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HEARING TO REVIEW THE P.L. 83–566 WATERSHED PROPOSALS FOR THE DUNLOUP CREEK WATERSHED AND THE CAPE COD WATER RESOURCES RESTORATION PROJECT

HEARING

BEFORE THE

SUBCOMMITTEE ON CONSERVATION, CREDIT, ENERGY, AND RESEARCH

OF THE

COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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HEARING TO REVIEW THE P.L. 83–566 WATERSHED PROPOSALS FOR THE DUNLOUP CREEK WATERSHED AND THE CAPE COD WATER RESOURCES RESTORATION PROJECT

THURSDAY, JULY 30, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSERVATION, CREDIT, ENERGY, AND RESEARCH,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:05 a.m., in Room 1300 of the Longworth House Office Building, Hon. Tim Holden [Chairman of the Subcommittee] presiding.

Members present: Representatives Holden, Boccieri, Massa, Minnick, Goodlatte, Moran, Neugebauer, and Smith.

Staff present: Christy Birdsong, Nona Darrell, Adam Durand, John Konya, Merrick Munday, Anne Simmons, April Slayton, Rebekah Solem, Patricia Barr, Josh Maxwell, Pelham Straughn, and Jamie Mitchell.

OPENING STATEMENT OF HON. TIM HOLDEN, A REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA

The CHAIRMAN. This hearing of the Subcommittee on Conservation, Credit, Energy, and Research to review the Public Law 83–566 watershed proposals for the Dunloup Creek Watershed and the Cape Cod Water Resources Restoration project will come to order.

Small watershed programs authorized under Public Law 83–566 require that proposed watershed projects, with an estimated Federal contribution to construction costs in excess of $5 million and no single structure exceeding 4,000 feet of total capacity, be reviewed and approved by this Committee.

The Dunloup Creek Watershed is located in Fayette and Raleigh Counties of West Virginia. The Cape Cod Water Resources restoration project is located in 15 towns across Cape Cod, Massachusetts. The project's sponsors have been working with the Natural Resources Conservation Service to make sure that the projects are sound and feasible. Today we will hear from the gentleman from Massachusetts and NRCS. We hope this testimony will concretely demonstrate the need for these projects and the common good that may result upon completion of the projects.

I have a similar project in Pennsylvania, the Tuplehocken Watershed, which is actually nearing completion. I think it is very impor-

tant that we take care of these watersheds across rural America and that we also address the backlog in these projects. I look forward to hearing from our witnesses today.

I recognize the Ranking Member of the Subcommittee, the gentleman from Virginia, Mr. Goodlatte.

OPENING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM VIRGINIA

Mr. GOODLATTE. Thank you, Mr. Chairman. I very much appreciate your calling today's hearing to review these watershed proposals. The Committee must approve any watershed project with construction costs over $5 million and no single structure exceeding 4,000 acre feet of total capacity. Today we will be given the opportunity to review two proposals that exceed that statutory limit.

The last time the Committee was called to authorize a project was in 2001 when we authorized the Buena Vista Watershed in my district. This project, along with many others, has reduced threats from floods, improved the environment, increased economic development, and helped develop the infrastructure on which many rural communities depend.

I hope to learn more about how NRCS will prioritize these watershed projects. The watershed protection and flood prevention operation currently has a backlog of $1.19 billion worth of projects. Many of the projects that receive funding do so through earmarked funds. I have concerns about adding such high-cost projects without learning more about their objectives and impacts on rural communities, especially when, by my estimate, Members of this Committee have over 100 authorized watershed projects awaiting Federal funding.

I also hope to learn more about the direct impacts that these projects will have on agriculture and rural communities. I look forward to hearing from our colleague, Congressman Delahunt, and the NRCS as we learn more about these projects. I hope that their testimony will demonstrate the need for the projects and the common good that will result from their completion, and I look forward to hearing from today's witnesses. Thank you, Mr. Chairman.

The CHAIRMAN. The chair thanks the gentleman.

The chair would request that other Members submit their opening statements for the record so the witnesses may begin their testimony and we can ensure that there is ample time for questions.

[The prepared statement of Mr. Rahall follows:]

PREPARED STATEMENT OF HON. NICK J. RAHALL II, A REPRESENTATIVE IN CONGRESS FROM WEST VIRGINIA

Mr. Chairman,

First, let me start by thanking you for calling this important hearing today. As you know, this hearing is of great importance to the Dunloup Creek Watershed Association and the people of southern West Virginia.

Dunloup Creek is a 16.2 mile long watershed that runs through five communities in my Congressional District—Kilsyth, Mount Hope, Glen Jean, Red Star, and Harvey, West Virginia. This watershed has historically been susceptible to serious flooding causing great hardship to the West Virginians who live there and the surrounding communities.

The Dunloup Creek Watershed Association has a long history in West Virginia. Since its inception in 1964, the Dunloup Creek Watershed Association has been

working to protect the watershed, the surrounding environment, and all the residents.

As you know, Mr. Chairman, the Dunloup Creek Watershed Association is seeking funding for the 2007 National Resource Conservation Service's Voluntary Buyout Program. Funding for this crucial program would be a huge step toward helping these residents gain relief from the serious flooding that occurs in the watershed.

There are 290 homes in the floodplain which represent roughly 1,160 West Virginian citizens. These residents have dealt with the negative consequences of reoccurring flooding for far too long.

After much work, too much time, and far too much damage from flooding, many of the residents believe that the best option that they have to protect themselves and their families is to participate in the Voluntary Buyout Program. As the name suggests, the program is voluntary and the Dunloup Creek Watershed Association is going door-to-door to ensure that every single resident is notified about this option.

I believe that this program will greatly help these strong and resourceful West Virginians lead new lives free from the fears of constant flooding.

Mr. Chairman, please allow me to once again thank you for holding this hearing and for allowing me to testify on behalf of the Dunloup Creek Watershed Association here today.

The CHAIRMAN. We would like to welcome our first witness to the table today, the Hon. William D. Delahunt, Member of Congress from the 10th Congressional District of Massachusetts. Mr. Delahunt, you may begin.

STATEMENT OF HON. BILL DELAHUNT, A REPRESENTATIVE IN CONGRESS FROM MASSACHUSETTS

Mr. DELAHUNT. Well, thank you, Mr. Chairman, Ranking Member Goodlatte, and Members of the Committee for inviting me to speak today on behalf of the Cape Cod Water Resources Restoration Project, which is critical to the fishing and shellfishing industries in my district.

As many in Washington are aware, Cape Cod is celebrated nationally as a thriving tourist destination and retirement area. It is a special place that is treasured for its beaches, its quaint character, historic villages and scenic vistas. However, in contrast to this postcard image, there is a different reality. It is a Cape Cod with a year-round community living largely on low wages and fixed incomes that are struggling to survive.

When you remove the tourism and retirement sectors of the Cape's economy, what you note is an economy that is driven year round by the building trades and the fishing and shellfishing and cranberry industries. It is a largely blue-collar worker that provides median family incomes well below the state and national average. Median income for a family of four is about ten percent below the Commonwealth of Massachusetts and the national average. These jobs define the true character of Cape Cod and they have been *the* source of income for working families for generations.

And today, Mr. Chairman, these industries are in serious difficulty. Cranberry growers now compete with developers for choice real estate to sustain their crops. Fishermen compete with much larger and well-financed fleets as well as depleted fisheries. Shellfishermen are faced with many threats including red tide, road and fertilizer runoff, and coastal development that has shut down hundreds of acres of coastal waters.

The current trends are not pretty. Unless we take aggressive action now, we could very well see these industries disappear. These problems are not unique to Cape Cod. These trends are affecting

communities along the entire East Coast. Unless we find ways here in Washington to help these industries survive, these people will go out of business. Our coastal areas are on the verge of becoming the exclusive playground of the rich.

I am quite fortunate as a Congressman to have a dedicated team of local, state and national officials who understand this reality and our dedicated to preserving old Cape Cod. We are also fortunate to have the USDA's Natural Resources Conservation Service to help these traditional industries survive in the face of these overwhelming pressures, and to help us address the direct threats facing the future of our shellfishing industry on Cape Cod.

The initiative now before this Committee is the result of many years of hard work and extensive collaboration with hundreds of officials, agencies and community leaders. NRCS brought together local officials, state agencies, county government and nonprofit conservation groups like the Association for the Preservation of Cape Cod, and of course, shellfishermen. They designed this project to restore the quality of our coastal waters and bring back shellfish beds that have been shut down or at the risk of closure.

The initiative identifies 75 water restoration initiatives, all in individual local communities across the region. The estimated cost of the project, as you noted, Mr. Goodlatte, is $30 million. It will produce a much-needed economic boost to our region and create an estimated 543 jobs, primarily in the area of construction and engineering. But more importantly, this will also create thousands of full- and part-time jobs in the shellfish industry.

The NRCS and the Obama Administration have made this initiative one of their top priorities. It has broad support throughout the region. Funding is readily available so that we can put people to work right away to restore these coastal waters.

Now, we understand that there are some outstanding questions that I would like to address for the record. Questions have been raised about whether Cape Cod is a rural area and still qualifies for funding. Well, the NRCS has determined that the area is rural, and I agree with their assessment and conclusion. The NRCS policy on small watershed projects defines *rural* as communities with populations less than 50,000. All 15 towns on the Cape have populations that meet this criterion. It may interest you to know that Cape Cod also receives rural funding from the Department of Education, the Department of Health and Human Services, as well as other Federal agencies.

We have also been asked whether the shellfish beds that would benefit are farmed beds. The project does indeed benefit farmed or harvested shellfish beds. We expect these areas to be used by commercial shellfishermen and we have a statement from the Commonwealth of Massachusetts to support this. It is my understanding that it is part of the record. We can provide additional documentation and information to the Committee should it be necessary.

On behalf of the residents of Cape Cod, I would like to conclude by expressing my hope that you will endorse the Cape Cod Water Resources Restoration Project. I want to state for the record how proud I am to have the Department of Agriculture and the dedicated professionals of the NRCS like Don Kearnan, who is here

today, as partners working with my office and our communities as we strive to protect the future of Cape Cod and cranberry and fishing and its shellfish industries.

So on behalf of thousands of hardworking people in my district who depend on these jobs, I want to thank them and I want to thank you for this opportunity.

[The prepared statement of Mr. Delahunt follows:]

PREPARED STATEMENT OF HON. BILL DELAHUNT, A REPRESENTATIVE IN CONGRESS FROM MASSACHUSETTS

Good morning. I want to thank you Chairman Holden, Ranking Member Goodlatte and Members of the Committee—for inviting me to speak today on behalf of the Cape Cod Water Resources Restoration Project. I am here to testify in strong support of this project—which is so critical to the fishing and shellfishing industries in my district.

As many here in Washington know, Cape Cod is known around the country as a thriving tourist destination and retirement area. It is a special place that is treasured for its beaches, its quaint character historic villages and scenic vistas. However, in contrast to this post card image, is a far more realistic portrait. It is a Cape Cod, with a year round community, living largely on low wages and fixed incomes, that is struggling to survive.

When you take away the tourism and retirement sectors of the Cape's economy, what you have is an economy driven year round by the building trades, and the fishing, shell-fishing and cranberry industries. It is largely blue collar work that provides median family incomes well below the state and national average. These jobs define the true character of Cape Cod, and they have been the source of income for working families for generations.

Today, these industries are in serious trouble.

Cranberry growers now compete with developers for choice real estate to sustain their crops. Fishermen compete with much larger well financed vessels and depleted fish stocks. Shellfishermen are faced with many threats, including red tide, road and fertilizer run-off, and coastal development that has shut down hundreds of acres of coastal waters.

The current trends are not pretty.

Unless we take aggressive action now, we could very well see these industries disappear. These problems are not unique to Cape Cod, these trends are affecting communities along the entire East coast. But unless we find ways here in Washington, to help these industries survive, these people will go out of business. Our coastal areas are on the verge of becoming the exclusive playgrounds of the rich.

I am quite fortunate as a Congressman to have a dedicated team of local, state and regional officials who understand this stark reality and are dedicated to preventing this from happening. We are also fortunate to have the USDA, the Soil Conservation Service, and the Natural Resources Conservation Services—or the "NRCS" all pitching in, to help these traditional industries survive in the face of these overwhelming pressures and to help us address the direct threats facing the future of our shellfishing industry on Cape Cod.

The initiative now before this Committee, is the result of many years of hard work and extensive collaboration with hundreds of officials, agencies and community leaders. The NRCS brought together local officials, state agencies, county government and nonprofit conservation groups—like the Association for the Preservation of Cape Cod and even shellfishermen. They designed this project to restore the quality of our coastal waters and bring back shellfish beds that have been shut down or are at risk of closure.

The initiative identifies seventy five water-restoration initiatives, all in individual local communities across the Cape Cod region. The estimated cost of the project is $30 million. It will produce a much-needed economic boost to our region and create an estimated 543 jobs primarily in the areas of construction and engineering, but will also create thousands of full and part time jobs in the shellfish industry.

The NRCS and the Obama Administration have made this initiative one of its top priorities. It has broad support throughout my district. Funding is readily available so that we can put people to work right away restoring these coastal waters.

We understand that there are a couple of outstanding question that I would like to address for the record—

Questions have been raised about whether Cape Cod is a "rural" area and still qualifies for funding. Let me address this head-on. The NRCS has determined that the area is rural. I agree with their assessment.

The NRCS policy on small watershed projects defines *rural* as communities with populations less than 50,000. All five towns on the Cape have populations that meet these criteria. It may interest you to know that Cape Cod also receives "rural" funding from the Departments of Education, Health and Human Services, and other Federal agencies.

We have also been asked whether the shellfish beds that would benefit are "farmed" beds. The project does benefit farmed or "harvested" shellfish beds. We expect these areas to be used by commercial shellfishermen, and we have a statement from the Commonwealth of Massachusetts to back this up. We can provide additional documentation and information to the Committee, should it be necessary.

On behalf of the residents of Cape Cod, I would like to conclude by expressing my hope that you will endorse the Cape Cod Water Resources Restoration Project. I want to thank you for the opportunity to testify before this Committee in strong support for this project. I want to state for the record how proud I am to have the Department of Agriculture and the dedicated professionals of the NRCS as partners working with me and our communities as we strive to protect the future of our cranberry, fishing and shellfish industries on Cape Cod.

On behalf of the thousands of hardworking people in my district who depend on these jobs, I want to thank them, and thank you.

ATTACHMENT

Commonwealth of Massachusetts
Division of Marine Fisheries
251 Causeway Street, Suite 400
Boston, Massachusetts 02114
(617)626-1520
fax (617)626-1509

Paul J. Diodati
Director

Deval Patrick
Governor
Ian A. Bowles
Secretary
Mary B. Griffin
Commissioner

July 23, 2009

Congressman William Delahunt
2454 Rayburn House Office Building
Washington, DC 20515
ATTN: Mark Forest

Via Fax: 202-225-5658
& email: Mark.Forest@mail.house.gov

Re: Support for Cape Cod Water Resources Restoration Project

Dear Congressman Delahunt:

The Massachusetts Division of Marine Fisheries strongly supports the Cape Cod Water Resources Restoration Project of the Natural Resources Conservation Service (NRCS). The Cape Cod restoration plan offers an unprecedented opportunity to restore anadromous fish, shellfish and salt marsh habitat across the region.

We actively participated with the plan's development including the identification of suitable restoration sites. Specific to shellfish habitat, we conducted site evaluations that prioritized potential restoration sites based on a range of parameters including the proximity of pollution sources and stormwater discharges to shellfish habitat and harvested areas. The intention of the prioritization process was to maintain areas that are presently harvested and seek remediation of areas with high potential for shellfish harvest. The resulting project list creates a unique opportunity to maintain and enhance shellfish harvest on Cape Cod in both the wild fishery and by private shellfish farmers.

We encourage your support of the plan to conserve and enhance valuable aquatic resources in the Commonwealth.

Sincerely,

Paul J. Diodati

Paul J. Diodati
Director

Cc: Carl Gustafson, U.S. Department of Agriculture - NRCS
Don Liptak, U.S. Department of Agriculture – NRCS
Don Keeran, Association for the Preservation of Cape Cod

The CHAIRMAN. Thank you, Mr. Delahunt.

Mr. GOODLATTE. If I might just add a word?

The CHAIRMAN. The gentleman from Virginia.

Mr. GOODLATTE. My friend from Massachusetts knows that my father grew up on Cape Cod and graduated from Barnesville High School. I know well the gentleman's love of Cape Cod and I would be willing to bet, even though I can't see it from here, that there is a Cape Cod design on his tie.

Mr. DELAHUNT. In fact, this is the tie that was presented to me, Mr. Goodlatte, by the Ranking Member of the Judiciary Committee, Mr. Smith. I don't know if you were there on that particular occasion, but it certainly is one of the highlights of my Congressional career.

Mr. GOODLATTE. And Mr. Smith is also a lover of the Cape.

The CHAIRMAN. The chair thanks the gentleman. Thank you, Mr. Delahunt.

Mr. DELAHUNT. Thank you.

The CHAIRMAN. We would now like to welcome our second panel, Mr. Dave White, Chief, Natural Resources Conservation Service from the United States Department of Agriculture. Mr. White, you may begin when you are ready.

STATEMENT OF DAVE WHITE, CHIEF, NATURAL RESOURCES CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Mr. WHITE. Good morning. It is grand to be here, Mr. Chairman, Mr. Ranking Member, distinguished Members of the Subcommittee, to discuss the Dunloup Creek Watershed and the Cape Cod project. These are both large-scale watershed projects that are going to provide economic and environmental benefits to the community should this Committee choose to authorize them. As the Ranking Member and the Chairman said, the reason we are here today is because the statutory requirement of the size of certain watersheds require Congressional authorization.

I want to stress right now my view of NRCS. This is not our program. These are not our plans. We are the stewards of these programs. We will try to be faithful stewards and we want to be humble in how we operate these programs. The plans before you we worked with closely, over many years, with the local sponsors, but I think both Mr. Kearnan and Mr. Shumate would agree that these are the local sponsors' plans that we helped with.

Let us start with Dunloup Creek. This is essentially a floodplain buyout. This is an area of West Virginia where there have been continual flooding. In fact, there have been 15 flood events since 1986. There are about 203 acres inside this watershed that constitute the project area. There are roughly 300 homes, businesses, and churches that would be eligible for this buyout. We are estimating that about 80 percent would take advantage of it, which is about 238, which is the number in the testimony. Projected cost is $13.9 million, about $12½ million is Federal. The reason the Federal share is high is we do pay 100 percent of flood control or flood mitigation costs.

A key point here, this is a buyout. The Federal Government will not own this land. It will be held in fee title by the county and

there will be a deed restriction that would prevent development on this land in the future.

Cape Cod, Mr. Delahunt's testimony gave a good summary of that. This is a $30 million project that would impact all of Cape Cod and the 15 communities located there. It is essentially three items really. A lot of the past roadwork in that area has restricted the flow of the tides in and out of the tidal marsh. You have a lot of freshwater in those marshes now. You have big problems with phragmites, which is an invasive reed. If we can open up those culverts to allow the water to flow in and out, we can restore those. Mr. Delahunt mentioned a lot of the closures of the shellfish beds. Part of this project is working on 26 high-priority areas where stormwater is polluting these beds. We are looking at constructed wetlands, we are looking at sand traps, we are looking at leach fields that would be similar to a septic system where the first flush of the water would come in and then infiltrate. We are also looking at about 24 areas where fish passages would benefit anadromous fish. These are fish that are born in freshwater, they spend their life in the saltwater and they come back to spawn, and if they hit a dam or if there is a culvert that is askew, they just can't get through, so there would be about 24 of those restored.

This Committee has shown an enthusiasm for these projects. As Mr. Goodlatte mentioned, the last time we were before you all was in 2001 with Buena Vista. NRCS does enthusiastically support these projects. We hope that the Committee will join us in that as well, and that would conclude my remarks, Mr. Chairman.

[The prepared statement of Mr. White follows:]

PREPARED STATEMENT OF DAVE WHITE, CHIEF, NATURAL RESOURCES CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Dunloup Creek Watershed project and the Cape Cod Water Resources Restoration Project. These two projects are large-scale watershed projects that, should they be implemented, would provide environmental and economic benefits to the local communities. The plans for these projects were developed by local sponsors with the help of USDA's Natural Resources Conservation Service (NRCS).

The local sponsors of the Cape Cod restoration project include the Commissioners of Barnstable County, Massachusetts, the Commonwealth of Massachusetts, the Cape Cod Conservation District, and all 15 towns across the Cape Cod peninsula. The local sponsors of the Dunloup Creek Watershed project are Fayette County Commission, the City of Mount Hope, the Southern Conservation District and the West Virginia State Conservation Committee. In compliance with statute, these sponsors have requested that their project plans, developed with the assistance of NRCS, be authorized for funding. The authorizing legislation for the Watershed Protection and Flood Prevention Operations program (Watershed Operations) stipulates that before appropriations can be enacted for proposed watershed projects with an estimated Federal contribution in excess of $5,000,000 with no single structure exceeding 4,000 acre feet of total capacity require approval resolutions by the House and Senate Committees on Agriculture. These Committees last took action in this program in 2001 when they approved funding for the Buena Vista Watershed Project in Virginia.

Both Dunloup Creek and Cape Cod have gone through an exhaustive, multi-year planning process to examine the scope of the issues and evaluate a range of alternative courses of action. NRCS supports the authorization of both projects.

Dunloup Creek Watershed Project

The Dunloup Creek Watershed project is designed to alleviate flood damage and improve water quality in an area with a population of approximately 3,000 people in Fayette and Raleigh Counties, West Virginia. Parts of five communities in the

project area have been impacted by repeated flooding—15 events since 1986. Two particularly devastating floods occurred in 2001 and 2004. The project plan determined that traditional structural flood mitigation measures, including dams, channels, floodwalls, dredging, and flood proofing would not be effective or cost-efficient in reducing flood damages. All of these alternatives were evaluated against environmental and economic considerations in an effort to find a solution to the resource concerns. Through the planning process, the local sponsors identified a voluntary floodplain buyout as the most cost-effective and feasible option for the impacted communities.

The plan consists of a voluntary buyout of 238 threatened properties currently located within the 100 year floodplain. Buildings and other facilities would be removed from up to 203 acres to restore the floodplain to more natural conditions. Property obtained would be maintained in perpetuity by the local sponsors as natural floodplain. The estimated total cost of the project is $13.9 million, of which the Federal share is $12.5 million. The flood mitigation, water quality and wildlife benefits offered by the Dunloup Creek Watershed project are significant, and this effort affords USDA an opportunity to make a real difference in an economically distressed area of the country.

Cape Cod Water Resources Restoration Project

The Cape Cod Water Resources Restoration Project would impact 15 different communities in Barnstable County on the Cape Cod peninsula. Approximately 58% of the project area is composed of cropland, forestland, grassland, wetlands, and open land. Each of the communities that are cosponsoring the project has a population of less than 50,000, meeting the programmatic definition of "rural communities." The total permanent, year-round population on Cape Cod is approximately 222,200.

The watershed restoration project would address several significant problems across the Cape, including degraded salt marshes, restricted anadromous fish runs, and declining water quality of shellfish areas. The project plan indicates that pollutants in stormwater runoff are negatively impacting water quality, particularly as it relates to shellfish beds. The project would also directly address fish migration barriers. In addition, tidal wetland restoration called for in the project plan will improve ecosystem function, provide improved fish and wildlife habitat, and help control the spread of invasive plant species.

The project plan recommends the following restoration actions:

1. Restoration of salt marshes and anadromous fish runs through structural measures. Examples of these structural measures include water control structures, fish ladders, and culvert enlargement for tidally restricted salt marshes.

2. Restore and protect shellfish beds by treating stormwater runoff. Examples of improvements include constructed wetlands, infiltration basins or trenches, dry wells and sand filters, and vegetative filters.

The project plan recommends carrying out 26 priority salt marsh restoration projects, 24 priority fish passage obstruction remediation projects, and 26 priority stormwater remediation projects. The estimated total cost of the Cape Cod project is $30 million, with the Federal share being $24 million. Implementation of the Cape Cod Water Resources Restoration Project would lead to the resolution of significant land and water management problems for rural communities across Cape Cod, provide benefits to fish and wildlife, and improve the health and economic viability of the Cape's shellfish beds.

I thank the Subcommittee for the opportunity to present these projects and request their authorization. We believe that the vision and needs of the local communities have been well crafted and articulated in both proposals, and that the local sponsors have worked hard to define their goals and hopes for the future of their communities in both West Virginia and Massachusetts. This concludes my statement, and I would be happy to answer any questions the Subcommittee might have.

The CHAIRMAN. Thank you, Mr. White.

Can you please describe how these two projects compare in cost to other watershed proposals that have been authorized by the Committee?

Mr. WHITE. Oh, there are a variety of costs. Cape Cod would be at the higher end, $30 million is a lot. Dunloup would be midrange. There are also several projects that are significantly less. In fact, when I became Chief, Mr. Chairman, I became Chief the day before

you had me up here earlier this year on the financial audit hearing, there were six watershed plans at USDA, at NRCS. Two of them we are dealing with right now, Dunloup and Cape Cod. There were four others that were less than $5 million. Some were significantly less, which the Chief is allowed to authorize. So I would say Dunloup is midrange, Cape Cod is higher range and there are a bunch in the lower end.

The CHAIRMAN. How does current backlog of applications compare to the current funding level, and how much stimulus money did you receive and did that really make a dent in the backlog?

Mr. WHITE. Yes, it did. We were very fortunate, got $145 million for watershed operations. We also had other funds for different accounts, we were actually able to use merit-based selection criteria, and we were able to fund some of Tuplehocken Creek out of that funding. The track record of the small watershed program is that it is heavily, heavily earmarked. It is almost exclusively earmarked. It makes it difficult for the agency to select projects that we feel are of the highest environmental and economic good. We were able to do that with the stimulus funding, though. But you are right, we do have a large $1.2 billion backlog, but as for how we can ever meet that—the program is heavily earmarked.

The CHAIRMAN. The chair thanks the gentleman.

The gentleman from Virginia.

Mr. GOODLATTE. Thank you, Mr. White, and welcome. We are delighted to have you with us. Can you tell us what the basic criteria are for projects to be accepted and what are the agricultural rural criteria?

Mr. WHITE. Well, they have to meet the statutory requirements, which is primarily flood control. They all have to have water quality. We have options for municipal industrial water. If you look at Buena Vista, that was pretty much—you are very familiar with that. That was the flood wall and those basins to catch the water coming down. So these are the criteria that we go through. Every project also has to have at least 20 percent ag benefits in it. That was part of the authorizing legislation so you wouldn't see NRCS doing projects in downtown St. Louis or something like that. The statute does say 20 percent ag benefits including rural communities, so for about 20 years the agency, at least that I know of for 20 years, has interpreted that phrase *rural communities* meaning that we could assist areas that have a population of less than 50,000. In fact, I still have the original letter that uses the old Farmers Home Administration definition on that.

Mr. GOODLATTE. And do you feel that the Cape Cod proposal fits into those?

Mr. WHITE. Oh, absolutely. Absolutely. All 15 communities are less than 50,000. It meets that criteria. And actually——

Mr. GOODLATTE. What about the flood control and the 20 percent agricultural benefit?

Mr. WHITE. Well, the nonpoint source addresses that part of Cape Cod. The 20 percent, actually if you look at the U.S. Census of agriculture, 47 percent of the benefits of this project do accrue to agriculture because they do include shellfish harvesting and fisheries in that.

Mr. GOODLATTE. And how do the cost share ratios for this project compare to other authorized projects?

Mr. WHITE. The statutory requirement, Mr. Goodlatte, is, we use the cost share ratio that is the prevailing rate of the national cost share program. When this authorizing language—when the program was signed into law, that would have been the old ACP program, Agriculture Conservation Program. Today we would use the Environmental Quality Incentive Program, kind of the prevailing national program, and that is about 75 percent. Now, for pure flood control, we go up to 100 percent and that is where you see most of Dunloup Creek.

Mr. GOODLATTE. Obviously with a $1.2 billion backlog of projects like this, many of us are interested in where the various projects that are going to be undertaken are going to be ranked. I would like to ask you how you anticipate these two proposals being ranked amidst all the other projects that are already authorized.

Mr. WHITE. I know. I struggled with this, Mr. Goodlatte. I knew this question was going to be coming, why are you adding another $42 million to something that has already got a huge backlog, and that is a valid, honorable, decent question. I am going to try and respond to it.

First, when we talk about this $1.2 billion backlog, I have asked NRCS staff to go back and review these backlog projects. Some of these projects, as you know, sir, have been on the books for decades, and they just haven't been funded because we can't break through that earmark barrier. So how many of these have old NEPA things? What has changed in the intervening years? What kind of technology—if we look at this with fresh eyes, would we change something on these projects? And what I would like is for a bit of time so I can come back to this Committee and say okay, of this $1.2 billion we think we have $600 million really great and we have to work on these others. So please accept that caveat when we talk about the $1.2 billion.

The other thing is, I am going to carry out the law. There were six projects that went through the entire process when I became Chief. There had been a policy decision made that says don't send any more projects in here. I didn't think that as a bureaucrat, a middle-aged, somewhat paunchy bureaucrat, that I should sit there and say well, Dunloup can go and Cape Cod can stay and this one can go. I went ahead and authorized the ones I could, and I have put these other two before this Committee for your consideration and you can make that assessment on whether or not to put them in there, sir.

Mr. GOODLATTE. Well, since my time is running low, let me ask you, what kind of sources of funding you are expecting in the immediate future? Did you get any stimulus funds? If so, how much? How much of that $1.2 billion that currently exists do you think you can address this coming year?

Mr. WHITE. We received $145 million from the stimulus and it is all gone. It is out there. We used merit-based criteria to address that. The funding methodology we use for the watershed program is: first, any funds Congress provides we use for technical assistance on projects that are underway. So, if Buena Vista was funded last year, we are going to make sure that they have the engineer-

ing staff to continue ongoing projects. Second criterion would be, is there a problem, was there a design flaw, did something come out, is there a human safety issue, and we would use funds to do that. So that would be the second criterion. The third criterion of funding is earmarks. If by some unbelievable change we would get past that, that brings us to the criteria where Dunloup and Cape Cod and every other project would be. At the fourth level after we work through existing projects, repair needs, earmarks and so Dunloup and the other $1.2 billion would be in the fourth category.

Mr. GOODLATTE. And what do you anticipate having available to you next year as you see it right now? And I know you don't get to make that decision but just to get a ballpark picture. Of $1.2 billion, how much of that will you have funds to address?

Mr. WHITE. I think the 2010 projection is around $40 million.

Mr. GOODLATTE. So——

Mr. WHITE. I am sorry. I was exuberantly overconfident. It is $20 to $25 million.

Mr. GOODLATTE. So we are talking about less than two percent of what you need to address being available to you?

Mr. WHITE. Yes, and that is probably all earmarked.

Mr. GOODLATTE. Mr. Chairman, I want to say I certainly don't object to the desires and the projects that other people want to add. I just want to point out the difficult circumstances we already find ourselves in in trying to address what is on the books.

So I thank you. I thank Congressman Delahunt. This is definitely something that needs attention and I appreciate your input.

The CHAIRMAN. The chair thanks the gentleman and recognizes the gentleman from New York.

Mr. MASSA. Thank you, Mr. Chairman, and thank you, Chief White, for your service in the field. I would like to associate myself with the comments from the honorable gentleman from Cape Cod. In my youth, I had the privilege of vacationing in that area and can testify firsthand as to the merits of the projects put before us today. I would also like to add, knowing very well the backlog that has just been discussed, there is somewhat of a sense of urgency with respect to restoration of freshwater-saltwater interchange marshes. This is not something that can go on for decades. They can get to a point of marginality where restoration can still happen, but dropping below that you will not be able to restore them. There has to be a certain amount of freshwater-saltwater interchange stock from which you can then derive the replenishment, and Chief White, I hope that I am accurate in that assumption.

Mr. WHITE. Yes, sir.

Mr. MASSA. Having spent some time in the field of coastal biology—I am going way back now but nonetheless, it is something that I know a little bit of. I would urge you to place these particular projects with some measure of priority, even considering the exceptional limited funding and the overall fiscal environment in which we all operate under today.

I would also like to add a word in support of a relatively unheralded industry that, frankly, goes largely unrecognized except for a few TV advertisements, and that is the cranberry industry. As a cancer survivor, I can tell you today that that particular industry is pretty much at the forefront of high-oxidant nutrient sup-

plements. It is getting a great deal of attention in both the holistic medicine and the conventional medicine field for cranberry derivatives, and I would, understanding the concentration of the cranberry industry in one particular state, frankly in almost one particular Congressional district, we are looking at about 80 percent of the production in one area. I would be very concerned to see that farm—and we often don't think of it as a farming product but it is—left unattended and, no pun intended, withering on the vine. So I would like to associate myself with the remarks of the two witnesses today and offer any and all assistance that I can make as we move forward on this.

The CHAIRMAN. The chair thanks the gentleman and recognizes the gentleman from Nebraska.

Mr. SMITH. Thank you, Mr. Chairman.

Chief White, has the NRCS ever done a full buyout through the watershed operations?

Mr. WHITE. We actually have a couple underway. One that comes to my mind is Neshaminy Creek, Pennsylvania. It is underway right now in the floodplain, wherein this particular area individuals can choose a buyout or they also have the option of elevation to kind of put the house on stilts, so yes, sir, we do. I think that was around $16 million. I could be way off on that, though.

Mr. SMITH. And then how successful do you anticipate the Dunloup Creek voluntary buyout to be? Could you maybe describe what you see happening or what might happen?

Mr. WHITE. Yes, sir. Mr. Shumate is here from Dunloup and we were visiting ahead of time. The universe is like around 300 homes, businesses, churches, and we were hoping for maybe 230, somewhere around 80 percent of that. He told me right now there are over 112 that have signed up for it. So, 50 percent of that goal is already met and people are going door to door to make sure every person knows that they have this option, Mr. Smith.

Mr. SMITH. And how many projects in the last 2 years have gone on to the list by the approval of the NRCS Chief?

Mr. WHITE. In the last 2 years, exactly four, which have occurred since March of this year when I approved four smaller projects—I am sorry—authorized four smaller projects. We are actually not talking about funding here. We are talking about authorization. The funding would occur in those other committees.

Mr. SMITH. All right. Thank you, Mr. Chairman.

Mr. WHITE. Thank you, Mr. Smith.

The CHAIRMAN. Thank you, Mr. White, and thank you, Mr. Delahunt, for your testimony today.

Under the rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witnesses to any questions posed by a Member.

This hearing of the Subcommittee on Conservation, Credit, Energy, and Research is adjourned.

[Whereupon, at 10:35 a.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUBMITTED STATEMENT OF MARGARET GEIST, EXECUTIVE DIRECTOR, ASSOCIATION TO PRESERVE CAPE COD

July 30, 2009

Mr. Chairman and Honorable Members of the Committee:

I appreciate the opportunity to submit testimony in support of the Cape Cod Water Resources Restoration Project (the Project). The Association to Preserve Cape Cod (APCC), the largest environmental advocacy group on Cape Cod, is the founder and coordinator of the Coalition for the Cape Cod Watershed Project. The coalition includes the Cape Cod Chamber of Commerce and 25 other organizations. APCC also holds two seats on the Coastal Resources Committee, a committee appointed by the Barnstable County Commissioners to address coastal issues.

The Project will result in the restoration of 7,300 acres of shellfish beds, 4,200 acres of migratory fish runs and 1,500 acres of degraded salt marshes on Cape Cod, all of which are critical to the economic vitality and ecological integrity of the region.

The proposed Project will bring much needed economic benefits to Barnstable County, which has the second highest unemployment rate in the Commonwealth of Massachusetts. According to the Massachusetts Executive Office of Labor and Workforce Development, Division of Unemployment Assistance, seasonally unadjusted unemployment for Barnstable County in March 2009 was 10.9 percent, compared to 6.8 percent in March of 2008.

Full Project funding will generate an estimated 543 person years of employment. Approximately $18 million will go toward direct construction and $10 million toward engineering and construction. As the building and construction trades have been particularly hard-hit by the current recession, this project will provide a crucial boost to the region's workforce.

Commercial and recreational shellfishing are important components of the Cape's economy. In 2004, the estimated value of commercial and recreational shellfish landings was $8.57 million. This value does not include the price of permits, licenses, shellfishing equipment and all the revenue attributable to the restaurant trade and visitor accommodations. Funding for the Project will result in the protection and restoration of 7,300 acres of shellfish habitat. This large addition to the area of shellfish beds will substantially increase the contribution of shellfishing to the region's economy.

A study by the Cape Cod Chamber of Commerce in the 1990s found that coastal tourism accounted for $1.2 billion of the total annual economy of Cape Cod and that beaches and coastal recreation were the number one tourist attraction in the region. It is expected that the Project will benefit coastal tourism in a number of ways. For example, improving water quality for shellfish beds through storm drain remediation projects will enhance water quality for other recreational uses. Restoring migratory fish runs will provide additional opportunities for residents and visitors to witness the spring herring runs on Cape Cod, a seasonal experience that already attracts many people.

Numerous environmental benefits will also accrue from the Project. Salt marshes create the foundation of a coastal food web that supports a large variety of coastal fish and bird species. They also provide vital nesting and breeding habitats for migratory waterfowl along the Atlantic Flyway. Coastal wetlands serve as important nursery and spawning grounds for many commercially and recreationally important fish and shellfish species. Running through many salt marshes are streams and rivers that provide passageways for migratory fish, including smelt, American shad, herring, eels and trout as they travel to and from spawning grounds. These species are targeted by active fisheries but also serve as an important food source for high-ranking predators such as striped bass and bluefish.

Seaward of the marshes in the shallow coastal waters are acres of shellfish beds from which oysters, bay scallops, clams, and the like provide food for many species.

Restoration of salt marshes will assist in buffering coastal storms, thereby helping to protect public and private properties. Salt marsh restoration may enhance our ability to adapt to sea level rise, as new culverts facilitate the natural flow of tidal water into the marsh and reduce flooding on the seaward side of the culvert.

Salt marshes also absorb pollutants and nutrients. The nutrient issue is particularly important for Cape Cod, where communities are only just beginning to address the extraordinary costs of wastewater infrastructure.

Restoration of fish runs and passages, and to some extent, restoration of salt marshes, increases the viability of migrating fish species, many of which have experienced severely declining populations, in recent years.

The Project will offer tangible economic and societal benefits to individuals and communities on Cape Cod. There are real people behind the numbers and dollars of projects such as this one. For example, the restoration and subsequent reopening of a coastal pond to shellfishing provided my son with funds to help pay for his college education. Today my son teaches history at a local high school. There are numerous studies such as the above where the availability of abundant and healthy natural resources provides substantial contributions to individuals and to the overall wellbeing of communities.

There is overwhelming support for this project in the region, from the fifteen towns that participated in the development of the plan, to the state agencies charged with protecting salt marshes, fish runs and shellfish beds, to the Cape Cod Chamber of Commerce and the other member organizations of the Coalition for the Cape Cod Watershed Project. This is truly a locally led project that has broad public and state support.

Thank you for the opportunity to submit testimony in support of the Cape Cod Water Resources Restoration Project.

Sincerely,

MAGGIE GEIST,
Executive Director.

SUBMITTED STATEMENT OF MIKE SHUMATE, BOARD MEMBER, DUNLOUP CREEK WATERSHED ASSOCIATION

29 July 2009

Mr. Chairman and distinguished Members of the Agriculture Committee, my name is Mike Shumate and as a Board Member of the Dunloup Creek Watershed Association, I'm here today representing our officers, members, and homeowners who reside in the floodplain seeking relief from the ongoing floods. Dunloup Creek is a 16.2 mile long watershed which trails through five communities before emptying into the New River. These communities are Kilsyth, Mount Hope, Glen Jean, Red Star, and Harvey. The relief we seek is funding for the 2007 NRCS Voluntary Buyout Program.

Our association is one of the oldest active groups in West Virginia dating back to 1964. We are the stewards of our watershed and take great pride in our efforts to protect our environment and our friends and neighbors. We are the ones that wade into the stream to remove everything from kitchen appliances, exercise equipment, hot water tanks, cement piers, tires, 50 gallon drums, and carpet. We have been seeking relief from the ravages of flooding for forty-five years which encompasses three Watershed Plans dated 1976–1998—and May 2007.

The first study dated in 1976 was to construct a channel around the communities of Glen Jean and Mount Hope. However, the efforts to fund were de-authorized in 1984. This was followed by a second study that produced a Local Implementation Plan published in 1998 which proposed the construction of two earthen dams above the community of Kilsyth on Dunloup Creek and another on Mill Creek. However, this plan lacked the necessary assessment of all hydraulic, environmental, economic, and cultural concerns needed to proceed toward a funding request. Therefore, two studies and twenty-two years passed without resolution to our flooding and its impact upon our homes and properties.

You must understand the frustration felt by our officers, members, and homeowners over these many years that we couldn't get to a funded solution. Our watershed association has seen seven Chairmen come and go over the last forty-five years but we continued on in our efforts. Our motto being "*Willing to help ourselves but will enjoy your helpful company.*"

Then along came the floods of 2001 and 2004, the two 2001 floods occurred within 10 days of each other. Floods that were deemed 30 year floods and with that penned identity we all became alarmed at what must a 100 year flood entail. It became apparent to us that this would be loss of lives and homes. We now fully understand the urgency of getting out of this floodplain.

We understand with the many years of sedimentation buildup in our stream beds that 1 to 2 inch rainstorms cause the stream to overflow its banks. The storm of 2001 was a rain event of eleven inches in less than 4 hours. The water rose quickly and rushed through our yards, automobiles, and homes. Those two floods alone cost

$29.5 million dollars in damages and those figures come directly from the Pre-Disaster Mitigation Risk Assessment report by the Fayette County Office of Emergency Services.

The 290 homes that reside within the floodplain represent about 1,160 family members. These residents, within the five communities, have seen their homes devalued due to these floods. Every rain event makes us nervous as we continually check the rising water. We're all used to having lime spread over our lawns to kill the bacteria left in the aftermath of flood waters. This is extremely unhealthy for our children and other family members.

Our renewed efforts following the 2001 and 2004 floods made us realize we had to form partnerships with our county, state, and Federal agencies. We needed sponsors and our watershed needed to become more active and communicate with our members and everyone that agreed to partner with us toward a common goal of getting a viable plan to get us out of the floodplain. We worked with everyone from our Governor, state delegates, state senators, Senators and Congressmen, agency heads representing the Natural Resources Conservation Service, Southern Conservation District, WV Conservation Agency, Fayette County Commission, Office of Emergency Services, and the New River Gorge National Park Service.

This Voluntary Buyout Plan offers the best option of any before us. We have the support of our residents and beginning on 15 June through 1 September 2009 we are taking applications for those who wish to be considered for buyout option. Again, this is a voluntary program and we are going door-to-door to make sure 100% notification of all the residents. Response to date has been overwhelming. We have a special "Question & Answers" session scheduled for 6 August followed by a "housing fair" on 9 August 2009. We are working hard, along with our sponsors, to insure the best outcome for everyone.

Our watershed motto, "Willing to help ourselves but will enjoy your helpful company" is at the point where we need the support of each and every Member of this Agriculture Committee. We have worked extremely hard to get this project to this Committee room here in the Longworth House Office Building. I will be seated in the Agriculture Committee room on Thursday 30 July 2009 and will carry back my experiences to my fellow West Virginians.

Make my travels home be one with a message that we now have a new sponsor and that being the House Agriculture Committee. Thanks for this opportunity.

MIKE SHUMATE,
Board Member,
Dunloup Creek Watershed Association.

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