmental review process have not.

Flexibility for Non-federal Interests

WRRDA 2014 maximizes the ability of non-federal interests to contribute their own funds to move studies and projects forward. Under the law, non-federal interests have the opportunity to contract with the Corps and fund the study, design, and construction of water resources projects. WRRDA 2014 establishes a five-year pilot program for the acceptance and expenditure of funds contributed by non-federal interests to increase the hours of operations for locks located on the Nation's inland waterways. WRRDA 2014 also authorizes a non-federal sponsor to apply credit for in-kind contributions on one project that are in excess of the non-federal share to other projects being carried out by the same non-federal sponsors.

WRDA 2016 clarifies many of the authorities reformed in WRRDA 2014 to provide flexibility to non-federal interests to contribute their own funds and resources to move studies and projects forward. WRDA 2016 clarifies that the Secretary may provide technical assistance to non-federal interests carrying out their own feasibility studies, and may also authorize credit or reimbursement to non-federal interests for separable elements of Corps projects. Additionally, WRDA 2016 clarifies the Corps' authority to transfer excess credit for in-kind contributions by non-federal interests.

While implementation guidance has been issued on some of these sections, no guidance has been issued for other important sections, such as those relating to the construction of projects by non-federal interests.

Harbor Maintenance Trust Fund (HMTF)

Because the HMTF does not spend all of its receipts, WRRDA 2014 creates discretionary appropriations targets for expenditures from the HMTF. Under those targets, by fiscal year 2025, 100 percent of the funds collected for harbor maintenance purposes are to be spent each year on operation and maintenance activities. At the same time, WRRDA 2014 addressed the needs of the Nation's authorized harbors in a manner that benefits both the largest commercial harbors, as well as the smaller and emerging harbors. Regarding expenditures from the HMTF, WRDA 2016 made permanent the use of priority funds for emerging harbors and the Great Lakes Navigation System, and clarifies how payments are administered to donor ports and energy transfer ports. In the event that receipts from the HMTF decrease, WRDA 2016 clarifies that target appropriations from the HMTF will still be met.

WRDA 2016 requires the Corps to issue implementation guidance on certain provisions relating to HMTF expenditures, within 90 days of enactment. However, the Corps still has not issued any implementation guidance on this section, nor any HMTF-related sections in WRDA 2016.

Water Infrastructure Public-Private Partnership Pilot Program and Water Infrastructure Finance and Innovation Act (WIFIA)

WRRDA 2014 established a WIFIA to provide federal credit assistance for drinking water and wastewater activities through the Environmental Protection Agency's (EPA's) portfolio, and water resources infrastructure projects through the Corps' portfolio. This program is modeled after the Transportation Infrastructure and Innovation Act program for surface transportation. WIFIA aims to provide credit assistance in the form of loans or guarantees for eligible water projects.

While implementing this new program requires actions by both the Corps and EPA, the Corps has yet to issue implementation guidance on, or to otherwise implement, WIFIA. EPA has actively developed its own WIFIA program and is expected to issue the first round of credit assistance by the end of 2017. While EPA's guidance follows the intent of WRRDA 2014, there is no indication of when the Corps will release guidance or implement their portion of the program.

WRRDA 2014 authorized the Corps to enter into agreements with non-federal interests, including private entities, to finance construction of at least 15 authorized water resources development projects utilizing the model of a public–private partnership (P3). In fiscal year 2016, the Corps selected the Fargo, North Dakota – Moorhead, Minnesota flood damage reduction project as the first to use a P3. While the Corps is attempting to develop project-specific P3 arrangements, it has yet to develop a comprehensive policy by which all project stakeholders and private investors will be evaluated. The Corps has not issued implementation guidance for P3s under WRRDA 2014.

WITNESS LIST

Mr. Douglas W. Lamont, P.E.
Senior Official Performing the Duties of the Assistant Secretary of the Army (Civil Works)
Office of the Assistant Secretary of the Army – Civil Works

Lieutenant General Todd T. Semonite
Commanding General and Chief of Engineers
United States Army Corps of Engineers

BUILDING A 21ST-CENTURY INFRASTRUCTURE FOR AMERICA: IMPLEMENTATION OF THE WATER RESOURCES REFORM AND DEVELOPMENT ACT OF 2014 AND THE WATER RESOURCES DEVELOPMENT ACT OF 2016

WEDNESDAY, JULY 19, 2017

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

The subcommittee met, pursuant to call, at 10:10 a.m., in room 2167 Rayburn House Office Building, Hon. Garret Graves (Chairman of the subcommittee) presiding.

Mr. GRAVES OF LOUISIANA. The subcommittee will come to order.

Good morning, and thank you all for being here. I would like to welcome everyone to our hearing today on "Building a 21st-Century Infrastructure for America: Implementation of the Water Resources Reform and Development Act of 2014 and the Water Resources Development Act of 2016" as encompassed in the WIIN Act [Water Infrastructure Improvements for the Nation Act].

The real purpose of this hearing is to look at 21st-century infrastructure and what that looks like, what a 21st-century infrastructure water resources mission looks like.

I think when you look at the mission of the U.S. Army Corps of Engineers, considering the fact that their mission is critical to the maintenance of our navigation channels, the facilitation of literally hundreds of billions of dollars in maritime commerce on an annual basis, the protection and resiliency of our communities, the protection and resiliency and continued ecological productivity of our environment, the mission of the Corps of Engineers is an absolutely critical mission.

Three years ago, the Water Resources Reform and Development Act reformed bureaucracy and it increased congressional oversight in prioritizing future investment in water resource projects.

Then, last December, Congress got back on a 2-year cycle for water resources bills with the enactment of the 2016 bill—it was included in the Water Infrastructure Improvements for the Nation Act which built on reforms from 2014 to further increase flexibility and remove barriers for State, local, and non-Federal interests to invest in infrastructure. And it also helped to strengthen our water infrastructure through activities of the Corps of Engineers to maintain competitiveness, create jobs, and grow the economy.

Congress now has two transformative WRDA bills in the last two Congresses. And both, while I understand are complex, both still have a significant way to go in terms of implementation, which is a concern. For example, in the 3 years since the 2014 bill, about 10 percent of the provisions don't have implementation guidance. And many of these provisions are pretty critical. They are significant provisions that accelerate project reforms and provisions that provide flexibility through what is largely reviewed as being too rigid of a process. Again, no implementation guidance.

Provisions relating to reforms to the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund have not received implementation, written implementation guidance. Additionally, many of these reform provisions require issuance of reports on the progress of efficacy of their implementation, and many of these reports have not been sent to the committee.

While the 2016 bill was passed just last year, only about 30 percent of the provisions from that legislation have been implemented and it really complicated our ability to do a 2016 bill because many of the implementation guidance had not been issued from the 2014 bill, which made it difficult for us to understand what types of tweaks were needed to the law to further improve flexibility, efficiency, and some of the reforms that Congress has been pushing for many years.

Additionally, new programs of significant interest from non-Federal parties, such as the beneficial use of dredged material pilot program, have not been fully implemented. We hope more of a priority will be placed on writing implementation guidance, particularly for some of these transformative provisions that I think are collectively in the Federal and non-Federal interest.

I would like to welcome General Semonite and Mr. Lamont, who are testifying before this committee for the first time. I would also like to recognize General Jackson, who is accompanying General Semonite to complement some of the responses to questions.

I look forward to continuing to work with the Corps to ensure that WRRDA 2014 and WRDA 2016 provisions are carried out in a fashion that is consistent with congressional intent and that benefits the Nation.

I just want to in closing quickly urge that many of these provisions in law the Corps of Engineers is in many cases given regulatory authority and authority to hold citizens accountable in some cases. And I think that it becomes a somewhat difficult scenario when the Corps itself is not following laws, complying with deadlines, yet trying to hold our citizens accountable for laws that are perhaps in the next section of that same act.

I am going to say it again: Your mission is absolutely critical to this Nation. And you are a military organization. Generals, if your men and women were out there in the battlefield, and if you were dealing with a situation that simply wasn't working, if the practices, the programs weren't working, and your men and women were vulnerable and perhaps losing life as a result of that, I am certain that you would be making changes in an urgent manner to make sure that you are responding to the conditions on the ground.

In some cases your mission is comparable in terms of the urgency. Lives have been lost in my home State. Lives are going to

continue to be lost around the Nation because of the inability to complete projects.

Now, I will be clear, I think Congress is culpable in some case. But the bottom line is the mission is critical and we need to be working together to finish these projects.

So thank you very much.

With that, I now recognize—look at that guy, you never know who you are going to see in this chair—I now recognize the ranking member, I guess, for today's hearing, Mr. Lowenthal from California, for any remarks he may have.

Dr. LOWENTHAL. Thank you, Mr. Chairman. And thank you for holding today's hearing.

And I want to welcome all the witnesses that are here today from the Department of the Army and the Corps of Engineers for coming today.

Over the years, the Corps has distinguished itself for addressing many of the Nation's water-related challenges, constructing and maintaining navigation corridors along our coastlines and our inland waterways, to providing critical flood risk reduction to communities both large and small, to restoring many of our Nation's treasured natural resources. The Corps has earned its reputation as the premier water resources agency to the Federal Government.

Yet, in recent years, we have seen this role diminish as the Federal assistance to the Corps has waned. Where once the Corps' ability to help communities was limited only by its creativity in solving complex water resources challenges, today the Corps' presence is significantly limited due to a lack of available resources. Fairly or unfairly, today's Corps is often criticized as being slow and expensive.

However, as I pointed out, a significant amount of the blame for these criticisms, while some on the Corps, much of it falls squarely at the feet of the administration and the Congress for failing to provide you with the resources necessary to help our communities to address their local water resources challenges.

For example, year after year Presidential budgets for the Corps have been reduced to a point where the Corps cannot efficiently fund critical projects and studies to completion. As a former Chief of Engineers, Robert Flowers, once candidly admitted, when the Corps is not provided efficient and regular funding for Corps studies and projects, projects cost more to complete and take longer for their benefits to be realized.

I am not sure how the President expected Congress to react to his Presidential budget request for the Corps for fiscal year 2018. This was from a Presidential candidate that campaigned on the promise of reinvesting in our Nation's infrastructure. This fiscal 2018 request fails miserably. At best, it is flat funding for the Corps, but flat funding of an agency that already suffers from delays and uncertainty due to a lack of available resources.

For the Corps, less funding means fewer projects are constructed and fewer communities can benefit from the Corps' expertise. For those projects that are constructed, less funding means deferred critical maintenance and projects must constantly be operated below optimal levels of efficiency.

Lack of available funding also means that for many communities they must pay more or advance their own funding to the Corps in order to move projects forward. And I know that, for example, from my own community that has done that.

That is not a sustainable path for addressing our ongoing water resources challenge. We need to do better.

First, we need simply to invest more in our domestic infrastructure spending. I suspect if there is not going to be leadership from the President on real Federal infrastructure investment, I hope it will be up to the Congress to move forward on real proposals to move this country forward to rebuild our crumbling infrastructure and to put Americans back to work.

Also, we need to have a realistic conversation on how to address the backlog of unconstructed projects and deferred maintenance of water resources projects facing our Nation. This is a ticking time bomb facing our critical infrastructure and our desire to maintain a highly efficient, protective, and resilient water infrastructure for the next century.

We also have to ensure that our Federal resources agencies are provided necessary funding to meet their statutory obligations in a timely manner. As the ranking member of this committee, Mr. DeFazio, has stated, we cannot streamline our way out of our funding shortfall.

I applaud your comments, General Semonite, when you recognized that underfunding your partner agencies only slows down your work when permit reviews go unfunded.

Lastly, I would like to express my disappointment with the Trump administration's efforts to undo the Obama administration's Clean Water Rule. These efforts weaken protection of our Nation's rivers, streams, and lakes, place at risk the drinking water supply of over 117 million Americans, and reinstate the regulations that caused the confusion surrounding the scope of the Clean Water Act that existed for close to a decade.

For years, the regulations that this rulemaking would rush to reinstate were uniformly criticized by farmers, industry, and the construction community as arbitrary, as confusing, and as frustrating. I cannot comprehend how putting these regulations back into effect will remove uncertainty.

The action also rejects almost a decade of scientific evidence on the importance of rivers, streams, and lakes to human health and the health of the environment, while jeopardizing the drinking water of one in three Americans.

In short, these actions leave us with less protection, more confusion, and increased costs for all.

Thank you, Mr. Chairman, for holding today's hearing, and I yield back.

Mr. GRAVES OF LOUISIANA. I want to thank the gentleman for his comments, and I want to remind him that I think we share frustration with the inability to get these projects implemented.

Dr. LOWENTHAL. Absolutely.

Mr. GRAVES OF LOUISIANA. Because the mission is absolutely critical.

Dr. LOWENTHAL. Absolutely.

Mr. GRAVES OF LOUISIANA. And that is a bipartisan goal. Looking back at the Obama budget, 32 percent reduction in fiscal year 2015, 29 percent reduction in fiscal year 2016, 41 percent reduction in fiscal year 2017.

Dr. LOWENTHAL. Absolutely.

Mr. GRAVES OF LOUISIANA. And bipartisan problem. We are committed, together with you, Mrs. Napolitano, and Mr. DeFazio to continue working together to fix this.

Dr. LOWENTHAL. Thank you.

Mr. GRAVES OF LOUISIANA. Thank you.

Before I begin introducing our witnesses this morning, allow me to submit some unanimous consent requests. I ask unanimous consent that written testimony submitted on behalf of the following be included in the hearing's record from American Chemistry Council. Is there objection?

Without objection, so ordered.

[The written testimony from the American Chemistry Council is on pages 87–89.]

Mr. GRAVES OF LOUISIANA. I ask unanimous consent the record remain open for 15 days for additional comments and information submitted by Members or witnesses be included in the record of today's hearing.

Without objection.

I ask unanimous consent that the record of today's hearing remain open until such time as our witnesses provide answers to any questions that may be submitted to them in writing.

Without objection, it is so ordered.

Thank you.

Our first witness is Mr. Doug Lamont, senior official performing the duties of the Assistant Secretary of the Army for Civil Works.

Mr. Lamont, you are recognized for 5 minutes.

TESTIMONY OF DOUGLAS W. LAMONT, P.E., SENIOR OFFICIAL PERFORMING THE DUTIES OF THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS), OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS); AND LIEUTENANT GENERAL TODD T. SEMONITE, COMMANDING GENERAL AND CHIEF OF ENGINEERS, U.S. ARMY CORPS OF ENGINEERS, ACCOMPANIED BY MAJOR GENERAL DONALD E. JACKSON, DEPUTY COMMANDING GENERAL FOR CIVIL AND EMERGENCY OPERATIONS, U.S. ARMY CORPS OF ENGINEERS

Mr. LAMONT. Good morning, Chairman Graves and distinguished members of the subcommittee. I am honored to be here today. I am Doug Lamont, senior official representing the Office of the Assistant Secretary of the Army for Civil Works.

Mr. GRAVES OF LOUISIANA. Mr. Lamont, would you mind pulling the mic a little closer?

Dr. LOWENTHAL. And make sure it is on.

Mr. LAMONT. OK. Can you hear me now?

Thank you again for the invitation to come before you to testify today on the Water Resources Reform and Development Act of 2014 and the Water Resources Development Act of 2016. Through its Civil Works program, the U.S. Army Corps of Engineers sup-

ports the shipment of goods through our Nation's coastal ports and on the inland waterways, helps communities to reduce their flood and coastal storm risks, restores several significant aquatic ecosystems endeavors, provides drinking water, generates renewable electricity, and offers water-based recreation opportunities to the public.

For over a century, Federal, State, local, and Tribal governments have made large investments in our water resources, including the construction of locks and dams and deeper and wider coastal navigation channels to support commercial navigation, and by building levees, reservoirs, and other features to reduce flood risks.

In the 21st century we must continue to look at the best ways to maintain the key features of this infrastructure, reliably and safely, in a manner that is responsible, economic, and sustainable.

The administration recognizes the need to invest in our Nation's infrastructure for America, including its water resources infrastructure. The 2018 Civil Works budget supports this effort by providing $5.002 billion in gross discretionary appropriations for the U.S. Army Corps of Engineers Civil Works program, focusing on investments that will yield high economic and environmental returns or address significant risk to public safety.

The budget focuses on our three major mission areas: allocating 42 percent of the budget to commercial navigation, 27 percent to flood damage reduction, and 7 percent to aquatic ecosystem restoration. Other areas of significant funding in the budget include our hydropower program, the cleanup of sites contaminated during the early years of the Nation's nuclear weapons program, and our regulatory program.

The Army has addressed a significant number of the 206 WRDA 2016 provisions, and we are focused on completing the implementation guidance as quickly as possible.

The Water Resources Development Act of 2016 authorized the construction, through your good work, of 30 water resources development projects at a cost of $15.6 billion. Some of the projects authorized included the $743 million West Shore Lake Pontchartrain Project, the $1.98 billion Central Everglades Project, the Port Everglades Project at $337 million, and the $502 million Charleston Harbor Project and the Upper Ohio River Navigation Project at $2.69 billion.

Implementation guidance for all 30 authorized projects has been completed and published on the Corps website.

Implementation guidance for sections 1126 and 1127 has been completed. These provisions address studies and construction efforts that can be completed by non-Federal interests. Additionally, implementation guidance for the use of reservoir sediment, drought contingencies, land conveyance and Tribal consultations, and ice jam prevention has been completed.

We have completed most of the 2014 implementation guidance and are working to finalize all remaining required guidance as soon as possible. In the year since the last hearing before this subcommittee, we have finalized guidance for emergency communication of risks, levee certifications, use of innovative material, cooperative agreements with Tribes, and many other provisions.

The Army submitted the 2017 report to Congress on future water resources development in March of this year in response to section 7001 of WRRDA 2014, including an accounting of Post-Authorization Change Reports.

The process for developing this report includes a Federal Register notice, requesting proposals from non-Federal interests for proposed feasibility studies and modifications to authorize water resources development projects.

A total of 53 proposals were received this year. Of these proposals, 13 met the criteria and are listed in the annual report table. The 40 proposals that did not meet the criteria are included in the appendix.

The two primary reasons they are in the appendix are that either the proposal did not fit within our identified Corps of Engineers core mission areas or authority already exists to perform the requested work.

Where authority already exists, inclusion in the appendix of 2017 annual report does not preclude the Army from carrying out either a study or construction.

Mr. Chairman, I look forward to working with you and appreciate the committee's support for the Nation's water resources infrastructure. Mr. Chairman, this concludes my oral statement. Thank you, very much.

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

We are now going to turn to the commanding general and the Chief of Engineers for the United States Army Corps of Engineers, General Semonite.

General, I just want to quickly say I do appreciate the time that we have had to spend together and talk about a different Corps of Engineers, a different project development delivery process moving forward, and looking forward to many more conversations and true change moving forward.

The gentleman is recognized for 5 minutes.

General SEMONITE. Chairman Graves and distinguished members of the committee, I am Lieutenant General Todd Semonite, commanding general of the U.S. Army Corps of Engineers and the 54th Chief of Engineers.

I am honored to be here today, accompanied by Mr. Lamont and Major General Ed Jackson, to provide testimony on the recent Water Resources Development Acts, as well as key issues.

I have been in command for the Corps for just over 1 year now and I continue to be amazed by the breadth and complexity of the Civil Works program, as well as the expertise and dedication of the professionals that work in our organization.

While this is my first time appearing before the committee, I have had the opportunity to work with a number of you individually, and I look forward to continuing to build our relationship during my tenure as Chief of Engineers.

It is my belief that the credibility of the Corps is measured in our ability to deliver results that are on time, on budget, and of exceptional quality. To do this and to maintain our status as a world-class organization now and into the future, we are focusing on three fundamentals we call Strengthen the Foundation, Deliver the

Program, and Achieve Our Vision. And I want to give you some highlights of those fundamentals.

First, as with any structure, our foundation must be our strength, the bedrock upon which our presence rests and our future is built. For the Corps this means having the discipline to accomplish routine tasks to a high standard. It means demonstrating that we are reliable and competent partners, assisting in shared efforts to be responsible stewards of the Nation's water resources.

We are committed to transform our processes, invest in the technical competency of our most valued asset, our people, and to be collaborative and transparent. Our strength is validated by earning trust in all we do by demonstrating technical expertise, competence, and professionalism across our organization.

We earn our credibility, our reputation, and our values by delivering the program. This is our lifeblood, this is our passion, this is our mission. And this is my number one priority. In all that we do, we strive to ensure that cost, timeliness, and expected quality are understood upfront and successfully accomplished in the end.

In order to achieve our vision, we endeavor to anticipate the conditions, the challenges, the opportunities in an uncertain future by taking prudent, logical, and decisive steps today to prepare. We are doing this by implementing strategic transformation within the Corps, continually pursuing four goals outlined in our campaign plan with an aim point of 2035.

Our first campaign goal is to continue to work across the globe with a presence in more than 110 countries supporting national security and our combatant commanders in civil works, military missions, and water resource development expertise. We are proud to serve this great Nation and our fellow citizens, and we are proud of the work the Corps does to support America's foreign policy.

Our second goal is to continue to make the Corps more efficient and effective while delivering integrated water resource solutions for national missions and to address infrastructure challenges. This involves modernizing the project planning process and enhancing budget development for a more holistic outcome by making better risk-informed investment decisions and improving delivery methodology.

Our third major goal is to continue to be proactive in reducing disaster risk and responding to disasters under national response and recovery support frameworks, as well as within our authorities for flood risk management. I am very proud of our team for the work we do with FEMA and our other Federal partners as well our State and local agencies in this area.

Our fourth and final goal is preparing for tomorrow, which focuses on ensuring we have a pipeline of the best engineering and technical expertise, as well as a strong workforce development and talent management program. We continue to tailor developmental programs to employ aspirations to retain talent and instill a culture that embraces a career of service.

In closing, I would offer that our excellence demands commitment of every Corps employee. As Chief of Engineers, I am striving to what General Shinseki, the former Army Chief of Staff, called irreversible momentum towards being a world-class organization.

World-class means that for the Corps to continue engineering solutions for the Nation's toughest challenges, which is our vision, we must all be leaders of technical competence and superior integrity. You have my commitment that the teammates of the Corps have a passion to achieve that vision.

Thank you for allowing me the time to address the committee today.

Mr. GRAVES OF LOUISIANA. Thank you, General.

I am now going to recognize the gentleman from Florida, Mr. Webster, for 5 minutes.

Mr. WEBSTER. Thank you, Mr. Chairman. Thank you for having this hearing.

And, General Semonite, thank you for your service to our country. And I know you know a lot about Florida, and that is good, our 15 seaports and also a national treasure, which is the Everglades, Florida Everglades.

So my question is, is there a day, a starting date where we will be in earnest on the Central Everglades Planning Project?

General SEMONITE. Sir, the CEPP has unbelievable potential. I was the division commander in Atlanta for 3 years, from 2009 to 2012. General Jackson backfilled me. We looked at the Central Everglades Planning Project, and that particular project, as probably being one of the most important things to continue to keep water flowing south. We have had significant challenges over the architecture of the old CERP [Comprehensive Everglades Restoration Plan] and a lot of water has gone east and west, but we are fully committed to continue to keep that going.

What I would like to do is ask General Jackson to give you a quick update of exactly where we are. You have our commitment that this is where we see probably the most potential in solving not just some of the ecosystem issues down there, but other issues that are related back to the Florida system.

Ed.

General JACKSON. Thank you, sir.

Congressman Webster, thank you very much for that question.

I was very involved in pushing the Central Everglades Planning Project through to achieve support, so I am very familiar with it. As you know, most of the things on the integrated delivery schedule in south Florida are on a sequence, and this one is no different.

One of the things that we are working our way through right now is the need to do the validation studies for the different components of CEPP that have to be done, but also there are a couple of other things that have to done in advance of that.

There are a couple of other projects that construction must be completed on, and those include Modified Waters, the C–111 South Dade, Broward County, and the C–111 Impoundment.

So we are trying to focus our effort and priorities on getting those projects done and completed so that we can move forward as fast as possible on the Central Everglades Project.

There are also a couple of other issues on the restoration strategies that we are working with the non-Federal sponsor very closely to get constructed, so we can get all the preparatory work needed that has to be done to set the conditions for CEPP to be successful. So we are committed to moving forward along those timelines.

We had in the President's budget for this year $400,000 to apply against Central Everglades. We are going to use that to continue to set conditions so that when we can get these other projects completed we can move forward without any further hesitation to start implementing the requirements of Central Everglades.

Mr. WEBSTER. Is there a date, a start date?

General JACKSON. I don't have a start date with me, sir, but I will get that back to the staff. I know it is on an integrated delivery schedule sequence chart that I have back in the office, and I can get you that when I get back.

Mr. WEBSTER. Is the $200 million that was recently passed by the Florida Legislature, does that help? What does that do?

General JACKSON. Sir, I will need to get back with you on that as well. I am not exactly sure how the $200 million is going to be allocated within the Central Florida program, but I can get that information back to you.

General SEMONITE. And, sir, we have met with Governor Scott. We know that there is an intent to be able to try to apply a lot of that back into fixing Herbert Hoover dike. As to what the actual dollar is going to be, it might be something lower than that. But we are very receptive to be able to find ways of incorporating those funds back in.

And to all of the committee, the Nation doesn't have enough money to be able to handle all of these requirements. So if there are ways that we can find through the authorities we have to take money from States to be able to accelerate some of these projects, we want to be very aggressive in doing that. If we have our hands tied somewhere, we look forward to working with you to be able to figure a better way to be able to somehow defer some of those Federal requirements back into States or to other entities.

Mr. WEBSTER. Does the heavy rain south of Lake Okeechobee, does that affect the schedule? Does that slow down things or anything?

General SEMONITE. We are not aware of any significant challenge. Obviously the rains down there, we watch every single day. But, whether it is rain or drought, we are able to adjust and right now I am not aware of any significant issues that those rains have on the schedule.

Mr. WEBSTER. Thank you very much. I yield back.

Mr. GRAVES OF LOUISIANA. Thank you.

We are now going to go to the ranking member of the full committee, the gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

General, do you happen to have on hand the number for your construction backlog?

General SEMONITE. I do, sir. And I am glad to be here today.

In round numbers—and I can give you extreme detail if you would like—$75 billion. I will break that into three subnumbers. If you were to say what that would be in pre-2014, it would be around $34 billion. If you look at numbers that could be included in the WRRDA 2014, that is probably about another $15.4 billion. And then in WRDA 2016, about another $10.8 billion.

And again, we can break those numbers down through business lines or different functions if you would like to, but we want to

make sure that you understand that backlog so we can try to work together to work that down.

Mr. DEFAZIO. OK. Thank you. We would like some detail to see what we are forgoing.

On your annual operations, not construction, but basically maintenance in that, we have, I think, some deferred maintenance, too, on top of that number, right?

General SEMONITE. Yes, sir.

Mr. DEFAZIO. And that would be about?

General SEMONITE. We will have to probably give you the details on it, sir.

Mr. DEFAZIO. All right. Yeah. I was given a number of, I think, $30 billion to $35 billion, but I would like confirmation on that.

So I guess my question would be, if we had full use of the Harbor Maintenance Trust Funds, both on an annual basis, the income, and the theoretical balance in the Treasury of $9 billion, would it be fair to say that that money could be rather quickly and appropriately spent to begin to deal with deferred maintenance?

Mr. LAMONT. Ranking Member DeFazio, as far as the Harbor Maintenance Trust Fund, the fiscal year 2018 budget was $5.002 billion, and $3.1 billion of that was devoted to operations and maintenance. What we are looking at across the Nation, since we have limited resources that are available to us, we are looking at the most competitive projects out there, the ones with a high demand relative to tonnage on the waterways. We are also looking at safety aspects.

So I understand your concern about the reserve that has built up in the Harbor Maintenance Trust Fund. We continue to look at the targets and trying to move forward diligently and looking at predominantly the economics of the projects, the tonnage that is within that port, and also the ability to meet the targets. I would say that we are meeting the targets not only on the Great Lakes, but on the emerging ports that were required by——

Mr. DEFAZIO. Well, I have an emerging port that was zero funded this year. I believe the Portland District identified it as needing work, but somehow when the national office sent back a list, that port, the Port of Umpqua, was zeroed out. Can you tell me why that happened?

General SEMONITE. Sir, General Semonite.

We are very concerned about small and emerging ports. We look at every one of those States. You have 20 ports in your State that qualify. On my sheet all the green, 16 of the 20 are funded either in the 2018 budget or the 2017 workplan.

The specific port you are talking about was zeroed out initially. That was just because we were trying to do the budget so fast at the last minute. We have put money against that, and the dredging will be done by September 2017 for Umpqua Port.

The other thing is we are continuing to look through how can we continue to be able to get the rest of those ports done. In gross terms, in the 2018 budget you have $6.6 million for those 20 ports.

And this is where the committee can really help out. Because the committee understood the shortage of the requirement, then obviously Congress passed a little bit of additional money, and that comes through a workplan. In the workplan we are able to take

and recommend where we think some money could solve some of those deficits.

In the workplan for Oregon you have another $10.8 million on top of the $6.6 million. So that is where we are able to secure some of those small and emerging ports.

And for anyone else on the committee, if you need that level of detail, we can give it to any of you to make sure we understand how critical those small and emerging harbors are.

Mr. DEFAZIO. I appreciate that, General. I appreciate what you are doing. I know you are trying to stretch the dollars as far as you can.

I just, on this side, and I have worked with the chairman on this, I really want to see that the taxes, which are collected from the American consumer, small tax on the value of imported goods, is spent on the intended purpose and that we free up the annual income for the Harbor Maintenance Trust Fund and we begin to prudently spend down the balance to deal with some of these problems so that the Corps is not stretched so thin that they have to choose one place or another, both which need dredging, but say, "Sorry, we just can't get there."

So hopefully we can do that in the next WRDA bill, Mr. Chairman.

Mr. GRAVES OF LOUISIANA. Thank you.

We are now going to go to the gentleman from Ohio, Mr. Gibbs, for 5 minutes.

Mr. GIBBS. Thank you, Mr. Chairman.

I want to first address, just to make a comment on the opening statement by the ranking member about waters of the United States.

The President's directive was for the Corps and the U.S. EPA to go back and work with the States and their local counterparts, the State EPAs, to address the *SWANCC* and *Rapanos* decisions; and also, when doing that, to keep late Justice Scalia's statement about pretty much tried to define navigable waters.

But I have always said that the Clean Water Act was passed as a partnership between the States and the Feds, and that the States should implement it and enforce it under the guidance of the Federal Government. And so his directive, the President's directive was just to go back, directing the Corps and the EPA to go back and work with the States, and not have over half the States sue the U.S. EPA and the Army Corps on this issue. And that is what that directive is about. It is not about going backwards. So I want to make that clear.

Thank you for being here, gentlemen. A couple things.

Section 1122 of the WIIN Act established a pilot program for beneficial reuse of dredged material. In tying that in, because this is so important in the Great Lakes, the dredging issue, in WRRDA 2014 there is guidance on managing the Great Lakes navigation system as a single system.

Those two specific sections, can you give us the status where we are on the dredged material for pilot programs, and then also, concerning the Great Lakes as a single system, how you are going about your work now?

General SEMONITE. So, Representative Gibbs, I am going to talk about the pilots and I will ask General Jackson to talk a bit about the system.

We are excited about this pilot initiative. We think it is a good way to go. We have gotten a lot of letters from a lot of you on recommending those pilots.

We want to, first of all, establish the criteria as to how are those pilots going to be picked. And we are working through that right now. We are going to put that out on a webinar, we are going to have it out for 60 days where everybody can have input on what is the criteria. Then once we do that, then we will assess those products.

Just as Chairman Graves said, though, we need to be more aggressive on trying to get all this implementation guidance done. And the fact that we are still working through some of this, we don't see a delay on this one. We want to get these pilots identified by the end of the calendar year and we want to continue to work with all of you to make sure we understand the best we can do to get those pilots so that they are justified.

There is no shortage of nominations for them. We are aggressively trying to work this pilot program. But we want to do it so we are collaborative, get the criteria on the street, everybody comment on the criteria, and then we will assess the pilots back against the criteria.

Ed, can you hit the second point that the Representative had?

General JACKSON. Congressman Gibbs, just to clarify one point on the implementation guidance, too, that is one of our top priorities and we are trying to make sure we work really hard to get it right.

I think, based on the last schedule that I saw and the last several discussions that I have had within our staff, we are pretty close to finalizing the implementation guidance. I think we should have it out sometime in the next month or so.

So we are going to keep working that. It is a huge priority not only for Ohio, but for the whole Nation to try and get that right. We appreciate the Congress giving us the opportunity to look at these in a unique way.

Sir, could I get you, if you don't mind, to repeat the second question that you—that General Semonite wanted me——

Mr. GIBBS. Well, in WRRDA 2014 we set up guidance that the Great Lakes be considered as a system, a unit. And so when you are going about your work, I just wanted an update on the functioning of that as a unit. Because, as we know, in the Great Lakes the ports are all interdependent so much. So I just wanted your thoughts, the mental process, I guess, of how you are getting there and that establishment with funding and all that.

I will just tie that into my second part of the question with the Soo locks, too. I didn't mention that yet, but I wanted to before I run out of time.

We sent a letter, the Great Lakes Members of both the Senate and the House, sent a letter to you and General Semonite in February about the BCR, benefit-cost ratio, and so I need an update on that and if you are going to use the same criteria as you do in all locks.

Because in our letter we put there, there was a criteria about off-loading and conveying and loading, which doesn't seem to make a lot of sense to me either.

I think that the Soo locks are of national significant importance and ought to be a top priority, along with Mr. Babin's issue down in Houston, as you well know. So I just tie it together how important the Great Lakes are and how you are looking at that when it comes to funding in the Soo locks.

General SEMONITE. Sir, let me jump in first.

When you write me a letter I normally go there. I try to be on the ground and try to look.

I just came back from Soo lock. I spent 3 days up in the Great Lakes. And everything up there is a system. We look at, how does the process go through the Great Lakes? If we are going to do something, we don't want a critical point that is going to slow down other things.

So whether it is the environmental part; whether it is EPA and GLRI money; how do you make sure you have the right kind of money coming back in to be able to take care of that system. So we are committed to do that through all those different business lines.

Now, specifically Soo lock, I had heard about it a long time, but I had never actually seen it. I was amazed at the potential of that particular lock and how it takes care of the economy and continues to be effective. You have a single source, 100 percent of iron ore goes through that lock. I met with all the shippers up there, and I met with all the steel industries, and had to be at the front of Soo lock to be able to understand how we can do that.

The recent homeland defense report specifically identifies the risk to our economy if that were to go down. You know there are four channels. We are only really using one for the big ships going through.

I personally think that we have to find a unique way of trying to figure out how to justify that particular project. Just the BCR, if you were to put it in the rack and stack of all other projects, doesn't identify the significance or what the value back to the Nation would be, only because it is a one-of-a-kind kind of lock.

So this is where we want to work with the committee to try to make sure that we are doing everything we can, that you understand the significance of that lock, and therefore hopefully let it compete for the appropriate amount of funding.

And I will certainly let Mr. Lamont or General Jackson jump in.

Mr. LAMONT. Congressman Gibbs, thank you for the opportunity to jump in here.

I share the Corps of Engineers' concern about moving the economic reevaluation report along. We are doing everything we can do to make sure this thing is funded so that we can deliver the final product and hopefully result in a report that we will be able to take to the administration for concurrence.

General SEMONITE. Sir, that district has said they will get it done in 7 months. We are working some funding challenges right now to let them get the study done. But I looked the colonel in the eye and said, "I need this thing done as fast as we can." I would

like it done by the end of the year. It is contingent on the money, but that is our issue, we will try to figure that out.

Ms. GIBBS. I appreciate it. Thank you. I am out of time. Thank you, Chair.

Mr. GRAVES OF LOUISIANA. Thank you.

We are going to go to the gentleman from California, Mr. Lowenthal, for 5 minutes.

Dr. LOWENTHAL. Thank you.

I have really two questions, one primarily that pertains to my district, some of the issues in one that really has to do with an issue that I have become more familiar with recently, and that has to do with the beneficial use of dredged material.

I represent in California the Port of Long Beach, which is the second busiest seaport in the Nation. It is part of a harbor complex with the Port of L.A. that moves approximately 40 percent of the Nation's cargo, container cargo, in and out of our country.

The Port of Long Beach is the subject of an Army Corps feasibility study on a series of navigation improvements, to construct an anchorage for large liquid bulk vessels, to deepen several approach channels, basins, berths, to improve navigation for both container ships and for liquid tankers.

The Los Angeles District is scheduled to submit its draft report on October 16. First question is, will that target date be met? Study is expected to be completed next July. But the administration's budget request anticipates no funding for new construction on water resources projects.

How does delayed initiation of construction affect these projects? Does it mean that we have to go back and conduct the review again? Does it increase costs?

You know, my local stakeholders are spending $1.5 million on this study. And the question is, what is the value of the study to them if the Corps is not going to fund any new construction projects? So that is the first question.

The second question I will also ask before you answer is section 1122 of the WIIN Act required that the Army Corps of Engineers begin to implement a pilot program for the beneficial use of dredged material within 90 days. This is a topic that Congressman Graves has educated me on, especially about the minimal use of dredged materials to enhance the Louisiana wetlands. So I have learned over the last few years about this issue.

It is now nearly 4 months past the 90-day deadline to start this project and we haven't seen any implementation guidance for this section. What is the delay in moving forward with this guidance? When can we expect it? How can you assure me that the implementation of this program will move forward in a timely manner?

We have heard that nearly 100 beneficial use projects have been submitted by States, by stakeholders, and Army Corps of Engineers districts to be 1 of the 10 projects, pilot projects. This program now seems like it has huge support from local communities.

The question is, how do you plan on deciding which projects will be included in the initial 10 pilots? What is going to be the process for soliciting projects? Will there be a public process to select the 10 projects? How will you make sure this isn't just happening be-

hind closed doors? And when can we expect a decision on these 10 projects?

So those are the two. Why go through the feasibility study if we are not constructing anything and what is that going to be? And let's talk about what we in a bipartisan way are very concerned about, and that is making sure that we implement the pilot program for the beneficial use of dredged materials.

Thank you.

General JACKSON. Congressman, I would like to take a chance to answer both of those questions for you. And I will start off with the Port of Long Beach.

Dr. LOWENTHAL. Thank you.

General JACKSON. The draft feasibility study is due to be out in spring 2018, as per the schedule, according to the latest report that I got. So we are in good shape there.

I know that we did receive funding in the workplan and also in the budget which will help us, along with carry-in funds, to get the final feasibility study done and out in 2019, which is when it is scheduled to go out.

Dr. LOWENTHAL. I understand. So you are talking about we are going to get that feasibility study. What about the construction?

General JACKSON. Well, yes, sir. I can't speculate on what the administration is going to allow us to fund or what will get new starts on into the future.

But what I am committing to in the Corps is to try to get the study done so we can get the authorization in, because without the authorization, obviously, there would be no construction to be had.

So what I am committing to today is to push with everything we have, within the control we have for that feasibility report, to get that delivered so it can compete favorably, hopefully, among other interests to receive a new start in construction funding.

Dr. LOWENTHAL. And that is all we ask for.

General JACKSON. So that is what we will do.

As to the——

Dr. LOWENTHAL. Section 1122.

General JACKSON. As to the section 1122, sir, we are 4 months behind schedule and I have no excuse, so I won't make one. What I will say, though, is that we are committed to getting the evaluation criteria right. And I am thrilled to death to hear——

Dr. LOWENTHAL. You should always be committed to getting it right.

General JACKSON. Yes, sir. I am thrilled to hear the amount of participation that we are getting from the States in identifying opportunities for this, because this a huge issue for the Corps, much more, much bigger than the 10 studies that we have the opportunity to look at in this particular provision.

The Dredged Material Management Program overall is something that we are looking at very closely in the Corps of Engineers. And this pilot study will really help us to determine some best case ways to work dredged material management, to make the most beneficial use all across the Nation to solve other problems that we have. So we are committed to doing this.

We are scheduled to have the implementation guidance out in the next month or so. This is definitely designed to be collaborative and transparent in how we put it together.

So as we finalize implementation guidance and we develop the evaluation criteria that will be contained in that, we will do that collaboratively. We will make sure that the committee sees what we are doing and how we are doing it. And we will take feedback to make sure that we get it right.

Dr. LOWENTHAL. Well, thank you. But just before I yield back I would just like to impress upon you, in a Congress that frequently is criticized for not acting in a bipartisan way, this message is coming to you in a bipartisan way. We want to see this program implemented.

General SEMONITE. And, sir, to answer your specific question, we want those pilots identified by the end of the calendar year, of this year.

Mr. LAMONT. And, sir, if I could jump in here real quick. Army Civil Works is working diligently with headquarters U.S. Army Corps of Engineers to make these things happen.

Mr. GRAVES OF LOUISIANA. Thank you.

Dr. LOWENTHAL. Thank you. I yield back.

Mr. GRAVES OF LOUISIANA. We will go to the gentleman from North Carolina, Mr. Rouzer.

Mr. ROUZER. Thank you, Mr. Chairman.

I appreciate our witnesses being here today.

And I have a list of local projects that I have interest in. And I see the General smiling, so maybe he knows of some of them.

First, there at Wrightsville Beach, which obviously is in my district, one of the most beautiful places you could ever go, I am curious what the timeline for the Post-Authorization Change Report is, if you can give me any update on that.

General SEMONITE. Sir, I will let Ed look up the timeline while I am looking at it. But you know we have a section 902 limit we are concerned about, $24 million, we are at $23 million right now. So we want this PACR done so in no way does that come close to that.

If we don't find the date here in a couple minutes we will get back to your staff, make sure you know. But we are tracking exactly where this is at and nourishment of that beach is critical, so we want to make sure we keep this as a priority.

Mr. ROUZER. The one question I have directly related to that with the limit, the section 902 limit, does it make sense really to limit the cost of a project that spans 50 years based on the cost estimates calculated in the 1980s? It seems like we need to readjust that. Have we ever thought about readjusting that?

Mr. LAMONT. I think that is a very interesting question, Congressman. I have not personally thought about it. But I think relative to hurricane storm damage reduction projects, coastal storm damage reduction projects, the 50-year life is a consideration relative to the development of the plan, of the economics. And obviously, as you point out, through the initial construction and then periodic nourishments, the cost of the project.

We might want to collaborate and talk further about that. I think you raise an interesting point.

Mr. ROUZER. Thank you.

Just south of there at Carolina Beach, they have been trying to get the study for the beach renourishment evaluation report since 2014. The basic question is, why is this taking so long? Is there a need for such an arduous process to get a cost-benefit ratio analysis for a project that has historically been proven to be good and necessary? And the other obvious question is, why can't we speed up this process by allowing some decisions to be made at the district level?

General SEMONITE. Sir, I think the answer to the last half of that, one of the things, and I have talked to Chairman Graves about this, I think over the last several years we have allowed some things to migrate to Washington, DC, that perhaps are not the right things to be there.

So Mr. Lamont and I are working very carefully to be able to figure out how do we delegate a lot of this back down. We can talk section 408s, we can talk other areas.

But we have done a lot of work to be able to push some things back to the divisions or back down to the districts to try to make sure that some of those decisions are down there.

We do have a full sheet on Carolina Beach.

Ed, I don't know if you have the specifics on it.

But this one here we certainly are tracking where it is at. In the workplan we did put an extra $12 million against that one. And if need be, I will come back over and see you and give you specific details on Carolina Beach.

Mr. ROUZER. Can we get confirmation that those funds can be carried forward to fiscal year 2019? That certainly helps in terms of planning.

General SEMONITE. I see no problem with that, as far as we know. Unless there is a reason, we would say yes. But I would see no reason why we couldn't carry those in.

Mr. ROUZER. A couple other things, moving a little further south in my district from there, a provision that we included in WRDA last year, in 2016, dealing with a no-wake zone there at Southport Marina. And this is a little pet project of mine because I have been there, I have seen the potential for a disaster. You have a fuel dock sitting right there.

The locals, State and local officials, have talked to me about the incidents that have already occurred. You have recreational vehicles that are flying through there, huge wakes that hit folks when they are fueling up there at that fuel dock. And there are a number of different minor accidents than have already occurred because of that.

I don't see why the Corps cannot work with the local and State officials to establish a no-wake zone there. It would not affect commercial traffic, we made that very clear in the language.

General SEMONITE. So, Representative, this is a great question because you sent me a letter the 1st of May, and I looked at it and I said, this has got to take 2 or 3 days to be able to figure this out, why are we waiting a year and a half? And so as we go back——

Mr. ROUZER. That is my question.

General SEMONITE. And it goes back to what Chairman Graves said on implementation guidance. So as I get back into this thing,

this gets extremely confusing because it goes back to what are the rights of people that are navigating the inland waterway, versus what about personal safety on rec areas. And that is a very, very contentious question. And I want General Jackson to walk you through that.

But what we are trying to do is make sure that if, in fact, we establish guidance, it is going to be the same as it is in North Carolina versus Florida or anywhere else in the inland waterway.

Ed, can you clarify a little bit more?

General JACKSON. Yes, sir.

Congressman, thank you for the question.

Just some quick clarification on what General Semonite said. We have about a 1,200-mile waterway, we have about 500 marinas in there, and we lack the ability to police all of that with no-wake zones.

So what we are trying to figure out as we work through the implementation guidance is how can we take the intent of Congress that came out in implementation guidance, work it closely with the Coast Guard, who will help us with all the enforcement actions, and then engage with individual States and locals who have very specific problems as the one you just mentioned.

So we are very laser focused on that one because we already know that is a problem. I don't know about the other 499 marinas that are out there. But we have got to write the guidance in a way that allows us to execute what needs to be done to maintain safety. And that is our number one concern, is the safety, as you just described.

So we owe that implementation guidance. We are trying to synchronize that. And we are trying to, as quickly as possible, get that completed so we can service the target that you are talking about. We are already sort of ahead of the game there in North Carolina, but there will be others that come out. We just have to make sure we get that right.

Mr. ROUZER. Well, I have been there, I seen the traffic. And in season it is very, very congested. You have folks flying through. It is a disaster waiting to happen, and I think we need to do everything we can to prevent that.

It seems to me we try to pursue these cookie-cutter approaches and every situation is a little different. You know, it is one of those things where I think good common sense and just good courtesy would address the issue. And the bureaucratic maze that you are going through in order to adopt a very commonsense measure just is a little flabbergasting to me. So I appreciate your attention to it.

General SEMONITE. Congressman, we are definitely tracking this. I have already met with the three sergeants at the Coast Guard to be able to work through some of this. So you have our commitment to continue to resolve it.

As Ed said, though, we want to make sure we don't try to do some type of guidance that ends up having second and third order effects that causes more problems on the other hand. So we have to come up with the right solution for those people, because it is a life-safety issue.

Mr. ROUZER. Thank you.

Mr. GRAVES OF LOUISIANA. Thank you.

We are going to go the gentleman from California, Mr. Garamendi.

Mr. GARAMENDI. Thank you, Mr. Chairman, but I believe Ms. Esty was here before me. I yield to her.

Mr. GRAVES OF LOUISIANA. I recognize the gentlewoman from Connecticut for 5 minutes, Ms. Esty.

Ms. ESTY. Thank you very much.

And thank you, Mr. Garamendi, you get chivalry award of the day. Thank you.

Well, thank you, Chairman Graves and Ranking Member DeFazio for holding today's important hearing on the implementation of the Water Resources Reform and Development Act of 2014 and WRDA 2016.

And I want to thank our witnesses here today, Mr. Lamont, Lieutenant General Semonite, and Major General Jackson.

Actually Lieutenant General Semonite, as a member of the Committee on Veterans' Affairs, I really want to thank you for the Corps' commitment to hiring veterans and for our Wounded Warriors. I understand there are 1,300 you may have deployed through the Corps and elsewhere, and that is a really important commitment. So I wanted specifically to thank you for that.

As we discuss WRRDA 2014 and WRDA 2016, I want to focus on programs in my district, in the Fifth Congressional District of Connecticut. There are 13 flood management projects, flood risk management projects in my district, including dams, reservoirs, and local protection projects. All 13 of these create local jobs, prevent hundreds of millions of dollars in flood damage, and have spurred recreational tourism that is very important to the State.

I will give you an example. Hop Brook Lake Dam on Hop Brook Lake holds back 2.2 billion gallons of water, and the estimates are that it would be $108 million of flooding damage if that were to go. The recreation attracts 200,000 visitors a year, $2 million of economic activity. And that is just 1 of the 13 projects in my district where water is everywhere in northwest Connecticut, and we really need to manage it.

Now, many of these projects date back to the fifties and sixties, and we were discussing ahead of the hearing how that was sort of the heyday of the Corps. It is when my grandfather worked on Corps projects in the Midwest. But given the age of those projects, quite a number of them would be appropriate for temporary or permanent alteration requiring a section 408 review.

Now, looking at that budget, we are not at the end of the fiscal year, we have 2½ months to go, and 95 percent of those funds have been expended already. Is there any funding available to do section 408 reviews?

So I am going to lay a couple of questions out. That will delay projects, right? If they don't go to section 408 review, then you can't move forward. And if we are not going to have enough funding, what would you recommend that we put in those budgets for 2018? We are putting together budgets right now and we should have appropriate funding.

And the last question, because I am going to put them all out there and then give you folks time to respond, is continuing au-

thorities projects. The CAP programs are very important in my district. A lot of the communities have used them. But, again, we keep running through the money.

Can someone tell me how many projects, what percentage of the projects that might be eligible actually receive funding? And again, if we wanted to fund all of them, about what would we be looking at?

So with that, I await your answers. Thank you.

General SEMONITE. So, ma'am, great questions. And let me hit a couple of these and I will let General Jackson hit on the CAP.

Section 408s are very critical. We talked about delegating them. Chairman Graves and I have talked about that. We need to do more in section 408s. We can get more into detail as to who approves them and at what level that is at.

That is an issue with funding. In 2016 we had $4 million, in 2017 we only had $3 million to do section 408s. We were able to reprogram an extra half a million dollars for $3.5 million.

Even this morning, Mr. Lamont and I asked our staff, can we make it to the 1st of October? They assured me that on those that are critical we are going to find ways of doing it. It doesn't mean we have all the money we need to have, but we are stretching that money as much as we can to the 1st of October.

Now, next, in 2018 we have $8.5 million, so we will be OK once we get to the 1st of October. I am not going to tell you it is perfect, but we don't think that any critical projects will be held up because of section 408s. If any of you have those, then we will certainly come back and let you know what we can do to fix it.

The other thing before I go to General Jackson, I do want to say that, you talked about veterans, the Corps not only works on Civil Works, but we are very, very committed to the Department of Veterans Affairs and we have been asked to do 14 of their big hospital upgrades. We are doing about $8.5 billion in VA hospitals all around the United States. We couldn't be happier to work for a better organization to take care of our veterans out there. We are excited to do that.

Ed, can you talk CAP real quick?

General JACKSON. Congresswoman, I appreciate the question on the continuing authorities program. I think your question was, what is the number of eligible projects that actually received funding?

Ms. ESTY. Percentage, what percentage?

General JACKSON. Yes. So, if that is OK, I am going to get that information and lay that out for you in greater detail so you know specifically which ones those are rather than just a number. So I will follow back up with you and your staff at a later date to give you that information.

Ms. ESTY. Thank you. And, again, I know we have new representation in our district up in Boston. Look forward to having him in to see our wonderful, beautiful northwest Connecticut and the projects there.

Mr. Lamont.

Mr. LAMONT. Congresswoman, I just want to echo what General Semonite said about the section 408 program. We hear loud and clear from all Members and constituents the concern about the

delays. We are making concerted efforts to make sure this program is funded, to do our due diligence, to the American taxpayer and to the communities that want to explore this opportunity.

So we are doing everything we can in conjunction with headquarters here to make it happen.

Mr. GRAVES OF LOUISIANA. Thank you. Thank you, Ms. Esty.

I want to perhaps give you a different perspective on that. I appreciate your interest in section 408. And, General, you and I have talked about this a little bit.

Nothing in the law has changed in section 408 for over 100 years. And we have seen this explosive growth in how section 408 has been exercised within the Corps of Engineers. I am not sure we need additional money. I think there needs to be a reevaluation of what congressional intent was over 100 years ago with section 408.

There have been some aggressive amendments that have passed the House of Representatives in regard to reining this back in, and I want to continue making sure that we are working on this to prevent projects from being obstructed.

We are going to go to the gentleman from Florida, Mr. Mast.

Mr. MAST. Thank you, Chairman.

And thank you for your testimony this morning. I appreciate it.

I want to talk about Lake Okeechobee also, and the Everglades, everything that has gone on down south of Lake Okeechobee and north of Lake Okeechobee as well.

General Jackson, you noted already in your comments just how important it is to get all of the preparatory work done in these projects. You just said that. I couldn't agree more.

And, General Semonite, you just said in your remarks it is important to keep water flowing south, and that a lot of water has already flowed east and west. I am out the east coast of that where all that water flows. And you also said that if there are ways to take money from the States to complete these projects, you are certainly most receptive to that, the Federal Government doesn't have all the money to do that. So I wanted to ask you a little bit about that.

You know, Congress has already approved a reservoir south of Lake Okeechobee as part of that integrated delivery schedule. The State of Florida has authorized and committed to matching funds to expedite the Everglades Agricultural Area Storage Reservoir. And the South Florida Water Management District has said that they have reached out to the Corps, saying that the Corps is the appropriate partner for expediting this project. So I just wanted to ask you a few questions on that.

What do you think is the earliest completion date we can get that southern reservoir done?

General SEMONITE. Congressman, I think you are talking about a new reservoir that is not already in CERP. Is that understood?

Mr. MAST. It is one that was originally authorized as part of the integrated delivery schedule.

General SEMONITE. OK. I am with you now.

So there are three that we are looking at. C–44 is the one that we call Indian River Lagoon. That one has been funded both in 2018 and 2017 in the workplan. I will get you an exact date on that one, but we don't see any significant issue on that.

The two you are probably worried about——

Mr. MAST. Not to interrupt you, but the one that is referenced in the State of Florida as Senate bill 10, if you are familiar with it, it is that one we are talking about. SB 10 in the State of Florida, that southern storage reservoir just south of Lake Okeechobee, that is what I am referencing here.

General SEMONITE. Sir, I am going to have to get back to you. I've got C–23 and C–24; I don't have a good read on SB 10. But let me come in, we will lay this out for you, and answer all of your questions. This is a very, very complicated problem, you are aware of, and I want to make sure that we are giving you the right answer on this.

Ed, do you have SB 10? You tracking?

General JACKSON. No, sir. We will follow up with your staff and give you a complete laydown on it.

Mr. MAST. I know you all noted how much work you had done in the State of Florida, so it has been probably one of the biggest issues that has gone on in the State House and the State Senate in Florida, this SB 10 that has been going on there. I can't imagine how——

General SEMONITE. There are some proposals that we are hearing about, that the State does want to do some things, and we want to make sure that those are integrated back into the other existing Everglades projects. This is where we want to make sure the South Florida Water Management District is involved with the rest of it. I think that is where some of the issues might be. It is not a current Corps project. We want to figure out how we can work together with you, whether we should or should not do it. I think that is what we are working through.

Mr. MAST. What benefit would it be to have authorization to begin these feasibility studies sooner rather than later? How many years can you knock off if you get these studies done sooner rather than later? Can you expedite these processes by starting the studies sooner?

General JACKSON. Sir, without looking at the integrated delivery schedule, I think the sooner we can start studies, assuming that all the preparatory work that has to be done in sequence before that can be done, we should be able to move out faster on it.

I would need to look at each individual study and each individual project line to figure out where we can buy additional time and what additional resources might be required in order to do that.

But, certainly, the South Florida Water Management District and the State of Florida have been tremendous partners with us through the whole life cycle of this project. I welcome any continued discussions to see how we can move faster on this.

Mr. MAST. I want to shift gears. Same subject, a little bit different piece of the conversation, a moment here.

The Corps, last summer, the Corps of Engineers transferring over 1 million gallons of water a minute in some cases from Lake Okeechobee into the waters east and west of Lake Okeechobee. And oftentimes there have been massive algal blooms that were literally being transferred from one of those bodies to a body of water that didn't have those algal blooms in them.

So I want to ask about that. When the Corps is transferring debris or toxins or pollutants from one body of water to another body of water that otherwise wouldn't be affected by them, who do you think should pay to clean that up?

Mr. LAMONT. Sir, I will jump in here for starters.

Relative to the nationwide issue, not only in the State of Florida, it is the State's responsibility to ensure the quality of the waters.

Now, I understand what you are saying relative to runoff into Lake Okeechobee and the distribution canals, if you will, from——

Mr. MAST. Not runoff. The Corps taking an algal bloom from Lake Okeechobee and moving it into a completely separate river to the east and west of Lake Okeechobee, not runoff.

Mr. LAMONT. Those algal blooms, sir, generally are as a result of pollutants coming into the system. I think it would be a concerted effort, relative to the Federal Government, to look at what the States are doing; the counties and municipalities, relative to their wastewater treatment, and what is being dumped into the water body that ultimately comes into Lake Okeechobee and then is distributed during flood reduction needs out of Lake Okeechobee.

Your point is well-taken. There needs to be a holistic view on that. But generally speaking, it is the States and the municipalities that are responsible for the quality of their waters.

Mr. MAST. My time has expired. Thank you for your comments.

Mr. GRAVES OF LOUISIANA. Thank you.

I will go to the gentleman from California, Mr. Garamendi, for 5 minutes.

Mr. GARAMENDI. Thank you, Mr. Chairman.

Generals and Mr. Lamont, thank you so very much for the work that the Corps of Engineers does all across this Nation, and particularly in my district, the Sacramento Valley District. We have had very good relationships with the ever-revolving number of colonels that have come through. Most recently, Colonel Helmlinger at the South Pacific Division. So my thanks to all the work that you do. That is not to say there are not always issues, of course there are, and I have my list of them also.

The Hamilton City project underway, specifically, it is going along. There have been some funding issues, particularly the removal of funding for the 2017 omnibus. The issue here is not that the project will go forward, we have been told that it will, but it is really can you give us an early heads-up. This is just a matter of transparency. And if you could make that the standard operating procedure, it would be helpful to all of us.

General SEMONITE. Thanks, Congressman. And, again, our guys are more than willing to come lay this out in more detail if you want to.

So it did very well in 2016, got $15 million. In 2017, the reason that there wasn't money put against it on the workplan is we actually had carryover from 2016 that came into 2017. There was no work that wasn't done in 2017 because we didn't have enough money. In 2018 it is doing well at $8.3 million, and right now it looks like we are going to award the next phase in 2018.

So we want to continue to keep priority on Hamilton City, we are tracking it. And right now we don't see any delay of the project. But it did not get budgetary money in 2017 mainly because we

were able to handle that capability with carryover from the prior year.

Mr. GARAMENDI. General, I don't know if my colleagues on this committee have noticed, but I have yet to see such a well-prepared general appear before us. Is there any issue that you anticipate from any of us that you are not prepared to brief us on?

General SEMONITE. Sir, I think the biggest single thing that we lay awake worrying about——

Mr. GARAMENDI. You have missed my point, General. I just want to compliment you and your staff for an exceptionally well-prepared briefing. Every time we are called upon, you are running through that big stack of papers, and you know exactly the questions we are going to ask. So congratulations and thank you for that.

We have gone through the section 408 issues. The chairman has spoken to this issue. It is an ongoing issue. The section 408s are slow in being processed, the numerous numbers that you are faced with. If there is an underlying statutory issue, we will try to deal with that. We know that there is an ongoing funding issue. So I won't go back into that.

Also, the committee has already brought up the issue of the beneficial used of dredged material. The San Francisco Bay region, the delta, Sacramento-San Joaquin Delta, are in line. I know you are going to come up with a report, I think it is sometime in September, if I followed the earlier questions.

So we don't go back, and since I am a farm district, we say, we don't need to plow the field a second time, but we do need to dredge a second time. So I will just let it go at that.

In your testimony you raised something that we have never really discussed here, and I just want to raise this issue. I guess this is actually Mr. Lamont—no, it is yours, General Semonite.

You say, "First, we continue our work across the globe with presence in more than 110 countries, supporting national security and our combatant commanders with civil works, military missions, and water resources research and development expertise."

Would you please deliver to the subcommittee the amount of money in your budget, in the OCO budget, and any other budget that you are spending around the world on those many, many projects in support of national security?

I have never seen in the many years that I have been involved in this a specific enumeration of the resources of the United States that are spent by the Army Corps of Engineers on those many, many projects.

General SEMONITE. Sir, we will definitely do that. And just to give you a very, very short answer, we, the Army Corps of Engineers, work for several different entitles. We work for the Navy, the Air Force, the Department of Defense. A lot of that money that we are doing around the word is OCO money or it is money that is funded through those COCOMS to be able to do it.

Another good example is we work with interagency partners. The Economy Act allows us to do this work. So we are in Mosul today, in the Mosul Dam, we have been working there a year trying to make sure the Mosul Dam doesn't break and have 11 billion gallons going downstream. That is Department of State money, with a little bit of augmentation from the Department of Defense.

But we are more than willing to lay that out for you, because these other nations also have civil works challenges. And where we have a body of knowledge that we can share, given the right authority to share that, we want to be able to make sure that our technology advances are going to other countries so they can benefit as well.

Mr. GARAMENDI. I appreciate that, and one of the reasons I used the word revolving colonels is you took the colonel that was working on our projects in the Sacramento Valley and sent him to Mosul. And he certainly understands the issue of seepage beneath levees and dams. I thank you for that.

My time has expired, but I would appreciate that information as it is money that is otherwise not available for domestic projects. So thank you for that, and thank you for the work that you do, and for being so very, very well prepared.

Mr. GRAVES OF LOUISIANA. Thank you.

We are going to go to the distinguished gentleman from Georgia, Mr. Woodall, for 5 minutes.

Mr. WOODALL. Thank you, Mr. Chairman.

And I want to echo Mr. Garamendi's comments about this panel. You see this dais filling up a little bit. I think the word is getting out, Mr. Garamendi, that this is worth being a part of. It is so frustrating to set this time aside where we could really do some great things together and find folks who are unprepared to work with us. So I am grateful to you for all the time you have put in ahead of time as well.

I don't have a Corps project in the district that I want to talk about, but I do have one off the coast of the great State of Georgia.

I know funds are limited in these times, and I remember the first Corps estimate of the dredging in the Port of Savannah that I saw, said, hey, we think we can get this done in about 6½ years. The best way to maximize taxpayer resources, it will be on about a 6½-year build. We are stretching that number out now.

General Semonite, in your opening statement, it spoke to me: "We earn our credibility, our reputation, our value by delivering the program." I know that is where your focus is. We have constituent concerns here. You have a program to deliver.

Help me to understand the merit when the administration controls some of those dollars, those allocation of resources. What is the merit of spreading those in a thin way across the entire country instead of targeting the highest economic benefit projects?

Now, if we are talking about flood control, as Ms. Esty talked about earlier, I understand that is a different issue, different degree of urgency when we are talking about lives and property. But when we are talking about deep draft dredging, help me understand the merit of funding multiple projects, overfunding one, getting it done, and then funding the next. How are we maximizing taxpayer resources?

Mr. LAMONT. Sir, if I understand your question correctly——

Mr. WOODALL. It is not lost on me, Mr. Lamont, that that question is being deferred to the senior official performing the duties of the Assistant Secretary of the Army. That is a challenging title to have to shoulder, and I appreciate your shouldering it.

Mr. LAMONT. It certainly is, sir. And it is a challenging question relative to the limited funding that the Corps of Engineers is provided and how we have to prioritize. A lot of this comes down to economics, it comes down to life-safety issues also.

And we balance that. For flood damage reduction projects, clearly we are looking at economics, we are looking at the potential for life-safety issues. For navigation projects, they are primarily driven by the economics. It is called the NED benefits, the National Economic Development benefits that are delivered to the Nation.

And all ports are in competition with each other, not only amongst themselves, but they are in competition for available Federal funding.

We are finding a lot of project sponsors are not able to wait long enough for Federal funding to qualify, therefore, they are signing project partnership agreements with us where they are willing to upfront a lot of the Federal and non-Federal funds to get these key projects moving. And we support that. I don't know if I have answered your question directly.

Mr. WOODALL. Well, I don't think so. We have certainly done that in Georgia. We ponied up the money upfront. We want to be good partners in that space.

But what I don't understand, on behalf of the American taxpayer, is how having two unfinished projects is superior economically to having one finished project. We have got these deep draft projects going on across the country, knowing that there are not enough dollars to fund them all.

What other than economic interest is the driver in making those allocations from the administration's point of view? We are costing the taxpayer money by delaying projects. We are costing the taxpayer money by stretching things out over more years, instead of getting them done in a compact amount of time.

I understand my project may win, my project may lose. I don't understand how the American taxpayer wins by underfunding multiple projects instead of properly funding one.

Mr. LAMONT. Another good point, sir. And within our $5.002 billion program, we are roughly about $1.2 billion for construction activities.

With this fiscal year 2018 budget, the administration put an emphasis on basically moving the construction that is underway along to complete it as soon as possible.

At the same time we are trying to complete feasibility studies. Over the last 2 fiscal years, there was a lot of workplan money for 16 studies that we are trying to get moving along so they will qualify for possible new start construction consideration.

But with that, that small amount of available construction funding, everything is so tightly in competition that it comes down to the benefit-cost ratio. As I know a number of you Members know, it comes down to a benefit-cost ratio of 2.5 to 1 at a 7-percent discount rate to qualify for available Federal funding.

So that is why you are seeing a lot of these ports jump in the game right now and say, we can't wait. If it is an authorized project, we want to start the project now and help you along. You will see Charleston Harbor, for example, doing that right now.

Mr. WOODALL. Well, there are a lot of families in my part of the world who put food on the table because of the success your projects bring economically to our region. I am grateful to you for your service.

Mr. GRAVES OF LOUISIANA. Thank you.

We are going to go to the gentlewoman from Florida, Ms. Frankel, for 5 minutes.

Ms. FRANKEL. Thank you.

And thank you, all of you, for your service. For Florida, obviously, with sand and dredging and ports and Everglades, very important to our economic and environmental well-being. So working with you is important.

I have four questions. I am going to try to get through them quickly so you can answer them.

Number one, I thought I heard you say that there are some blockages using Florida State resources in order to move forward with Everglades funding.

Number two question, in our last WRDA bill, and then I think the next one was called the WIIN bill—something like that, right, WIIN—we gave you all a 3-year deadline, basically, from authorization of a feasibility study to get that completed. I am just wondering if you are optimistic that is something you are going to be able to meet.

My next question is, is it true that ports are being told that in order to get a new start they have to actually agree to fully fund the project?

And number 4, and I bring this up every year, it still makes no sense to me why OMB uses a different discount rate than the Corps in evaluating projects. The Army Corps spends millions of dollars putting together Chief's Reports, and then OMB uses a different calculation, and that doesn't make any sense. And I am just wondering whether you are trying to correct that issue.

Mr. LAMONT. Congresswoman, let me jump in on number three and number four, they seem to be pretty related.

Ms. FRANKEL. OK.

Mr. LAMONT. Number three, if I understand your question correctly, the—well, let me go to four first, because the competition for Federal funding, as I alluded to with Congressman Woodall, is a key driver here.

With the available Federal resources we got, we need to, bottom line, we need to be able to look at the economics of what that project is delivering and how that will compete, after it is authorized for Federal funding.

For authorization purposes, the benefit-cost ratio has to be 1.0 to 1 or greater at the authorized discount rate, and that is now right about 2.875 percent.

However, because of the type of Federal funding that is available for the Civil Works program, the administration, no matter what administration, Democrat, Republican, going way back to 1992, utilized the benefit-cost ratio of 2.5 to 1 at a 7-percent discount rate to qualify for budgeting.

Ms. FRANKEL. Excuse me. I am aware of that. But it doesn't make—what I am saying is it doesn't make any sense because you are doing your feasibility study first, which now is going to take

3 years, we hope, and sometimes cost millions and millions of dollars.

And you use a different study, a different discount rate. So you could do all that work and then OMB says, oh, sorry, we don't agree. So it doesn't make sense that you don't get your acts together, that you are not using the same formula. One of you needs to change it, right?

Mr. LAMONT. Well, I would say this, ma'am, in all due respect. With the Federal resources that are available to our agency, we must look at the most economic high-performing projects, if you will, and that is based on economics. The administration, this one and prior administrations, have determined that is the——

Ms. FRANKEL. All right. I am sorry. You are not answering my question. I am sorry. I don't mean to be rude to you. How about trying the other three? Because really, you are not answering my question. You are telling me what I already know, but you are not explaining why, why you use different discount rates.

Mr. LAMONT. The discount rate is reflecting the competition for funds.

Ms. FRANKEL. So but why—OK.

General SEMONITE. And, ma'am, General Semonite. Let me hit the other three real quick, OK. And you have a lot of things you want to hear about. You want to talk about CEPP, Port Everglades. We are more than willing to come lay all this all out for you in your office.

But real quick, short answer, we aren't aware of any problems right now with Florida funding. That is your first question. Sometimes when people want to offer money, though, there are different ways they offer it. They offer it with an expectation of getting repaid or they offer it as a contributed fund. Maybe that is where there is confusion. But we are not aware of any problem.

The second one is on the 3-year study. It is our goal, and the committee, I think, has pushed us in the right direction, to try to get all of our studies done in 3 years. That has changed the culture of the Corps.

Some of these are extremely complicated. Back to Savannah Harbor, that is about a 17-year study we did; way too long. Some of these might not get done in 3 years, and we have a waiver process. But it is our goal to try to be as aggressive as possible.

And then the third one. There is not a requirement right now to have fully funded agreements for ports before we can move forward. They only have to be able to make sure that they can promise those funds in that agreement. But right now we are not aware of any—especially probably back on Port Everglades—where there is a significant issue on any of those Florida ports.

But we will lay this out in detail, if you want, on all of your ports, where we are on the Everglades, CEPP, and Port Everglades specifically, OK?

Ms. FRANKEL. OK. Thank you very much. But I really hope you could take another look at this cost ratio question that I have.

Mr. LAMONT. Ma'am, I would be happy to meet with you or your staff to further explain this. I want to make sure that I am answering your question specifically. I understand fully your concern, that it looks like a dichotomy. I understand fully.

Ms. FRANKEL. OK. And thank you again for your service, all of you.

Mr. GRAVES OF LOUISIANA. Thank you.

The gentleman from Texas, Dr. Babin, is recognized for 5 minutes.

Dr. BABIN. Thank you, Mr. Chairman.

Mr. Lamont, I would like to talk about a proposed Cedar Bayou dredging project that is in my district. First, I want to give you just a few facts on Cedar Bayou.

Cedar Bayou is a fully authorized project waiting for a construction new start since 2006, 11 years. The local sponsor has paid in full the local share of the initial cost of the project, and can execute a public partnership agreement with the Corps as soon as required. The project can be completed in less than 2 years.

The project feeds into the Houston Ship Channel, the busiest port in foreign tonnage in the United States, a great benefit. It is one of the least expensive projects ready for construction at approximately $50 million.

I would also point out that if you incorporate the impact this port has on our energy sector—and I submit that my district is the epicenter of energy production in this country—if you incorporate the impact of this port using the section 6009 calculation, the benefit-to-cost ratio is exceeding 5 to 1.

Can you first tell me what else that you could possibly be looking for in a project when you are making a new start determination?

Mr. LAMONT. Mr. Congressman, this gets right back to Congresswoman Frankel's question relative to the benefit-cost ratio and how the Corps of Engineers formulates and justifies its projects. I agree with you that the section 6009 benefits are legitimate benefits that can be shown in Chief of Engineers' reports and feasibility reports.

When it comes to—again, this is a thing that probably will annoy everybody here—but when it comes to competition for Federal resources for a construction decision, it all comes back to the benefit-cost ratio at the 7-percent discount rate being 2.5 to 1 or greater for qualification purposes.

We have a project right now, Brownsville Harbor, Texas, where we have coordinated with the Office of Management and Budget, and we are continuing to look into the economics of that. And that gets right to your issue as to how to display the benefits to the Nation under the National Economic Development benefits, NED benefits, versus section 6009.

I am committing to you that I will always work with the Office of Management and Budget in looking at all benefits that are on the table and trying to articulate what are the benefits not only to the Nation, but what are the benefits that are allowable under the law. So your point is well-taken.

Dr. BABIN. If Congress required the incorporation of the section 6009 benefits in the Corps' formula, which again, would make this particular project's cost-benefit ratio more than 5 to 1, would this increase the likelihood of a project like this finally getting underway? And would it be that way for all projects?

Mr. LAMONT. If in further discussion with the administration I can—and I am committing to you that I will have this conversation with the administration, relative to section 6009 benefits. I am see-

ing it on a number of other ports. I think the time has come for me to get down and talk to them about this as to what are the total benefits to the Nation under the law, and the law specifies section 6009. So I have an obligation to talk to them about that and get back to you.

Dr. BABIN. OK. Thank you.

And just real quickly with my remaining time, I want to ask a question on behalf of my Texas colleague to the south, Blake Farenthold, on the Port of Corpus Christi, which he represents.

As you may know, because of uncertainty about Federal funding, the port is trying to get a public-private partnership agreed to so they can get to work with their own money, if necessary, on their Corpus Christi Ship Channel Improvement Project.

It is my understanding that a draft of the PPA has been all but finalized since March of 2017. However, the transmittal of that PPA to the Corps Galveston District has not occurred, thus further delaying construction of this project. Can you explain to me why there has been such a delay in the finalization and transmittal of the PPA to the Galveston District? And if there are any outstanding issues, when do you expect them to be resolved?

Mr. LAMONT. Yes, sir. On the Corpus Christi project, I am working with the senior leadership of the Corps of Engineers to make sure that we can look at the draft project partnership agreement and discuss fully what are the implications relative to pipeline relocations and the costing thereof.

Dr. BABIN. OK. After receipt of these questions, would you provide me and Mr. Farenthold's office with a firm timeline when the Galveston District will receive this PPA?

General SEMONITE. Congressman, the other thing is that we see a lot of potential in certain P3s. We do believe, though, there has got to be policy on this. And while we have a couple of these that have got a massive amount of growth or capability, it is important that there is some policy developed.

And right now we have gotten, I think, a little bit of a hold on future P3s until we are able to shape that policy; mainly guidance we got through the administration and from some of the committees, to be able to make sure we can put some of that policy in place.

So we are still working through that. We have done a pilot. But we do owe you some more work on what a P3 should look like.

Dr. BABIN. OK. Thank you very much.

Mr. GRAVES OF LOUISIANA. Thank you.

I want to let Members know we are going to go ahead and do a second round for folks that are interested in doing that. But we are going to go to the gentlewoman from Michigan, Mrs. Lawrence.

Mrs. LAWRENCE. Thank you so much.

And thank the panel for being here.

Mr. Lamont, as you know, the Corps and the EPA both highlighted the importance of the 2015 Clean Water Rule to our health, our communities, and our economies. For the record, I represent a section of Michigan. I am extremely sensitive to the issue of health when it comes to our drinking water.

According to a fact sheet from the Corps and the EPA, about 117 million Americans, or 1 in 3, in this country get drinking water

from small streams that need protection from pollution under the 2015 Clean Water Rule that the Trump administration has proposed to repeal. In the June 2017 economic analysis of the Clean Water repeal, did the Corps and the EPA specifically look at the economic benefits of the rule in providing safe and reliable sources of drinking water for one in three Americans?

Mr. LAMONT. Yes, ma'am. Your comment there echoes a number of comments very similar across the Nation. Army Civil Works and the Corps of Engineers is working with EPA on this Presidential directive to relook at Waters of the United States Rule and the road forward.

What we have done so far is we have had a number of consultation meetings with concerned stakeholders, representatives of Tribes, representatives of States, representatives of local municipalities. We are hearing your concerns loud and clear.

The road forward is going to be a difficult one, in my perspective, as to not only documenting the economics and the environmental concerns. You have our assurance that we are going to do our due diligence to examine all of these aspects and listen to constituents and stakeholders as we move forward on this, on relooking at this rule.

Mrs. LAWRENCE. I want to say to this panel while I have this mic that when it comes to safe drinking water in America it is not a partisan issue, it is not an administration issue. It is a matter of quality of life.

We as human beings cannot exist without water. And we must ensure that we are funded and that we are protecting our water from pollution. And there is no, to me, gray area in that, and this is not about how you can shape it in a political agenda, and I am very passionate about that.

Also while I have the mic, Soo locks, as you know, it is Michigan, I am sure that Lieutenant General Semonite. I understand that you recently visited the Soo locks complex, as I did in the Michigan delegation.

What are you doing to ensure that the Corps is taking input from all stakeholders? And can you just give me an update on the reality of your draft of economic reevaluation report of the Soo lock project? Thank you.

General SEMONITE. Yes, Congresswoman. And we need about 7 more months to finish that draft. We would like to get it done by January. We do have a shortage of funds right now. We are working to reprogram to figure how to get more money so we can make sure we get that done by the 7 months.

I was at the Soo locks, it is absolutely critical to the Nation. This is where there is one particular lock, called the Poe lock, where 100 percent of iron ore comes through. If that lock goes down for any period, there would be dramatic ramifications back to the economy and back to unemployment in that region. The homeland defense report is very, very clear as to how critical that is.

So we are putting a lot of effort to be able to make sure that our report is done right. It might be where the committee and Congress would have to help, because if it is just a benefit-cost ratio decision, then it is just going to be like any other project. Soo lock can't be. Soo lock is in a different category——

Mrs. LAWRENCE. It is.

General SEMONITE [continuing]. Because it is a one-of-a-kind lock for a one of a kind commodity.

Mrs. LAWRENCE. And, please, I would like to get a report from you. And when you say we need more money, what does that mean? Where is it coming from? And where can we use our support for that? Because I am uniquely and passionately aware of what you have said and we must work together.

General SEMONITE. Yes, ma'am. Mr. Lamont is working this. This is an internal issue with the workplan, regarding how we put the workplan together in the last couple hours, and when the submission occurred. So we have to go back in and find the right place where we have some funds that are actually not going to be obligated this year and we can redivert them. But we have got to go through the right process to make that happen.

I want to get this done in like the next week or week and a half. Mr. Lamont is all over that.

Mrs. LAWRENCE. Thank you. I yield back.

Mr. GRAVES OF LOUISIANA. Thank you.

We are going to go to the gentleman from Illinois, Mr. Bost, for 5 minutes.

Mr. BOST. Thank you, Mr. Chairman.

And thank you all for being here.

First off, Mr. Lamont, I want to get one thing out of the way real quick, and then I have a longer discussion we need to have.

Program funds that are being requested by the St. Louis Corps to do repair on East St. Louis levee projects, the district is making that request real soon. I am doing a followup letter to you, you will be receiving, and if you just could respond to that when you get it. I am just giving you a heads-up, it is coming your way.

Mr. LAMONT. Absolutely, sir. We will look right into it.

Mr. BOST. Now, what I really want to deal with is, so back in December of 2015, we, in my district, and on both sides of the river, had the wonderful opportunity to have what was known as the holiday flood. It wasn't a holiday for any of your employees, and it sure wasn't a holiday for us. We were fighting floods in late December, early January.

During that time, a levee called the Len Small levee, which was a non-Federal levee that was created by Governor Len Small years ago, became part of the system. We have done maintenance on it over the years. It has never burst on the high pressure side. At that time it did burst on the high pressure side.

And if you will look at a map of Illinois—I have actually given this speech on the House floor, and I want you to in your mind remember how Illinois is shaped. It comes down and it does a curve, a very, very sharp curve, it is 17 miles around. That is called what is known as the Dogtooth Bend. It is a 17-mile area around on the Mississippi, very much used for navigation.

When that Len Small levee blew, it started cutting across the 3 miles that is across. Now, the unfortunate issue is, is that is about a 12-foot drop in elevation. So over a 17-mile area it doesn't bother navigation. If it ever makes the cut through—if it ever makes the cut through—we are going to have a navigational problem and all traffic will be stopped from New Orleans to the Great Lakes.

This is something I have tried to explain to the Corps, and I worked with the St. Louis Corps, getting the language right because the Corps has—now, understand you are spending millions of dollars right now in maintaining navigation, but unfortunately when it comes to a levee like that we won't repair it because you have to have a cost effect—it is calculated only on flood prevention. That is the only calculation you can use.

We actually put in the WRDA bill language that we discussed with the St. Louis Corps on how it would actually allow them the opportunity to come back and do the repairs necessary to keep that from cutting through and stopping navigation all along the Mississippi River. This is a nationwide problem if this occurs.

Somehow someone went in the Senate whenever we passed the bill over to the Senate from the Corps, and requested that the language be moved out. So we are still stuck in a situation where we are not able to do the repair.

Today, that is not a problem. It is a little frustrating because the floods keep coming right back in, we have some riprap there blocking it. But I want to know what we can do with the Corps to get this problem cured before we have a Nation trying to figure out—I mean, remember, I came from the trucking industry, and the trucking industry will be very, very happy if all of a sudden it is blocked there. They can actually start unloading the barges at one spot, haul it up river, and do that. But I think we probably want the make sure the navigation continues.

So what can I do with you to work to make sure we get this problem fixed?

General SEMONITE. So, Congressman, there is not a good clean answer right now. We know we need about $16 million. We have looked at it very closely. Tony Mitchell, our colonel out there, has personally briefed you on this.

Mr. BOST. Yeah. Does a great job.

General SEMONITE. We were able to justify the bank repairs. That is the only thing the current rules allow us to do. We do want to work with you very closely to figure out if there is some other way.

As we look at the rules right now, we don't feel that we are justified to be able to spend the $16 million on what is called Public Law 84–99 because it does need a benefit-cost ratio of 2.5.

So I hate to say no, but right now the current rules we have don't allow us to do this. My guys met with you last week. We want to continue to figure out are there some options out there.

Mr. BOST. But here is the problem. We had the language. We sent it to the Senate. I don't know who, but someone said, OK, we don't think this is a good idea, and you pulled it out. And I was not contacted when that took place. My staff was not contacted. We found it out after the fact, after we had already made a commitment to our locals that we did our job, which is putting the wording in correctly to try to cure this problem.

You know what? The locals would love to see the levee back. That is no problem. And I understand their frustration of watching the family farms be destroyed by 7 feet of sand being piled up along 10,000 acres of farmland.

But the real concern I do have is that navigation. And we need to do something quickly. I thought we had the problem cured. Don't know what happened in the Senate. There are a lot of things that happen in the Senate. I don't know what happens in the Senate. And in the short period of time I have been here, I became very frustrated with them, but we all are. But we have got to get this fixed.

General SEMONITE. Sir, we are committed to working with you on this. We don't know what happened as well either.

On the other hand, you have got a gap in there, so there are some areas that could very easily be flooded again. So let's continue to figure out what options are available.

The Congress does a great job of laying out what our authorities are. We are committed to be able to work those authorities as best we can within those boundaries. But this one right now, we don't feel we have the flexibility to apply that money to that particular hole in that levee.

Mr. BOST. OK, let me explain this. The riprap that was put in place is just above—slightly above flood stage. So the spring floods, I went down there again, and the river was coming over just as fast and just as hard and cutting more. So we are limited on the amount of time we have before it cuts all the way through.

And I think it is something that needs to be brought to a level where—I brought it up to my leadership, Senate leadership needs to know it, and I think the administration needs to know and understand. When a problem is this big—it is one thing if I am fighting for my district, but I am fighting for keeping a major transportation thoroughfare open for the economy and for just everything that is in this Nation. When we start taking out the center of the Nation's ability to move products up and down that river, it is huge.

General SEMONITE. And so we know you are prepared to propose legislation to do that. Our guys are willing to help draft that legislation and we will see what comes back out from that, and we will work within those authorities.

Mr. BOST. OK. Thank you.

Mr. LAMONT. Congressman, can I add one thing?

Mr. GRAVES OF LOUISIANA. Please, briefly. We need to move on.

Mr. LAMONT. Colonel Tony Mitchell is now our executive officer in my office, thanks to General——

Mr. BOST. He knows the situation well.

Mr. LAMONT. I will specifically talk with him about this issue also. Thank you, sir.

Mr. BOST. Thank you.

Thank you for giving it extra time.

Mr. GRAVES OF LOUISIANA. Thank you.

We are going to go the best dressed member of the committee, the gentlewoman from Florida, Ms. Wilson.

Ms. WILSON. Thank you. Thank you, Chairman Graves, for holding such an important hearing.

And I want to thank our esteemed witnesses for sharing their perspectives on the implementation of WRRDA 2014 and WRDA 2016.

Chairman Shuster should also be commended for his commitment to developing and passing water resources development legislation every 2 years. Passing this legislation has truly been a bipartisan effort. As cochair and founder of the Florida Ports Caucus, I have worked shoulder to shoulder with my Republican colleagues to build bipartisan support for WRRDA 2014 and WRDA 2016.

The impact on Florida alone has been tremendous. This legislation has helped Florida become a premier maritime location for freight and cruise, and has provided much needed resources to repair and restore the Everglades, which is a State and national treasure.

WRDA legislation also has had a significant economic impact on Florida's 15 seaports, which, based on a recent 2016 study, provide nearly 900,000 jobs. Port Miami was one of the more recent harbor-deepening projects just completed by the Corps. That port is now able to receive post-Panamax vessels with 50-foot drafts that travel to Miami through the Panama and Suez Canals. Two other seaports on Florida's east coast will soon join them.

The 2017 Corps of Engineers budget includes funding for construction on a deepening project, Port Jacksonville, and engineering and planning for the Port Everglades deepening project. I look forward to working with each of you to ensure that these projects are funded in future years and stay on track.

I have a couple of questions. The General Society of Civil Engineers estimates that our Nation's ports and harbors will need an additional investment of $15.8 billion between now and 2020 to meet the demands of larger and heavier ships that will use the Panama Canal. This increased investment would protect $270 billion in U.S. exports, $697 billion in GDP, and 738,000 jobs annually.

Given this increase in demands that will be put on our waterborne infrastructure in the coming years, can you say with confidence that the Corps will be able to meet these needs in the current fiscal environment?

General SEMONITE. Ma'am, we are committed to be able to continue to make sure that Congress understands the value of harbor deepenings, because it is a direct input back to our economy.

We have done a lot of these. You mentioned a couple in Florida. We are continuing to work east coast ones. We are working ones in the gulf right now.

I can't commit to what is going to happen anything past fiscal year 2018 based on the funds that are out there. But with the money that Congress gives us to do harbor deepenings, we are committed to be able to make sure that that money is able to directly go back into the economy and it goes back to jobs and taking care of the Nation.

Ms. WILSON. OK. Section 2106 of WRRDA of 2014 authorizes a new program to provide funds to donor and energy transfer ports. Section 1110 of WRDA of 2016 amends 2106 and includes revisions to the provision that enables payments to shippers or importers. Can you advise when the department will provide the implementation guidelines on section 1110? And this is the specifically for Port Miami.

General SEMONITE. We came prepared to talk all these because we are tracking them in great detail. Chairman Graves has been very aggressive on asking us to get implementation guidance done. If we can't find you an answer in about a minute, we will come and we will walk you through exactly where we are at on that particular section.

Ed, do you have that section?

So, ma'am, we will come over and lay this out for you on that particular one. We need to get this guidance done. Our guys are cranking as fast as they can to work through it, but we want to do it right so that we can make sure that we don't have problems down the road.

Ms. WILSON. We will be looking forward to that guidance.

Thank you. I yield back.

Mr. GRAVES OF LOUISIANA. Thank you.

We are going to go to the gentleman from Texas, Mr. Weber, for 5 minutes.

Mr. WEBER. Thank you, Mr. Chairman.

General Semonite, you came to my office and I sure appreciated that. And I am glad to hear Representative Garamendi commending you for your preparation here, because I am going to put you to the test.

You and I have both been made aware of inaccuracies in the Sabine-Neches Waterway BCR over in my area. You know that MARAD has ships there. I don't remember how many ships there are, but I think it is—is it one of three of the original anchorages left there, MARAD and Beaumont. Sixty percent of the Nation's jet fuel is produced there in our district. Almost 20 percent of the Nation's gasoline east of the Rockies, 6 percent of the Nation's strategic petroleum reserve in this district.

In your discussion with Michigan Congresswoman Brenda Lawrence you talked about, was it the Soo locks and what would happen because of the iron ore deficiency to our Nation?

Well, I would argue that Sabine-Neches Waterway is so very valuable and important. If we don't get it dredged out, we are going to tie up those naval ships and we are going to tie up a lot of traffic. We could ostensibly tie up the Nation's energy supply in a lot of different directions.

We know that there are inaccuracies in the BCR. Will you check—I don't know if you have that information in front of you—but would you check on the status of this with the Deep Draft Navigation Planning Center of Expertise, with Colonel Owen and Colonel Zetterstrom of the Galveston District, put your finger on those inaccuracies?

General SEMONITE. Sir, I am going to go to General Jackson in a minute, but we will definitely do that. The Deep Draft Navigation Center does exactly that. We want to make sure that those BCRs are calculated appropriately so we can stand behind those numbers.

Ed, can you——

Mr. WEBER. Let me break in before General Jackson does that, if I can. So in your discussion with Brenda Lawrence of Michigan you talked about the deficiency of iron ore. Do you use a national security calculation on this, because if we lose our fuel capability,

if we lose our ability to get naval ships out quickly—and here is a shock, there are enemies in the world that hate us.

So how do you include that in your BCR? How can we be sure the Sabine-Neches Waterway is included in the President's fiscal year 2019 construction budget?

General SEMONITE. So I will defer to Mr. Lamont. But I will tell you that the current analysis is based on certain types of calculations. My personal assessment is there are some variables that don't come into that. A good example is exactly what you are talking about, is defense and some of those kind of things.

So, Mr. Lamont, I don't know if you want to talk in more detail.

But there are some projects that might need the chairman and Congress to be able to look to see if they have some additional type of criteria that should be justified.

Mr. WEBER. OK. You wanted to go to Major General Jackson.

General SEMONITE. I am going to go to Mr. Lamont.

Mr. WEBER. OK. You are going to go here first.

OK, Mr. Lamont, you are up.

Mr. LAMONT. Sir, this will be pretty quick. For Sabine, there is $557,000 in the fiscal year 2017 workplan to initiate PED [preconstruction engineering and design].

Getting back to General Semonite's point about employing the Deep Draft Harbor Navigation Center of Expertise, that is going to be critical to developing the economics that would allow this project to compete for new start construction.

And, unfortunately, Congresswoman Frankel was not happy with my answer there before, but it is consistent that we have to see a benefit-cost ratio ultimately of 2.5 to 1, at a 7-percent discount rate, to qualify for new start construction. However, there are other factors that need to be brought in.

Mr. WEBER. So who do we need to bring into it? When you say other factors, that actually was my next question. And we are glad that the fiscal year 2017 workplan for PED is in it, but we are still working with the Sabine-Neches Navigation District, OMB, and all to ensure that the CIP is eligible to compete for the President's budget in fiscal year 2019. Who else do we need to bring into this conversation with us?

Mr. LAMONT. It is incumbent upon us, sir, Army Civil Works and the Corps of Engineers, to work our due diligence relative to examining the full benefits to the Nation of not only that port, but all ports through our feasibility report process and making sure that we are accounting for all benefits across the table. That is the challenge that we have.

Mr. WEBER. Let me break in here. Mr. Bost described something on the Mississippi River that would be a problem and would block traffic. Mrs. Lawrence talked—you talked about the Soo—was it Sioux, S-i-o-u-x, locks?

General JACKSON. S-o-o.

Mr. WEBER. S-o-o.

So obviously if there was a problem there, priorities would change. Who makes that decision? The locks close up and you can't get iron ore. General, by your own admission, that is a really big problem. Who makes that decision to change that priority?

General SEMONITE. So where I was going, sir, is that basically some of those priorities have to be—I would recommend to be incorporated into that guidance. They are not currently in there. So those projects are based on an economic benefit-cost ratio, not necessarily a national defense criteria.

Mr. WEBER. So if that kind of a calamity occurred, somebody has the wherewithal to say, look, we have got to jump on that and fix that problem. Who is that person?

Mr. LAMONT. Sir, our principles and guidelines, which is the framework under which we do our planning and formulation of projects to seek authorization——

Mr. WEBER. I am not talking about planning. You don't plan for disaster.

Mr. LAMONT. No, no, no. I am going to try the answer your question directly. We have full latitude and there is broadness in there to look at all benefit categories, including national defense. So each individual project has its own unique aspects, and we should look not only on the economic——

Mr. WEBER. Mr. Chairman, if you will indulge me.

I get that. But what I am saying is, when that lock locks up, pardon the pun, somebody says is the Corps is going to go in there and fix that. Who is that that says that?

General SEMONITE. I think Chairman Graves has asked us to be able to give him some smart recommendations how to change some of those rules. Right now, there is not a clean answer to that solution if in fact the rules don't allow us to work in an area that is not justified.

But I think that this is an area where we want to continue to work with the committees to build some of that in, so if there is a crisis, sir, we have the tools to be able to do that.

Some areas we do have that, for very, very unique type disaster areas. But if there is something that is related back to a very specific requirement right now, I am not sure we have the flexibility we need to be able to go in and solve one of those problems.

Mr. WEBER. So the Nation just loses its iron ore capability?

General SEMONITE. Sir, I don't want to go there. I am just saying, I think that there could be some more parameters we have to give the Corps more flexibility. And I am just not smart enough to answer exactly where we want to go——

Mr. WEBER. Mr. Lamont, you have been handed a note by the brain trust behind you. Is that salient to this discussion?

Mr. LAMONT. Yes, sir.

Mr. WEBER. She handed you a note. Does that describe who is responsible, would make that call?

Mr. LAMONT. Well, it is an effort between the Corps of Engineers and my office to make sure that we come not only to the administration, but to the Congress with our best possible recommendations.

Mr. WEBER. OK. Thank you for your indulgence, Mr. Chairman. I yield back.

Mr. LAMONT. Sir, I am willing to work with you on anything in that arena.

Mr. WEBER. And that is a good point. Please, let's make plans for you come to my office.

Mr. LAMONT. Yes, sir. Thank you.

Mr. WEBER. And I have a letter for both of you all before you all get away.

Mr. LAMONT. I understand your concerns, sir.

Mr. GRAVES OF LOUISIANA. Thank you.

We are going to go to the other Texas delegation Member, the gentlewoman, Ms. Eddie Bernice Johnson.

Ms. JOHNSON. Thank you, Mr. Chairman.

And let me thank the witnesses for being here.

I am from north Texas, with my district being in Dallas. We are inland, and yet we are probably the number one trade city in the Nation. Therefore, we have an inland port. But with all the growth we have, we have a lot of manmade lakes for drinking water—Joe Pool, Ray Hubbard, Ralph Hall—in the making. Then we have the Lewisville Lake in the area that will probably impact my district more than anybody else's if it floods, the Trinity River, and the Brazos. But we remain concerned about the supply of drinking water because we are very heavily populated.

And, General, in an article that was published in March of this year, you were quoted as saying that: Another big question we are really trying to look at are the ramifications of the budget cuts on other agencies that we are trying to work with. If EPA gets cut 25 percent in their budget, and we need EPA to look at a permit, but we can't get it to the right people, that is going to slow our work down.

Now, we have some projects that we are heavily depending on EPA to work with you now in that area. Can you elaborate on this point for the subcommittee, and state if you believe insufficient funding at EPA may inadvertently affect the pace of the completion of these Corps projects?

General SEMONITE. Yes, ma'am. Good question.

Again, back in March or April we weren't exactly sure what the other agencies were going to get with respect to their budget. There were some dramatic cuts. Some of those other agencies were proposed to have been cut up to 31 percent.

We work very, very collaboratively with those interagency partners. So if there is an issue out there and Fish and Wildlife has to give an opinion, or EPA, we want to make sure that we are giving a Federal solution back to this, not just a Corps of Engineers recommendation.

So there could be scenarios where if, in fact, an agency gets reduced in the amount of people they have, that a permit might take longer, a decision, a biological opinion. I think it is incumbent for us to be able to then figure out how do we prioritize those to keep the most important ones going.

We aren't trying to say that we need to put more money back out there to be able to grow all these organizations, but there will be ramifications if the right amount of manning is not in some of these other organizations.

Ms. JOHNSON. Thank you.

Now, there are several ongoing Corps construction projects that were initiated under the new starts are provided ongoing construction funding in the fiscal year 2017 workplan. However, for the majority of these projects, additional construction funds are required

in fiscal year 2018 and beyond to complete this construction. Yet, for a significant number of these projects, no construction funding was identified in the President's 2018 budget request.

As you know, inefficient funding of construction projects can cause a delay in the realization of benefits of these projects where we are in many places depending on stopping of flooding or providing for drinking water. What is your plan to try to complete projects that obviously are necessary if they have already been identified?

General SEMONITE. Ma'am, I am going to give you my personal opinion here. Once Congress makes a decision to start a project, I personally think we ought to see that project through.

There are some projects where we don't see a continued amount of funding to be able to finish those that have been started. The best thing we can do is to continue to be able to justify those so when the committee makes decisions on money, whether it is in the administration's budget, or the committee provides funds in the workplan—then we are able to try to keep the momentum going on those.

Because it goes back to the longer you take to build something, the more expensive it gets. That is just the law of human nature.

Mr. Lamont, do you want to jump in?

Mr. LAMONT. Yes, ma'am. I want to also add that it is clear that as these things are drug out, they are going to get more expensive. Unfortunately, as a result of the tight competition for these funds, it makes things difficult when you are authorizing projects. They are added to the backlog and they can't get to construction.

That is why I think you are seeing a lot of project sponsors willing to use some of the tools that this authorization committee has provided, which is to allow sponsors to start the work, fund the work themselves, and then hopefully have the Federal Government catch up.

In fact, what we are seeing in a lot of cases, this is very obvious, we are having to go back and look at the economics to see if it can compete for new start funding or a continuation of funding.

And that gets to be very difficult, because you get in kind of a back and forth here. You have already completed a Chief's Report, the project is authorized. Will it compete for new start construction? It may. It may be funded by a workplan. Can it be continued in the budget? It may not compete because of the benefit-cost ratio.

There needs to be a concerted effort of looking at how this Nation is going to move forward relative to authorization of projects, construction, and the consequences of delaying these things and maybe the tools that are available to other entities, such as private-public partnerships to keep things rolling.

This is a very valid question that we have heard not only at this committee, we have heard it through the Appropriations Committee staff also. Thank you ma'am.

Ms. JOHNSON. Thank you very much. My time has expired, but let me express my appreciation for the work of the Corps, the responsibility that you have taken, the great responsibility ahead of you. Thank you.

Mr. GRAVES OF LOUISIANA. I wanted to check with you all. I know we talked about taking a brief break. I believe Mr. Webster

has one more question left. I have got a number of questions. How are you all doing? Any urgent matters to attend to? Are you OK now? OK. All right.

I am going to go ahead and do my questions, and then we will go to Mr. Webster and see if there are others.

Sections 1144 and 1322 of the WIIN Act, in addition to section 1011 of WRRDA 2014, all give different prioritization criteria for budgeting projects. And I really want to highlight 1144, section 1144 of the WIIN Act, of WRDA 2016.

The legislation says that any project that is within a Presidentially declared disaster area, a project where there is a partnership agreement signed, and that the area is at significant risk for flooding, that it is to be prioritized in budgeting. Unfortunately, you have not done implementation guidance.

We have the Comite Project, General, you and I have discussed this at length. In fact, General Jackson, I believe we have discussed this as well. This project was in the area where we had an extraordinary flood in August. We have had some homes that have flooded, as I recall, I think a total of three times since then.

This project is not going to be the silver bullet, but it together with other proposals that have been put out there, including things considered by the Corps of Engineers such as the Darlington Reservoir and projects that could divert additional water off the Amite River, will provide substantial relief.

I want to understand how these laws are being implemented to advise your budgeting decisions whenever there is not even implementation guidance. How are you factoring these sorts of provisions into your overall budgeting decisions? What do I tell these people at home?

Mr. LAMONT. Mr. Chairman, I would say in the case of the Comite River I understand exactly what your concerns are and your frustration. We have $6.7 million in the fiscal year 2017 workplan.

The concern there relative to loss of life really troubles me, as far as the ability to look at this hard for fiscal year 2018 and possible workplan money. It gets back to the same issue, there is a common theme here. How do things——

Mr. GRAVES OF LOUISIANA. And reallocation of 2017 funds.

Mr. LAMONT. Yes, sir. Yes, sir.

I am bringing home from this hearing a very loud concern from the committee about the possible disparity on how we authorize projects versus how they compete. I want to look into this further and have discussions with our senior leadership, also with the administration. But when it comes to tight funding what are the mechanisms to allow projects to either to complete, if they are started, or to compete for continued funding. And I understand your frustration there, sir.

Mr. GRAVES OF LOUISIANA. Another WRDA 2016 provision, section 1163, this dates back to either 2008 or 2009 where work related to the hurricane protection system in the greater New Orleans area was going to require mitigation. At one point the estimates were the mitigation was going to be in the $600 million to $700 million range. As a result of, candidly, a different application

of mitigation for the Corps as compared to the public, that number, I think, got whittled down to about $250 million.

Regardless, myself, the Governor of Louisiana, and many others advocated that the Corps had $250 million in hand. That was the largest amount of money that you all have ever had to do wetlands restoration in Louisiana. And you are all familiar with the fact that we have lost 1,900 square miles of our coastal wetlands.

Rather than taking those dollars and advancing any one of perhaps $20 billion in coastal restoration projects, many of which have been authorized by this committee, authorized by this Congress, the Corps instead decided to go out and do some smaller rifle shot projects that will not have the same cumulative environmental benefit than if some of these projects had been advanced.

There was a very thorough process that the State went through to put their master plan together. In many cases the Corps of Engineers was working with them to identify priority projects. I will say it again, the Congress has identified projects that were authorized through the LCA.

Section 1163 was designed to give the Corps some flexibility. Although I didn't agree with the Corps' reason initially for not spending the money on these larger restoration projects, the Corps identified what they believed were obstacles in the law. Section 1163 was designed to provide some flexibility or relief.

Congressman Scalise, Senator Kennedy, Senator Cassidy from Louisiana have all weighed in with the Corps on this and asked specifically for the NOV project in Plaquemines Parish and the parish president from Plaquemines have asked that the Corps instead look at project investments, wetlands restoration investments that are truly complementary to resiliency in south Louisiana, ecological production in south Louisiana. And I understand that that discretion is not being exercised.

I just want to ask you, certainly if you are familiar with it, I would love to hear your feedback. If not, I want to ask if you could please consult with Colonel Clancy, with General Wehr, and see if we can find more reasonable use of these dollars.

Let me say it again. Between the NOV dollars and these other funds, $250 million. You can do real restoration. We tried to give you flexibility. You may be familiar, General, we have talked about the environmental bank provision that we included in the WRDA 2016 bill as well, designed to give you flexibility to make some of these investments where you can get greater environmental good, greater resiliency for the ecosystem and for the communities. And I see the Corps passing up these opportunities.

Listening to the Members of this body, this committee, sitting here talking about lack of funding from the Corps, you reading between the lines. You are saying that you have funding challenges as well, I get it. And then you have opportunities like this to use funds and actually advance your mission and you are striking out.

And so I want to urge you to go back and look at this. Here is an opportunity we are giving you to do what would be done in the private sector, to do what would be done if you want to have greater environmental good here. And again, I think the Corps is missing the opportunity. So I want to ask you to go back and look at that if you could.

General JACKSON. Mr. Chairman, I will take that up and I will get with General Wehr this week to figure out where the state of play is. I know we are working hard on the implementation guidance. But I want to make sure that I don't miss anything in the discussion. Then I would like to sit down with you and just make sure I get your perspective so we can move this forward and take advantage of the opportunities Congress intended. So thank you.

Mr. GRAVES OF LOUISIANA. Any time, any time. I am happy to meet and talk about this at length. Thank you.

I am going to go to the gentleman from Florida, Mr. Webster.

Mr. WEBSTER. Thank you, Mr. Chairman.

In the 2014 WRRDA bill there was a provision dealing with resilient construction, which I had a big interest in then, and it directed the use of durable and sustainable materials and resilient construction techniques to be used.

Unfortunately, the previous administration decided that sustainability was going to be injected. And so in March of 2016, they did some guidance documents, which in my opinion facilitated the use of two of the three pigs building materials and left out the one that actually withstood the windstorm that came. So hay is certainly renewable, but I don't know that it would be a part of sustainable—I mean of resilient construction. The same with sticks. But the brick, which is not renewable, would be left out.

And my point is, is there any way that could be reversed or changed or is there anything you are thinking about that would bring about to ensure that we don't sacrifice resiliency for something else that is less desirable in that kind of construction?

General JACKSON. Sir, I will take this one. You and I spoke about this a year or so ago when we were working through the implementation guidance for this provision. So let me circle back with my staff and make sure I understand what the state of play is, what options we have to relook anything. Then I will get it with your staff and try to figure out how we can address the concerns that you just brought up.

Mr. WEBSTER. Great. Thank you very much.

Mr. GRAVES OF LOUISIANA. OK. Thank you. I am going to go to round two—or, I guess, round two for me.

Another question I have is related to the Mid-Barataria sediment diversion project in Louisiana. You may be familiar, this project is very similar to a project that was authorized in the Water Resources Development Act of 2007, known as the Myrtle Grove project. It is designed to divert water from the west side of the Mississippi River into Barataria Bay.

The State decided, after trying to work for a few years with the Corps, the State decided to move on this project on their own. But I want to be clear that there is a very similar project that has been authorized in law. The State has approximately $800 million to $1 billion in non-Federal funds available to them in the bank.

We talked earlier about the section 408 process in response to Ms. Esty's questions. It is my understanding from the State that we are looking at a 5-year approval process, largely attributed to section 408 review and Marine Mammal Protection Act work by NOAA, which, I understand you are not NOAA and we are going to work on that NOAA issue separately, but 5 years.

I want to be clear, this is an environmental restoration project, it doesn't provide benefits to navigation or anything else. In fact, I would maybe take that back and argue that this actually will, is designed and will divert sediment from the Mississippi River, thereby hopefully reducing your O&M budget Baton Rouge to the gulf. But it is designed to restore the environment, restore coastal wetlands, restore salinity, haloclines. This is designed to be an environmental project.

The alternative of no action means additional wetlands lost, additional loss of ecological productivity, and we are looking at a 5-year review process. This is supposed to be FAST–41. FAST–41 is 5 years. This is on the dashboard.

General SEMONITE. So, Chairman Graves, 5 years is unacceptable. You know, we got an application from the State in, in June of 2016. We are working. We published a notice of intent to prepare an EIS in April of 2017. Right now it looks like all the information that we are going need from the State to be able to continue to be able to work this, we should be done by December of 2019. That is still an awful long time, that is 3 years.

Mr. GRAVES OF LOUISIANA. Wait, say that last part again, December of 2019 is what?

General SEMONITE. December of 2019 is when we think we will have that required information back in and to be able to complete this.

Mr. GRAVES OF LOUISIANA. Back in?

General SEMONITE. Let me just make sure. The State——

General JACKSON. Sir, the State has committed to giving us the information that we need to inform their section 408 recommendation by December 2019, that is the date that the New Orleans District has worked with the State of Louisiana.

Mr. GRAVES OF LOUISIANA. So they are waiting on information from the State?

General SEMONITE. They are, yes, sir.

Mr. GRAVES OF LOUISIANA. Look, I just met with the State last week. This is a priority for all of us. I just want to reiterate that 5 years is just an unacceptable timeline you are having that kind of money in the bank.

Like I said, I know the onus is on us to address the NOAA MMPA issue and we are going to do that. But I just want to ask you in regard to section 408, section 404, section 10, anything else that you are reviewing, that this be on the front burner.

And we don't need to get into the debate right now, but I blame some of your predecessors for the land loss in Louisiana, and I am just asking you to be part of the solution.

General SEMONITE. Chairman, we will take this on. Like any different process, we can crash those schedules. We will go back and work with the State, figure out what can we do to streamline to be able to get this thing done faster.

Mr. GRAVES OF LOUISIANA. Another fun one, deferred payback. You may remember in 2008 the State of Louisiana and the Corps of Engineers signed a 30-year deferred payback agreement under section, what was that, 103(k) of 1986, something like that. I don't remember which section it was. But it effectively allows the State

to pay back the—or to pay the non-Federal share for the hurricane protection system work over a 30-year period.

When that agreement was signed, the Corps of Engineers estimates were that the HPS was going to be completed—at one point it was 2009, another point it was 2010. I believe when we signed it, it was 2011. Right now I understand that deadline is actually 2019. And based on what I have seen, I think it could actually slip even a little bit more based on some of the settling and sinkage rates, subsidence rates of some of the levees that are being attempted to be handed over.

So what happens under that agreement is that the interest accrues until the project is completed. So what at one point was, as I recall, about a $60 million annual payment, we are now looking at $90 million to $100 million a year.

I am not going say that the State's activities, including mine when I was there, were flawless, but these delays are not attributable largely to the State's actions. Yet, they are the ones that are going to be penalized by these much higher costs annually, which is going to potentially, based on what I understand is the State's financial situation, that they may be paying this out of the coastal program.

So this is directly taking money out of the wetlands restoration projects and hurricane protection projects. I will make note that that was not the plan initially, this was going to come out of the general fund.

But regardless, do you think it is appropriate for the State to have to pay the additional costs as a result of the delays attributable to the Corps?

General JACKSON. Mr. Chairman, first of all, that is a huge issue, as I understand it. You and I have talked about this before.

My understanding from the staff is that, according to the deferred payment agreements, the State of Louisiana can go ahead and pay at any time. They don't have to wait for the project to be 100 percent complete.

So that is my understanding, but if my understanding is in error, then I want to make sure that I get that——

Mr. GRAVES OF LOUISIANA. I asked that question, and if I recall, and certainly don't let me be the expert on this, if I recall, the attorneys told me that actually they were supposed to wait. But I will go back and circle back and make sure I understood that correctly.

General JACKSON. Mr. Chairman, let's circle back together so that all of our attorneys see the same thing, and we will make sure that we move forward on this together to do what is right for the State.

Mr. GRAVES OF LOUISIANA. Thank you.

IHNC lock project. As I recall, the IHNC lock and the Panama Canal were built sometime around the same time and they fully renovated the Panama Canal. IHNC lock is in dilapidated condition. And it really is amazing. This goes back to just the frustration, I think, with many members of this committee about the inability to finish projects.

One thing that we are concerned about has to do with the traffic impacts of some of the bridge work. Specifically, language was in-

cluded in the law that requires that the Corps of Engineers do a post-construction traffic study, that they are to coordinate with Saint Bernard Parish and the Old Arabi Neighborhood Association.

And full disclosure, this is Congressman Scalise's district. I have been asked to ask these questions.

From what I understand from talking with those organizations, they have not been consulted with and that the traffic study perhaps is being considered after the fact, as opposed to informing some of the decisions.

I don't need a response because I am guessing it is a weedy issue, but I just want ask if you could go back and please review the law, review the obligations of the Corps of Engineers in this case. And, again, Saint Bernard Parish, Old Arabi Neighborhood Association, please do work with them to address concerns. And I think this should be done on the front end versus the back end to inform decisionmaking as opposed to trying to come back and mitigating after the fact.

Congressman Lowenthal hit on the section 1122, which is the beneficial use of dredged material. General, once again, I view this as an opportunity for the Corps to expand the available resources of the Corps, beneficially using that dredged material to advance your ecological restoration projects.

And in the case of Louisiana, it is a perfect example, I know there are many other examples around the Nation, we are double handling sediment. It doesn't make any sense from a cost-effectiveness perspective. I am concerned that the Corps of Engineers has a big fat wall between their CG program and their O&M program, between their ecological restoration and their navigation maintenance.

And I think this is an opportunity for the Corps to see much greater benefit by coordinating activities, not double handling material, talking to States and non-Federal sponsors in some cases about paying the incremental cost of perhaps moving that material an extra half mile in some cases.

But at the end of the day, it is going to significantly reduce backlog, it is going to advance some of the projects that we have for ecological restoration. And I urge you to please look at opportunities there.

General SEMONITE. Chairman, I am in violent agreement with you. There is a lot we have got to continue to do with regional sediment management. We have seen some areas we have had great successes, New York Harbor is a good example.

But I think throughout the Corps we have got to do a better job. Some of our ports are actually running out of areas to be able to put sediment. So the more that we can figure out how to be able to cut those costs down it is to everybody's advantage.

Mr. GRAVES OF LOUISIANA. I had a number of Members, including Mr. DeFazio, talked about Harbor Maintenance Trust Fund and concerns with dredging and certainly for navigation channels. Hearing the President talk about America First, talking about the need for us to advance our economy, increase our global competitiveness, and then watching these nav channels silt up and not be maintained at authorized depths is frustrating. It seems like it is contradictory.

And I remember that the previous President established a goal of doubling exports for this Nation by, what was it, 2015, I believe, and that goal wasn't even close to being met. And I think part of it was the lack of complementary investment in infrastructure, such as ports and waterways.

In the case of the Atchafalaya River, Bayous Chene, Boeuf, and Black project, again, another navigation channel affecting the Port of Morgan City, we have the Houma Navigation Canal in Terrebonne Parish is another one, all of these—Calcasieu River—all these ports come visit with us and talk about this lack of navigational certainty. Even the Mississippi River has had navigation restrictions.

I signed a letter together with Congressman DeFazio asking the President to dedicate the Harbor Maintenance Trust Fund, to fully dedicate it and the remaining balance. I think that is what should be done. I think it is going to address this backlog. And I think, quite frankly, it is the honest thing to do in regard to budgeting.

But section 1113 of the WIIN Act does allow non-Federal interests to carry out dredging activities in cases when the draft is not meeting authorized levels. It has been 8 months since that bill has been signed into law. There has been no implementation guidance the last I saw. Could you give me a timeline on when that is going to be done?

General SEMONITE. You said 1118? 1113?

Mr. GRAVES OF LOUISIANA. I tell you what——

General JACKSON. We will get back with you, sir.

Mr. GRAVES OF LOUISIANA [continuing]. I am going to go ahead and go to the gentleman from California, Mr. LaMalfa, while you are digging around.

Mr. LAMALFA. Thank you, Mr. Chairman.

Earlier this year, in northern California, we were all aware of the Oroville Dam and the challenges there with a lake that thankfully it was able to fill this year. I love to see full lakes. So with some issues with it, with the spillway, the main spillway breaking. And then a rapid rise of water that ended up utilizing for the first time in 50 years the emergency spillway system at the lake. And there was great concern since it hadn't been used before and erosion that happened on a mud hillside instead of a concrete apron area, that there was fear of collapse of part of that infrastructure, which would have had obviously big effects with at least a 30-foot head of water behind that.

So with that uncontrolled flow and with that high amount of flow during that time and a lack of maintenance and some other issues with the levee system farther down the Feather River reaching through Butte County, Yuba, and Sutter County, several breaches of this levee system require emergency repairs. Indeed they were having to spend effort and money during February and March to go out there and shore it up just to get through the season. And the lost opportunity from the previous year of actually making the permanent repairs that would have been done, now we have good money going after bad of those repairs not having been done. So they shored that up.

So my understanding now, the only thing standing in the way of these repairs is a signoff from the San Francisco Division of the

Corps, and here we are on July 19 for a problem we knew about in February or March. We have known it actually for years.

Can the gentlemen from Corps update me on something hopefully right now that shows that they are ready to sign off or the signoff has been done for that Yuba, Sutter area? Well, the Feather River system levee projects need to be done and certainly we should we be well aware of.

Please, Major General Jackson.

General JACKSON. Yes, sir. I don't have the specifics to answer the question. I know that the answer is out there. Let me get with South Pacific Division and let me circle back with you and your staff and give you the answer that you are looking for.

Mr. LAMALFA. OK. I appreciate it. Because, again, they stand at the ready to make this project happen. It is needed and people are dependent upon this for the safety of the area.

So maybe Mr. Lamont here, on the Sutter Basin Project being carried out by the Sutter Butte Flood Control Agency, a local entity, during the discussion about the Corps workplan for 2017, do you know how the Corps will further involve and increase the use of non-Federal resources to decrease the amount of time and money it would take to complete water projects like this? Because they stand ready to go and they can do things very fast, very efficiently, lower cost.

Can you tell what the Corps' plan is to further involve a local agency like is a SBFCA.

Mr. LAMONT. Mr. Congressman, I understand there was a bit of a disparity between the Corps district and the sponsor on the project cost and the ability to move forward. And that got caught up in our timeframe on developing not only the fiscal year 2017 workplan, but also the fiscal year 2018 budget. And I am hopeful that that can be resolved as quickly as possible so we can look strongly at this one as a contender for fiscal year 2018 workplan funding.

Mr. LAMALFA. 2018. What about 2017? Again we need to signoff from the San Francisco Corps Division. Can we come back to that? Because we are burning daylight. It is July 19, and they need to be doing this, otherwise we are subjecting ourselves to another year of risk, another year of winter patch-up jobs to keep boils from happening at the edge of the levees. Can you elaborate?

Mr. LAMONT. PED, preconstruction engineering and design, was funded in fiscal year 2017 to continue the process to get it ready for new start construction consideration. So we are not losing any time on that aspect. The time that you are concerned about was, did it get a new start designation, which it did not this year, that is true.

Mr. LAMALFA. General Jackson, why would that not be—why wouldn't we be it getting that new start?

General JACKSON. I don't know. Mr. Lamont, you are going have to answer that. I am not sure why we did not get a new start. But it has to compete with all the other projects that are out there to compete for new starts.

Mr. LAMONT. Right. My understanding in talking with folks from my office in concert with the Corps is that it just wasn't ready to go. I will look more clearly into this for you and get you a specific

answer as to what the problem was and to try to resolve this and get this for consideration for the next cycle.

Mr. LAMALFA. Not ready to go certainly wouldn't reflect any of the local effort——

Mr. LAMONT. Yes, sir.

Mr. LAMALFA [continuing]. For local funding or local ability or input on that. It would merely be Federal Government dithering, what we are talking about here, and that is very, very frustrating. We have some people extremely motivated and concerned in the community. This is an area that had almost 200,000 people evacuate due to the various factors here, whether it was the dam spillway itself or the levee system that is on the edge in some areas. And they are darn tired of it. And so we need answers on that. And I would appreciate them.

And I will yield back because I am over time. Thank you, Mr. Chairman.

Mr. GRAVES OF LOUISIANA. Thank you.

Look, in wrapping up, I want to say, one, I appreciate you being here. I appreciate your endurance today.

I want to circle back to what I said at the beginning. The mission you have is absolutely critical to this Nation, whether it is facilitating maritime commerce from global trade, it is improving the resiliency of our communities, improving the resiliency of our ecosystem. These are critical missions to the Nation. They are fundamental.

And the implementation schedules that we have seen are simply unacceptable. The West Shore Project in Louisiana was in a study phase for 42 years before the report being finished last year, which I do appreciate, but 42 years.

You can never explain, justify those types of schedules to any taxpayer and we shouldn't ever have to. It is unacceptable.

And moving forward, we have an opportunity, I think. I think there is a strong desire on both sides of this committee to change things, to give the tools we need to actually get these projects completed.

I think there were a number of tools in the 2014 and 2016 bill in many cases where the implementation guidance has not been finished. I am looking, there were sections where the 2014 bill said that within 90 days of enactment certain things needed to happen, and we still don't even have implementation guidance from those. Other cases 180 days. We are over 3 years later.

In the 2016 bill, again, 90 days, 180 days, 180 days, 180 days, 180 days of enactment. The Secretary shall do X. And these things aren't happening.

I will say what I said before, I don't understand how the Corps can go enforce laws and say to the American taxpayer, you have to comply with this law, yet the Corps itself is ignoring many laws that we write here on this committee.

It is one thing that really bothers me personally, I know it bothers a lot of members of this committee that accountability is not happening. And it is something that we are going to work on to make sure that moving forward we don't have these continued lapses.

It is in our shared interest. I know that Congress has culpability and responsibility to make sure that we are cleaning up laws, providing streamlined processes and appropriate resources to get things done. We need to work together to do these things. We are talking about an infrastructure package moving forward.

The Corps' regulatory practices and others are all going to be integral to the success of this. The last thing in the world we need is to have $1 trillion sitting in the bank because we can't spend it because we are stuck on preconstruction activities.

And so I want to work together with you all and many other stakeholders and this committee included——

Mr. LAMALFA. Mr. Chairman?

Mr. GRAVES OF LOUISIANA [continuing]. On putting together a process that recognizes the urgency, is corresponding to the urgency of many of these projects around the Nation that we need to build.

Mr. LaMalfa.

Mr. LAMALFA. I am sorry. I would like to point out an irony here. You said a 42-year wait on a project. Tomorrow will be the 48th anniversary of landing on the moon. So we put a man on the moon 48 years ago tomorrow and we have 42-year lags in doing projects on Earth here.

Mr. GRAVES OF LOUISIANA. And that was 42 years just to finish the study on a project that we haven't even gotten the first penny of construction funds on yet.

General SEMONITE. Well, Mr. Chairman, that is unacceptable. We all know that. I think we are all committed to continue to be able to figure out how to make recommendations to the process so we can streamline this and get back to these answers to the American public. They deserve that.

Mr. GRAVES OF LOUISIANA. Thank you. I appreciate it very much. As you know, I mentioned early on, I am sure we will have some questions for the record, and I would appreciate your prompt responses to those, in addition to following up on some of the other things where you committed to do so.

If no other Members have anything else to add, the committee stands adjourned.

[Whereupon, at 12:44 p.m., the subcommittee was adjourned.]



Statement for the Record
The Honorable Grace F. Napolitano
Committee on Transportation and Infrastructure
Subcommittee on Water Resources and Environment
Hearing on WRDA 14 and WRDA 16 Implementation
July 19, 2017

Mr. Chairman and Mr. Ranking Member, I am not able to attend today's hearing as I am in California due to my husband's health situation. Thank you for holding this important hearing to review the Army Corps of Engineer's implementation of WRDA 2014 and 2016.

WRDA 16 Implementation

Mr. Lamont, Lieutenant General Semonite, and Major General Jackson, thank you for recently implementing provisions of WRDA 16 that were very important to my communities regarding creating more water supply at Corps dams, improving sediment removal from dams, and increasing transparency of Corps data with local and state partners. My constituent agencies are reviewing the implementation guidance and currently discussing ways to partner with the Corps to use these new tools. I look forward to continuing to work with you, the South Pacific Division, and the Los Angeles District to change operations and construct projects based on these new authorities that will provide more water to local communities, improve the environment, and reduce flood risk.

2015 Clean Water Protection Rule

Mr. Chairman, I am very concerned with the direction the Corps has taken with EPA in this new administration in repealing the 2015 Clean Water Protection Rule. The 2015 Clean Water Rule was extremely important to communities like mine that depend on downstream water supplies. The Clean Water Rule ensures that we are receiving waters that are healthy enough to use for drinking, recreation, and environment. Repealing this rule means that upstream polluters can get away with damaging our waters and passing the costs onto our water agencies when they will now have to treat the water prior to consumption.

Additionally, the Clean Water Rule provided much needed clarity to all water stakeholders regarding the jurisdiction of the Clean Water Act. This is of particular interest to my constituents who have spent the past five years trying to determine the jurisdictional nexus of storm water drains in the San Gabriel Valley under the 2012 Los Angeles County MS4 Stormwater permit. My constituent water agencies are also the foremost leaders in the United States at using recycled water to improve local water supplies. The 2015 Rule exempted storm water conveyance facilities and water recycling projects from the Clean Water Act.

The irony is that the Trump Administration has rescinded the 2015 rule under the guise of reducing regulation, when the reality is that this Administration's action is leading to unnecessary regulation in my district. The President's action will actually increase unjustifiable costs, require needless projects, and reduce local water supply opportunities.

I urge the Administration to listen to the overwhelming comments of the American people that the 2015 rule was extremely effective at protecting the environment, providing clarity for stakeholders, and reducing undue regulation.

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT OF

DOUGLAS W. LAMONT, P.E.
SENIOR OFFICIAL PERFORMING THE DUTIES OF THE
ASSISTANT SECRETARY OF THE ARMY
(CIVIL WORKS)

BEFORE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

ON

BUILDING A 21ST CENTURY INFRASTRUCTURE FOR AMERICA: IMPLEMENTATION OF THE WATER RESOURCES REFORM AND DEVELOPMENT ACT OF 2014 AND THE WATER RESOURCES DEVELOPMENT ACT OF 2016

JULY 19, 2017

Mr. Chairman and distinguished members of the Subcommittee:

I am honored to be testifying before you today to discuss the Water Resources Reform and Development Act of 2014 (WRRDA 2014) and the Water Resources Development Act, 2016 (WRDA 2016). Through its Civil Works program, the U.S. Army Corps of Engineers (Corps) supports the shipment of goods through our Nation's coastal ports and on the inland waterways, helps communities to reduce their flood and coastal storm risks, is restoring several significant aquatic ecosystems, provides drinking water, generates renewable electricity, and offers water-based recreation opportunities to the public.

For over a century, Federal, State, local, and tribal governments have made large investments in our water resources, including by constructing locks and dams, and deeper and wider coastal navigation channels to support commercial navigation; and by building levees, reservoirs, and other features to reduce flood risks. In the 21st Century, we must continue to look for the best ways to maintain the key features of this infrastructure, reliably and safely – in a manner that is responsible, economic, and sustainable.

The U.S. Army executes a complex Civil Works mission in a setting that requires collaboration and trust with the beneficiaries of our projects, other stakeholders, our Federal and State partners, and the public. Increasingly, State, local, and tribal governments, and private entities have been taking on greater roles in water resources investments – including some that the Federal government may have provided for them in the past. We look forward to continuing to discuss innovative partnerships with our partners and the private sector, so that we can, working together, continue to make progress in addressing the Nation's water resources challenges of the 21st Century.

The Administration recognizes the need to invest in our Nation's infrastructure for America, including its water resources infrastructure. The 2018 Civil Works Budget supports this effort by providing $5.002 billion in gross discretionary appropriations for the U.S. Army Corps of Engineers (Corps) Civil Works Program, focusing on investments that will yield high economic and environmental returns or address a significant risk to public safety. The Budget focus on our three major mission areas, allocating: 42 percent to commercial navigation, 27 percent to flood and storm damage risk reduction, and 7 percent to aquatic ecosystem restoration. Other areas of significant funding in the Budget include our hydropower program, the clean-up of sites contaminated during the early years of the Nation's nuclear weapons program, and our regulatory program.

The FY 2018 Budget supports the key features of the water resources infrastructure that the Corps owns and operates. The Budget also provides $965 million to be derived

from the Harbor Maintenance Trust Fund, the highest amount ever budgeted, to maintain coastal channels and related work.

The Army submitted the 2017 Report to Congress on Future Water Resources Development (Annual Report) in March of this year in response to Section 7001 of WRRDA 2014, including an accounting of Post Authorization Change Reports. The process for developing this report includes a Federal register Notice requesting proposals from non-Federal interests for proposed feasibility studies and modifications to authorized water resources development projects. Those proposals are evaluated strictly based on the five statutory criteria from the WRRDA 2014. The five criteria that the proposals must meet are: must be related to missions and authorities of the Corps; require specific congressional authorization, including an act of congress; the proposal must not have been congressionally authorized; the proposal must not have been included in the report table of any previous annual report; and if authorized, the project could be carried out by the Corps. A total of 53 proposals were received this year. Of these proposals, 13 met the criteria and are listed in the Annual Report Table. The 40 proposals that did not meet the criteria are included in the appendix. The two primary reasons proposals are included in the Appendix are that either the proposal did not fit within the identified Corps core mission areas or authority already exists to perform the requested work. Where authority already exists, inclusion in the Appendix to the 2017 Annual Report does not preclude the Army from carrying out either a study or construction.

Mr. Chairman, I look forward to working with you and appreciate this Committee's support for the Nation's water resources and infrastructure. Mr. Chairman, this concludes my written statement.

DEPARTMENT OF THE ARMY CORPS OF ENGINEERS

COMPLETE STATEMENT OF

LIEUTENANT GENERAL TODD T. SEMONITE

CHIEF OF ENGINEERS

U.S. ARMY CORPS OF ENGINEERS

BEFORE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

UNITED STATES HOUSE OF REPRESENTATIVES

ON

Building a 21st Century Infrastructure for America: Implementation of the Water Resources Reform and Development Act of 2014 and the Water Resources Development Act of 2016

JULY 19, 2017

Mr. Chairman and Members of the Subcommittee:

I am honored to testify before your committee today, along with Mr. Douglas Lamont, the Senior Official Performing the Duties of the Assistant Secretary of the Army (Civil Works), on the implementation of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) and the Water Resources Development Act of 2016 (WRDA 2016) – and the bigger picture of how to ensure we build and sustain 21st Century Water Resources Infrastructure for America. This is my first time to testify before this Subcommittee and I look forward to working together during my tenure as Chief of Engineers.

I have been in command of the Corps for just over a year, and I want to briefly update you on where we're headed.

As an organization, the Corps' credibility is measured by our ability to deliver results that are on time, on budget, and of exceptional quality. To do this, and to keep us "world class", now and into the future, we're focusing on three fundamentals we call "Strengthen the Foundation," "Deliver the Program," and "Achieve our Vision."

First, as with any structure, our **Foundation** must be our **Strength** – the bedrock upon which our present rests and our future is built. For the Corps, this means having the discipline to do the routine things to a high standard. It means demonstrating we are reliable and worthy partners to assist in a shared effort by all levels of government and the private sector to be responsible stewards of our nation's water resources – and to earn its trust – in all we do, from top to bottom, big to small, tactical to strategic. It means having teams and processes that ask and answer the right questions, like, "do we have the capabilities, capacity, and authorities," before we launch. And, it means empowering leaders to think strategically because they are confident in the discipline of our ranks.

Second, we earn our credibility, our reputation, and our value by **Delivering the Program.** This is our lifesblood. This is our passion. This is our mission. And this is our No. 1 priority. In all we do, we'll ensure that costs, milestones, and expected quality are both understood and met.

Finally, to **Achieve our Vision**, we'll do our best to anticipate the conditions, challenges, and opportunities in an unknowable future and take prudent, decisive steps today to prepare. We're doing this by operationalizing strategic change with our Campaign Plan and its four (4) Goals – Support National Security, Deliver Integrated Water Resource Solutions, Reduce Disaster Risk, and Prepare for Tomorrow.

First, we continue our work across the globe with presence in more than 110 countries **Supporting National Security** and our Combatant Commanders with Civil Works, Military Missions, and Water Resources Research and Development expertise. We are proud to serve this great Nation and our fellow citizens and we are proud of the work the Corps does to support America's foreign policy. Corps civilian employees nationwide

have volunteered – and continue to volunteer – to support our Nation's missions and vital interests abroad, often in harm's way. Many have served on multiple deployments.

Second, we continue to work at making the Corps more efficient and effective while **Delivering Integrated Water Resource Solutions** for national missions and to address infrastructure challenges. This involves modernizing the project planning process, enhancing budget development for more holistic outcomes, making better risk-informed investment decisions, and improving delivery methods.

Third, we continue to be proactive in **Reducing Disaster Risks** and responding to disasters under the National Response Framework, National Disaster Recovery Framework, P.L. 84-99 as amended, and Corps project authorities for flood risk management. I am so proud of our team for the work we do with our partners at FEMA and State and local agencies in this area.

Fourth, **Preparing for Tomorrow** remains about our people and ensuring we have a pipeline of the best Science, Technology, Engineering and Mathematics teammates, as well as strong Workforce Development and Talent Management programs. We continue to tailor development programs to employee aspirations to retain talent and instill a culture that embraces a career of service. We've enjoyed success here, and continue to significantly improve our agency ranking in the Federal Employee Viewpoint Survey and on the list of best places to work in the Federal government. We are proud to say that we continue to help our Nation's Wounded Warriors transition out of active duty into fulfilling careers. In fact, this year we set a goal to assist 225 transitioning Wounded Warriors. I'm proud to say that we've nearly reached this goal by assisting 185 Wounded Warriors through the end of the 2nd quarter. Over the past five years, we've helped just over 1,300 Wounded Warriors find meaningful careers within the Corps and other organizations.

In closing, may I say that our excellence demands the bone-deep commitment of every Corps employee. I'm striving to develop what GEN Shinseki, former Army Chief of Staff, called "irreversible momentum" toward being a "world-class" organization. I use those two words on purpose because when I talk with my Corps team, I want all of us to have something to relate to. Whether a regulatory biologist or construction engineer, a human resource specialist or dam operator, an administrative professional or general officer, "world class" means that for the Corps to continue "engineering solutions to the nation's toughest challenges," which is our vision, we all must be leaders of superior integrity and technical competence. We know our multi-billion dollar program doesn't deliver itself. Nor is the Nation served just by the work that we do, but more importantly, by your entire Corps Team – 34,000 strong. Thank you for allowing me the time to address the committee.

IMPLEMENTATION OF WRRDA 2014 AND WRDA 2016

WRRDA 2014

WRRDA 2014 provided many new and revised authorities to the Secretary of the Army with regard to the Nation's water resources. Since enactment, the Corps has continued to maintain a strong focus and commitment on developing and completing the implementation guidance for the provisions under this legislation. To date, we have addressed 190 provisions, which represent 95% of the 202 provisions enacted. All of the individual guidance can be found at the following link:

http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/wrrda2014/

In an initiative undertaken by the Army Corps of Engineers, we have streamlined the delivery of our feasibility studies, including those that provide recommendations to the Administration and the Congress on proposed water resources projects. This effort has been successful in reducing study costs and timelines, including 31 Chief's Reports completed since WRRDA 2014. WRRDA 2014 adopted this approach, by authorizing its programmatic improvements in law. In addition, we are synchronizing and integrating Corps investments with those that are being made by other federal, state, local and non-governmental organizations, and we are using risk informed decision-making to improve the reliability and resiliency of our infrastructure portfolio. Over time, the cumulative effect of these efforts will result in an improved culture that is oriented on producing outcomes that enhance performance, quality and timely delivery of products and services and collaboration.

WRDA 2016

We have begun to issue guidance on the provisions of the recently enacted WRDA 2016. This legislation, signed into law on December 16, 2016, is Title I of the Water Resources Infrastructure Improvements for the Nation (WIIN) Act. In addition to its programmatic changes to Army Corps of Engineers water resources authorities, this legislation authorized 30 water resources projects, eight project reauthorizations, and 39 studies.

Today, I proudly report to you the significant progress made since enactment of WRDA 2016. Implementation guidance for 138 of the WRDA 2016 provisions, representing 67% of the 206 provisions in the Act, has been addressed and more are under review by our team. All completed guidance is posted on the Corps website at

http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/wrda2016/

The guidance that we have issued and will be issuing will enable the Corps to continue to be responsive to our customers and stakeholders. We continue to streamline our

delivery and performance processes, and are working to further deliver the Civil Works program. It is and will remain reliable, innovative, efficient, and responsive, and we are making additional changes to increase and enhance performance. Completion of implementation guidance for both WRRDA 2014 and WRDA 2016 is one of my top priorities. The Army Corps of Engineers has a strong tradition of working collaboratively with non-federal interests and other federal agencies. These partnerships are increasing and will likely continue to increase, as we share a common goal of having reliable and resilient water resources infrastructure for our Nation.

CONCLUSION

The U.S. Army Corps of Engineers is fully committed to doing what it can to for the Nation to assist in addressing the water resources challenges of the 21st Century.

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

"Building a 21st Century Infrastructure for America: Implementation of the Water Resources Reform and Development Act of 2014 and the Water Resources Development Act of 2016"
Subcommittee on Water Resources and Environment Hearing
Wednesday, July 19, 2017, 10:00 a.m.
2167 Rayburn House Office Building
Washington, D.C.

Questions for the Record

Submitted on behalf of Chairman Garret Graves (LA-06):

1. Could you please explain the rationale behind the sequence in which implementation guidance is being issued, and how is the Army Corps of Engineers (Corps) prioritizing the issuance of guidance?

Answer: In issuing implementation guidance, the Corps generally gives priority to provisions that are likely to have a broad impact on policy or process, and to those provisions that are likely to be a priority for funding. We also consider other factors such as the extent to which a provision would affect non-Federal sponsors, and legislative timelines for completion. However, the Corps often will also work on lower priority implementation guidance along with those determined to be of high priority.

2. How is the Corps engaging stakeholders and Congress as it works to implement this law?

Answer: The Corps engages with Congress regarding status of completion of specific provisions and also to clarify Congressional intent. Further, since early 2017, the Corps has met with stakeholders to discuss the status of guidance and specific provisions of interest.

3. WRRDA 2014 implemented the new 3x3x3 study process. How is implementation of this provision going? Are there unexpected challenges that the Corps and project sponsors are facing with these provisions? How many studies do you expect to complete this year using this process?

Answer: The implementation of 3x3x3 is progressing and going well. The challenges that we face were expected. For example, one of the challenges involves adapting existing analytic tools to allow for faster, risk based decisions, which focus on the key factors that bear upon the decision. An example would be a scaled navigation model that does not require the current level of inputs. Another challenge involves learning how to identify at an early stage the studies that will require more time or more resources to complete.

There are multiple ongoing 3x3x3 studies that started after enactment of WRRDA 14. The Corps does not anticipate completing any of these post WRRDA 14 studies in 2017. There will be several studies completed this year, but they began prior to enactment of WRRDA 14.

4. What effects have you seen from the elimination of the reconnaissance phase of the study process?

Answer: Generally, the Corps now does the work of the reconnaissance phase during the feasibility study phase. In most cases, this saves time. However, where a reconnaissance report would held led the Corps to conclude at an early stage that it was not likely to be able to justify further analysis, the elimination of the reconnaissance phase may result in an additional level of analysis, before the Corps concludes that it should end the study. In such cases, the cost may be higher than for a reconnaissance study due to the additional work performed. The non-Federal sponsor would pay a share of the cost, and the additional work performed could increase the cost to the government as well.

5. Have other agencies involved in interagency coordination been an impediment to efficient project development and delivery?

Answer: The Corps recognizes the importance of interagency coordination. We value the input that our agency partners provide, at the Federal, state, and local levels. It improves the quality of our studies, and informs our recommendations.

6. We are hearing that people are still not either aware of the project submission process or not sure of when and how the 7001 process works. What steps has the Corps has taken since our last oversight hearing to provide notice to the public about this still new process? How is the Corps working to make this process more seamless?

Answer: The Corps continues to work to ensure that the process is clear and understood. Every year, the Corps publishes a notice in the Federal Register (FR) that announces a 120-day period for non-Federal interests to submit proposals for consideration. The FR notice provides an explanation of Section 7001, the criteria that apply to these proposals, and how to submit a proposal. The Corps uses Facebook, Twitter, Google+, and LinkedIn to notify interested parties during this 120-day period, and hosts a national public webinar with an open Q&A session. In addition, the Corps has set up a Section 7001 website with FAQs, links, and contacts at: http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/WRRDA-7001-Proposals/.

7. Has the Corps begun work with any non-federal project sponsors who are taking advantage of the new sections in WRRDA 2014 on contributed funds? Can you give us examples of the kinds of non-federal interests pursuing this and the projects they propose to build?

Answer: The Corps continues to see an increase in offers by non-federal interests to contribute funds to the Corps to perform work. While the majority of the contributed funds arrangements to date involve maintenance dredging of navigation projects, the Corps has accepted contributed funds for study and design efforts for proposed projects, as well as for construction.

Under the new sections in WRRDA 2014 on contributed funds, for example, the Corps recently executed a project partnership agreement for construction of a navigation project, with the non-Federal sponsor agreeing to provide all funds above the Section 902 maximum cost limit. Also,

we anticipate that a non-profit entity, with the consent of the local government, will be providing contributed funds to increase the hours of lock operations for a navigation project.

8. In WRDA 2016, we added section 1153. Has the Corps been approached by any non-federal project sponsors looking to take advantage of this provision? Can you give us examples of where this might be used?

Answer: Several Corps Divisions, including the Northwestern Division, Southwestern Division and Mississippi Valley Division, have had discussions with stakeholders regarding this provision.

9. The beneficial use of dredged material pilot program was not a part of the President's Budget Request. Will funding for these projects be included in an upcoming Work Plan?

Answer: The Corps will consider funding for this program in the development of future Budgets and Work Plans, along with other potential uses of the available funds.

10. When can Congress expect to see the Harbor Maintenance Trust fund (HMTF) provisions of WRDA 2016 implemented? When can Congress expect the next annual report on the HMTF?

Answer: The use of funds to implement the Harbor Maintenance Trust Fund provisions of WRDA 2016 are considered and will continue to be considered in development of annual Budgets and Work Plans. The next HMTF Annual Report is scheduled to be submitted to Congress by the end of 2017.

11. When will Olmstead be operational? When will it be competed? How is this affecting the rest of the inland navigation projects? What additional navigation projects are queued up for funding over the next 10 years?

Answer: Olmsted Locks and Dam is scheduled to be operational in 2018 when construction of the dam is complete. The locks are already complete. The project is scheduled for completion in October 2021 after completion of the River Dikes and removal of Locks and Dam 52 and Locks and Dam 53. Continued funding of the Olmsted project reduces the amount of Construction funding and Inland Waterways Trust Fund (IWTF) funding available to construct other inland waterways projects.

12. Congress has enacted several project delivery reforms for inland and intercostal waterways. When can Congress expect to see these authorized pilot projects begin? What are the current impediments in making these changes?

Answer: The Corps has implemented most of the project delivery process reforms outlined in Section 2002 of WRRDA 2014, including providing formal project management training for project managers, utilizing risk-based cost and schedule estimates, applying lessons learned and best management practices, using the Inland Navigation Design Center, using fully funded contracts when feasible, including members of the Inland Waterways Users Board on project

delivery teams, and completing the Inland and Intracoastal Waterways Twenty-Year Capital Investment Strategy. The Corps has also held industry days to get contractor input before advertising contracts. The Corps will consider funding for pilot projects in the development of future Budgets and Work Plans, along with other potential uses of the available funds.

13. Section 1178(c) of WRDA 2016 authorized assistance to tribes who were displaced as a result of the construction of the Bonneville Dam. Can you please provide us with an update on how that provision is being carried out?

Answer: The Corps is developing implementation guidance for Section 1178(c) of WRDA 2016. Section 1178(c)(1)(A) is specific to lands transferred by the Department of the Army to the Secretary of the Interior, which refers to the lands transferred to the Bureau of Indian Affairs during the construction of the Bonneville pool, and includes six treaty access fishing sites and five in-lieu fishing access sites. Section 1178(c) allows the Corps to provide assistance on these sites, at the request of the Secretary of the Interior. Once the guidance is completed, the Corps will notify the Secretary of the Interior that requests for assistance will be considered in accordance with the law and implementation guidance. If the Corps agrees to provide any such assistance, the Corps will develop a Memorandum of Agreement (MOA) with the Department of Interior to outline the scope of any assistance activities.

14. Sections 1158, 1159, and 1160 of WRDA 2016 authorized the use of PRIP funds for building new district headquarters in Buffalo and New England, and established a process for future expenditures from this account for facility investment. Please give us an update on the status of these projects as well as implementation of the new 1160 process.

Answer: The Corps has concluded that Section 1160 will not require additional implementation guidance. The Corps memorandum dated January 27, 2017, subject: Effects of Amendments to the Civil Works Revolving Fund Statute on the Plant Replacement and Improvement Program (PRIP) will be used as the guidance. Both PRIP building construction projects for the New England and Buffalo Districts have already been approved for funding.

Currently, the New England District PRIP project consists of the design and renovation of approximately 100,000 square feet of office space at Hanscom Air Force Base in two buildings that were formerly part of the Air Force Research Laboratory building complex (1950s Vintage). The renovations will consist of interior demolition, asbestos abatement, roof replacement, window replacement, mechanical and electrical system upgrades, bathroom renovations, and fire protection upgrades. The environmental survey and compliance efforts are underway and the design contract is scheduled to be awarded by January 2018.

For the Buffalo office project, the Corps completed concurrent execution milestones required to vacate excess facilities, establish on-site swing space, and prepare the Design-Build Request for Proposals for the new facilities in FY 2017. The Corps awarded a hazardous materials survey contract and prepared the contract package for building demolition. Excess property was properly disposed or recycled in advance of relocation of operations into swing space. In FY 2018, the Corps will issue the Design-Build Request for Proposal and complete the Phase-I procurement and award and execute a geotechnical and geophysical survey contract to locate and

identify subsurface anomalies (abandoned utilities, structures, and geological disturbances). The Phase-II procurement will be issued in FY 2018 (awarded in FY 2019) for design and construction.

15. Section 3022 of WRRDA 2014 directed the use of durable and sustainable materials and resilient construction techniques. Unfortunately, the guidance interprets "sustainable" materials as "those materials that can be produced, used, and reused without depleting non-renewable resources," which arbitrarily restrict the types of materials that could be considered or included as part of a Corps of Engineers construction project. Has the Corps undertaken any cost-benefit analyses of the feasibility this requirement? What types of materials has the Corps identified that fit this standard? Can the Corps revisit the guidance to prevent materials from being excluded?

Answer: Section 3022 of WRRDA 2014 directs the Corps to encourage the use of sustainable materials to the maximum extent practicable. The Corps' implementation guidance provides direction by defining sustainable materials and instructing design teams "to place further emphasis" on their selection "as applicable and to the extent practicable." Neither Section 3022 and or implementation guidance mandate that sustainable materials be used, only that such materials be encouraged and considered further. Such materials need not be used if they needlessly compromise mission or system performance. The selection of materials by design teams continues to be based on multiple considerations, including performance, reliability, availability, costs, and other factors.

The Corps has not conducted any enterprise-wide cost-benefit analysis specific to the feasibility of this provision. Decisions on material selection continue to be made at the project level and can be highly variable based on multiple considerations and tradeoffs, including feasibility. The implementation guidance for this provision does not establish minimum requirements to restrict or exclude materials; rather, it defines sustainable materials and encourages their consideration. Decisions on which specific type of materials are used continue to be made based on multiple standards, specifications, and guidance relevant to the application.

The Corps is not planning to revise the guidance as it does not prevent specific materials from being used. Design teams continue to consider their options in material selection based on multiple factors that include sustainability and the availability of resources.

16. WRDA 2016 authorized the Chief's report for Upper Ohio. As you know, these long-delayed upgrades of the Upper Ohio River's Emsworth, Dashields, and Montgomery (EDM) locks and dams, which provide critical access to the Port of Pittsburgh, one of the Nation's busiest inland ports, will provide enormous benefits to the region, and make our entire Nation more competitive. However, I remain concerned that OMB is requiring an updated economic analysis, even though the first economic analysis was more than adequate. What is happening with Upper Ohio and how you are working to make sure these projects aren't delayed any further?

Answer: A project of this magnitude, complexity and cost (estimated to cost $2.69 billion) would involve a significant investment. The additional economic analysis would be consistent

with the level of analysis conducted for all Corps projects, and would ensure that a potential investment of this magnitude is fully evaluated for the American taxpayer. The economic analysis will cost an estimated $2 million and take less than three years to complete. The Corps is proceeding with Preconstruction Engineering and Design concurrently with the economic analysis. The project was allocated $5.525 million in FY 2017, which supports both the economic analysis and a subsurface geotechnical investigation at one project location.

17. Will you please provide me with an update of how the Chesapeake Bay Oyster Restoration project is coming along?

Answer: The Corps awarded a contract option in March 2017 for constructing 10 acres of mixed shell substrate in the Tred Avon River, Maryland. Given the shortage of mixed shell however, the completion date was extended to January 2018. Also in March 2017, the Corps awarded a contract for constructing 25 acres of rock substrate in the Piankatank River, Virginia. This contract is also scheduled for completion in FY 2018.

18. Will you please provide me with an update on status of the Huntington County Study?

Answer: There is an ongoing study to update the current Master Plan at Raystown Lake in Huntington County, Pennsylvania. The scoping for this update effort began in FY 2017 and a public meeting will be scheduled in early FY 2018 to receive input for the update and the revised Master Plan is scheduled for completion in FY 2019.

Submitted on behalf of Congressman Rodney Davis (IL-13):

1. I believe it is unacceptable that the Corps has taken a position that NESP, a program which has arguably been studied more than any other program in the entire history of the Corps, requires yet another study estimated to cost $7 million over three years to review the economics. The previous administration took this position after tens-of-millions of taxpayer dollars had already been expended on the engineering and design work of both the lock and dam projects and the ecosystem restoration projects authorized under Title VIII of WRDA 2007. Since fiscal year 2011, that work has been halted, and we risk serious delays to these critical projects when construction funding becomes available. As you well know, Congress continues to express strong bipartisan support for moving the project forward, evidenced in report language included in legislation that has passed out of this Committee as well as the Committee on Appropriations in recent years. Mr. Lamont, can you please articulate for me, for this Committee, and for stakeholders all along the Upper Mississippi and Illinois Waterways how the Corps can legitimize further delaying this critical program? And can you try to explain to me how giving the Corps $7 million for yet another study of the program is not a waste of time and taxpayer dollars?

Answer: Construction funding for NESP has never been included in any President's budget due to the low economic return reflected in the most recent analysis conducted by the Corps. The Budget did not include funding to further study the economic justification for this project.

2. It has become clear to me in recent years that the Corps has limited the decision-making role of non-federal sponsors of local flood protection systems by requiring them to comply with Section 14 of the Rivers and Harbors Act of 1899, as amended (codified in 33 U.S.C. 408; §408) rather than the relevant Flood Control Acts Congress passed more than 50 years ago. This has serious implications for flood protection, including:

   - Delaying and in many cases preventing local levee districts from improving their levees or reducing their flood risk;
   - Significantly increasing the federal regulatory requirements and costs;
   - Negatively affecting levee certifications and accreditations of FEMA flood maps which puts people into the mandatory purchase requirement for flood insurance at a full risk rate.

   What authority does the Corps believe it has to apply §408 certifications on the operation, maintenance and modification of local flood protection structures, instead of using applicable regulations (33 C.F.R 208.10; §208.10) that are clearly stated in various Flood Control Acts and have been successfully utilized for more than 50 years?

Answer: Section 408 of Title 33 of the United States Code provides that it is not lawful to "build upon, alter, deface, destroy, move, injure, obstruct by fastening vessels thereto or otherwise, or in any manner whatever impair the usefulness of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States . . ." without authorization from the Secretary of the Army. That statute explicitly includes dikes and levees in the list of works covered.

Section 208.10 of Title 33 of the Code of Federal Regulations does something different than Section 408. It sets forth the responsibilities of the local non-federal sponsor to operate and maintain the flood risk reduction project, including protecting the project from encroachments, trespass, or unauthorized alterations. This regulation does not operate in lieu of Section 408, but rather provides a consolidated inventory of a non-Federal sponsor's obligations.

Section 408 plays a crucial role in protecting the federal investment in water resources development projects by ensuring that alterations will not impair the usefulness of the work. It also ensures that impacts to the public interest are considered, including impacts to upstream and downstream communities so that flood risk is not transferred from one community to another.

3. When did the Corps begin applying §408 certifications in place of §208.10 determinations? Why was it determined necessary for this additional federal regulatory burden?

Answer: In the mid-2000s the Corps reviewed how encroachments and alterations of water resource development projects were reviewed and authorized. The Corps determined that the use of 33 C.F.R. 208.10 to allow such activities to occur on flood risk reduction projects was inappropriate and that 33 U.S.C. 408 was the appropriate authority to review and authorize alterations of all water resource development projects.

4. Congress granted extensive power to the Corps with respect to navigation, yet specifically set forth policies to limit the federal Government's powers with respect to flood control. Is it the

Corps' interpretation of statute that these navigation powers are transferable to flood control? If so, why? If not, how does the Corps and how can the public determine what powers are associated with navigation vs. flood control?

Answer: The Corps implements its authorities as provided in law. The Corps does not infer that authority granted with respect to navigation could be transferred to the flood risk reduction mission. A review of the Corps' regulation and guidance is the best way for the public to determine how the Corps understands its authority.

5. In the Upper Mississippi Valley, the Corps is requiring multiple local sponsors, including one in my district, to degrade their levee systems to elevations to what the Corps considers "authorized elevations", even though these systems were initially constructed by the Corps at *higher* elevations. Can you explain to me why the Corps is requiring these levees to be degraded to elevations that have never existed, ultimately putting these systems and the people and property they protect at a much higher risk for flooding?

Answer: The Corps is not requiring levees be degraded, but is identifying levees which have been raised without obtaining the necessary approvals from the Corps. If an entity wants to raise a federally authorized levee system, the Corps must evaluate the potential impacts of that levee raise, in accordance with 33 USC 408. This evaluation includes evaluating design, hydraulic and hydrology impacts due to the raise, and environmental compliance. In the Upper Mississippi Valley, for example, many of the levees were designed to function together as a system. Unauthorized levee raises could have negative impacts, such as increased flood levels upstream and downstream to other levees and communities; thus, increasing risk to others. For the reaches that the Corps has identified as being raised without Corps approval, the Corps is working with each levee district on potential solutions, which includes levee districts submitting the required information and the Corps doing the required evaluations to determine impacts if any. The results will include identifying any mitigation requirements or corrective actions to be implemented by the levee districts.

Submitted on behalf of Congressman David Rouzer (NC-07)

1. The Jesuit Bend Mitigation Bank in Plaquemines Parish, LA, unlike others, provided protection to the coast by pumping over a million yards of sediment from the Mississippi River and building new land adjacent to your newly constructed New-Orleans-to-Venice levee. The Corps recently designated purchasing mitigation credits as the Tentatively Selected Plan for mitigating the levee. From what I understand, despite being in the plan, and the levee project completed, it could take up to an additional year for the Corps to issue an RFP to purchase credits. My understanding is the mitigation is supposed to be "concurrent" with the project construction. Can you please explain to the Subcommittee why the delay; and could you also please provide me with a written timeline for the remaining steps that will be taken before an RFP would be issued?

Answer: Construction of the New Orleans to Venice Non Federal Levee (NOV NFL) Risk Reduction Project began in 2012 and is expected to be completed in 2023. The Corps made a

determination that proceeding with individual mitigation projects was not cost effective and efficient. The Corps determined that aggregating the impacts of the individual NOV NFL contracts would allow larger, more effective, and efficient environmental mitigation features. The development and implementation of this more complex plan was delayed awaiting completion of the project designs. The Environmental Assessment that includes this mitigation plan will complete its public review on August 10, 2017, and will then be finalized for a decision. The current schedule with respect to NOV NFL indicates that if mitigation credits are the selected alternative then those credits would be purchase in the 2nd quarter of FY18.

2. It appears the newly revised "LRAM" scoring method for mitigation credit values completely ignores the fact that this project was Master Plan compliant and protective of the coast. Please clarify for us if you are required by the 2008 Mitigation Rule to look at the benefits to the entire "watershed" provided by the mitigation, based on local "watershed plans"? Is the 2017 Coastal Master Plan, which specifies that projects provide the same benefits using the same approaches as Jesuit bend, a relevant "watershed plan"?

Answer: In the 2008 mitigation rule, a watershed approach to compensatory mitigation can utilize an existing watershed plan, as long as that watershed plan provides information that supports aquatic resource restoration, enhancement, establishment, and preservation activities (see the definition of "watershed plan" in 33 CFR 332.2). A watershed plan used to implement a watershed approach to compensatory mitigation should also address aquatic resource conditions in the watershed, multiple stakeholder interests, and land uses. In the 2008 mitigation rule, the Corps recognized that not all watershed plans are developed to support a watershed approach to compensatory mitigation (see 73 FR 19626). Watershed plans may be developed to serve other purposes, such as reducing non-point source pollution, storm water management, flood risk management, or identifying specific areas in the watershed where development and other land use activities should be located. So, whether the local "watershed plan" is used to inform the watershed approach for compensatory mitigation purposes depends on whether it includes information relevant to that analysis.

The U.S. Army Corps of Engineers uses a watershed approach when making compensatory mitigation decisions as required in 33 CFR Part 332. In this regard, a watershed approach is defined as an analytical process for making compensatory mitigation decisions that support the sustainability or improvement of aquatic resources in a watershed. It involves consideration of watershed needs, and how locations and types of compensatory mitigation projects address those needs. A landscape perspective is used to identify the types and locations of compensatory mitigation projects that will benefit the watershed and offset losses of aquatic resource functions and services caused by activities authorized by Department of the Army (DA) permits. The watershed approach may involve consideration of landscape scale, historic and potential aquatic resource conditions, past and projected aquatic resource impacts in the watershed, and terrestrial connections between aquatic resources when determining compensatory mitigation requirements for DA permits. (See 33 CFR 332.2).

A watershed approach to compensatory mitigation considers the importance of landscape position and resource type of compensatory mitigation projects for the sustainability of aquatic resource functions within the watershed. Such an approach considers how the types and locations

of compensatory mitigation projects will provide the desired aquatic resource functions, and will continue to function over time in a changing landscape. It also considers the habitat requirements of important species, habitat loss or conversion trends, sources of watershed impairment, and current development trends, as well as the requirements of other regulatory and non-regulatory programs that affect the watershed, such as storm water management or habitat conservation programs. (See 33 CFR 332.3(c)(2)(i)).

As defined by CPRA, the 2017 Coastal Master Plan articulates a clear statement of priorities and focuses development and implementation efforts to achieve comprehensive coastal restoration and protection for all of coastal Louisiana, which includes multiple watersheds. Therefore the 2017 Coastal Master Plan includes plans for community protection and is not a "watershed plan" as that term is used in the Mitigation Rule. However, the Corps has taken the 2017 Coastal Master Plan into consideration when evaluating mitigation. The Corps New Orleans District signed the Mitigation Banking Instrument (MBI) for the Jesuit Bend Mitigation Bank (JBMB) in April 2016. Section III.B (Site Selection) of Attachment C – Mitigation Work Plan within the MBI states that the JBMB will complement the efforts of the CPRA. It further states that the JBMB is located within close proximity of multiple CPRA Master Plan Projects. JBMB's positive contributions to its watershed, which are documented as justification for its approval as a mitigation bank providing a compensatory mitigation credit option to applicants, are recognized in the signed MBI and Work Plan.

Compensatory mitigation assessment tools such as the LRAM look at the aquatic resource functions lost or gained at a project site. Administrative designations, such as inclusion in a watershed plan, do not provide a mitigation project increased aquatic resource gains. They do however, as previously described above, provide documentation of potential watershed benefits and justification for approval.

3. Wetland permits require the applicant to "Avoid, Minimize and Mitigate" the wetland in order to obtain a permit, a process known as "Sequencing." The Avoid and Minimize steps add many years -- if not decades -- to the permit process. Avoid and Minimize steps are where the applicant is often required to change project plans in endless compliance loops. Mitigation is accomplished immediately when the permittee choose to purchases mitigation credits. The national No-Net-Loss of wetlands policy is achieved with mitigation. What specifically is the Corps doing to reduce the time consumed by Avoidance and Minimization? Do you believe it would speed up the permit process up if we eliminated Avoidance and Minimization requirements on non-federal lands and left those decisions to the states so we could still achieve No-Net-Loss but allow the states to make project level changes for a more nimble permit approval process?

Answer: No. Most permit applicants who design their projects to avoid and minimize impacts to jurisdictional waters and wetlands do so to qualify for general permit authorization, or to get the impacts to jurisdictional waters and wetlands below the threshold for requiring compensatory mitigation. Where it takes the Corps longer to evaluate requests for authorization by general permits and individual permits, the reason is generally unrelated to the need to seek to avoid and minimize impacts first, before turning to compensatory mitigation. In most cases, longer permit processing times result from the need to comply with other applicable laws, such as when the

Corps, as the Lead Federal Agency, conducts Endangered Species Act section 7 consultations, National Historic Preservation Act section 106 consultations, government-to-government consultations with Tribes, and other required processes, such as Environmental Impact Statements under the National Environmental Policy Act.

4. The Marina and Small Boat Harbor at Southport have historically used Disposal Area 277 for disposal of dredged material produced when they deepen their basin to adequate depths, roughly every five to eight years. This February, they were informed that the Corps would not be accepting applications for Consent Agreements to use disposal areas until the Corps determines how it will implement a new policy regarding the use of these disposal areas. When can we expect the Corps to start accepting applications again?

Answer: The Wilmington District of the Corps of Engineers responded to the Southport Marina's February 2017 request in May 2017 advising that the Corps cannot allow non-Federal dredged material to be placed in Disposal Area 277 due to capacity requirements needed for future placement of material from the Atlantic Intracoastal Waterway and other Federal navigation projects.

Submitted on behalf of Congressman Blake Farenthold (TX-27)

1. The Corpus Christi Ship Channel – Channel Improvement Project (CCSC-CIP) has jumped through several hoops over the years, including Congressional reauthorization, a determination of whether the remaining project elements would be considered a "new start", and Limited Reevaluation Reports (LRR). The latest LRR, dated December 2015, states, "Each of these (project) measures was individually justified and all are considered separable elements. Are you familiar with the determination that measures of the CCSC-CIP "are considered separable elements" and has your office made a change to that determination to reflect a "total project" benefit-to-cost ratio (BCR) for budgetary purposes?

Answer: The LRR's statement as to whether the different project components were separable elements was not determinative on the Administration's judgement as to whether or not the project needed to consider the "total project" BCR or not.

2. Based on that 2015 LRR, on page 103, the BCR for Separable Element #1 (deepening and widening) at 7 percent is 2.64 to 1 and the Barge Shelves is 18.29 to 1. Would you say each of these projects individually meet the Budgetary Construction Performance Guideline requiring a 2.5 to 1 BCR established by your office? Would each of these projects require a "new start" determination to received federal dollars?

Answer: When it considered this issue, the last Administration determined that a "new start" decision was not needed for the Corpus Christi project's remaining elements.

3. Section 1146 of the *Water Infrastructure Improvements for the Nation Act* (P.L. 114-322) specifically states, "With respect to a water resources development project that has received construction funds in the previous six year period, for purposes of initiating work on a

separable element of the project— (1) no new start or new investment decision shall be required; and (2) the work shall be treated as ongoing work." Therefore, if each of these projects are considered separable elements per the 2015 LRR and there has been no change in statute making these two elements one single project, why is your office requiring another economic review to determine a total project BCR for budgetary purposes rather than using the individual BCRs for each separable element?

Answer: The Administration determined that the project did not need a "new start" decision, and as such treated the work for the entire project as ongoing. Because the decision treated the project as a whole, the economics for the project as a whole need to serve as the basis for budgetability.

4. From my understanding, both of these projects – as separable elements – clearly meet the budget criteria set by your office, individually and together, but yet again, have been passed over for federal funding. Can you explain why this project has not been included in the President's Budget because I have constituents in my state/district depending on this project to increase jobs and grow our economy?

Answer: Completion of the economic update will allow the project to compete for funding in the budget.

Questions from Representative Peter A. DeFazio
Ranking Member, Committee on Transportation and Infrastructure

1. Please provide the Subcommittee with the Corps' estimate on authorized but unconstructed Corps projects (e.g., construction backlog) and the backlog for identified maintenance of assets owned or managed by the Corps of Engineers (including deferred maintenance).

Answer: The Corps has been working to improve its ability to identify all of the potential remaining construction work that the Congress has authorized, but is not yet able to provide a reliable estimate of the cost to complete that work.

The Corps does not keep track of deferred maintenance as such, or of other unfunded potential maintenance work, on an ongoing basis. Instead, it compiles a new estimate each year of the sum of all amounts not funded that the individual project managers say they could efficiently and effectively use by the end of the fiscal year. The unfunded major maintenance on Corps-owned assets in any given year would provide a good rough indicator of the deferred maintenance. All of the maintenance work funded in the Budget is of higher priority than the unfunded work. The mix of both funded and unfunded maintenance work, and the priority of each item of such work, changes from year to year.

2. I have learned that the Corps' Portland District identified $945,000 in FY17 capabilities for the Port of Umpqua. Yet, after receiving no funding in the FY17 work plan, the Corps HQ only "identified" $150,000 of new funding to be used in the current fiscal year,

requiring the State of Oregon to contribute an additional $275,000 in State funding to help cut down the shoaling bar at the port. Even with this identified Corps funding, the Corps dredge, YAQUINA, will only be able to execute 5 days of dredging work, but not the full 9 days identified by the District for the FY17 cycle.

- Why the Corps did not provide for full funding ($945,000) for the identified maintenance dredging capabilities for the Port of Umpqua in FY17?

Answer: At the time that the Corps was developing its allocations for the FY 2017 Work Plan and the FY 2018 Budget, the Corps had not identified the extent of the shoaling in the Umpqua entrance bar. Therefore, it funded maintenance dredging for this port in the FY 2018 Budget ($921,000).

Questions from Representative Grace F. Napolitano
Ranking Member, Subcommittee on Water Resources and Environment

1. Mr. Lamont, Lieutenant General Semonite, and Major General Jackson, thank you for recently implementing provisions of WRDA 16 that were very important to my communities regarding creating more water supply at Corps dams, improving sediment removal from dams, and increasing transparency of Corps data with local and state partners. These new authorities will improve water supply at facilities throughout California, but specifically at 3 facilities in my region, Santa Fe Dam, Whittier Narrows Dam, and Prado Dam.

- What is the status of increasing water supply opportunities with local stakeholders at Whittier Narrows Dam and Prado Dam? What current steps are being taken, and where are you in the process?

Answer: (a) Whittier Narrows Dam –

A five-year deviation proposal allowing water to be held up to elevation 205' is under consideration. Currently the Corps is determining its ability to implement threatened and endangered species avoidance and minimization measures, including habitat restoration, that are likely to be required as a result of projected impacts over the course of the deviation.

A sponsor funded water conservation study is underway seeking a permanent improvement in water conservation. This study is scheduled to be completed in FY 2019. However, a dam safety modification study of this dam is also underway. The Corps may need to address any corrective actions identified in that report before deciding whether to implement any permanent water conservation improvements at this dam.

(b) Prado Dam –

A five-year deviation proposal to allow holding water up to elevation 505 during the flood season is under consideration. The environmental documents are currently being prepared. An Environmental Assessment is anticipated to be released for public review later this summer, and formal consultation under Section 7 of the Endangered Species Act will be initiated. The Corps would make a decision on the requested deviation subsequent to environmental review and compliance activities.

A feasibility study to evaluate options for water conservation and aquatic ecosystem restoration opportunities at Prado Dam was funded to completion in the FY 2014 Work Plan, but required additional work. It is now being completed using funds contributed by the non-Federal sponsor. The next task is completion of the Tentatively Selected Plan Milestone, which is scheduled for November 2017. The study is scheduled to be completed in October of 2019.

- What is the status of removing sediment at Santa Fe Dam and working with local stakeholders at helping them relieve sediment from upstream dams by sluicing sediment down the San Gabriel River to catch basins and/or Santa Fe Dam? .

Answer: Prior arrangements to accomplish sediment removal expired before the work was undertaken. The Santa Fe Dam Sediment removal work package will be considered for future funding.

Over $260 million is collected in Harbor Maintenance Taxes at the Ports of Los Angeles and Long Beach annually, although they have received approximately $2 million in HMT spending annually over the past 10 years. In both WRRDA 14 and WRDA 16 we have improved authorities to address this inequity and expand HMT uses to donor harbors. What is this Administration doing to address this inequity at the Ports of Los Angeles and Long Beach?

Answer: While the Ports of Los Angeles and Long Beach are ports where the Harbor Maintenance Tax (HMT) is collected and are ports where eligible operations and maintenance costs can be paid for out of the Harbor Maintenance Trust Fund, those two ports are naturally deep-water ports that do not require significant maintenance on an annual basis.

Questions for Representative Frederica Wilson.

1. General Semonite: Section 2106 of WRRDA 2014 authorizes a new program to provide funds to donor and energy transfer ports. The funding will assist in building essential waterside infrastructure, which supports the movement of critical cargo at some of the nation's largest seaports, including Port Miami. The legislation also will assist greatly in preventing cargo diversion to foreign ports where shippers are not subject to the Harbor Maintenance Tax. The authorized funds can be used for expanded uses, environmental

remediation, or for payments to importers entering cargo or shippers transporting cargo through a port, as calculated by U.S. Customs and Border Protection.

Section 1110 of WRDA 2016 amends Sec. 2106 and includes revisions to that provision which enables payments to shippers or importers. Please advise when the Department will complete the implementation guidance on Section 1110 of WRDA 2016.

Answer: The Corps of Engineers is coordinating with the U.S. Customs and Border Protection to draft the implementation guidance and procedures for providing rebates to the top importers. To clarify, Section 1110 of WRDA 2016 deleted the references in the relevant subsections of Section 2106 of WRRDA 2014 to providing rebates to shippers of discretionary cargo. The Corps is still working on completing implementation guidance for Section 1110 of WRDA 2016, which amended Section 2106 of WRRDA 2014.

General Semonite: Does the Corps have a timeframe for the completion of implementation guidance for the rebate and distribution process of additional Harbor Maintenance Trust funds authorized by WRRDA?

Answer: The Corps is working to complete the implementation guidance for Section 1110 of WRDA 2016 this calendar year.

Will the Corps be reviewing the designation process for donor ports each year?

Answer: Section 2106 of WRRDA 2014, as amended by Section 1110 of WRDA 2016, set the conditions for determining which ports qualify as donor ports, medium-sized donor ports, and energy transfer ports. Therefore, the Corps will not review the designation process of ports each year.

Mr. Lamont: In addition to a continuation of construction funds for the project at Port of Jacksonville, Florida has two other ports that will be seeking construction funds next year – Port Everglades and Port of Panama City. The state of Florida and those local seaports stand ready to match federal funds for these construction projects once they have been included in the Corps' work plan for 2018. Is the Corps willing to talk about its potential work plan budget for 2018 at this time?

Answer: It is premature to discuss potential final allocations in a potential FY 2018 Work Plan.

General Semonite: I want to thank you and the Army Corps of Engineers for your recently completed work in Dade County and the City of Miami Beach to re-nourish our eroded shoreline. As you may know, the Corps is scheduled to begin work in the fall of 2017 to re-nourish the shoreline sand near the City of Sunny Isles Beach. Do you foresee any issues with the Sunny Isles Beach re-nourishment project? Do you think our beach erosion problems could be related to sea level rise caused by climate change?

Answer: At this time, the Corps expects to be able to award a re-nourishment contract for Sunny Isles Beach on schedule, by October 31, 2017. In this region of South Florida, local relative sea

level is now rising at an average rate of about 0.1 inches per year (or 1 inch every 10 years) as determined by NOAA Technical Report NOAAS CO-OPS 065. Though this does not seem like a large amount, when combined with monthly and seasonal variations in mean sea level, tides, storm events, and changes in ocean circulation, this increase in mean sea level may contribute to increased shoreline erosion at this location. The Corps takes changing sea levels into account when estimating future beach nourishment intervals. The Sunny Isles Beach erosion is caused by a variety of factors including sea level rise but especially due to waves generated by both severe weather systems and routine local winds.

> Mr. Lamont: You mentioned in your testimony that the FY 2018 budget supports key features of the water resources infrastructure that the Corps operates. You also highlighted the increase in the Harbor Maintenance Trust Fund. But overall there is a 17.2 percent cut in your overall budget and the cuts are slated for Investigations, Construction and FCCE at 28.9 percent, 45.6 percent and 9.4 percent, respectively. Can you talk more specifically about the key features of the Corps' water resources infrastructure: what are they and how they are affected by the budget cut?

Answer: The FY 2018 Budget for the Corps gives priority to operation, maintenance, and dam safety and related work on the key features of the infrastructure that the Corps owns or operates. The Budget also includes significant funding to maintain the main channels of the Nation's coastal ports, in support of commercial navigation.

> General Semonite: In your testimony you mentioned 67% of the 206 provisions in WRDA 2016 have their implementation guidance addressed. Can you explain a bit more about that? What is the average of the percentage of provisions implemented in the past few years?

Answer: The 67% represents 111 provisions that required implementation guidance and 28 provisions where, after a thorough assessment, a determination was made that these do not require implementation guidance.

> General Semonite: You mentioned the completion of implementation guidance of both WRRDA 2014 and WRDA 2016 as one of your top priorities. When, approximately, do you think it will be completed?

Answer: Completing implementation guidance for both WRRDA 2014 and WRDA 2016 is a top priority. I expect to complete the remaining implementation guidance for WRRDA 2014 and WRDA 2016 in calendar year 2018.

Questions for Representative Jared Huffman

1. Mr. Lamont, I have a few questions on the proposed Clean Water Rule repeal effort that you cosigned in June with EPA Administrator Pruitt.

On June 27th, the Corps and EPA released a pre-publication copy of the proposed rule to repeal the 2015 Clean Water rule. Am I correct that the intent of this rule is to repeal the regulations defining the term "waters of the United States" that are currently on the books, but are stayed pending a decision of the U.S. Court of Appeals for the 6th Circuit?

Answer: You are correct.

Am I also correct that this proposed rulemaking would put into place a regulatory definition of the term "waters of the United States" different from the definition in the Code of Federal Regulations today? (For comparison, please review current section 328.3 of Title 33 Code of Federal Regulations (2016 Edition) that defines the term "waters of the United States" for the Corps consistent with the 2015 Clean Water Rule.)

Answer: Yes, this statement is correct as well.

2. Mr. Lamont, as you know, parties critical of the 2015 Clean Water Rule challenged the adequacy of the Corps' and EPA's public outreach and comment period, as well as the previous administration's adherence to the statutory requirements for a public rulemaking.

For example, then Attorney General Pruitt actually sued the Corps and EPA for, among other things, failing to perform a comprehensive environmental analysis under NEPA for the 2015 Clean Water Rule. To be clear, the Corps did perform a NEPA analysis of the 2015 Rule, but then-Attorney General Pruitt did not think the NEPA analysis was adequate. Yet, for this proposed repeal of the 2015 Rule, can you confirm that neither the Corps nor EPA performed any environmental assessment of the impacts under NEPA?

Answer: Yes, neither the Army nor EPA performed any environmental assessment for the July 27, 2017 proposed rule. This rule, like the 2015 rule, is exempt from NEPA pursuant to 33 U.S.C. §1371 (c) (1): "no action of the [EPA] Administrator taken pursuant to [the CWA] shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of [NEPA]."

Again, in 2015, several groups criticized the previous Administration for failing to undertake a small business assessment of the Clean Water Rule under the Regulatory Flexibility Act. Yet, can you confirm that the agencies performed no Regulatory Flexibility Act assessment for this significant rewrite of Clean Water Act regulations?

Answer: No Regulatory Flexibility Act assessment has been performed because one is not required. The agencies have concluded and certified that this proposed rule will not have a significant impact on small entities. Analysis supporting this conclusion is contained in the *Economic Analysis for the Proposed Definition of "Waters of the United States" – Recodification of Pre-existing Rules.*

As you know, the public comment period for the 2015 Clean Water Rule was 205 days, was twice extended, and gathered approximately 1 million public comments on the

substance of the rules. Yet, the Trump Administration effort to repeal the Clean Water Rule is only scheduled for 30 days of public comment, and you have significantly limited the scope of comments you are willing to review. Are the agencies planning to extend the public comment period on this repeal, given its significance?

Answer: It is my understanding that the proposed rule will be announced for a 30-day public comment period in the near future. Any requests for extensions of the public comment period will be considered by EPA and the Army.

Last year the GAO issued a report on water control manuals developed by the Corps. Your own regulations state that water control manuals should be reviewed no less than every 10 years, yet the GAO found no consistent Corps policy for how to conduct even informational reviews. There is no Corps-wide guidance on standards for review, nor even a way to track information on manuals in need of review and revision. In response, the Corps indicated that it would incorporate recommendations on developing reviews of water control manuals. Can you provide a status report on how the Corps is ensuring that it is routinely and consistently reviewing water control manuals in need of update?

Answer: The Corps of Engineers is currently updating its Engineering Regulation (ER 1110-2-8156), which outlines the procedures for developing/updating water control manuals. I expect this document to undergo field review later this calendar year and be published in early calendar year 2018. Within this update, the Corps plans to specify the frequency for review and centralized posting requirements for public access for viewing on the Access to Water Resources Data portal on the Corps of Engineers website. In addition, the Corps has instituted a review mechanism that serves to indicate timing of latest reviews and to note those reviews that are out of date. Corps Division and District offices have been instructed to conduct and post the date of their reviews.

Questions for Representative Eddie Bernice Johnson

Several ongoing Corps' construction projects were initiated (as new starts) or provided ongoing construction funding in the FY 2017 Work Plan. However, for the majority of these projects, additional construction funds are required in fiscal year 2018 (and beyond) to complete construction. Yet, for a significant number of these projects, no construction funding was identified in the President's FY 2018 Budget request. As you know, inefficient funding of construction projects can cause delay in the realization of the benefits of these projects, and increase their total costs to complete construction.

Please provide a list of construction projects included in the FY 2017 Work Plan where no additional construction funds were identified in the FY 2018 Budget Request.

Answer: The FY 2017 Work Plan included sufficient funds to complete useful increments of work on the projects that it funded.

The following projects were funded to completion and, therefore, did not require additional funding in the FY 2018 Budget:

- Tucson Drainage Area, AZ
- American River Watershed (Folsom Dam Modifications), CA
- Oakland Harbor (50 foot project), CA
- Tampa Harbor, Big Bend, FL
- Richard B Russell Dam and Lake, GA & SC
- Des Moines Recreation River and Greenbelt, IA (on-going construction)
- Missouri River Levee System, IA, NE, KS, & MO (Deficiency Correction)
- McCook and Thornton Reservoirs, IL (Stage I)
- Wood River Levee (Deficiency Correction), IL
- Turkey Creek Basin, KS & MO
- Topeka, KS
- Ohio River Shoreline, Paducah, KY
- Muddy River, MA (Flood Risk Management)
- Blue River Basin, Kansas City, MO
- Delaware River Main Channel, NJ, PA, & DE
- Alamogordo, NM
- Bolivar Dam, OH (Dam Safety)
- Emsworth Lock and Dam, Ohio River, PA
- Pine Creek Lake, OK (Dam Safety)
- Central City, Fort Worth, Upper Trinity River Basin, TX (on-going construction)
- Atlantic Intracoastal Waterway, Bridges at Deep Creek, Chesapeake, VA
- The Dalles Lock and Dam, WA & OR (Tribal Housing Action Plan)

Funding for beach nourishment projects is cyclical. The following beach nourishment projects received sufficient funding in FY 2017 to complete a nourishment cycle and, therefore, did not require additional funding in the FY 2018 Budget:

- Delaware Coast, Cape Henlopen to Fenwick Island, DE
- Delaware Coast, Bethany Beach to South Bethany Beach, DE
- Fort Pierce Beach, FL
- Martin County, FL
- Nassau County, FL
- Pinellas County, FL (Sand Key and Treasure Island)
- St. Johns County, FL
- Atlantic Coast of Maryland, MD
- Brunswick County Beaches, NC
- Carolina Beach & Vicinity, NC
- Wrightsville Beach, NC
- Great Egg Harbor Inlet and Peck Beach, NJ

- Myrtle Beach, SC
- Lower Cape May Meadows, Cape May Point, NJ

The following projects are physically completed. They received FY 2017 funds for related adaptive management, mitigation, and/or monitoring work:

- Napa River, Salt Marsh Restoration, CA
- San Luis Rey, CA
- Hamilton Airfield Wetlands Restoration, CA
- J. Bennett Johnston Waterway, LA

The following projects, although funded in the FY 2017 Work Plan, did not meet the performance guidelines of the FY 2018 Budget:

- Rio De Flag Flagstaff, AZ
- Murrieta Creek, CA
- Jacksonville Harbor Deepening, FL
- Indiana Shoreline Erosion, IN
- Kentucky Lock and Dam, Tennessee River, KY
- Comite River, LA
- Fargo, ND – Moorhead, MN Metro
- Locks and Dams 2, 3, and 4, Monongahela River, PA
- Presque Isle Peninsula, PA
- Charleston Harbor, SC
- Chickamauga Lock, Tennessee River, TN
- Levisa and Tug Forks and Upper Cumberland River, VA, WV, & KY
- Bois Brule Drainage and Levee District, Missouri (Deficiency Correction)

For each of these projects, please provide the construction status of the project, an estimate of when construction of the project is expected to be completed (including identifying any delay in project construction due to lack of funding in the 2018 Budget request), and an estimate of any increased costs of construction of these projects from such delay, including any potential demobilization costs for ongoing construction projects if the 2018 Budget request was enacted as proposed.

Answer: The Corps does not have an expectation as to completion dates for projects not funded in the Budget, which in part will depend on their future funding levels. Moreover, as many variables could affect their costs and schedules, it would be difficult to ascertain the impacts. For example, even if a project were to receive the maximum in Federal funding that the Corps estimates that it would be able to use, the Corps may not be able to complete the project on time and within the original cost estimate.

The North Texas Municipal Water District (NTMWD) has been seeking federal approval to construct the Lower Bois d'Arc Creek Reservoir in Fannin County, Texas for many years. The project would help North Texas to meet its future water needs, which are expected to exceed supply as early as the year 2020. Section 1147 of WRDA 16 required the Army Corps to report to Congress on the status of any environmental decisions and reviews related to the reservoir project no later than June 30, 2017. Today, Congress has yet to receive any such report from the Corps on this project.

- When does the Corps intend to comply with section 1147 of WRDA 16 and submit a report to Congress on the status of the Lower Bois d'Arc Creek Reservoir project and its pending environmental decisions and reviews? What is the status the environmental reviews and decisions for this project?

Answer: The report was mailed to the Committee on Transportation and Infrastructure in the U.S. House of Representatives and the Committee on Environment and Public Works in the Senate on July 11, 2017. The reviews and decisions are on schedule. A Final Environmental Impact Statement is on schedule to be released in September 2017, and a decision is expected to be finalized by January 2018.

Questions for Representative John Garamendi

As a follow-up to my question from Wednesday, General Semonite, in your testimony you say, "First, we continue our work across the globe with presence in more than 110 countries supporting national security and our combatant commanders with civil works, military missions, water resource research and development expertise."

- Would you please deliver to the Subcommittee the amount of money in your budget, in the Overseas Contingency Operations budget, and any other budget that you are spending around the world on those many, many projects in support of national security?

Answer: The Corps Military Program works under a number of appropriations to support the national security in overseas locations. Only a small portion of the total funding for such work, $400,000 in the Investigations account for our interagency and international support program in the FY 2018 Budget, comes from our civil works appropriations.

For example, in FY 2018 for military construction, the Corps is on track to execute $7,345 million of new facilities infrastructure that support the housing, training and sustainment of soldiers and equipment for all four services and the Department of Defense. Second, the Corps provides $4,545 million in Installation Support of existing facilities infrastructure for sustainment in the routine care and preventive maintenance, restoration for replacement of broken or damaged systems, and modernization for upgrade to current life, health, safety and cybersecurity standards. The Corps Real Estate Division is expected to execute $967 million in support of DOD through realty programs and services to include leased recruit facilities,

management of Army land tracts and in/out-grants. Warfighters will receive $184 million in construction and installation support through overseas contingency operations programs. As part of the Foreign Military Sales program, the Corps is expected to execute $958 million in design and construction services to our international partners. Additionally, we anticipate executing on behalf of the Office of the Secretary of Defense under the Civil Military Emergency Preparedness program, 30 events totaling $2 million to build technical expertise globally. The Corps also partners with other Federal stakeholders such as the Department of Energy, Department of Veterans Affairs and Department of State in providing approximately $2,446 million in interagency services. The Corps Environmental Division will execute $1,363 million in clean-up services for environmental liabilities to DOD and in support of regulatory compliances activities, for both current and formerly utilized defense sites. Finally, the Corps will execute $1,650 million in engineering and design services to support local garrisons and combatant commands such as Master Planning, Engineering Services, Integrated Water Resourcing, amongst others.

Questions for Representative Elizabeth Esty

As a follow-up to my question on Wednesday, related to the Corps' continuing authorities programs (or CAPs), CAP programs are very important in my Congressional district, and several of my communities rely on these programs for Corps work in the region.

- Unfortunately, it seems that these authorities never have sufficient funding to address local needs. Can you provide the Subcommittee the Corps' assessment of the backlog of known CAP projects, including a breakdown of: (1) how many projects have been pursued of the Corps by non-Federal sponsors; (2) under what authorities; and (3) what percentage of the projects that might be eligible actually receive funding?

Answer: The Corps does not keep track of how many local authorities construct small water resources projects on their own, how many such projects they have constructed, how many of those projects might have been eligible for Corps funding, or under what state and local authorities they are constructing those projects.

The Corps also does not keep track of proposals by local authorities that did not result in Corps funding. A project's eligibility for Corps construction funding under one of our continuing authorities is based on many factors, including progress the Corps and the non-Federal sponsor have made in completing the study, and progress made in executing agreements and preparing plans and specifications for construction contract awards. The following table identifies the number of eligible projects and the percentage of those projects that have received FY 2017 funding thus far. As work progresses in FY 2017, additional projects may receive funding.

Percent of eligible projects received funding.

	Number of Active Projects /1	YTD Funded in FY17 /2	% Funded

Sec 14	41	27	66%
Sec 103	13	12	92%
Sec 107	16	16	100%
Sec 111	2	2	100%
Sec 204	20	18	90%
Sec 205	59	53	90%
Sec 206	42	26	62%
Sec 1135	37	29	78%
Total	230	183	80%

1/ Active Projects with stated capability for FY17.
2/ Many of the projects not funded are waiting on Report approval or Agreement execution.

Questions from Representative Cheri Bustos

1. Section 652 of 33 United States Code designates The Upper Mississippi River System as a "nationally significant ecosystem and a nationally significant commercial navigation system." In WRDA 2007, Congress authorized a unique program – the Navigation and Ecosystem Sustainability Program (NESP) – which aims to systematically address the needs of this stretch of river: upgrades to the outdated navigation infrastructure and critical ecosystem restoration. This program is bipartisan, authorized, and very much needed.

- Can you tell me why this program was not included in the President's Budget Request for FY 2018 and what hurdles the Corps faces in moving forward with engineering and construction?

Answer: Construction funding for NESP has never been included in any President's budget due to the low economic return reflected in the most recent analysis conducted by the Corps.

- If your answer relates to the cost-benefit analysis process, does the current process for cost-benefit analysis adequately account for the risk of failure and the cost of inaction on projects like NESP?

Answer: The Corps periodically evaluates the condition of the lock and dam sites on the Upper Mississippi River and the Illinois Waterway, and has concluded that the existing locks can continue to process tows safely and reliably for the next 50 years or more, as long as we continue to invest prudently in their maintenance and rehabilitation. The cost-benefit analysis for the Upper Mississippi River and the Illinois Waterway proposal reflected that conclusion.

2. The President's FY 2018 Budget request proposed a new user fee on commercial barge owners operating on the inland waterway system. This fee would be on top of the current diesel fuel tax, which Congress raised in 2014. The budget proposes raising another $1 billion over 10 years with this user fee. I agree that we need to put more money into

upgrading our locks and dams. Yet, the budget proposed this new user fee without proposing to use the full funding that is already collected in the Inland Waterways Trust Fund using existing fees.

- Can you explain this new user fee and why users should be forced to pay additional fees while money is sitting unused in the Inland Waterway Trust Fund? Please provide any economic analysis the Corps used to evaluate the impact this user fee would have on the commercial barge industry or the cost of goods shipped on our rivers.

Answer: Under current law, barge owners pay 50 percent of the cost of most inland waterways capital investments (with the exception of the Olmsted Locks and Dams Project). The General Fund pays the other 50 percent of these costs, plus all of the costs of operation and maintenance. The central financing challenge now facing the inland waterways program is that the current diesel fuel tax will not generate enough revenue to support the user-financed 50 percent share of the capital investments that likely will be needed over the next 10 years. The projected balance of the Inland Waterways Trust Fund at the end of Fiscal Year 2017 is less than $50 million. The proposed user fee would raise revenue to help finance the users' share of anticipated capital investments on the inland waterways.

3. To help address the backlog of water resources development projects, Section 5014 of WRRDA 2014 created a pilot program authorizing the Secretary of the Army to enter into public-private partnerships. On September 30, 2015, the Corps issued a memorandum with a summary of the section and a notice that additional guidance would be provided for Section 5014 activities only when specific appropriations are provided by Congress. Meanwhile, Congress is waiting for guidance on how the program would be implemented before appropriating funds. In its report for WRDA 2016, this Committee included acknowledgement of the Corps' memorandum with the following clarification: "The Corps is encouraged to re-issue this implementation guidance prior to receiving funding for these programs so Congress may get a better sense of how taxpayer funds will be invested, how proposals for public-private partnerships will be considered by the Corps, and how these partnerships will be incorporated into future budget policy."

- Since the passage of WRDA 2016, has the Corps taken any steps to issue further implementation guidance that addresses these needs? If not, does it plan to?

Answer: The Corps is planning to issue additional guidance for Section 5014 of WRRDA 2014.

4. As you know, the Corps' levees protect an estimated $1.3 trillion in property, but they are also in need of significant maintenance and improvements. Recently, the American Society of Civil Engineers gave our nation's levee system a grade of "D" on its infrastructure scorecard. WRRDA 2014 created a new National Levee Safety Initiative to promote consistent safety standards, create levee safety guidelines, and provide assistance to states for establishing participating levee safety programs.

- Can you tell me what the Army Corps has done to implement this program?

Answer: The Corps funds its programmatic work on levee safety through two remaining items in the Operation and Maintenance (O&M) account – the Inspection of Completed Federal Flood Control Projects; and the National (Levee) Flood Inventory – and through the funding provided in both the O&M and the Mississippi River and Tributaries accounts for the Inspection of Completed Works.

Using these funds, the Corps has: (1) updated the National Levee Database (NLD) and advanced its use by other federal agencies, states, local authorities, and the public; (2) conducted a periodic inspection of all federally authorized levee systems; (3) conducted a levee risk screening on most federally authorized levee systems; (4) conducted a levee risk assessment on some levee systems, where the risk screening showed a high level of risk; (5) included in the NLD the levee systems that FEMA identified in its midterm levee inventory; (6) worked with states and local authorities on local flood risk management efforts involving their levees; and (7) performed related programmatic activities, including evaluating current Corps practices and policies, implementation guidance development, and training of Corps staff.

Questions for Representative Brenda Lawrence

Under the existing regulatory structure in place today, what percentage of waters, for which jurisdictional determinations are made by the Corps, rely on the "relatively permanent waters" legal analysis (e.g. Scalia approach), and what percentage rely on a "significant nexus approach" (e.g. Kennedy approach)? The 2008 guidance allows for jurisdiction to be asserted under either approach; I am interested in a rough estimate (over the last 5 years) of which test the Corps is using to assert CWA jurisdiction over waters.

Answer: The Corps has been using both the Scalia and Kennedy approaches for approved jurisdictional determinations since 2007. The Corps does not specifically track which approach was used to determine whether the water body under consideration is or is not jurisdictional.

1. Mr. Lamont, as you know, the Corps and EPA both highlighted the importance of the 2015 Clean Water Rule to our health, our communities, and our economy. According to a fact sheet from the Corps and EPA, about 117 million Americans – or one in three people – get drinking water from small streams that need protection from pollution under the 2015 Clean Water Rule that the Trump administration has proposed to repeal.

- In your June 2017 Economic Analysis of the Clean Water Rule repeal, did the Corps and EPA specifically look at the economic benefits of the Rule in providing safe and reliable sources of drinking water for 1 in three Americans?

Answer: The proposed rule is a definitional rule that impacts the definition of the term "waters of the United States" and therefore the scope of the CWA. The proposed rule does not establish any regulatory requirements or directly mandate any actions on its own. The consequence of a water being deemed non-jurisdictional is simply that CWA provisions no longer apply to that

water. There are no avoided costs or forgone benefits if similar state regulations exist and continue to apply to that water body. The agencies estimated that the 2015 CWR would result in a small overall increase in positive jurisdictional determinations compared to those made under the 1986 rule (consistent with the agency guidance issued in 2003 and 2008). The agencies estimated fewer waters would be within the scope of the CWA when the 2015 CWR is compared exclusively to the 1986 rule. Because this rulemaking contemplates returning to the 1986 rule (as currently implemented) resulting in an overall reduction in positive jurisdictional determinations, the agencies estimated the avoided costs and forgone benefits of repealing the 2015 CWR.

- Did the 2017 Economic Analysis identify the specific cost to communities for identifying and obtaining alternative drinking water sources for those whose protection would be eliminated by repealing the 2015 Clean Water Rule?

Answer: The 2017 Economic Analysis notes that the Safe Drinking Water Act (SDWA) "requires many actions to protect drinking water and its sources – rivers, lakes, reservoirs, springs and ground water wells." The SDWA should ensure that there are no drinking water related health affects due to changes in CWA jurisdiction.

2. The Economic Analysis that accompanies the Trump administration's efforts to repeal the 2015 Clean Water Rule seems to suggest that States are anxious to fill in any gaps to protect clean water lost by this repeal. As you know, in 2001, the Supreme Court called into question Federal protections over so-called "isolated intrastate" waters, and the Bush administration made the same argument States would come in to fill this gap.

- Can you tell me how many states took affirmative action to protect "isolated" waters, such as the Midwest's prairie pothole region, when Federal protections were called into question?

Answer: The Army does not track the actions taken by states outside of the Federal jurisdiction. However, the Army understands that the Association of State Wetland Managers has conducted analysis on variations in state authorities as it relates to waters of the states.

- You highlight in your analysis that two-thirds of states have some kind of legal constraints that could prohibit these States from protecting waters beyond the level of protection provided under the Clean Water Act. How can you say that no Clean Water protections would be lost by this Repeal when you admit that two-thirds of states would be unable to fill any gaps in protection from this Clean Water Rule repeal?

Answer: The 2017 proposed rule would repeal the 2015 rule and recodify the 1986 rule that were in effect prior to the 2015 rule, which has been stayed by the Sixth Circuit. The 1986 rule was in place for decades. The 2017 Economic Analysis notes that for states that may have legal constraints that prohibit protecting waters beyond the level of protection provided under the Clean Water Act "these states would have to change their current laws before adopting more stringent requirements; therefore such a response is less likely among these states."



AMERICAN CHEMISTRY COUNCIL

WRITTEN STATEMENT SUBMITTED FOR CONSIDERATION TO THE SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE U.S. HOUSE OF REPRESENTATIVES

HEARING ON "BUILDING A 21ST CENTURY INFRASTRUCTURE FOR AMERICA: IMPLEMENTATION OF THE WATER RESOURCES REFORM AND DEVELOPMENT ACT OF 2014 AND THE WATER RESOURCES DEVELOPMENT ACT OF 2016"

DATE OF HEARING: JULY 19, 2017

The American Chemistry Council (ACC) would like to submit the following statement for the record to make the Committee aware of a sensible solution that would help provide state & local governments with more choices when it comes to selecting materials for infrastructure projects, and also help reduce costs to taxpayers. ACC represents the leading companies engaged in the business of chemistry, a $797 billion enterprise and a vital industry for repairing our nation's crumbling infrastructure.

There is broad agreement that America's transportation, energy and water infrastructure is insufficient to meet growing demands, outdated, or in need of repair or even replacement. The American Society of Civil Engineers (ASCE) gave a grade of "D" to the nation's drinking water infrastructure and a "D+" to the nation's wastewater infrastructure. The resources needed to fix this problem are tremendous: ASCE estimates costs at more than $1 trillion[i] for drinking water infrastructure alone. It is imperative that we find a way to fund these projects in a financially responsible manner because a healthy water supply is not only critical to our citizen's daily lives but also to the economic success of our country.

Regulatory Impediments

Currently a large number of municipalities have regulatory restrictions that handcuff project engineers through a bidding process that greatly limits the types of materials that can be considered for infrastructure projects. By taking many potential solutions off the table, these regulations have increased costs for projects and subsequently limited the number of water and sewer mains that can be updated.

Getting More for Less

ACC's members make a variety of products used in or with every major type of water system, including chlorine, orthophosphates that prevent corrosion, additives for concrete pipes, and plastic that's wrapped around iron pipes to reduce corrosion. Our members also make the basic plastic resins used in polyvinyl chloride (PVC), polypropylene (PP), and high density polyethylene (HDPE) pipes. We are therefore agnostic with regard to the type of pipe material selected.

However, ACC believes strongly that when state and federal funds are used to support infrastructure projects, then engineers should be allowed to consider all materials and select the best choice through open competition. Adopting such an approach will give the authority to select the most effective and competitively priced option for their projects, and help guarantee that taxpayer dollars will be spent wisely and go further.

A study by the National Taxpayers Union estimates that open competition could save over $371 billion on water infrastructure improvements[ii]. BCC Research undertook a detailed study of the water supply (force main) market and the stormwater conveyance pipe market (gravity feed) and found even within these two subcategories, $20.6 billion and $22.3 billion of pipe cost savings potential respectively could be realized by transitioning to wholly open competitive processes between 2017 and 2026.

Recommendation

We need reliable and safe water systems for our homes and businesses. Simple, common-sense legislation that uses competition to help stretch our investments in water infrastructure further is good for business, taxpayers, local governments, and the country.

Congress can protect taxpayers by ensuring all government funded infrastructure grant programs and procurement processes require open, competitive bidding procedures for all materials. All appropriations bills and infrastructure legislation should include language making this principle clear.

You can learn more by visiting: https://www.americanchemistry.com/Open-Competition.html.

[i] American Society of Civil Engineers, Drinking Water Report Card 2017, https://www.infrastructurereportcard.org/cat-item/drinking-water/

[ii] National Taxpayers Union, Reforming Our Nation's Approach To The Infrastructure Crisis: How Competition, Oversight, and Innovation Can Lower Water and Sewer Rates in the U.S., April 2013



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Statement of President Melanie Bahnke

Subcommittee on Water Resources and Environment
House Transportation and Infrastructure Committee

for the hearing record on

"Building a 21st Century Infrastructure for America: Implementation of the Water Resources Reform and Development Act of 2014 and the Water Resources Development Act of 2016."

July 21, 2017

Chairman Graves, Ranking Member Napolitano and Members of the Subcommittee, on behalf of Kawerak, Inc., I thank you for holding this hearing and providing the opportunity to share our observations and concerns regarding the implementation of the Water Resources Development Act (WRDA).

WRDA is critical to Kawerak and the Alaska Native communities we serve

Kawerak is the regional Native non-profit corporation and tribal consortium serving the 20 federally recognized Indian tribes of the Bering Strait Region. Through its Self-Governance Compact with the U.S. Department of the Interior and its contracts with other federal and state government agencies, Kawerak carries out programs in a service area roughly the size of West Virginia. Nearly 75% of the region's 9,000 people are of Inupiaq, Siberian Yupik and Yupik decent.

The Eskimo people have lived in this region for at least 4,000 to 6,000 years. Our settlements concentrate along the coast and river system, as the sea was and is the principal focus of human activities. Today, all of the communities in the Bering Strait Region are located on the coast or shores of rivers.

Many of the communities Kawerak serves are extremely vulnerable to rapid shoreline erosion and face grave risks in severe storms. We have collected data from hundreds of hunters and gatherers in our region who have witnessed many changes, such as a rise in sea level, later freeze up and thinner ice, permafrost melting, changes in weather patterns, and shorter winters, more rain, and hotter summers. WRDA and our partnership with the U.S. Army Corps of Engineers ("the Corps") are of critical importance to Kawerak and the communities we serve.

Kawerak has collaborated with the Corps on successful WRDA projects, but faces a new technical constraint under WRDA 2016

With respect to implementation of WRRDA 2014 and WRDA 2016, Kawerak is grateful that this legislation authorized vital projects for our region. Kawerak has enjoyed successful partnerships with the Corps by contributing the non-federal share of such joint projects as the Shishmaref Seawall, the Diomede Subsistence Harbor, and the Golovin Wave and Erosion Study. The testimony from Douglas Lamont of the Office of the Assistant Secretary of the Army acknowledged that tribal governments have been taking on greater roles in water resources investments. Kawerak is proud to be a leader in this increased tribal involvement. We applaud Congress' commitment to increase flexibility and remove barriers for non-federal interests to participate in Water Resources Development Projects, an important objective that Chairman Graves noted in his hearing statement.

Upon enactment of WRDA 2016, Kawerak was looking forward to collaborating with the Corps for a project in one of our communities through a Feasibility Cost Sharing Agreement (FCSA). Unfortunately, however, as negotiations of that FCSA advanced, we were constrained by the choice of terms adopted in WRDA's definitions of "Indian tribe." Indeed, two provisions of WRDA 2016 that were clearly intended by the Congress to increase flexibility for Corps partnerships with Alaska Native and tribal government entities, due to a technical omission, have instead served to limit our ability to partner with the Corps by introducing duplicative and more burdensome procedures. To fulfill Congress' commitment to increase flexibility and remove barriers for tribal participation in WRDA projects, Kawerak strongly urges the Subcommittee to consider technical amendments to its definition of "Indian tribe" in Sections 1119 and 1131 of WRDA 2016.

The unintended omission in the WRDA definition of "Indian tribe"

The deficiency arises because the WRDA definitions of "Indian tribe" do not include any reference to tribal organizations, like Kawerak, that operate on behalf of one or more federally recognized tribal governments. This omission has proven harmful to Kawerak and our member communities and, we expect the terms to hinder other similar tribal organizations. We wish to point out to the Subcommittee that the WRDA 2016 definition of Indian tribe is not consistent with the definition the Transportation and Infrastructure Committee provided for the Tribal Transportation Self-Governance Program that was adopted in the FAST Act in 2015.

The relevant portion of the Corps' WRDA 2016 implementation guidance states as follows:

> Section 1119 of WRDA 2016 further amends Section 1156 of WRDA 1986 (33 U.S.C. 2310). Section 1032 of the Water Resources Reform and Development Act (WRRDA) of 2014 previously amended Section 1156 to provide that the non-federal cost sharing waiver of up to $200,000 be adjusted to account for inflation from the date of enactment of WRDA 1986 up to the date of enactment of WRRDA 2014, for studies and projects in specified territories of the United States

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> and in Puerto Rico. Section 1119 of WRDA 2016 extends the waiver provision to Indian Tribes as defined in Section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130).
>
> ***
>
> **Section 1131 of WRDA 2016** amends Section 221 (b)(1) of the Flood Control Act of 1970 (42 U.S.C.1962d-5b(b)(1)) by inserting "and, as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), a Native village, Regional Corporation, and Village Corporation" after "Indian tribe" in the definition of "non-Federal interest." The amended definition of non-federal interest establishes that Native villages, Regional Corporations, and Village Corporations established in accordance with the Alaska Native Claims Settlement Act are eligible to be non-federal sponsors and enter into cost share agreements for water resources development projects. Districts may proceed to enter into cost share agreements with these entities following regular agency procedures.

Kawerak is a tribal organization governed by a Board made up of representatives from each of the federally recognized Indian tribes in our region. Kawerak is not on the list of federally recognized Indian tribes nor does Kawerak fall within the definition as a native village, regional corporation or village corporation. As a result, Kawerak is not eligible to enter into cost share agreements with the Corps on behalf of the Indian tribes that have directly authorized us to do so.

Kawerak's proposed technical correction would make WRDA consistent with other federal statutes and achieve Congress' objective of including Alaska Native tribes as non-federal sponsors

A technical correction could make Sections 1119 and 1131 consistent with other federal statutes, which allow tribal governments to authorize tribal organizations, such as Kawerak, to act on their behalf for the purpose of administering federal programs and funding. The following terms should be added to the end of WRDA Sections 1119 and 1131:

> In any case in which an Indian tribe has authorized another Indian tribe, an intertribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this section, the authorized Indian tribe, intertribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this title). In such event, the term "Indian tribe" as used in this section shall include such other authorized Indian tribe, intertribal consortium, or tribal organization.

The proposed language above comes directly from the statutory text used in the definition of "Indian tribe" in the Department of Transportation's Tribal Transportation Self-Governance Program (created by the FAST Act in 2015 [codified as 23 U.S.C. § 207(m)(1)(E)]). The language above is also identical to the terms used in the definition of "Indian tribe" in Title V of the Indian Self-Determination Act (Self-Governance with the Indian Health Service). This

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language change would allow Kawerak to act as the non-federal sponsor on behalf of any tribe in our consortium that authorizes us to do so.

I thank the Subcommittee for the opportunity to submit this statement and appreciate your consideration of Kawerak's request.

Sincerely,

Mary David, Executive Vice President for

Melanie Bahnke
President

MW/CC

cc: KTP

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MANIILAQ
ASSOCIATION

Written Testimony of President Tim Gilbert

Subcommittee on Water Resources and Environment
House Transportation and Infrastructure Committee

For the hearing record on

"Building a 21st Century Infrastructure Record for America: Implementation of the Water Resources Reform and Development Act of 2014 and the Water Resources Development Act of 2016"

July 19, 2017

Thank you for the opportunity to provide comments on the implementation of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) and the Water Resources Development Act of 2016 (WRDA 2016).

Maniilaq Association (Maniilaq) is the regional Alaska Native nonprofit corporation and tribal consortium serving the twelve federally recognized tribes of Northwest Alaska. Maniilaq is a "tribal organization" as defined in Section 4 of the Indian Self-Determination and Education Assistance Act (ISDEAA; 25 U.S.C. § 5304(l)). Through ISDEAA compacts with the U.S. Department of the Interior and the Indian Health Service (IHS) and contracts with other state and federal agencies, Maniilaq provides services to over 8,000 people in a region about the size of Indiana. Approximately 86 percent of our region's residents are Iñupiaq, with a heritage in this region extending back at least 10,000 years.

Over ten percent of occupied homes in Northwest Alaska do not have access to adequate water and sewer systems. In these homes, water must be hauled from a community source, taking a lot of time, energy and effort. Hauled water is precious and extremely conserved in an unserved home and water use rates typically fall into "very high health concern" category of the World Health Organization's consumption level definition (5.28 gal/c/d). Often and tribal members use "honey buckets" (5-gallon plastic buckets lined with a trash bag) to collect urine and feces, which are then disposed of in a sewage lagoon. Lack of adequate water and sewer services in Northwest Alaska causes severe skin infections and respiratory illnesses. Because of lack of water and sewer service, our region suffers some of the highest rates of invasive pneumococcal disease in the nation. Respiratory diseases particularly impact our young children, many of whom have been evacuated by critical care air ambulance to Anchorage each year to receive the intensive hospital treatment necessary to treat their condition.

Through our IHS compact, Maniilaq operates an environmental health program throughout our service area. We are fortunate to have a U.S. Public Health Service Commissioned Corp Officer serving as our Environmental Health Manager. Through the IHS Sanitation Tracking and Reporting System (STARS), we track sanitation deficiencies in communities and homes in our

region. There are 54 water/sewer/solid waste projects in our service area that must be built to meet critical infrastructure needs, totaling $107,705,438.

We are grateful for the opportunities to help address critical infrastructure needs presented by WRRDA 2014 and WRDA 2016. However, the choice of terms adopted in the definition of "Indian tribe" in WRDA 2016 inadvertently limits participation by tribal organizations like Maniilaq that are delegated authority to carry out services on behalf of one or more federally recognized tribal governments. On this basis, Maniilaq strongly urges the Subcommittee to include technical amendments to the definition of "Indian tribe" in WRDA 2016 Sections 1119, Indian Tribes and 1131, Participation of Non-Federal Interests. Including tribal organizations as entities eligible to receive the benefit of the non-federal cost waiver of Section 1119, and under Section 1131 to serve as non-federal sponsors and enter into cost share agreements with the U.S. Army Corps of Engineers' (the Corps), would help meet the goals of WRDA 2016 to provide basic water and sanitation infrastructure to America's furthest north citizens.

The relevant portion of the Corps' WRDA 2016 implementation guidance[1] on Section 1119's eligibility for the non-federal cost sharing waiver of $200,000 is as follows:

> Section 1119 of WRDA 2016 extends the waiver provision to Indian Tribes as defined in Section 102 of the Federally Recognized Indian Tribes List Act of 1994 (25 U.S.C. § 5130).

The relevant portion of the guidance on Section 1131 that relates to eligibility to be non-federal sponsors and enter into cost sharing agreements for water development projects provides:

> The amended definition of non-federal interest establishes that Native villages, Regional Corporations, and Village Corporations established in accordance with the Alaska Native Claims Settlement Act are eligible to be non-federal sponsors and enter into cost share agreements for water resources development projects.

Maniilaq is a tribal nonprofit organization governed by a Board of Directors comprised of a representative from each of the twelve tribal governments in our service area. Maniilaq is not listed on the federal recognized tribes list, nor is it a Native village, Regional Corporation, or Village Corporation. As a result, Maniilaq is not eligible to enter into cost share agreements with the Corps on behalf of the Indian tribes that may delegate authority to Maniilaq to do just that.

We respectfully propose to make Sections 1119 and 1131 consistent with other federal statutes which allow tribal governments to authorize tribal organizations like Maniilaq to act on their behalf for the purpose of administering federal programs and funding. We join Kawerak, Inc.

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[1] U.S. Army Corps of Engineers, Memorandum for Commanders, Major Subordinate Commands Re: Implementation Guidance for Section 1119 of the Water Resources Development Act (WRDA) 2016, Indian Tribes, May 11, 2017, http://cdm16021.contentdm.oclc.org/utils/getfile/collection/p16021coll5/id/604/filename/605.pdf, last viewed August 7, 2017.

in submitting the following language to be added to the end of WRDA 2016 Sections 1119 and 1131:

> In any case in which an Indian tribe has authorized another Indian tribe, an intertribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this section, the authorized Indian tribe, intertribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this title). In such event, the term "Indian tribe" as used in this section shall include such other authorized Indian tribe, intertribal consortium, or tribal organization.

The proposed language above comes directly from the statutory text used in the definition of "Indian tribe" in the Department of Transportation's Tribal Transportation Self-Governance Program (created by the FAST Act in 2015, codified as 23 U.S.C. § 207(m)(l)(E)). It is also identical to the terms used in the definition of "Indian tribe" in Title V of the ISDEAA, Tribal Self-Governance – Indian Health Service (25 U.S.C. § 5381(b)). It is the same language submitted to the Committee by Kawerak, Inc. in testimony dated July 21, 2017. '

Again, we thank the Subcommittee for the opportunity to submit comments and appreciate your consideration of Maniilaq Association's request.

Sincerely,

Tim Gilbert
President/CEO

CC: The Honorable Dan Sullivan
The Honorable Lisa Murkowski
The Honorable Donald Young

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