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REVIEW OF THE FY 2012 BUDGET AND PRIORITIES OF THE ARMY CORPS OF ENGINEERS, TENNESSEE VALLEY AUTHORITY, AND THE NATURAL RESOURCES CONSERVATION SERVICE: FINDING WAYS TO DO MORE WITH LESS

(112–13)

HEARING

BEFORE THE

SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

MARCH 8, 2011

Printed for the use of the
Committee on Transportation and Infrastructure

Available online at: http://www.fdsys.gov/

U.S. GOVERNMENT PRINTING OFFICE

67–065 PDF WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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March 4, 2011

MEMORANDUM

TO: Members of the Subcommittee on Water Resources and Environment

FR: Bob Gibbs
Subcommittee Chairman

RE: Review of the FY 2012 Budget and Priorities of the United States Army Corps of Engineers, Tennessee Valley Authority, and the Natural Resources Conservation Service: Finding Ways To Do More With Less.

PURPOSE OF HEARING

The Water Resources and Environment Subcommittee is scheduled to meet on Tuesday, March 8, 2011 at 2 p.m. in 2167 RHOB, to receive testimony from the U.S. Army Corps of Engineers (Corps), the Tennessee Valley Authority and the Natural Resources Conservation Service (NRCS), on their proposed budgets and program priorities for FY 2012.

Similar to other budget hearings held by the Subcommittee, this hearing is intended to provide Members with an opportunity to review the agencies' FY 2012 budget requests, as well as Administration priorities for consideration in the Subcommittee's legislative and oversight agenda for the 112th Congress.

BACKGROUND

CORPS OF ENGINEERS

General – The Corps of Engineers provides water resources development projects for the nation, usually through cost-sharing partnerships with nonfederal sponsors. Activities include navigation, flood damage reduction, shoreline protection, hydropower, dam safety, water supply, recreation, environmental restoration and protection, and disaster response and recovery. The appropriation request in the Administration's FY 2012 budget submittal for the Corps of Engineers is **$4.631** billion, which is approximately **6.1%** below the annualized Continuing Resolution for FY 2011 of **$4.929** billion.

There is a reduction in most of the major accounts that fund Corps projects and activities. Major accounts and initiatives are described below.

Investigations – The President's budget requests **$104** million for the Investigations account. This is the same as the FY 2011 annualized Continuing Resolution of **$104** million. These funds are used for the study of potential projects related to river and harbor navigation, flood damage reduction, shore protection, environmental restoration, and related purposes. They also cover restudy of authorized projects, miscellaneous investigations, and plans and specifications of projects prior to construction. Under this proposed budget, no new studies are funded, and the focus is on completing existing studies.

Construction – The President's budget requests **$1.48** billion for the Construction account. This is **$210** million less than the FY 2011 annualized Continuing Resolution of **$1.69** billion. These funds are used for the construction of river and harbor, flood damage reduction, shore protection, environmental restoration, and related projects specifically authorized or made available for selection by law. Generally, the reduced construction budget gives priority to completing on-going projects with a remaining benefit-cost ratio greater than 1.0. Continuing on-going projects with a benefit-cost ratio between 2.5 and 1.0 receive some level of funding.

Operation and Maintenance – The President requests **$2.314** billion for expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related projects. This is **$47** million less than the FY 2011annualized Continuing Resolution of **$2.361** billion.

The constrained budget for operation and maintenance in the past few fiscal years is already beginning to affect the navigability of certain waterways. Needed maintenance dredging continues to be delayed. For example, parts of the Atlantic Intracoastal Waterway have been closed to commercial navigation due to lack of maintenance dredging. The President's budget request for operation and maintenance in FY 2012 will exacerbate this situation. Underfunding the Operations and Maintenance account and seeking subsequent supplemental appropriations complicates effective planning and creates inefficiencies.

Regulatory Program – The President's budget requests **$196** million for the regulatory program. This is **$6** million more than the FY 2011annualized Continuing Resolution level of **$190** million. The requested funding provides for costs incurred to administer laws pertaining to regulation of activities affecting U.S. waters, including wetlands, in accordance with the Rivers and Harbors Act of 1899, the Clean Water Act, and the Marine Protection, Research and Sanctuaries Act of 1972.

Formerly Utilized Sites Remedial Action Program (FUSRAP) - The President's budget requests **$109** million for FUSRAP for FY 2012. This is **$25** million less than the enacted level of **$134** million for FY 2011. FUSRAP provides for the cleanup of certain low-level radioactive materials and mixed wastes, which are located mostly at sites contaminated as a result of the nation's early atomic weapons development program. This program was transferred from the Department of Energy to the Corps in the FY 1998 Energy and Water Development Appropriations Act.

Mississippi River and Tributaries - The President's budget requests **$210** million for FY 2012 for planning, construction, and operation and maintenance activities associated with Mississippi River and Tributaries water resources projects located in the lower Mississippi River Valley from Cape Girardeau, Missouri to the Gulf of Mexico. This is **$50** million less than the FY 2011 annualized Continuing Resolution of **$260** million.

Water Trust Funds – The Harbor Maintenance Trust Fund is supported by an ad valorem tax paid by the shippers (not including exporters) of cargo loaded or unloaded at a U.S. port. The funds are used to do maintenance dredging of harbors and to provide for disposal facilities for dredged material. The budget would use only **$691** million from the fund resulting in an increase in the estimated balance from **$6.12** billion to **$6.93** billion at the end of FY 2012. In addition, while proposing paltry amounts be appropriated from the Harbor Maintenance Trust Fund, the President's budget proposes to expand the authorized purposes of the fund for activities not typically associated with the Corps of Engineers maintenance of navigation channels. Only one-third of the nation's federal navigation projects are currently at their authorized depths and widths, and 8 out of the nation's 10 largest ports are not at their authorized depths and widths.

The Inland Waterways Trust Fund is supported by a tax on commercial fuel used on specified inland waterways. The fund is used to pay for half of the federal cost of constructing navigation improvements on those waterways; the remaining half is paid from general revenues. The budget calls for using **$77.1** million from the fund, resulting in an estimated balance of **$63** million at the end of FY 2012.

Flood Control and Coastal Emergencies – The Administration's budget request proposes **$27.0** million for the Corps of Engineers' Flood Control and Coastal Emergencies (FCCE) account. The Corps has authority under P.L. 84-99 for emergency management activities, including disaster preparedness, emergency operations (flood response and post flood response), rehabilitation of flood control works threatened or destroyed by flood, protection or repair of federally authorized shore protective works threatened or damaged by coastal storms, and the provision of emergency water due to drought or contaminated sources. This includes $4

million in support of the Silver Jackets, an interagency that creates federal support teams for communities experiencing local flood emergencies and prevents emergencies through flood risk management solutions. Funds for the Corps' FCCE account are typically provided on an emergency basis through supplemental appropriations acts.

Detailed information by project and states can be found at:

http://www.usace.army.mil/CECW/PID/Documents/budget/budget2012.pdf

TENNESSEE VALLEY AUTHORITY

TVA is the nation's largest wholesale power producer and the fifth largest electric utility. TVA supplies power to nearly eight million people over an 80,000 square mile service area covering Tennessee, and parts of Mississippi, Alabama, Georgia, North Carolina, Virginia, and Kentucky. In addition, TVA's non-power program responsibilities include the multi-purpose management of land and water resources throughout the Tennessee Valley, and fostering economic development.

Largely due to investments in nuclear power plants, TVA carries a large debt load, which reached a high of $27.7 billion in 1997. By the end of FY 2011, TVA estimates it will carry $26.9 billion in debt and debt-like obligations, and TVA estimates that its debt will likely exceed $28.1 billion by the end of FY 2013.

Since FY 2001, 100 percent of TVA's power and non-power programs have been funded through its power revenues. TVA receives no appropriated funds. TVA's expected revenues for FY 2012 are $12.1 billion and operating expenses are expected to be approximately $10.35 billion. This compares to FY 2011expected revenues of $11.85 billion and expenses of $10.1 billion.

In 2000, the Inspector General (IG) became a Presidential appointed post. The IG currently is funded directly from TVA revenues, subject to TVA board approval. The President's budget proposes to appropriate funds for TVA's IG out of TVA revenues. Under the TVA Act, the TVA board may choose to deposit some power revenues into the U.S. Treasury, but absent Congressional action, TVA's revenues are not available for appropriation.

NATURAL RESOURCES CONSERVATION SERVICE

Small Watershed Program – Under authority of the small watershed program, authorized in the Watershed Protection and Flood Prevention Act of 1954 (P.L. 83-566) and the Act of December 22, 1944 (P.L. 78-534), NRCS provides technical and financial assistance to local organizations to install measures for watershed protection, flood prevention, agricultural water management, recreation, and fish and wildlife enhancement. Depending on its size and cost, a project may be carried out administratively or with Congressional approval by the House Agriculture Committee (projects with a structure up to 4000 acre feet of storage capacity) or the Transportation and Infrastructure Committee (projects with a structure over 4000 acre feet of storage capacity) and comparable Senate committees. There are more than 11,000 such structures under the NRCS authority nationwide.

Watershed Surveys and Planning – The watershed surveys and planning account funds the studies needed to carry out the small watershed program. The President's budget requests no money for the Watershed Surveys and Planning Program (studies), and no funds were included in the annualized Continuing Resolution for FY 2011.

Watershed and Flood Prevention Operations – The Watershed and Flood Prevention Operations Account funds both the Small Watershed Program, discussed above, and the Emergency Watershed Protection Program, which provides assistance to State and local governments after a flood or other emergency has taken place. The President's FY 2012 budget requests no money for this account. For FY 2011, the annualized Continuing Resolution contained $30 million for the Small Watershed Program.

Watershed Rehabilitation Program – In 2000, Congress amended the Watershed Protection and Flood Prevention Act to allow NRCS to provide assistance to rehabilitate flood protection dams that had been built with assistance provided under that Act and have now reached the end of their useful lives, creating threats to property and lives. The budget request includes no funding for the Watershed Rehabilitation Program to provide technical and financial assistance for upgrading or removing aging dams. The annualized Continuing Resolution for FY 2011for this account was $ 40.2 million.

Witnesses

United States Army, Assistant Secretary of the Army-Civil Works Jo Ellen Darcy

United States Army Corps of Engineers,
Chief of Engineers, Lieutenant General Robert Van Antwerp

Tennessee Valley Authority, Chief Financial Officer, John M. Thomas III

United States Department of Agriculture, Natural Resources Conservation Service,
Regional Conservationist, Central Region, Thomas Christensen

REVIEW OF THE FY 2012 BUDGET AND PRIORITIES OF THE ARMY CORPS OF ENGINEERS, TENNESSEE VALLEY AUTHORITY, AND THE NATURAL RESOURCES CONSERVATION SERVICE: FINDING WAYS TO DO MORE WITH LESS

TUESDAY, MARCH 8, 2011

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

The subcommittee met, pursuant to notice, at 2:02 p.m. in room 2167, Rayburn House Office Building, Hon. Bob Gibbs (chairman of the subcommittee) presiding.

Mr. GIBBS. The Subcommittee of Water Resources and the Environment will come to order. Good afternoon. Good to see everybody here. I will start with an opening statement.

This is a hearing today to "Review the FY 2012 Budget and Priorities of the Army Corps of Engineers, the Tennessee Valley Authority, and the Natural Resources Conservation Service: Finding Ways to do More with Less."

I am a strong supporter of efforts by Congress and the President to control Federal spending. Many of these agency programs that we are examining today are true investments in America. While I believe we must be diligent in our oversight of these agencies to be sure that programs run effectively, I believe we must also be supportive of programs that have a proven record of providing economic benefits.

For nearly two centuries, the civil works missions of the Corps have contributed to the economic vitality of the Nation, and have improved our quality of life. At the same time, the civil works side of the Corps represents an experienced engineering workforce that can be quickly mobilized to address a national defense threat or a natural disaster.

The fiscal year 2012 budget request by the administration for the Corps of Engineers is $4.6 billion. This request is six percent less than what Congress enacted in fiscal year 2011, and is the lowest request since fiscal year 2006. Given the fact that the navigation projects and the flood damage reduction projects provided economic

benefits to the Nation, I would like to see the administration place a higher priority in water resources investment.

All of the Corps' projects put people to work, which is another reason to put these investments high on the priority list.

In May 2010, the President proposed an export initiative that aims to double the Nation's exports over the next 5 years. However, with the Corps of Engineers navigation budget slashed by 22 percent over the previous 5 years, and the President only requesting $691 million from the harbor maintenance trust fund, the export initiative will not be a success. Only if our ports and waterways are at their authorized depths and widths will products be able to move to their overseas destinations in an efficient and economical manner.

Since only 2 of the Nation's 10 largest ports are at their authorized depths and widths, the President's budget does nothing to ensure our competitiveness in world markets. I share the frustration of many of my constituents who find the Corps to be too slow and too expensive to work with. It will be a huge loss to the Nation if this agency collapses under its own weight of burdensome process. We need to streamline feasibility studies, and focus the funding on areas that provide an economic return on investment.

The Tennessee Valley Authority does not rely on appropriations, since it is self-financing. TVA derives all of its funding from the revenues from the eight million people and the seven States that it supplies with electricity. I, like many others in Congress, am concerned about TVA's long-term financial health, and I am looking to the board to provide some assurances that they can reduce the Authority's debt while continuing to strengthen the economy in the Tennessee Valley. Again, it is estimated that their revenues will exceed their expenses, yet their debt continues to rise.

The small watershed program in the Natural Resources Conservation Service provides small, cost-efficient projects that protect our water and our land in rural America. These projects also provide an economic return on investment. Sadly, under this President's budget, this program will receive no funding.

I look forward to the testimony from the witnesses, and I recognize Ranking Member Mr. Bishop for any statements that you would like to make.

Mr. BISHOP. Thank you, Mr. Chairman, and thank you very much for holding this hearing. And I thank in advance the witnesses who are appearing before us.

This hearing is important, because we are assessing the President's fiscal year 2012 budget request for three agencies: the Army Corps of Engineers; the Tennessee Valley Authority; and the Natural Resources Conservation Services. Each of these three agencies before us today is responsible for supporting and maintaining our national and regional economies in a variety of ways.

These agencies literally allow our ports to stay open for shipping, allow commercial navigation to continue to utilize our waterways, protect countless families and property from the threat of flooding, provide energy to small and large communities, assist our small family farmers, and restore and protect our environmental resources. If nothing else, I hope we can all agree that the services

that these agencies provide are critical to the well-being of this country.

Mr. Chairman, a running theme of the new Majority is that Federal agencies need to do more with less. Unfortunately, this sound byte is not always grounded in reality. And, in realty, it puts many people in this country at great risk. When it comes to constructing, operating, and maintaining the critical navigation, flood control, power supply, and water supply programs that our Nation relies upon, the bottom line is that, with reduced funding, Federal agencies will be forced to do less with less.

As we look at the proposed 2012 budget of the Corps of Engineers, they are being forced to make tough choices and prioritize between priority tasks, tasks that may mean the difference between keeping our economy moving forward, and falling backward again.

For example, as noted in the Corps' 2012 fiscal year budget, the reality for operation and maintenance projects is that they are only being allocated 75 percent of what is necessary for day-to-day activities. Collectively, for the hundreds of Corps of Engineer projects around the country, reductions in budget will result in a growing deficiency and maintenance that will continue to expand until it becomes an emergency, or fails at a critical moment. The risk of failure increases each and every day, and ultimately, the breaking point will be reached.

As we conduct this ongoing budget debate, let us be clear that, at least for the agencies here today, less funding means that fewer projects are constructed, fewer jobs will be maintained and created, more critical maintenance is deferred to another day, and more American families are placed in harm's way, due to the risk of flooding and infrastructure failure. Cutting back on funding these agencies may seem the easiest way to address budget concerns.

But leave no doubt. We are placing the American public increasingly at risk. In my view, this is antithetical to why we were elected to Congress. Our job is to be good stewards and leaders of the Nation, and to make the policy and funding choices that get our country back on the path of prosperity for today and for the future. In my view, reckless cuts to infrastructure investment programs such as the civil works mission of the Corps of Engineers simply passes the buck on our responsibilities to maintain and provide a workable water infrastructure for future generations.

We have all seen the statistics that much of our Nation's water infrastructure is inadequate or failing. Pick up any newspaper and you will find a reference to flooding, failing levees, or loss of land, due to erosion. The statistics are staggering, and yet we continue to put off until tomorrow addressing the needs of our Nation. With most of our water infrastructure in this Nation at 50 years and older, we cannot afford to keep kicking this can down the road. I am very concerned that we are setting up a potential failure of infrastructure through incomplete maintenance and delay in critical oversight and safety responsibilities.

If this is the path that we are now on, then let's be honest with the American people, and let's tell them the real risks that they are facing. I believe that we should be asking all three of the agencies in front of us today what the reduced funds will mean in real terms

to the safety and well-being of our citizens. We need to know who is going to be at risk, and to what level. We need to know what projects are going to have to be cut or delayed, as a result of the short-term continuing resolution.

Let's stop trying to convince the Nation that, for agencies like the Corps of Engineers, that they can somehow adequately maintain the inventory and safety of critical projects with reduced funding. The real question is: how badly are we adding to the problem by cutting these agencies even further?

Shouldn't businesses that depend on the free-flow of goods through our Nation's ports have a clear understanding with respect to exactly which ports will be silting up and reducing commerce and transportation?

Furthermore, I'm sure communities located below dams or behind levees have an acute interest in knowing which among them are most at risk of an impending infrastructure failure. We need to be honest with the American people, and tell them about the true story of the potential impacts and costs they are facing. It is my hope that this hearing will address these concerns. I yield back the balance of my time.

Mr. GIBBS. Thank you. Any Members on our side that would like to be recognized for any statements? Representative Cravaack?

Mr. CRAVAACK. Thank you, Chairman Gibbs, and Ranking Member Bishop, for holding this important meeting. And I would like to welcome the witnesses on our panel today, and I look forward to hearing your testimony regarding the President's fiscal year 2012 budget request.

Given the aging state of our Nation's infrastructure and the current fiscal troubles, I will be very interested to hear how the administration intends to do more with less. I look forward to hearing the efforts to reduce the waste and improve government efficiency.

As a representative from the Great Lakes State, I would be particularly interested in how the President's budget request will impact the Great Lakes' commerce and prosperity. Annually, 173 tons of commodities are transported between the Great Lakes ports and waterways. Great Lakes transportation directly impacts hundreds of thousands of American jobs. And I look forward to discussing how the President's budget reflects on this reality.

Make no mistake. Proper maintenance of our locks, breakwaters, channels, and dams is imperative to our Nation's ability to grow ourselves out of a difficult recessionary fiscal time.

Thank you again. I look forward to hearing your testimonies.

Mr. GIBBS. Go ahead.

Ms. HIRONO. Thank you, Chairman Gibbs and Ranking Member Bishop, for calling this hearing today. And I want to thank all of our witnesses, in particular the people from the Army Corps and the National Resources Conservation Service, NRCS, for the good work that you do in all of our communities and, in particular, of course, in Hawaii.

And while we are asking all of the agencies to do more with less, from my experience and my meetings with the Army Corps and NRCS in my community, you are already doing more with less. And as the Ranking Member Bishop said, at some point with these kinds of cuts that we are contemplating, you can only do less with

less. And that would be a real tragedy for all of our communities, particularly in the rural areas of our country, in Hawaii.

Given the fiscal challenges we face, we must work to ensure that, yes, every Federal dollar is being used effectively to the benefit of the people. And this will require difficult choices. But we must view these choices through the prism of the most severe economic crisis since the Great Depression, which means that we must focus our energies and dollars on preserving programs that create jobs and protect public health and safety.

In Hawaii, both the Army Corps and NRCS have played a vital role in helping to protect the health and safety of our people, while also helping to build infrastructure that has helped to foment economic growth.

For example, the NRCS's watershed and flood prevention operation program have been instrumental in helping the small, rural communities in Hawaii. That's most of my district. One of the best examples of where this program has been a success is on the Big Island, on a project known as a Lower Hamakua Ditch Watershed.

The Lower Hamakua Ditch was originally built in 1910 to help sugar plantations transport cane to the mill sites for processing. And, as most of you know—or some of you know—sugar cane and the sugar plantations and pineapple plantations were a major part of Hawaii's economic life. This ditch was later converted into an irrigation system, which carried water to the seasonally dry fields of the lower elevations, the only source of potable water for the communities along its route.

And the last sugar plantation on Hawaii Island closed in 1994. And the economic and social displacement that ensued was something to behold. I was a Member of the State legislature when that happened. And the communities that were dependent upon the plantations to help maintain this vital lifeline called the Hamakua Ditch were left with very little, and a tremendous challenge.

But with strong community support and assistance from the National Resources Conservation Service, today small family farmers, many of whom were former sugar plantation workers, have access to the necessary water resources that have allowed them to rebound from the loss of a key industry.

And, as some of you probably know, Hawaii is also the most food-dependent State in the country, where over 90 percent of the food that we need is imported from outside of Hawaii. So it's even more important for our small farmers to be able to produce more of the goods that we use. And small farmers in our area produce a wide variety of products: papaya, the famous coffee, lettuce, tomatoes, orchids, and grass-fed beef and dairy products.

And this is just one example of how the resources made available through this program is being put to use by people and communities throughout the islands. And this is a type of community revitalization that we should be working to support, nationwide. And I have to say that the money that goes into these programs through the efforts of NCRS are really minimal, compared to the benefits that we are garnering from these programs.

So, to recognize that we are zeroing out NRCS's watershed and flood prevention and operations program is dire news, indeed. And I hope that, as we continue to review our budget priorities for this

year, that we will preserve assistance to small rural communities like the ones along the Lower Hamakua Ditch, where Federal funds truly, truly makes a difference in the lives of our people.

I look forward to hearing from you, and once again I thank you so much for the commitment that you have to the rural communities and to the people of Hawaii and to our country. Mahalo. I yield back.

Mr. GIBBS. Representative Herrera Beutler?

Ms. HERRERA BEUTLER. Thank you, Mr. Chairman. I appreciate you allowing me to make a brief statement.

It's a pleasure to have you here. I represent southwest Washington State, so it's basically the seven southwest counties. We abut the Columbia River, and we go out to the Pacific Ocean with many streams and rivers and lakes and flood plains in between—wetlands and flood plains. It's like a perfect storm.

In every community that I visit, I ask them their important issues. And, without fail, the U.S. Army Corps of Engineers comes up. You play a very critical role throughout my entire region. And so, my message to you today is I am here to work with you. You have earned and deserve praise for a tremendous amount of work you have done throughout the region, whether it's channel deepening, whether it's dredging at the mouth, you know, projects that span in between. And it's made a big difference in our ability, as the region, economically, to transport goods and services, to build, and to grow, and to develop.

I have also heard some really important concerns. And some of those I'm going to just do a brief outline on them. The cost of projects, the cost of projects and what local communities or cities are asked to pay for. And I would like to explore some ways with you—I would like to learn what your cost drivers are with some of these, and see if there is things that we can do to help ease some of that cost.

Secondly, the timeliness of permits. In many cases I have heard that permits take much longer than are expected. And I want to work with you to see what causes these permitting delays, and hopefully find solutions that speed up the process. A caveat there is it's not in every region that these challenges happen, it's in certain regions. And in my mind, we should have a standardized process. It shouldn't take substantially long in certain regions, and a more reasonable timeframe in other regions. So I'd like to work on that.

And most importantly is predictability and certainty. The overarching theme around what residents and small businesses and municipalities and counties communicate to me is unpredictability.

Just last week I had a gentleman in my office who was looking to develop a piece of land that his family has owned in our community for decades. We have double-digit unemployment in six of my seven counties, and we have been there for multiple years. So it was music to my ears when one of these land owners said, "We've got an idea. We know what we can develop. The city is involved, the city has already gone out for the bonds, it is done. They are excited, they are ready."

And he comes to me and he said, "You know, the only reason I almost didn't put this money up, and that the city didn't, was be-

cause we weren't sure we could get a permit from the U.S. Army Corps of Engineers in 2 years." And he said it was so highly unlikely that it literally almost stayed what could be an 800-job development in a perfect location. I mean they've even got the State DoT to work with them on the whole deal.

And their big concern—it was more a big question mark—was whether or not the Army Corps would tell them yes or no. And that's what he said to me. He said, "You know, I can handle a no. What I cannot handle is getting into the process and the rules change, the goal post changes on me. And it's almost as if, you know, I'm fighting an ideological, rather than a process, an ideological barrier that I can't move." And that is something that I think we need to address, especially considering our economic situation throughout the country.

So those are some of the things that I have heard, and I would like to work on. So you will probably hear more from me. I look forward to working with you and your staff as we move forward on specific issues and projects in the region.

But, overall, this is something we hear across the board. We hear it from business all the time: predictability and certainty. I am hearing from people who want to play by the rules, who want to do it right, who want their applications to have every possible bit of information that you could ever imagine, and that was one of the things that he expressed to me was, "They wouldn't tell me if they didn't get the right amount of information. We just check in every so often, you know, six months into the process, and they say, 'Oh, we didn't have this bit of information,'" and he is going, "I will get it to you," but it elongates the timeframe.

So, those are some of the challenges we hear, and we look forward to fixing those. Thank you. I yield back.

Mr. GIBBS. Thank you. Representative Napolitano, do you have an opening statement?

Mrs. NAPOLITANO. Thank you, Chairman Gibbs, and thank you, Mr. Bishop, for holding this hearing. Before I start, I would like to recognize Steve Stockton, director of civil works. We have had an opportunity to meet in my office in regard to foreign assistance, which the subcommittee on water and power deals with, also.

So, just to let you know that your gentlemen represent the Corps excellently in my area. Colonel Magnus, now Colonel Toy, we work with them extensively. We are working, hopefully, to be able to increase the number of catch basins in the LA area to be able to take care of the floods. And, as you well know, that's an endangerment of life, limb, and property in California.

With the State of California working with the Bay Delta, it's critical for us. It's a $58 million Army Corps budget for the restoration. If those levees ever give way, we lose billions of dollars in property, and probably a life in the mix. Many of those levees are private, and so it's a big deal to be able to sort through and find out how we get it done. Certainly support the Corps' involvement with the Bay Delta conservation plan.

Then we look at the replenishment of ground water aquifers. And hopefully we will be able to identify in the future how to increase the conservation pools for storage of water run-off, recycled, et cetera. It's going to be critical if Mother Nature continues to throw

drought curves at us, which will happen. And how do we prepare our communities? And not only in the west, but the rest of the country.

Moving on to Whittier Narrows Dam, we have been working on that one now for years to increase the water capacity for 1,100 acre feet annually. We have been able to get the funding, and now we're waiting for certain other—how would I say—stumbling blocks. We're waiting for that. Hopefully it will be put together, because we don't want to lose all that water to the ocean; we need to be able to store it and put it into the settling ponds.

With the county, we support the Army Corps' Great Outdoors initiative. That is key for a lot of us. Pico Rivera and La Puente, both my cities, use Whittier Narrows for recreation purposes, including the LA County supporting and being able to put funding—not matching, but more than enough funding—in that.

We were very supportive, and will continue to be supportive, of putting more park space for residential use. In LA—I think none of the California cities meet the mandate of park land.

Thank you again, Chairman Gibbs and Ranking Member Bishop, for this hearing. It is critical to let people know that the Corps does great work, but they can't continue to do the great work they do if we continue to cut their budgets. There is many backlogs that we have, not only in our communities but in other communities, and we trust that while they're making do more with less, that we don't continue to cut them so that they are handicapped in being able to deliver the great work they do. And with that, I yield back.

Mr. GIBBS. Thank you. Any other Members on this side that want to be recognized?

[No response.]

Mr. GIBBS. Go ahead, Representative.

Ms. BROWN. Thank you very much, Mr. Chairman. And let me congratulate you and the ranking member for being new in this capacity. I had the pleasure of chairing this subcommittee the last 4 years.

It's very difficult for me to talk about this, the President's fiscal year 2012 budget. But for the priorities of the U.S. Corps of Engineers, Natural Resources Conservation Service, and the Tennessee Valley Authority, I am committed to continued oversight of the budget request for the agencies under the jurisdiction of this subcommittee.

I thank Chairman Gibbs and Ranking Member Bishop for calling the hearing. I am pleased that we will hear testimony from these Federal programs that service important public services, ranging from restoration of our Nation's water resources, flood protection, to electricity production. The administration should be commended for producing an adequate budget in difficult but improving economic times.

However, there are certain budget areas that could undergo improvement. For one, I have concerns regarding the $56 million reduction from the appropriated amount of fiscal year 2010, an investigation fund for the U.S. Corps of Engineers. This funding goes toward studying the national need, engineering feasibility, as well as economic and environmental return on Federal investment and water resource problems across the country.

I have similar concerns with the 551 reduction in investigations fiscal year 2010, as well as the $86 million reduction from fiscal year 2010 in operations and maintenance programs under the U.S. Corps of Engineers. I fear that at the present requested amount, the Corps of Engineers will be unable to plan and design the next generation of projects within its core mission of environmental restoration, flood damage reduction, and navigation. Now is not the time to reduce the Corps' capability to maintain and improve our Nation's ports, harbors, and inland waterways that are crucial to job creation, interstate commerce, international trade, and improving our economy.

I welcome each of the witnesses here today, and thank you for your testimony. I look forward to you telling me exactly what you can do at the level of the appropriations that you are requesting in your budget. Thank you.

Mr. GIBBS. Thank you. At this time I would like to welcome our distinguished panel, and we will start off with The Honorable Darcy, who is the Assistant Secretary of the Army of Civil Works. Welcome. Good to see you.

TESTIMONY OF JO-ELLEN DARCY, ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, UNITED STATES ARMY; LIEUTENANT GENERAL ROBERT VAN ANTWERP, CHIEF OF ENGINEERS, UNITED STATES ARMY CORPS OF ENGINEERS; JOHN M. THOMAS III, CHIEF FINANCIAL OFFICER, TENNESSEE VALLEY AUTHORITY; AND THOMAS CHRISTENSEN, REGIONAL CONSERVATIONIST, UNITED STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE

Ms. DARCY. Thank you. Thank you, Mr. Chairman, and distinguished members of the subcommittee. Thank you for the opportunity to present the President's Fiscal Year 2012 Budget for the Civil Works Program of the Army Corps of Engineers. I will summarize my statement and ask that my complete statement be part of the hearing record.

The 2012 budget reflects the administration's priorities through targeted investments that help restore the environment and revitalize the economy. The budget requires new appropriations of $4.631 billion. In keeping with the administration's program to put the Nation on a sustainable fiscal path, this is $836 million, or about 15 percent below the 2010-enacted amount of $5.445 billion. It is about 6 percent below the 2011 budget for Civil Works.

The 2012 funding level reflects effective and sound use of available resources, focusing on those investments that are in the best interests of the Nation. The budget concentrates funding primarily in the three main Civil Works program areas: commercial navigation, flood and coastal storm damage reduction, and aquatic ecosystem restoration.

The 2012 budget continues the Army's commitment to a performance-based approach to budgeting in order to provide the best overall return from available funds and achieving economic, environmental, and public safety objectives. Competing investment opportunities were evaluated using multiple metrics, and objective performance criteria guided the allocation of the funds. The budget fo-

cuses on continuing and completing ongoing projects and studies. The budget also includes funding for two new construction starts and four new studies.

The budget provides $50 million for a comprehensive levee safety initiative. The initiative includes $46 million to help insure that the Federal levees are safe, and to assist non-Federal entities as they address safety issues with their own levees. The levee safety initiative also includes $4 million for Corps participation in the expansion of interagency teams, known as Silver Jackets, to include every State, and to provide unified Federal assistance in implementing flood risk management solutions.

The Operation and Maintenance Program also includes a new environmental and energy sustainability program to reduce energy consumption at Corps projects and buildings. The 2012 budget places priority on collaboration with other Federal agencies in the development of funding allocations for aquatic ecosystem restoration.

For 2012, this collaboration is reflected in five major ecosystems: the California Bay-Delta, Chesapeake Bay, the Everglades, the Great Lakes, and the Gulf Coast. The administration plans to work with Congress and stakeholders to explore ways to support recapitalization of the Corps' aging infrastructure, modification of its operations, or deauthorization as appropriate, consistent with modern-day water resources principles and priorities.

Direct beneficiaries would be asked to pay a significant share of the cost to rehabilitate, expand, or replace projects, just as they would for a new project, commensurate with the benefits that they receive. Options such as direct financing will be considered as part of this effort, where appropriate.

The budget provides for use of $758 million from the Harbor Maintenance Trust Fund to maintain coastal commercial navigation channels in harbors. Despite the overall Civil Works reduction of 15 percent below the enacted 2010 level, the amount recommended in the 2012 budget for harbor maintenance and related work is essentially unchanged from 2 years ago.

The administration also plans to develop legislation to expand the authorized uses of the Harbor Maintenance Trust Fund so that its receipts are available to finance the Federal share of other efforts in support of commercial navigation through the Nation's ports. No decisions have been made yet on what additional costs would be proposed to be paid from the Harbor Maintenance Trust Fund. Development of proposed legislation will proceed in the coming months.

Inland waterways capital investments are funded in the budget at $166 million, of which $77 million is financed from the Inland Waterways Trust Fund. This is the total amount that is affordable in 2012 with the current level of revenue coming into the Inland Waterways Trust Fund. The administration will work with Congress and stakeholders to authorize a new mechanism to increase the revenue paid by commercial navigation users on the inland waterways.

Last year, President Obama established the America's Great Outdoors initiative to promote innovative community-level efforts to conserve outdoor spaces and to reconnect Americans to the out-

doors. This initiative was celebrated at several events around the country, including a public hearing event, or listening event, that the Secretary of the Interior and I held in August at a Civil Works project near St. Louis, Missouri. The Civil Works Recreation Program is closely aligned with the goals of the America's Great Outdoors initiative and includes a variety of activities to reconnect Americans, especially our young people, with the Nation's outdoor resources.

We continue to strengthen the Corps' planning expertise, including through greater support for planning centers of expertise, and continued support for the development of revised water project planning Principles and Guidelines. Also, the Army has initiated a pilot program to identify means of enabling studies to reach decisions more efficiently.

A number of low-priority programs and activities receive reduced or no funding in our 2012 budget. For example, funding for maintenance of navigation harbors and waterways segments that support little or no commercial use is reduced by about half. Also, no funding is provided for small projects in several of the Continuing Authorities Programs.

The budget proposes to reprogram $23 million of prior-year funds from these lower priority programs to finance ongoing phases of projects and higher priority Continuing Authority Programs that mitigate shoreline damages caused by navigation projects. Also, to carry out beneficial uses of dredged materials and to restore the environment. Development of small flood damage reduction projects also will continue with funds carried over from prior years.

The Corps continues the work funded by the 2009-era program, which provided $4.6 billion for the Civil Works Program. As of last month, more than $3.1 billion of the total had been spent, primarily in payments to contractors for work already completed, and 400 projects have been completed, and about 400 more remain to be completed. These investments create jobs and carry out important infrastructure work.

Small business awards account for about 51 percent of the funds obligated. The budget includes funding to continue the veteran project, which provides vocational rehabilitation and innovative training for wounded and disabled veterans, while achieving historical preservation responsibilities for archeological collections administered by the Corps. The project supports work by veterans at curation laboratories in Georgia, St. Louis, Missouri, and here in Washington, DC.

In summary, the President's 2012 Budget for the Army Civil Works Program is a performance-based budget. It supports water resources investments that will yield long-term returns for the Nation.

Mr. Chairman and members of the subcommittee, I look forward to working with you in support of the President's budget. And, in closing, before General Van Antwerp talks, I want to make one point about the Army Corps of Engineers. Recently the Chief and I—and I think he is going to talk about this—had the opportunity to travel to Afghanistan to visit with over 1,000 volunteers from the Army Civil Works Program who are helping with the war effort

in Afghanistan. And it was truly a privilege for me to visit with them. Thank you very much.

Mr. GIBBS. Thank you.

I would like to next welcome Lieutenant General Robert Van Antwerp. He is the chief of engineers, the U.S. Army Corps of Engineers.

Welcome.

General VAN ANTWERP. Well, thank you, Mr. Chairman, Mr. Bishop, distinguished members of the subcommittee. I am honored to testify before your subcommittee, along with Ms. Darcy today.

The fiscal year 2012 Civil Works budget is a performance-based budget focusing on projects and activities that provide the highest net economic and environmental returns, or address significant risk to human safety. The budget funds 92 construction projects, including 55 flood and storm damage reduction projects—3 of which, by the way, are budgeted for completion—16 commercial navigation projects, and 19 aquatic ecosystem restoration projects. Two of these construction projects, as Ms. Darcy mentioned, are new starts. The budget supports restoration of nationally and regionally significant aquatic ecosystems with emphasis on the Florida Everglades, Gulf Coast, California Bay-Delta, Great Lakes, and Chesapeake Bay.

The budget includes $104 million for activities in the Investigations account. It funds 58 continuing studies and 4 new studies. Funding is also included for the Water Resource Priority study, which is an evaluation of the Nation's vulnerability to inland and coastal flooding.

The budget supports our continuing stewardship of water-related infrastructure. The Operation and Maintenance Program for the fiscal year 2012 budget includes $2.314 billion, and an additional $131 million under the Mississippi Rivers and Tributaries Program. The focus is on the maintenance of key commercial navigation, flood and storm damage reduction, and hydropower facilities.

Corps teammates continue to respond wherever needed, and whenever needed, to help during major floods and other national emergencies. This budget provides $27 million for preparedness for floods, hurricanes, and other natural disasters, including $4 million in support of the levee safety initiative in States known as the Silver Jackets.

A quick update on the Corps' preparation as we move toward the spring flood events, of which there will be flood events. We are working with FEMA and the National Weather Service to monitor the high probability of spring flooding in the great northwest, the north central U.S., specifically the Red River of the north, the upper Mississippi River, and the Minnesota River.

Based on these projections, our commanders have already requested advance planning funds, and are taking advanced measures. They verified availability of key flood-fighting materials. They are also encouraging State, local, and Federal authorities to discuss and review preparations for flood response. In a few words, we are ready for this year. But we know it's going to be high adventure.

On the international front, I am proud of our work on missions in Afghanistan and Iraq. Men and women from across the Corps, all volunteers, and many of whom who have served multiple tours,

continue to provide critical support to our military and humanitarian missions. Currently, 1,168 Corps employees, both civilian and military, are deployed in Iraq and Afghanistan, where they have completed over 6,000 infrastructure and water-related projects.

As Ms. Darcy mentioned, we did have the opportunity last month to travel over to Afghanistan and witness not only the amazing employees, but the amazing work that they are doing. In Afghanistan, the Corps is spearheading a comprehensive infrastructure program for the Afghan National Army, the Afghan National Police, and is also aiding in critical public infrastructure projects.

The Corps of Engineers is committed to staying at the leading edge of service to our Nation. We welcome comments from you in areas we might improve. We are committed to changing all that we do to ensure an open, transparent, and performance-based Civil Works program.

So, thank you, Mr. Chairman, for this opportunity to testify. I look forward to your questions.

Mr. GIBBS. Thank you, and thank you for your service to our country.

Next panelist is Mr. John Thomas III. He is chief financial officer for the Tennessee Valley Authority.

Welcome.

Mr. THOMAS. Thank you, Chairman Gibbs, Ranking Member Bishop, and distinguished Members. It is an honor to be with you this afternoon to discuss the Tennessee Valley Authority's budget for fiscal year 2012. TVA appreciates the oversight this committee provides, and we are pleased to inform you of our progress.

For background, TVA is a corporation wholly owned by the Federal Government, and it is the Nation's largest public power producer. TVA provides wholesale electricity to 155 distributors and 56 large industries and Federal installations, serving a population of about 8 million. TVA also has a broad stewardship role, which includes managing the Tennessee River for flood control, commercial navigation, water quality, and recreation.

In fulfilling its mission to serve the region, TVA's power, environmental, economic development, and related activities are funded entirely by the sale of electricity. TVA funds new projects to keep up with electricity demand through the sale of bonds, which are not obligations of the United States Government.

Despite receiving no Federal revenues, TVA appreciates its responsibility as a Federal agency and, in that spirit, has voluntarily applied the freeze on Federal salaries to our managers and specialists.

Our preliminary budget for fiscal year 2012 reflects a continued modest economic recovery in the TVA region. We currently project revenue of $12.1 billion from the sale of electricity, fuel and operating expenses of $10.3 billion, and capital expenditures of $2.6 billion.

Our capital expenditures include $219 million for clean air projects, and about $1.5 billion for new generating projects, including the completion of a second reactor at Watts Bar Nuclear Plant in Spring City, Tennessee. We also anticipate spending about $175

million on energy efficiency initiatives, and $91 million to encourage economic development.

TVA's statutory debt is estimated to be at $26 billion by the end of 2012, and we expect to pay down $2.6 billion on existing debt.

One of the fundamental changes the TVA board has established is basing financial decisions on a set of sound guiding principles. Those principles include issuing new debt strictly to finance new assets, retiring debt over the useful life of assets, using regulatory treatment for specific and unusual events, increasing rates where necessary to fund operational spending, and aligning rate actions with TVA's renewed vision and strategy. These guiding principles are improving TVA's decisionmaking, and will ensure continued financial health.

Last August, the TVA board adopted a renewed vision to address many of the challenges the TVA region is facing now and will likely face in the future. The vision strengthens TVA's mission to provide low-cost electricity, economic development, and environmental stewardship to the region, and calls for cleaner energy by 2020.

Briefly, TVA is focused on six key areas: low electricity rates, high reliability, responsibility to our customers in the region we serve, cleaner air, more nuclear generation, and greater energy efficiency. Our recently completed integrated resource plan is one example of how we are meeting our responsibilities to solicit a wide range of stakeholder views on our energy future. The integrated resource plan supports our vision of a balanced portfolio, and we expect to formally present this to our board later this spring.

In conclusion, for fiscal year 2012, TVA's supply of electricity balances well with our expected demand. We are addressing the future needs of our region with plans to expand the power system in an environmentally responsible way. We would be pleased to invite you or members of your staffs to visit and see for yourselves how we are progressing.

Thank you, Mr. Chairman. I would be happy to answer any questions.

Mr. GIBBS. Thank you.

Our next and final panelist is Mr. Thomas Christensen, who is the regional conservationist of the Natural Resources Conservation Service.

Welcome.

Mr. CHRISTENSEN. Thank you, Mr. Chairman, and members of the subcommittee. I appreciate the opportunity to discuss the watershed program activities of the Natural Resources Conservation Service. In my remarks today I am pleased to describe both our ongoing work and the fiscal year 2012 budget request for NRCS's watershed programs under both Public Laws 534 and 566.

The NRCS watershed programs offer communities and landowners technical expertise and financial assistance for watershed projects, including planning, implementation, and the rehabilitation of aging dams. These programs are designed to help solve local natural resource problems. The watershed programs have given NRCS the authority to complete work on over 2,000 watershed projects, nationwide.

Before providing the committee a summary of the fiscal year 2012 budget request, I would like to share a few of our accomplish-

ments related to the watershed programs under funding from the American Recovery and Reinvestment Act. Using these programs, NRCS successfully entered into 1,400 contracts, grants, and agreements, awarding $340 million in Recovery Act funding to rebuild America's infrastructure and improve its natural resources. This represents 100 percent of the Recovery Act funding the Agency received.

The Agency's Recovery Act projects are being implemented through flood plain easements, watershed structures, land treatment, and the rehabilitation of aging dams. To date we have expended almost 60 percent of the Recovery Act funds. By the end of this fiscal year, these funds will have been used to install over 300 flood prevention measures, restore more than 38,000 acres of flood plain lands, and rehabilitate or remove 16 unsafe dams.

The President's 2012 budget was developed after closely examining all of NRCS's programs and our operations for the coming years. The budget prioritizes limited resources to ensure NRCS's position to meet the needs of America's farmers and ranchers, while doing its share to help reduce the budget deficit.

It also makes a number of difficult decisions that were necessary to support the President's goals of restoring fiscal responsibility, and providing efficient and effective conservation programs to the American people. Among those difficult choices was a decision in the President's fiscal year 2012 budget to eliminate funding for NRCS's watershed programs. Mr. Chairman, while these programs have been tremendously successful for more than 50 years, we believe that sponsoring organizations can now assume a more active leadership role in identifying watershed problems and their solutions.

Public Laws 534 and 566 authorize the Secretary of Agriculture to provide technical and financial assistance to project sponsors for planning and installing watershed projects. The Public Law 566 program has been available nationwide to protect and improve watersheds up to 250,000 acres in size. Public Law 535 authorized a program that is available only in areas designated by Congress, which encompasses about 38 million acres in 11 States.

The fiscal year 2012 budget request does not include funding for the Public Laws 534 and 566 watershed programs. This reduction is in keeping with the administration's efforts to reduce spending. In addition, recent funding for these programs has not been fully prioritized, based on anticipated project outcomes or measurable impacts.

Also authorized under Public Law 566, the watershed rehabilitation program serves to extend the life of dams and bring them into compliance with applicable safety and performance standards, or to decommission dams so they do not pose a threat to life or property. NRCS may provide technical and financial assistance for the planning, design, and implementation of rehabilitation projects.

However, the continuing operation and maintenance of dams built under NRCS watershed programs is the responsibility of local project sponsors; 11 dam rehabilitations were completed in fiscal year 2010, and there are 23 dam rehabilitation projects currently under construction.

Additionally, there were 650 assessments of high-hazard dams that provided communities with technical assistance about the condition of their dams and alternatives for rehabilitation of dams that do not meet Federal dam safety standards.

The fiscal year 2012 budget does not include funding for the watershed rehabilitation program, again reflecting the many difficult choices that were made in order to ensure fiscal responsibility with our current economic climate.

In summary, NRCS has accomplished much through the watershed programs over the past 50 years. However, because the benefits from these programs primarily accrue to local communities, and the projects are owned and operated by the local sponsors, we recommend that local communities take a larger role in funding such projects.

I thank the committee, and we would be happy to respond to any questions.

Mr. GIBBS. Thank you. I'll start off the questions to Secretary Darcy.

In the President's State of the Union Address back in January, he shared a vision for winning the future, and he said, "To help businesses sell more products abroad, we set a goal of doubling our exports by 2014, because the more we export, the more jobs we create at home."

Ninety-nine percent of our world trade is oceanborne and must pass through one of our U.S. ports. It is fairly obvious that lowering ocean transportation costs makes our exports more competitive. Yet the administration's budget would invest less than five percent of the Corps' construction budget on modernizing, deepening, or widening two ports.

The budget also dramatically reduces the use of the Harbor Maintenance Trust Funds to maintain our ports to keep them efficient and keep costs for exporting goods low. Increasing exports is a key element of the President's vision for winning the future. Can you please explain how the goal of doubling the exports has been reflected in your budget for port modernization and maintenance?

Ms. DARCY. Mr. Chairman, doubling the exports is a goal we believel that, under this budget, we will be able to meet. In looking at the Harbor Maintenance Trust Fund and funding our ports for the future, we are looking at taking the monies from the Harbor Maintenance Trust Fund and looking at more national investment in ports beyond just the original purposes of navigation. So we are looking at being able to fund the ports using that Federal investment on a larger scale.

And as I said earlier in my opening statement, we are looking forward to working with this committee and others to try to develop how that Harbor Maintenance Trust Fund should be allocated.

Mr. GIBBS. So are you saying that widening and deepening the ports is not a top priority? You're maybe siphoning some of the money off to do other things? I am a little confused by your answer.

Ms. DARCY. No, sir. It is a priority. But within the funds in the Harbor Maintenance Trust Fund, in the $783 million, I think it is, that we're using this year to maintain the ports, there is also a balance in the trust fund that—we are going to develop a proposal on

how we can use that to improve and pay the Federal share in port development.

Mr. GIBBS. OK. It's also my understanding in this budget that it's really targeted toward two ports. Is that correct? And can you tell the committee which widening and deepening projects were excluded in this construction budget, which ports were excluded?

Ms. DARCY. We currently have widening and deepening ongoing at the Port of New York, New Jersey, and I'm going to have to defer to the Chief for the second one. The deepening of New York/New Jersey is ongoing. And the second port is Sacramento in California.

Mr. GIBBS. OK. Also for you, Secretary—on January 18th the President signed an Executive order improving regulation and regulatory review. This order got some very favorable reviews for being balanced and rationale. For example, the major principle in developing water resources projects is that Federal agencies select, in choosing among alternative regulatory approaches, those approaches that maximum net benefits, including potential economic, environmental, public health and safety, and other advantages—impacts in equity.

It is immediately compelling to apply the same idea to selecting among alternative plans for water project investments. Decisions would be balanced, and all the alternatives would be laid out. Yet for over 2 years the administration has been trying to do something completely different with the Principles and Guidelines.

The National Academy of Sciences says the proposed revisions are incoherent. How will the administration ensure development of the new Principles and Guidelines be consistent with the President's Executive order?

Ms. DARCY. Mr. Chairman, we are currently working within the Federal family under the direction of the Council on Environmental Quality to propose the revisions to the Principles and Guidelines that were required in 2007.

We are balancing all of the demands and considerations for national economic development, as well as environment and social impacts for all of those water resources programs. We have taken to heart the recommendations by the National Academy of Sciences, as well as all the public comments that were received on our initial draft, and we're hoping that the Principles and Guidelines—the Principles and Standards portion of that revision—will be hopefully implemented and finalized in June of this year.

Mr. GIBBS. I want to go to the Chief now, the general. Undoubtedly, the reduction in funding for the Corps will require contract cancellations. Can you supply the Committee with a list of project terminations proposed by the administration's budget and their associated remaining—benefit to remaining cost ratios and their associated termination costs?

Does the President's budget just assume Congress will continue funding these projects?

General VAN ANTWERP. Are you speaking as if the Continuing Resolution continues as it is right now?

Mr. GIBBS. No, no, the——

General VAN ANTWERP. Or—no?

Mr. GIBBS. I think the President's budget that he submitted—you know, obviously with the cuts that he submitted from previous expenditures by the Corps, he will have to cancel some projects. And I was wondering the rationale of how you're going to move out the benefit, cost ratios, and how you're going to analyze that, and—or do you just assume that Congress is just going to fund them anyway?

General VAN ANTWERP. We have a very strict prioritization scheme for the projects that are in the budget. So those projects that are in the fiscal year 2012 budget were done on a very concerted effort to follow priorities. There are about 168 projects that were in the fiscal year 2010 budget that are not in subsequent budgets. So they were funded in the Fiscal Year 2010 Act. So, those were projects that were additional adds from the Congress.

So, our first intent is to, in this budget, fund those projects that met our criteria. One of those criteria was the benefit cost ratio. As Ms. Darcy said, we also have environmental considerations and social considerations. So we can lay those priorities out, if you would like to go to that next step.

Mr. GIBBS. Well, and also I would assume economic——

General VAN ANTWERP. Economic is a big part of it. Life, health, safety—if it's a dam, safety, for instance. If it's a biological opinion that, by law, states that we will do it, then we have to work those priorities. But those are the priorities that we go through to arrive at the budget.

Mr. GIBBS. OK. I am going to turn it over to Ranking Member Bishop for his questions.

Mr. BISHOP. Thank you very much, Mr. Chairman, and I am going to pick up on where you left off, because I think it's a very, very important area. And let me thank all of the panelists for your testimony. And let me particularly thank the Army Corps for the service that you provide to my district. I am very grateful.

The issue that the chairman is raising is one that I think all of us either are concerned about or ought to be concerned about. We have two sets of numbers. We have what was passed in H.R. 1, the continuing resolution, the fate of which is unknown, that, as I understand it, cuts funding for fiscal year 2011, cuts it by about $500 million from fiscal year 2010, and then the President's budget, round numbers cuts by an additional $300 million. Am I about right on those numbers? OK.

Now, as we sit here, the Army Corps has a set of projects: A, that have already started; and B, that are authorized but have not yet been started. And I believe the chairman asked, "Can you submit to us a list of those projects that have already been started, if any, that will now lie incomplete for some period of time?" Are there any projects that fall into that category?

General VAN ANTWERP. Yes, there are projects that fall in that category, and we can provide that.

Mr. BISHOP. Thank you. And can you also provide us with a list of those projects that are authorized, but for which construction has not yet started?

General VAN ANTWERP. Yes, we can do that.

Mr. BISHOP. OK. And can I further ask, with the chairman's indulgence, can you provide us with some assessment of the health

and safety impact of not going forward with those projects, and the economic impact to the communities affected by not going forward with those projects?

General VAN ANTWERP. Absolutely.

Mr. BISHOP. Thank you. I think that's very important information for all of us to have.

And what I would like to—here is a point that I just think is so important. I want to read from a report prepared by the Republican staff of this committee in October of 2010 that was signed off on by now-Chairman Mica. I am quoting now from page 54 of the report.

"The Corps of Engineers budget remains relatively constant from year to year. Projects are rarely funded at their full capability, resulting in drawn-out construction schedules. This leads to an inefficient schedule and higher costs, with taxpayers footing the bill. In addition, further economic loss is experienced when this slower pace of project construction causes a delay in realizing the economic benefits the project can achieve only once it is constructed and operational. Projects are rarely completed on time and, due to the inflated schedule, regularly cost more than initially estimated."

Now, this, as I say, is a report entitled, "Sitting on our Assets: the Federal Government's Misuse of Taxpayer-Owned Assets," prepared for then-Ranking Member Mica October 2010, signed off on by then-Ranking Member Mica and the ranking members of each of the six subcommittees of this full committee.

Aren't we right at that point? Aren't we now at the point where we are going to not undertake projects because of a short-term budgetary constraint, but we will be buying for ourselves a much greater expense, in terms of going forward, once we ultimately complete those projects? Are we not at that point right now? Secretary Darcy? General Van Antwerp?

General VAN ANTWERP. I would say we are at that point now. There is a time factor involved as you look at the cost of projects as they are extended over a longer period of time, and that's part of what that report indicated.

We are at the point now that it's very possible that some of the projects that have been started—that we'll have to conclude those projects, or button those projects up, depending on the funding levels.

We did, in this budget, though, try to look at those projects that could be completed, and we do have three that are budgeted for completion. So that is also a factor. If we can complete them and budget them and close them out, we would like to do that.

Mr. BISHOP. Right now—I'm sorry, Secretary Darcy, did you want to——

Ms. DARCY. No, I concur with what the Chief said.

Mr. BISHOP. OK. Historically, the Army Corps budget has been comprised of approximately three-quarters of projects that result from an internal review of the Army—through the Army Corps process, makes recommendations that then find their way into the executive budget. And about a quarter of the projects that the Army Corps undertakes are congressional adds. Is that about right? OK.

The projects that we are going to leave on the table and not complete, what proportion of them represent congressional adds, and what proportion of them represent projects that, in the view of Army Corps professional staff, have emerged from this very careful process that you undertake, in terms of the cost benefit of undertaking a project?

Ms. DARCY. I don't know what that would be, but I think we can provide that information to you, because I would be guessing at what the number would be.

Mr. BISHOP. OK. If I could ask that you provide that, in addition to the information that Chairman Gibbs and I have asked, that would be very helpful.

Ms. DARCY. Yes.

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

Mr. GIBBS. Thank you. Representative Landry, do you have a question?

Mr. LANDRY. General, you would agree that a group is only as good as its leader. And I am sure they don't give you those stars without being a good leader.

And everyone comes before Congress in these budget committees to tell us how they have cut and how they have made tough decisions which justify their budget. But at the end of the day, we have got to satisfy the taxpayers. And I've got a problem with the way the Corps—of course, you know, we've got problems getting the Mississippi dredged, moving our commerce—but particularly in my district, what I believe is a microcosm of the problem and some dysfunctionality with the Corps.

Are you aware that I have a—that there is a 2,000-ton barge that sunk in a navigational canal in my district?

General VAN ANTWERP. Yes, Representative, I am aware of it.

Mr. LANDRY. OK. And it's been there for almost a year now. And I made some suggestions to your legal department, because they filed suit. And there is specific legislation—33 U.S.C.—that allows you all to seize and remove that vessel. And as long as that vessel sits in that canal, the asset deteriorates. And the cost of removing it increases. And at the end of the day, the taxpayer pays more.

Any idea how we're going to get that thing out?

General VAN ANTWERP. Well, first of all, I would say it's not the taxpayers' responsibility, it's the owner of the vessel's responsibility. It is not a Federal project or a Federal——

Mr. LANDRY. Oh, hold on. Hold on, sir. See, the problem——

General VAN ANTWERP. We have thousands of vessels——

Mr. LANDRY. But, sir, the problem is that when the Corps wants to use its authority over navigational waters, it does so. But this is a navigational canal. I have letters from my sugar refineries that it's impeding commerce. In fact, we're trying to create jobs in this country, and I have a shipyard who is spending millions of dollars refitting this piece of property north of this structure. And if we don't get it out, they won't be able to open their shop.

And I hate to disagree with you, but I can show you very clearly where the law certainly gives you the right and the responsibility to remove that, sir.

General VAN ANTWERP. I would agree that we are authorized to remove it. But it doesn't say that we are responsible to move it.

The first responsibility is—and the law requires—the owner and operators of the vessel. It is their responsibility to remove it. So the Department of Justice right now is pressing that with the owners and operators.

Mr. LANDRY. Well, but I hate to beg to differ with you again. It certainly says that it is our responsibility, that there is a provision within the statute after 30 days—which you all have done—which is a presumption that it's been abandoned, and it is your responsibility to remove it.

General VAN ANTWERP. Well, I would say the estimates that we got, that it would be in the neighborhood of $1.5 million or more to remove it, now the constrained budget that we're talking about here, it's not a Federal channel——

Mr. LANDRY. I'm certainly glad you brought that up. Because I have contractors. In fact, our local and State agencies have been negotiating with salvage companies who would remove it for the salvage of the vessel and $100,000. You see, that's the problem we have here. That's why I say this is a microcosm. We've got to kind of think outside the box. Every time there is a problem, you say, "Well, just throw me a million here and a million there, and we will get rid of the problem." But it doesn't solve the problem.

We can actually save the taxpayers millions of dollars, if you would simply use the tools that are available to you all. Can we agree that maybe we can look into that?

General VAN ANTWERP. We will agree to look into it, but we've looked into the issue to quite an extent here. And at this point it is with the Department of Justice, and they are going after the owner and operators to remove the vessel.

Mr. LANDRY. Well, but the law clearly allows you to seize the vessel. I don't understand why you are involving DoJ. Why are we spending thousands upon thousands—maybe tens of thousands of dollars of taxpayer money in litigation? I am not a big fan of spending the money with the lawyers. I would like to create jobs.

General VAN ANTWERP. We will commit to further looking into it with you. We will.

Mr. LANDRY. OK, thank you.

Mr. GIBBS. Thank you. Representative Hirono to question.

Ms. HIRONO. Thank you, Mr. Chairman. While I focused my initial remarks on the work of the NRCS in my district, I do want to thank the Army Corps for all the tremendous support and the work that you do for—in Hawaii.

I wanted to take this opportunity, Madam Secretary, to—in reading your testimony, to bring out to you that, as you focus on funding on water research and infrastructure projects that "produce high economic and environmental returns to the Nation," and those that address public safety needs, that's well and good, except that when you're in a State like Hawaii, which is non-contiguous, it becomes a lot tougher for us to show that any project that you're embarking on in Hawaii has economic and environmental returns to the Nation.

So, we have had these concerns. And the language that we employ for what constitutes a project that the Army Corps can engage in, I think when applied to a State like Hawaii—and also Alaska, a non-contiguous State—I just wanted to bring that out to you. We

face very special challenges, and I want to make sure that whatever language is being applied is fairly applied.

And I know that there are provisions such as if a port is within 50 miles of each other, you can't do certain things, or you can't provide certain kinds of support. Again, sounds reasonable, except that if ports are on totally different islands in Hawaii, and there is not much you can do, right, except to do that which helps these ports on the islands. So I wanted to take this opportunity to raise those issues.

And also, you know that, you know, providing priority funding to the maintenance of high-performance projects, that's, again, one of your core areas of emphasis. And again, you know, what would be the definition of high-performing projects? Is it those projects that have a national impact? And again, that would make it really tough for any Hawaii projects to qualify. I just raise that.

And then, for Mr. Christensen, I am glad you noted that the watershed projects that NRCS engages in have been very successful. And yet you mention that the primary benefit of these have been to local communities. And I say that's what is supposed to be happening. And for us to take the position that somehow in these tough economic times the local communities, as you say, should now be able to step forward and do that which they used to do with the support of NRCS, I think is really not addressing the economic realities being faced by our local communities.

And that is why I am so concerned, knowing firsthand, meeting with the farmers in my district, and the kind of support and work that they have done with NRCS, that I think that that's harsh. It's harsh. And I should think that a relatively small program like your watershed program that has that kind of, in many ways, a disproportionately beneficial impact on the small communities is a program that ought to be kept.

So, that's why a plea to you. I hope that if we can revisit this situation, that we will be able to do better by these programs. If you want to make a comment, please feel free.

Mr. CHRISTENSEN. Well, thank you for your sentiments, Congresswoman. We appreciate that. And the project you mention certainly was a very valuable project. I think the total project cost was around $11 million. So very significant to that local community.

I think it's a challenge for us, because we're balancing the need for those projects against many other competing needs. We also have a host of farm bill programs at our access that can do some of the same things—not all of the same things—that were available under the watershed operations. And certainly I think we would have a long-term interest in working with you, working with the Army Corps, in regards to our water resources programs, taking a step back, looking at them more holistically, and seeing what the future might be.

But right now it is a challenge, because historically, in the watershed operations piece, those projects in recent years have all been through congressional directive, and we don't get the opportunity to prioritize perhaps for the greatest public benefit. Thank you.

Ms. HIRONO. Oh, I see. The congressionally directed spending very much reflects the needs of a community that we are in a best position to identify. Thank you, Mr. Chairman.

Mr. GIBBS. Thank you. Representative Cravaack, do you have a question?

Mr. CRAVAACK. Thank you, Mr. Chairman. And thank you for the witnesses here today.

I come from Minnesota, the northeastern portion of Minnesota, border of Lake Superior. And the Great Lakes navigation system is extremely vital for us. It brings about vast quantities of coal from Montana and Wyoming and Lake Superior ports and power generation through a lot of the metropolitan areas. Also, it transports over 80 percent of our iron ore that goes to our U.S. steel. It saves about approximately $3.6 billion per year than the next least expensive mode of transportation.

The indirect benefits are approximately $3.4 billion in revenue, and approximately $1.3 billion in Federal, State, and local taxes, as well. It also provides a positive economic impact to the U.S. economy. It's a huge job provider, obviously. There are 44,000 jobs directly related to the maritime transportation of—shippers, longshoremen; 54,000 in the mining industry are dependant upon this great waterway, as well as 138,000 jobs in the steel industry, including miners, as well.

My question is, in relation to all this, the President's budget requests $691 million of the Harbor Maintenance Trust Fund for harbor dredging and related disposal of dredging materials. It's expected the balance of—the Harbor Maintenance Trust Fund balance right now is $6.12 billion to increase to $6.93 billion. Only one-third of the Nation's Federal navigation projects are currently at their authorized depths and widths. Eight out of ten of the Nation's largest ten ports are not at their authorized depths or widths, as well.

I have the Federal harbor—two harbors up in the Great Lakes—and it has not been dredged since 1976. My question is, in lieu of this great commerce that's on the Great Lakes, why is this—do you know why this administration has requested such a small amount from the Harbor Maintenance Trust Fund?

And, General, I am basically directing that question at you, sir.

General VAN ANTWERP. On any given year about $1.4 billion comes into the Harbor Maintenance Trust Fund. This year it's budgeted at about $750 million. The way that we do the programming of that is that we focus on those harbors that are high use. A low-use harbor, if I could define it, would be one that has less than a million tons of commerce within the harbor, or an inland waterway that has less than about a billion ton-miles. So, we have some criteria for how we allocate the dredging funds.

As Ms. Darcy said, what the administration's proposal is, with the additional money that comes into the Harbor Maintenance Trust Fund that is not used for the dredging portion, is to significantly expand the use of that, and even by other agencies, but all to support the coastal navigation business. So that's kind of where we are in the prioritization of that—of the use of that money.

Mr. CRAVAACK. Can you tell me, is the Harbor Maintenance Trust Fund bringing in a sufficient amount of revenue at this time?

General VAN ANTWERP. The Harbor Maintenance Trust Fund does have sufficient revenue.

Mr. CRAVAACK. OK. So my question would go back again. Why do you think the President's administration just brought out $691 million of the—right now—correct me if I'm wrong—isn't there $6.93 billion in the trust fund? Is that correct, sir?

Ms. DARCY. I'm not sure of that exact number, but I know it's close to $6 billion.

Mr. CRAVAACK. OK. And the President is just requesting $691 million. Is that correct, ma'am?

Ms. DARCY. I believe—actually, I think it's $783 million out of the Harbor Maintenance Trust Fund. Is that right? It's $783 million.

Mr. CRAVAACK. Isn't that quite a small amount, compared to the amount of money that is actually within the Harbor Trust Fund?

And, due to our recent infrastructure challenges that we have—for example, the Soo Locks, as well—don't you think that we should start allocating these funds, to make sure we have these vital waterways ready to go?

We're just—you know, as I understand the Corps is basically a fix-it-as-it-goes kind of mentality right now, in regards to locks. Why are we not investing $6.93 billion into our vitally needed infrastructure in these areas? And I only have eight seconds left.

Ms. DARCY. Well, Congressman, what we are doing is looking at the entire balance in the Harbor Maintenance Trust Fund for the harbor maintenance as a whole, including navigation, dredging, but in addition, other needs, Federal interests, investment needs in ports, in national ports, including things like security.

Mr. CRAVAACK. I yield back, sir.

Mr. GIBBS. OK, thank you. Representative Napolitano. A question?

Mrs. NAPOLITANO. Thank you, Mr. Chairman. Yes, certainly. I am going to take a different track.

We have levees located on Indian Reservations. And how is the Agency handling safety and remedial activities related to these levees found on Indian Reservations?

And, as a follow-up, are there any programs that the tribes can utilize or access that would allow them the ability to protect their citizens?

General VAN ANTWERP. Thank you, Congresswoman. We have about 70 levee systems that are on tribal lands. Those are basically operated and maintained by the tribes there.

First of all, we have a lot of data, because a lot of those were built by the Corps of Engineers at an earlier time. So we are providing——

Mrs. NAPOLITANO. A percentage of how many of them were built by the Corps?

General VAN ANTWERP. I——

Mrs. NAPOLITANO. Are they still maintained by the Corps?

General VAN ANTWERP. They aren't maintained by the Corps. They—the ones even that were built by the Corps have been turned over for operation and maintenance by the tribes. But we do have data on those, and we are providing data to the tribes on those levees.

The other part is we're going to begin to reach out to the tribes this year to try and help them, if there is other information that

needs to be gathered that has to do with the condition and that of those levees. And we have experts in that area.

Mrs. NAPOLITANO. Would that reaching out—will be able to identify which are the more salient, in prioritizing?

General VAN ANTWERP. Absolutely. It will help them prioritize, and it will also really discuss the risk and life safety aspects of those levees.

Mrs. NAPOLITANO. Any of those programs going to include any retrofitting to be able to have some of those pumps run, hopefully with sunshine?

General VAN ANTWERP. That's a great idea. We will try and throw that into the mix there, but trying to make the system self-reliant and not require power generation and other things.

Mrs. NAPOLITANO. Well, the Corps visited the electrical contractors in my area a couple of years back, and they were able to find that they are utilizing about 85 percent of their own created energy. And I would hope that we start looking at innovative ways of being able to save money, and be able to produce more energy with—especially if you have levees that can be utilized.

Why is there a delay in the implementation of the Folsom Dam joint Federal project for the city of Sacramento flood control? Is there a funding issue, or some other impediment? And what is that impediment?

[No response.]

Mrs. NAPOLITANO. It's not in my area, but it's a California issue.

[No response.]

Mrs. NAPOLITANO. Sorry, I threw a curve.

General VAN ANTWERP. A little bit of a curve. You didn't. But we need to get back with you. But it's a contractor congestion issue, which is causing delay in that project, as I understand. There is so much work that needs to be done in the amount of space allocated to do it.

Mrs. NAPOLITANO. OK. Well, it would—I would hope that, because of the economy, contractors are willing to do it for less than the original—how would I say—estimate, guesstimate. So I am hoping that one will—well, if you would, I would very much like to have an answer.

The last one is the watershed programs. Could you explain the efforts the Agency is making in working with local entities in California to capture rainwater? I'm ranking member in the subcommittee of water and power. That's a great issue that we have been working on. Capturing of rainwater in small settling basins seems to be cost effective to augment local water supplies in reducing flood risk. And does the Agency have a definitive business and project task associated with developing these programs in the west?

General VAN ANTWERP. It is a great idea, and it is something that needs to be done, and we do—and we are working. I've got a—as soon as I find it here——

Mrs. NAPOLITANO. You can get that info to me.

General VAN ANTWERP. We've got the activities on Prado, Hansom, Whittier. And one of the issues that we have to look at is the ability to hold more water in these features.

Mrs. NAPOLITANO. Right.

General VAN ANTWERP. And so, we have to look at the integrity of the dams. But the idea of the more conservation to help the groundwater recharge and all that is excellent.

Mrs. NAPOLITANO. Right. Well, talk to me about the Whittier Narrows, because we've been working on that for about 3, 4 years. And we were able to get the funding, and yet this was to do an update of a study that was completed, and it's still not being done. And that would help be able to capture more water and help protect the communities below it from potential flood risk.

So, thank you, Mr. Chairman. I will look forward to working with you again.

Mr. GIBBS. Thank you. Representative Harris, you have a question?

Dr. HARRIS. Yes, thank you very much. And thank you for the witnesses coming before us today. Let me just ask a question of the secretary and the general.

Your prepared remarks that were handed out says that the administration's priorities with regards here to the matters before us today—I think Assistant Secretary Darcy's says that it is "to help restore the environment and revitalize the economy, while also reflecting the need to put the country on a fiscally sustainable path." And interestingly, you say, "restore the environment before revitalizing the economy," which I think is very interesting, given the financial condition we're in.

Whereas, the general says the priorities are "to reduce the deficit, revitalize the economy, and restore the environment." Could you just very briefly—which is it? What do you view the purpose of the Army Corps to do? Is it to restore the environment? Or is it to actually create jobs and revitalize the economy?

Assistant Secretary, you can have first at it.

Ms. DARCY. It's all of those things.

Dr. HARRIS. Well, Madam Secretary, you cannot have all of those things. Priority means one is number one and one is number two. Is it revitalizing the economy, or is it restoring the environment? That's what priorities are all about. I'm sorry, it's just a plain meaning of the English language.

Ms. DARCY. I think that by restoring the environment you can revitalize the economy.

Dr. HARRIS. Well, Madam Secretary, I'm going to disagree, and we are going to talk a little bit about that today.

Now, the Harbor Maintenance Trust Fund. This seems to be a little secret going on here, because I know I'm new to Washington, but when someone puts the number $6.9 billion in front of my eyes when we're borrowing money from the Chinese to pay our debts, I wonder a little bit.

And there was these nebulous things, "Well, we're going to expand things," and, "We're going to have other agencies involved." Why aren't you just using it to dredge harbors, like it's supposed to be used for?

I mean I've got a shipping harbor, I've got people coming into my office saying, "You know, they're taking taxes from me to do this, and they're not dredging harbors." What's the big secret? What is it, this $7 billion which could reduce all the backlogs of all the dredging?

I've got a little commercial harbor in my district. Army Corps comes in in 1980, builds a breakwater that then causes silting into the main channel, and now can't dredge the main channel anymore. We got $7 billion sitting around we could—all the backlogs could be gone.

What's the dirty little secret here? What is that slush fund going to be used for?

Ms. DARCY. The Harbor Maintenance Trust Fund, as I had mentioned earlier—I want to just correct the record—what is in the President's budget this year for the Corps of Engineers' use of the Harbor Maintenance Trust Fund is $758 million. I had said—it's $758 million of that——

Dr. HARRIS. I am interested in the $6.9 billion. What is it going to be used for? And be brief, I only have two more minutes, and I've got another couple of questions.

Ms. DARCY. Yes, OK——

Dr. HARRIS. It should be a very simple question. It's $7 billion. I hope there is a simple answer to what it's going to be used for.

Ms. DARCY. What it's going to be used for is for other Federal interests in the harbors——

Dr. HARRIS. Why not dredging?

Ms. DARCY. Partially it's going to be used——

Dr. HARRIS. Why not use every dollar of it to maintain the ports? Because that's what the people paying that tax think it's going for.

Ms. DARCY. Well, there are other Federal interests in those ports that the administration feels this money can be used for.

Dr. HARRIS. I understand that. But the people who actually pay that tax feel they're paying for it to dredge a harbor. I know the administration feels that once tax money comes to Washington, it's theirs to keep. This is $7 billion. All the backlog of every dredging project in the country could be paid for if we spent those $7 billion on dredging.

Ms. DARCY. Well——

Dr. HARRIS. Is it the administration—does the administration—do they not feel that that is important enough to remove that backlog?

Ms. DARCY. It is important. However, the receipts that we have in the Harbor Maintenance Trust Fund all need to be appropriated.

Dr. HARRIS. General, the Davis-Bacon Act, are the Army Corps projects subject to Davis-Bacon Acts, if they exceed a certain amount of money?

General VAN ANTWERP. Yes, we are.

Dr. HARRIS. Could we save a great deal of money by removing that constraint, or—and just funding more projects?

General VAN ANTWERP. If you did away with the Davis-Bacon Act?

Dr. HARRIS. If we stipulated that funds used in the appropriation this year, just like we attempted to do in the CR, could not go for—could not be—Davis-Bacon Act constraints would not be utilized in those projects.

General VAN ANTWERP. It would allow you to do more projects——

Dr. HARRIS. That's what I thought. Thank you. And, finally, there is a half-a-billion dollars for environmental aquatic ecosystem

restoration. If we delayed that, and spent that money to creating jobs by enhancing our water-borne economy, such as the gentleman from Louisiana suggested—who has left—wouldn't that be a help to our economy right now, if instead of doing something which could be delayed, because these projects are not critical in terms of getting a ship to the harbor—and I understand you want to use the Harbor Maintenance Trust Fund for security, but I've got to tell you, if you don't dredge the channel, you don't have to worry about harbor security. No ships are coming in.

So, why don't we move some of those monies from where it's not urgent, and move them into areas where we have real ongoing needs that would enhance the economy? General?

General VAN ANTWERP. I guess, first of all, in the amount of money from our budget that goes into the ecosystems is about 18 percent. In those five significant ecosystems there are other agencies whose budgets go to those.

A lot of those issues have to do with our Nation's future. I think, that—they have to do with the Everglades, and have to do with the Bay-Delta, and these are huge drivers for our ecosystem, as a country. So I think that's why they are significant ecosystems, and we are putting those dollars there.

Dr. HARRIS. OK, thank you.

Mr. GIBBS. Representative Norton?

Ms. NORTON. Thank you, Mr. Chairman. And I want to thank you, Mr. Van Antwerp, for the work you do for the country, and especially here, in the District of Columbia.

You will recall in the last water bill, 2007, included the Anacostia watershed initiative. This was a landmark bill, because it was the first bill, comprehensive bill, to clean up America's forgotten river, the Anacostia River. In 2010 you rolled out a 10-year plan for carrying out the Anacostia watershed initiative. And I understand that there is a Sligo Creek demonstration project, as well. I would like to know the status of the 10-year plan.

General VAN ANTWERP. Congresswoman, I am going to have to get the staff to get back with you on the status of the plan, unless you have it, Ms. Secretary.

Ms. DARCY. Yes. The plan is currently under review at the Office of Management and Budget.

Ms. NORTON. It's under review with specific next steps for the plan?

Ms. DARCY. I believe so.

Ms. NORTON. What is the status of the Sligo Creek demonstration project?

Ms. DARCY. That I don't know. I would have to get back to you on that.

Ms. NORTON. Thirty days, please.

Ms. DARCY. Yes, ma'am.

Ms. NORTON. Get back to us on that. Mr. Van Antwerp, the levee project on the National Mall was begun a few years—a few months ago, and I understand was to be completed this year, 2010. That is very important. It protects all the monuments on the mall from floods and that part of downtown Washington where all the Federal buildings are, and the like.

What is the status of the levee building going on on the National Mall now?

General VAN ANTWERP. On the 16th of September, a construction contract was awarded to build the 17th Street closure, and that is progressing on schedule.

Ms. NORTON. When do you expect the levee—Potomac Levee, I believe it is called—to be completed?

General VAN ANTWERP. I believe the completion date is September 2011.

Ms. NORTON. And you're on time?

General VAN ANTWERP. And we're on schedule.

Ms. NORTON. Finally, you are also aware that in part of the District of Columbia where American University is located also was located a chemical munitions site, perhaps the only chemical munitions site located in a residential neighborhood in the United States. We are pleased that much has been done to clean that site. I toured the destruction of some munitions only a few months ago.

Suppose more munitions are discovered, just as those were accidentally discovered. Would the Corps be prepared to move right in? Would it have the funds to move right in to handle such a discovery in this residential neighborhood?

General VAN ANTWERP. Those funds aren't out of Civil Works funds. But past history would say we would be prepared and we would take the appropriate action, if that was discovered.

Ms. NORTON. Yes, I understand that those funds simply come out of funds that are already authorized to deal with such things.

General VAN ANTWERP. Right, for those purposes, yes.

Ms. NORTON. So you are saying today that, were we to find somebody to uncover in her backyard yet another mound of munitions, the Corps would be ready to move right back in to remove those munitions?

General VAN ANTWERP. We would work with DoD to move back in and take care of those munitions.

Ms. NORTON. Thank you very much, Mr. Van Antwerp, and thank you, Mr. Chairman.

Mr. GIBBS. Thank you. Representative Herrera Beutler?

Ms. HERRERA BEUTLER. Thank you, Mr. Chairman. I have a couple of specific questions, but one that's a little more process-driven. I'm going to start with that.

I mentioned, you know, three main things in my opening. And one of the ones—more specifically, we are starting to explore, legislatively, ways to do this. But I wanted to get your feedback on timelines for permitting and the process for appeals. It's my understanding that if a permit is denied, basically, the only place that a permit seeker can go for an appeal is the Corps. Is that correct?

General VAN ANTWERP. Through the Corps or the courts? I didn't——

Ms. HERRERA BEUTLER. Corps, excuse me, Army Corps.

General VAN ANTWERP. The Corps. Yes. And basically, what we try and do is work with the applicant. If there are issues—and all along, issues are resolved, and we're looking for the least damaging, practicable alternative. That's what we're looking for. And so, most times, things can be worked out. But it is a give-and-take

and sometimes a compromise on what they would originally have liked to do.

Ms. HERRERA BEUTLER. So, I have had a couple folks who have come to me, and they have been seeking funds that were—that are appropriated that are available, but they have 2 years to use them, starting January. And it had to do with two types of permits. And forgive me if I don't remember this right. I think it was the national—there is, like, a national permit and an individual. And the individual is a little bit easier——

General VAN ANTWERP. We have a nationwide, and then we have an individual permit.

Ms. HERRERA BEUTLER. Yes.

General VAN ANTWERP. So——

Ms. HERRERA BEUTLER. And so, when I had some folks locally looking to move forward on a project to receive those funds in concert with the community—a tremendous project, jobs, jobs, jobs—they communicated to me that the office that they were working with—and I'm a little split, anything to do with the Columbia River, we get—we deal with Portland, and anything north of that we deal with Seattle.

Their comments to me were, "We don't even know"—we were told—and they attempted to push us into an individual, but because of the amount of space that they're looking at, and the mitigation, and everything else, they're going to need a nationwide, national—I'm going to say that wrong, but you know which one I'm talking about.

Is there a way—one of the concerns I have heard is they won't be told if there are problems in this whole process until they get to the end. And they've got 2 years. They have a running time clock. And the only impediment we have run up against so far are people dealing with that permit in this timeframe. Is that something you can help us with?

General VAN ANTWERP. Well, I have the division commander sitting in the room today, and he is hearing what you're saying, and we're going to look into this permit. We will get with your staff.

Ms. HERRERA BEUTLER. Great.

General VAN ANTWERP. And we will look at it, and we will get our regulatory people, and we will see where we can come to.

Ms. HERRERA BEUTLER. Great. That would be perfect.

General VAN ANTWERP. OK.

Ms. HERRERA BEUTLER. And let me step back, too, since we have got the gentleman in the room. Capital Lake. In my district we have the State capital. There is a specific lake right there that the State and the localities are working on, how to manage that. And my concern is that the Corps may have begun to study this lake without any invitation from the State authorities managing the lake. Our governor is involved. No one has said, "U.S. Army Corps, we need you here," yet that study has begun. And, as far as I know, none of the members of the State capital committee have put out any requests. And there is a lot of concern because, once you all get involved, things change.

And at this time of major tightening belts, right, we were all talking about projects that we want, and "Your budget is cut," and this is a nightmare. In my mind, I think that streamlining the per-

mit process and then not getting involved where there is no request seems like a great way to manage your budget.

General VAN ANTWERP. We will have to look into that particular project. But generally, we wouldn't—if we go to the next step in the study, the feasibility stage, we actually have to have a cost-sharing partner, a local sponsor, if you will. But if it's a life/health/safety, we may be looking at something that's life/health/safety-related.

But again, we can work with your staff, we can look at that particular project, tell you exactly what we are doing, if we are doing something there.

Ms. HERRERA BEUTLER. Great, great. And I am just going to lodge this one, because I don't have time to ask—get into the details of it. But another area where we're looking at is the Twin Cities Project in Lewis County, and the flooding that takes place there, and what your plan is to fix it, and what the community is asking for. That's another area where we're going to need to work together.

General VAN ANTWERP. OK.

Ms. HERRERA BEUTLER. Thank you.

Mr. GIBBS. Thank you. Representative Capuano, do you have a question?

Mr. CAPUANO. Thank you, Mr. Chairman. General, Davis-Bacon. I am just curious. How would you be able to save money if Davis-Bacon were gone?

General VAN ANTWERP. I think it really is just from some of the costs that are associated with Davis-Bacon wages.

Mr. CAPUANO. So wages. So you're basically——

General VAN ANTWERP. It's people.

Mr. CAPUANO. You would pay workers less.

General VAN ANTWERP. I am not sure where the question was originated, what that is. I mean there is——

Mr. CAPUANO. Well, if——

General VAN ANTWERP. There is a reason the Corps uses Davis-Bacon.

Mr. CAPUANO. Well, I understand that. But I mean if the Davis-Bacon law were gone——

General VAN ANTWERP. Yes.

Mr. CAPUANO [continuing]. You would basically pay people doing work on your projects lower wages. That's the way you save money if Davis-Bacon is gone, is it not?

General VAN ANTWERP. I would——

Mr. CAPUANO. If you would pay less wages, who would get those lower wages? Would it be the people who owned the companies, or would it be the bricklayers and the steel workers and the laborers on those projects? Who gets impacted by Davis-Bacon, people who own the company, or the people who actually do the work?

General VAN ANTWERP. I would say you're making excellent points. This was the first I had heard of this discussion, so——

Mr. CAPUANO. No, I understand. But as I understand it——

General VAN ANTWERP. I guess that would be the case.

Mr. CAPUANO. I just want to make sure I understand the law correctly.

General VAN ANTWERP. That would be the case.

Mr. CAPUANO. As I understand the law, it requires you to pay the people doing the work, the bricklayers——

General VAN ANTWERP. Right.

Mr. CAPUANO [continuing]. The carpenters——

General VAN ANTWERP. Right.

Mr. CAPUANO [continuing]. Wages that are conducive to the area they live in.

General VAN ANTWERP. Right.

Mr. CAPUANO. So, by saving money, if Davis-Bacon were gone, you would be basically—not you, but if it were gone and we didn't live by that, working people would get lower wages. I just wanted to make sure that we were clear on that, because that's my understanding of it. I didn't think you were wasting money, I thought you were helping to maintain the middle class—not you; the whole county—and that's what the Davis-Bacon law is all about.

Just as a point of history, do you know who Mr. Davis and Mr. Bacon were? They were two Republican Members of this House. And do you know who signed that law in 1931? The noted crazy Leftie, President Herbert Hoover. Those are the people that decided to build the middle class. So it's not where I intended to go.

I want to talk a little bit about the Harbor Maintenance tax myself. I—my problem with the Harbor Maintenance tax is not necessary how you use it, though, like anything else, I'm sure I could disagree with some things. But my problem is the competitive advantage that you give to neighboring ports that don't get hit with that tax at a later time, which is a different issue for a different discussion.

And, by the way, I think the Corps does a great job keeping Boston Harbor open on a regular basis, and dredging.

But what I really want to talk about was I wanted to make sure that I understand the Corps' desires and goals. And I'm sure that I know the answers, but I wanted to ask them anyway. When the Corps gets into a project, if you were going to, say, do some dredging, and widen a channel, the—you're not widening a channel in order to reduce the size of the vessels passing through that channel, are you? That's not the goal. You're trying to keep it open for bigger vessels, to meet modern requirements.

And when we do a bridge-over that the Corps is involved in, if we widen the span of that bridge, again, you're not trying to do it so we can get smaller ships through that bridge, is that correct?

And if you were to have a project that somehow inadvertently, after you have dredged the channel, and after the bridge has been built, that the result of that, because of some changes in the situation, were to be that smaller ships had to go through that, that bigger ships could not longer pass, that would be something I would assume the Corps would want to be involved in addressing and fixing. Is that a fair statement?

General VAN ANTWERP. That's a fair statement. We have an authorized width and depth of our projects. And that would be the optimum to maintain it to that level. Very few of them are maintained to the optimum, or to the authorized——

Mr. CAPUANO. But the purpose of that is to allow modern-day, bigger ships——

General VAN ANTWERP. To pass, absolutely.

Mr. CAPUANO [continuing]. To service our commercial needs. Is that——

General VAN ANTWERP. Absolutely.

Mr. CAPUANO. So that if somehow, by widening a channel, by changing radiuses and the like, that something happened that that channel was no longer available to be used by not just wider ships, but the ships that are currently using it, I would think that the Corps would want to help address that issue. Is that a fair statement? Thank you. We will be talking again soon. Thank you very much.

Mr. GIBBS. Representative Reed, do you have a question?

Mr. REED. Thank you, Chairman. And thank you to the witnesses for your testimony today.

General, I want to start by saying it's refreshing to hear a direct response to a question from a congressional committee. You gave us a direct answer, and that doesn't happen all the time. I've been here two months, and it's amazing to me the number of witnesses who come in here and dance around the questions and don't give us their honest assessment and opinion. So I respect your answers, sir, and I appreciate you dealing with us candidly.

Now, moving forward, I want to get into a little bit of some issues that I am facing back in my district, and not specifically on any specific projects. But one issue that came to my attention recently is in the areas of the flood insurance mapping revisions that are occurring. And we have had a lot of debate back in—western New York is where I'm from—about the maps, and who is going to certify the levees.

And the roundabout discussion that has occurred is I'm getting fingers pointed all over the place. And my understanding, talking to my staff, is that what's happening is a lot of the agencies—whatever agency it may be: FEMA, the Corps—are saying, "We're not going to certify the levees because of what happened in Hurricane Katrina, et cetera. We don't want to be on the hook for making those determinations."

So now what's happened, the proposed maps I see are being rolled out without those levees being designated on the maps, which obviously changes the flood plain, which obviously changes the requirements to get flood insurance for homeowners and people purchasing a home, which lacks common sense. I walk on those levees. I go down the rivers and fish on those rivers walking over the levees. I know they're there.

My question to you: are you familiar with this issue, either one of you? And who is best to answer the question?

General VAN ANTWERP. Yes.

Mr. REED. OK.

General VAN ANTWERP. And I can answer the question.

Mr. REED. Please do.

General VAN ANTWERP. It's the National Flood Insurance Program.

Mr. REED. Correct.

General VAN ANTWERP. It is the FEMA program.

Mr. REED. Correct.

General VAN ANTWERP. And it is the responsibility of the local community to provide the documentation that the levee meets the

requirements of the National Flood Insurance Program. And basically, it's what we call a 100-year event, meaning that it's a 1 percent chance of possibility of happening. That is the standard for the National Flood Insurance Program.

The Corps of Engineers, we have projects that are much greater than 100-year and much less. Our inspections basically are to determine if it meets its design criteria.

Mr. REED. OK.

General VAN ANTWERP. And so, if it's an 800-year levee, we expect that it needs to meet an 800-year event.

So, basically, it is the local community's responsibility for the National Flood Insurance Program, to provide that documentation. What documentation the Corps has—and we have it on a lot of levees that are now owned and operated by a local entity, we provide that data. And a lot of times it's most of the data that they might need for the FEMA piece.

Mr. REED. OK. Because my concern is it still doesn't address the practical problem we have, in that we got to get these levees located on these maps, so that people who are protected by these levees don't have to go out and buy flood insurance. It's a very practical problem.

Do you see any solution to it that you could offer us here today——

General VAN ANTWERP. Well, if——

Mr. REED [continuing]. In getting over that hurdle, at least to get these maps updated——

General VAN ANTWERP. Right.

Mr. REED [continuing]. And make sure that people don't have to purchase flood insurance when they really don't need to buy it?

General VAN ANTWERP. We—if the documentation is provided to FEMA, that levee will be on the map. I guess so——

Mr. REED. OK.

General VAN ANTWERP [continuing]. What they have to do is they have to get that documentation.

Now, we are trying—we're working with FEMA——

Mr. REED. What happens if the documentation doesn't exist? Because a lot of these levees have been constructed, and nobody has the documentation.

General VAN ANTWERP. They need to hire an engineer to do the certification.

Mr. REED. OK. So the local community has to pick up that——

General VAN ANTWERP. That's——

Mr. REED [continuing]. And go out and get the engineer, and——

General VAN ANTWERP. That's right.

Mr. REED [continuing]. Come in and document.

General VAN ANTWERP. That's right.

Mr. REED. OK. My local communities won't be happy with that answer, but I will be the messenger on that.

One area that I wanted to talk on, Mr. Christensen, we have a lot of farmers in our district that are impacted by the Chesapeake Bay initiatives and the TMDLs that are coming down. What is your role in trying to help and assist the agricultural community comply with those implementations, if they do occur?

Mr. CHRISTENSEN. Thank you for the question, sir. We are very actively involved. We have a special program called the Chesapeake Bay Watershed Program, given to us in the 2008 farm bill. So we have special funding on top of our normal programmatic funding to help farmers with nutrient management plans, cover crops, all the types of practices that would be helpful to the nutrient management issue. So we are working with them on a voluntary basis, cost-sharing on those practices.

At the same time, we are collaborating with EPA on the larger issues. But the bottom line for us is we are actively involved with the individual producers on the landscape with the conservation efforts.

Mr. REED. So, if those—I guess I'm out of time. I will have a conversation with you offline.

All right. Thank you, Chairman. I yield back.

Mr. GIBBS. Representative Lankford, have you got a question?

Mr. LANKFORD. Thank you. Let me run a couple of questions past you, as well, and a larger context, and specific to my area. I'm in central Oklahoma. Let me start with that one.

We are in one of those areas around the Port of Catoosa, which is the Mississippi River area, one of the tributaries. We have talked before already, and met, and discussed the locks and the dams and everything to be able to work your way up and down the tributaries.

Tell me on the priority list where that seems to fall, and just the movement, because again, you are moving all the cargo in and out of the central part of the United States when you're moving up and down the Mississippi and through the tributaries. I see on your list lower priority items and such like that. Where do those tributaries begin to fall?

General VAN ANTWERP. Well, they fit as a navigation system, and it's a lock. We have 241 locks in the Corps. They are about 58.3 years old. They take a lot of operation and maintenance funds. We look at each lock. We have done inventories and inspections to know which are the ones that are of the most risk. We also hear from our navigation partners that are running bulk cargo and other things, because it's a very efficient way to do it. And so that's how we manage the priorities of what we work on in any given year, using our operation and maintenance funds.

Mr. LANKFORD. So it's basically whichever lock is in the worst shape possible, then you just target from that spot?

General VAN ANTWERP. A lot of it is fix the worst first, but it also has to do with the risk of failure and the impact of the failure of that lock.

Mr. LANKFORD. Right. Well, you have this list of lower priority items. I am kind of wondering the metrics on that, how you get to that spot, and who makes the decision on which items nationally end up on lower priority and which ones rise up to higher priority items.

General VAN ANTWERP. Again, we look for those projects that have large ton-miles, and carry a lot of commercial navigation cargo. And we prioritize those. The risk of failure is part of it.

So, we can—we could come lay out how we do the priorities, but that's basically how we laid that out.

Mr. LANKFORD. OK. Let me ask a general question, just for you to be able to process. And anyone can answer this, and may be familiar.

With every Federal agency there is going to be a lot of conversation with other Federal agencies. You deal with a lot of agencies, just in your day-to-day operation. Is there any one agency you can make us aware of to say, "Projects are driven up in cost and slow down in time because of our interaction with this agency?" I know this is going to make you the favorite of that agency once you answer this, but there is bound to be an issue that you're dealing with several agencies saying, "You know what? This tends to slow down projects and drive up costs when we're dealing with this agency and getting things done."

[No response.]

Mr. LANKFORD. You are welcome, by the way, for this question.

[Laughter.]

Ms. DARCY. We work great with the agencies represented at this table, as well as our other Federal agencies. Quite frankly, in the year-and-a-half that I have been in this job, I have found the collaboration between the Federal family to be better than I had hoped. So I am not giving anybody up here.

Mr. LANKFORD. OK.

Ms. DARCY. Because we have had a great experience so far.

Mr. LANKFORD. OK. Everybody good with that?

[No response.]

Mr. LANKFORD. Let me walk through a couple things. By the way, I would hope that part of our role here would be to help resolve issues. So if issues come up, we want to be able to step in and resolve, and see if we can't—for the good of the country. This is not a partisan issue; we've got to get things done. And so, as issues come up, we would like to know on those, so we can help engage with that.

The President's fiscal year 2012 budget suggests legislation for a user fee for technical assistance cost for the conservation plan. Do you have any idea who is going to be charged that user fee, and what the service is we're going to be provided in exchange for that? Are you familiar with that?

Mr. CHRISTENSEN. Sir, I am not too familiar with it. I know it's an issue being worked on. Conservation planning is one of the core functions that we have historically provided. And I guess the view is that there is some opportunity to recoup some of that cost. But I am not familiar with the specifics——

Mr. LANKFORD. Who is actually going to be tagged with that fee, and what they're going to get for it. That hasn't come out?

Mr. CHRISTENSEN. I would have to come back to you on that.

Mr. LANKFORD. OK. That will be an interesting one to be able to see. They are looking to fee—as we have already discussed with the harbor fees and such, there is a perception that they get a return for that in dredging. And sometimes there is a frustration on that in any location.

Let me just run one other question real quickly past you. In the design of any project, you have outside contractors that do the design on many of these, is that correct? So you will hire in a company to actually do that design?

General VAN ANTWERP. We do it two ways, if you're referring to the Corps projects.

Mr. LANKFORD. Yes.

General VAN ANTWERP. We can do an in-house design, we do have our own architects.

Mr. LANKFORD. Right.

General VAN ANTWERP. We try and keep enough to keep the competency in the Corps——

Mr. LANKFORD. Right.

General VAN ANTWERP [continuing]. Because when you're writing a contract, you need that competency. Or, we contract those out.

Mr. LANKFORD. Typically, when it's contracted out, do you also allow the architect that did the design work to then supervise the construction? Or is that then taken over by a Corps person, and the architect only does the design and a Corps person supervises?

General VAN ANTWERP. Generally, the project—if it's a design bid build, then the contractor builds the design that the architect did, and the Corps of Engineers supervises the construction. But we always have that architect on a string to—for a request for information. "Why did that go like that?"

Mr. LANKFORD. Right.

General VAN ANTWERP. And things are resolved. We also have a design build. We do those, which——

Mr. LANKFORD. I'm out of time. I would just recommend, obviously, looking close at having that architect on hand. There is a reason—they know their plans best—to having them on hand during part of that construction. I think that would save us some value, long-term. So thank you. I yield back.

Mr. GIBBS. Thank you. General, I have another question. I understand—you know, we talk about cost, and we need to streamline the process on—and your performance reviews, I think that's great, we're going to look at that.

It's my understanding on the Ohio River there are some hydropower projects that—I know one at the Robert Byrd facility, it's getting up and running, starting in the planning process and the permitting process with FERC, the Federal Energy Regulatory Commission, and the Corps. But I also understand there isn't a lot of coordination between these two agencies regarding licensing and permitting. What can be done to address that issue to move this forward in a more expedited fashion?

General VAN ANTWERP. Well, I think, Mr. Chairman, you have captured it. Absolutely there has got to be partnering between the agencies, because we are looking for such things as cooling water and environmental impacts of this. So, we will look into that specifically and make sure that that partnering is being done, and we are expeditiously moving that forward.

Mr. GIBBS. OK. That would be helpful. I think, you know, run some of this concurrently——

General VAN ANTWERP. Right, absolutely.

Mr. GIBBS. I would appreciate it. Secretary Darcy, as you know, recently the EPA retroactively revoked a permit from a mining operation in West Virginia. And, you know, I think this causes problems across the whole economy, because people put capital together

to put projects together and get the permit, do the environmental impact studies and everything.

And maybe this is for the general, too, since, you know, the Corps approved the permit and the EPA revoked it 3 years after the fact, and if their investment—what kind of security or "assurety" can we give to any operation that is putting a project together and gets the permit that they're just not going to get it revoked after it is approved? Because this is unprecedented.

Ms. DARCY. Well, I think, as you say, the Corps of Engineers did issue this permit in 2007. I think you're referring to the mine permit that was vetoed by the EPA. We were in collaboration in developing the permit. But under 404 of the Clean Water Act, the EPA does have the veto authority to veto any permit that——

Mr. GIBBS. Well, wasn't the EPA working with the Corps in concert during the environmental impact study and all of the permitting process? Weren't you guys working together?

Ms. DARCY. We were in consultation during the development of the permit. Yes, sir.

General VAN ANTWERP. With all of our permits we consult with the EPA. So it was consulted on initially, and then other things have changed. But they do have the authorization under 404 to do what they did.

Mr. GIBBS. It appears to me under 404—and I know the guidance that they're going to be coming out with to expand their jurisdiction on the Clean Water Act—they're kind of driving. It looks to me they're driving the train, and you guys are getting run over. So I have serious concerns about what's happening. And whatever we can do to help the Corps on this issue—because I think the EPA is driving the train here. Do you feel like you have been run over by the EPA and the permitting process?

Ms. DARCY. No, sir. We are currently developing Clean Water Act guidance with the EPA and anything that is being reviewed within the administration, and that would be—it would be a joint guidance.

Mr. GIBBS. So to just follow up on that, you support the expanded jurisdiction with the Nexus provision and everything that would go beyond navigable waters?

Ms. DARCY. We are currently developing the guidance, sir.

Mr. GIBBS. OK, OK. Well, we will probably have some hearings on that in the future, when you put your guidance out.

Ms. DARCY. OK.

Mr. GIBBS. Also, General, you know the Nation's water resources structure averages about 60 years old, and we have discussed that. What in the administration's plan is there to recapitalize the infrastructure, so we can continue to provide economical and reliable, environmentally superior inland navigation, and reduce the flood risks to the public? You know, do you have a plan to actually capitalize, so we can get these projects up and running, repaired, and modernized?

General VAN ANTWERP. We do have a plan. It's—of course the flexible part of it is: how long does it take to execute that plan? But the first part of that plan is know what you have, and know its condition. We know that.

And so, we also know the risks of failure, because we've got a lot of history with these different features. But on dams, and on our hydropower facilities, we have a good plan for the recapitalization of those projects. It is dependent on funding for how long it takes to recapitalize.

Mr. GIBBS. I would be interested in working with you on that plan, help you prioritize it and work through Congress here to get the job done and clean up the balance sheet, so to speak.

General VAN ANTWERP. OK.

Mr. GIBBS. Do you——

Ms. DARCY. Could I just add to that? In particular, we most particularly want to work with this committee in order to develop this plan because the recapitalization of all of our infrastructure, and particularly in the inland waterways, is just something that we have to look to, to be able to share the cost. And some kind of recapitalization and evaluation of the projects that we have, are they still necessary, they still needed to perform, you know, or are they not needed anymore?

So, also for us to look at the assets we have, and whether we—they're worth another additional Federal investment, and how we're going to share that cost.

Mr. GIBBS. I concur with that. We need to do that. Representative Bishop?

Mr. BISHOP. Thank you, Mr. Chairman. I want to pick up on the issue of environmental benefit versus economic benefit. And I made this point at our last hearing. I represent a district where we recognize that the environment is the economy, the economy is the environment. We have a resort economy that needs a pristine environment.

Isn't it fair to recognize that the—two of the biggest projects the Corps has ever undertaken, the Everglades project and the Louisiana coastal project, are projects that have enormous economic benefit and environmental benefit?

Ms. DARCY. I agree, sir.

Mr. BISHOP. So the two do not have to be mutually exclusive.

Ms. DARCY. No.

Mr. BISHOP. OK. Thank you. I want to go to the issue of the Harbor Maintenance Trust Fund. I want to make sure I understand the issue. Harbor Maintenance Trust Fund was first created in 1986, signed into law by President Reagan.

Ms. DARCY. Correct.

Mr. BISHOP. My understanding is that there is a long bipartisan history of Presidents requesting an annual expenditure from the trust fund in an amount significantly lower than the balance in the trust fund. Is that correct?

Ms. DARCY. Yes, sir.

Mr. BISHOP. OK. For example, in the last budget that President Bush submitted to the Congress, the balance in the trust fund was, at the time he submitted the budget, $5.4 billion. And he requested an expenditure of $729 million.

Ms. DARCY. I am going to trust your facts there, sir.

Mr. BISHOP. Trust them. They're right. And isn't it also true that the Harbor Maintenance Trust Fund operates in a fashion very similar to how the Social Security trust fund operates? That is to

say that revenue comes into the trust fund, an amount of money less than that revenue in a given year is spent on the purpose of the fund. And then, whatever amount is not spent, in effect, reverts to the bottom line and serves to reduce our deficit if we do not fully expend it.

And if we were to fully expend it, we would be increasing our outlays, and therefore, increasing our deficit. Is that correct?

Ms. DARCY. I believe so.

Mr. BISHOP. OK. So, one of the reasons that Presidents have a long bipartisan history of spending less than what's in the trust fund has been an effort at curtailing our total expenditures, and therefore, reducing our total deficit. Is that not correct?

Ms. DARCY. Yes, sir.

Mr. BISHOP. OK. Thank you. I think it's important that we all have that set of facts.

I want to go—I have a little bit of time left—I want to go to an issue that is concerning to me. One of the great debates—that's a hyperbole, it's not a great debate—we are now in an earmark-free environment.

My understanding is that there are four chiefs reports that were undertaken by the Corps for which the Corps has spent $34 million to construct the report. Pardon me, to undertake the reports. But there is no authorization pending to allow the Corps to move from study to construction, and that the authorization of such construction would be considered an earmark. Is that correct, sir?

General VAN ANTWERP. We have four reports with OMB. I have signed the chief reports.

Mr. BISHOP. Right.

General VAN ANTWERP. We have another six that I have signed, the reports that are in the process of moving that direction. And probably another 16 by the end of this calendar year will be in the queue.

Mr. BISHOP. All of which——

General VAN ANTWERP. Have projects associated——

Mr. BISHOP. But all of which lack authorization to proceed to construction. Is that correct?

General VAN ANTWERP. Right. It's pre-authorization at this point.

Mr. BISHOP. OK. So we are significantly at risk of having made a commitment of taxpayer dollars to undertake studies of projects that may well never be constructed if, in fact, we remain in this environment in which the authorization of such construction would be considered an earmark. Is that correct?

General VAN ANTWERP. If those projects never went to the next stage of being authorized and then ultimately appropriated, then yes.

Mr. BISHOP. OK. Thank you. I think I will yield back the balance of my time.

Mr. GIBBS. Thank you. Representative Landry, do you have any other questions?

Mr. LANDRY. General, I just want to ask unanimous consent to enter into the record a correspondence to you with some exhibits supporting that commerce is being impeded in that canal.

[The information follows:]

JEFFREY M. LANDRY
3RD DISTRICT, LOUISIANA

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Congress of the United States
House of Representatives
Washington, DC 20515–1803

March 8, 2011

Lieutenant General Robert L. Van Antwerp
Chief of Engineers
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314

Dear General Van Antwerp:

I am deeply concerned about a vessel which capsized and sank on April 30, 2010 in the Charenton Canal, near Baldwin, Louisiana. As of the writing of this letter, the vessel, Rig HERCULES 61, remains sunk and in the middle of the Canal. According to the complaint filed in civil action 01221 of the U.S. District Court for the Western District of Louisiana, on behalf of the United States Corps of Engineers, "after sinking, the Coast guard and the U.S. Army Corps of Engineers determined the wrecked Rig HERCULES 61 posed a hazard to navigation."

To further quote the Corps' own documents, "the Charenton Canal is a heavily used waterway," and a major artery of commerce, including the exportation of sugar products from three large sugar refineries within the vicinity of the Canal. As such, it is imperative that this hazard be removed, as it continues to strain commerce and cause businesses undue expenses.

The sunken vessel is also in dangerous proximity to a U.S. Hwy 90 bridge which crosses the canal. If you are not aware, US Hwy 90 is a major energy corridor, in addition to being a major hurricane evacuation route for Southeast Louisiana residents. As we begin to come into the spring months, which will lead us into the uncertainties of the Hurricane Storm season, it would be disastrous if this barge was moved by tidal surge into that bridge, cutting off a major route for energy service companies trying to reach the Gulf of Mexico.

Considering all of these concerns and the fact that the Corps and the Coast Guard have already declared this vessel to be a "hazard" to navigation, I do not understand why it is still sitting at the bottom of this canal. Furthermore, I do not understand why the U.S. Corps of Engineers is spending tax dollars to seek a Declaratory Judgment to affirm that it is authorized to remove the wreck and that the liability for that removal rests on the owners and operators of the vessel. The law and precedent are crystal clear in these matters. The Rivers and Harbors Act, 33 U.S.C. 401 et seq., provides all the authority needed. This law has been in effect for decades and there is ample precedent for immediate action by the Corps.

In particular, 33 U.S.C. 414 (a) sets out the clear removal authority of the Corps. It states in part,

> "Whenever the navigation of any river, lake, harbor, sound, bay, canal, or other navigable

> waters of the United States shall be obstructed or endangered by any sunken vessel, boat, water craft, raft, or other similar obstruction, and such obstruction has existed for a longer period than 30 days, or whenever the abandonment of such obstruction can be legally established in a less space of time, the sunken vessel, boat, watercraft, raft or other obstruction shall be subject to be broken up, removed, sold, or otherwise disposed of by the Secretary of the Army at his discretion."

Additionally, according to the same statutory authority, the Secretary of the Army may also solicit bids for the removal to the vessel and award a contract to the bidder making a proposal most advantageous to the United States. I understand that such proposals have been made, and at minimal cost to the U.S. Treasury, but they have not been considered due to the pending litigation. I have also been advised by the Corps of Engineers that this matter is being litigated to insure that the Corps is not held liable for damages or costs associated with removal of the vessel. These concerns are unequivocally unwarranted. The Rivers and Harbors Act, 33 U.S.C. 414, 415, clearly and statutorily mandate that all liability, costs, damages, etc. shall be the responsibility of the vessel owners and operators.

After thoroughly and exhaustively reviewing this matter, I do not understand why a matter, clearly, unambiguously, and statutorily within the discretion of the Secretary of the Army, is being litigated by the Justice Department, or why these matters have been put into the hands of the court, when Congress has expressed its will and given this authority to the U.S. Army Corps of Engineers.

This matter must be resolved expeditiously. This sunken vessel continues to pose and ongoing hazard to navigation in a canal that is vital to the sugar industry of south Louisiana. I am requesting that this matter be investigated and the concerns outlined in this letter be addressed. More specifically, I am requesting that immediate action be taken to remove this vessel from the Charenton Canal. Your immediate attention to this matter would be greatly appreciated.

Respectfully,

Jeff Landry
Member of Congress

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO
ATTENTION OF

CEMVN-OD-T

08 SEP 2010

MEMORANDUM THRU Commander, Mississippi Valley Division

FOR Commander, HQUSACE (CECW-OD), Washington, DC 20314-1000

SUBJECT: Approval Request for Expenditures Exceeding $100,000 to Perform Removal of the Capsized and Partially Sunk Drill Rig HERCULES 61 within the Charenton Canal in the Vicinity of Baldwin, Louisiana

1. Background. On April 30, 2010, the drill rig HERCULES 61 capsized and partially sank within the Charenton Canal approximately ½ mile south of the Highway 90 Bridge in the vicinity of Baldwin, LA at approximately latitude 29-48-46.2 N, longitude 91-33-01.1 W. The incident was reported by the Coast Guard to the US Army Corps of Engineers – New Orleans District on May 2, 2010. The Coast Guard identified the owner and instructed her that it was her responsibility to mark and remove the capsized and partially sunk drill rig immediately.

2. Request.

a. US Army Corps of Engineers - New Orleans District requests approval and funding to remove the sunken drill rig HERCULES 61, which poses a hazard to navigation, within the Charenton Canal approximately ½ mile south of the Highway 90 Bridge in the vicinity of Baldwin, LA at approximately latitude 29-48-46.2 N, longitude 91-33-01.1 W. The Charenton Canal is a primary north/south artery between Bayou Teche, the Gulf Intracoastal Waterway (GIWW), and the Gulf of Mexico. The cost to remove the vessel is expected to exceed $100,000. As required by EP 4-4b, this request includes the case file outlining all documentation required. New Orleans District is forwarding this request in anticipation of the owner not fulfilling her obligation to remove the drill rig.

b. The St. Mary and Iberia Parish areas represent a large portion of the economy of the State of Louisiana. The partially sunken vessel within the Charenton Canal and the subsequent US Coast Guard (USCG) navigational restrictions imposed since the incident occurred are having an impact on the area industries and its citizens. The sugar and oil industry has suffered a severe loss in revenue due to their dependence of using the Charenton Canal to transport their products under the USCG navigational restrictions from 30 April 2010 through 25 July 2010.

c. The Coast Guard eased the navigational restrictions on 26 July 2010 due to the owner's removal of the derrick, which was fully submerged and protruding into the constricted channel. The removal of the derrick has allowed the majority of the commercial traffic to resume, however, the drill rig remains a hazard to navigation. A majority of the channel users are highly concerned that allisions could still occur due to the proximity of the drill rig with respect to the constricted channel.

CEMVN-OD-T
SUBJECT: Approval Request for Expenditures Exceeding $100,000 to Perform Removal of the Capsized and Partially Sunk Drill Rig HERCULES 61 within the Charenton Canal in the Vicinity of Baldwin, Louisiana

3. Point of contact for general information: KC Clark (504) 862-1935. Point of contact for admiralty law issues: Ms. Jan Sutton (504) 862-1951.

EDWARD R. FLEMING
Colonel, EN
Commanding

2 Encls
1. Removal of Wrecks and Other Obstructions Policy
2. Case File

Removal of Wrecks and Other Obstructions Policy: The sequence of events that occur upon the sinking of a vessel are as follows.

a. Step 1: First, a determination is made as to whether the vessel represents a Hazard to Navigation. The Code of Federal Regulations, 33 CFR Part 245.20, states that "Upon receiving a report of a wreck or other obstruction, District Engineers will consult with the Coast Guard District to jointly determine whether the obstruction poses a hazard to navigation". The location map within the case file clearly shows that the capsized and partially sunken drill rig obstructs and restricts the general navigation within the Charenton Canal. Both the New Orleans District and the Coast Guard agree that the drill rig represents a Hazard to Navigation. The case file details the coordination between the New Orleans District and the Coast Guard in this regard and details the factors to be considered in determining if the partially sunken drill rig is a hazard to navigation.

b. Step 2: Consideration is given as to the timeliness of the removal. Depending on the criticality of the situation, a decision has to be made as to how much time can be allotted to the owner to remove the drill rig. For this occurrence, the owner was notified by certified mail, dated May 7, 2010, that the drill rig must be removed and to provide a salvage plan no later than May 14, 2010. The owner requested and was granted an extension to May 28, 2010 to submit a salvage plan. As of the date of submission of this request, the owner has not submitted an adequate salvage plan and does not appear to plan on removing the drill rig. Since the time of its sinking, the sugar and oil industries have sent numerous requests for action and have advised the Corps that they are incurring significant losses due to the partially sunken drill rig. In the interim, the Coast Guard office in Morgan City has assured us that they are monitoring the situation and have had a Safety Zone in effect since the sinking. Initially, from April 30, 2010 to May 6, 2010 the canal was completely closed to all navigation. Currently, the Safety Zone in place in the Charenton Canal prohibits all vessel movements within 1000 yards of the drill rig without authority from the Coast Guard. Vessels less than 35 feet wide and 11 feet in draft or less and tows 35 feet wide and 11 feet or less in draft with only one barge may be authorized to proceed at any time during day or night. Vessels greater than 35 feet but not more than 54 feet and 11 feet in draft or less may be allowed to proceed with one barge at a time with lookouts on all corners of the barge during daylight hours only (civil twilight). The Charenton Canal is a heavily used waterway. The Coast Guard has notified us that the drill rig must be removed and they are awaiting our decision concerning removal. Removal is necessary for the protection of life, property, and removal of a serious impediment to navigation, authority under "Section 19" of the River and Harbor Act of 1899, as amended (33 United States Code, Sections 409 and 411-415 (a.k.a. "the Wreck Act", 33 USC 409, 411-415)).

U.S. Army Corps of Engineers Documentation for Vessel Removal as Required by EP 1130-2-520, Para. 4-4c:

Item 4-4 (c) (CASE FILE)

(a) Location of Obstruction: The Charenton Canal is approximately ½ mile south of the Highway 90 bridge in the vicinity of Baldwin, LA at approximately latitude 29-48-46.2 N, longitude 91-33-01.1 W. (Location of drill rig - Enclosure a)

(b) Method of Locating: The drill rig is capsized and partially sunk; therefore, a large portion of the rig is highly visible above the waterline. MVN dispatched a hydrographic survey vessel to the site to verify to what extent the sunken portion of the drill rig extends into the canal. The survey data was utilized by the US Coast Guard to determine the navigation restrictions within the Safety Zone. Currently, the Safety Zone in place in the Charenton Canal prohibits all vessel movements within 1000 yards of the drill rig without authority from the Coast Guard. Current traffic restrictions are as follows. Vessels less than 35ft wide and 11 feet in draft or less and tows 35 feet wide and 11 feet or less in draft with only one barge may be authorized to proceed at any time during day or night. Vessels greater than 35feet but not more than 54feet and 11ft in draft or less may be allowed to proceed with one barge at a time with lookouts on all corners of the barge during daylight hours only (civil twilight). Vessels falling outside of these categories will be considered on a case by case basis, and may be required to submit a comprehensive plan. Traffic may be authorized in either a north or south bound direction, with only one direction moving at a time.

(Photograph of drill rig in the canal - Enclosure b1); (Hydrographic survey - Enclosure b2); (Multi-beam and Side-scan sonar survey - Enclosure b3)

(c) Description of Obstruction: The drill rig is made of steel construction and is approximately 209 feet in length, 54 feet in width, 13 feet deep and weighs 1,964 tons. The height of the superstructure is approximately 72 feet.

(d) Identification of Vessel: The drill rig HERCULES 61, official number 595114, was built for The Offshore Drilling Company in Orange, Texas and was completed in 1978. (Certificate of documentation - Enclosure d)

(e) Date and Description of Incident and Sinking: The HERCULES 61 capsized and partially sank in the Charenton Canal on April 30,

2010. The Coast Guard reported the sinking to MVN Operations Division on May 2, 2010. The owner stated that she had purchased the drill rig and was having it towed to her business in the Charenton Canal when the incident occurred. The Coast Guard was notified about the situation and established a Safety Zone and took the necessary action to safeguard the area and have the owner appropriately mark the drill rig. (Status Report - Enclosure e1); (Talking Points and Events - Enclosure e2)

(f) Identification of owner, operator or lessee: The Coast Guard identified the owner of the drill rig HERCULES 61 as Ms. Tina Moore. The company name of ownership is T Moore Services, LLC, P O Box 590, Franklin, LA. 70538. The drill rig was purchased from The Offshore Drilling Company by T Moore Services LLC, on April 5, 2010. The 3 vessels involved with the transportation of the HERCULES 61 immediately prior to its sinking are the M/V ZIP II, the M/V CAPT. VINCE, and the M/V TALTON. The owner of the M/V ZIP II is identified as Rentrop Tugs, Inc. The owner of the M/V CAPT. VINCE is identified as Dupre Marine Transportation, Inc. and T & R Tugs, LLC. The owner of the M/V TALTON is identified as Mallard Towing, LLC. (HERCULES 61 Bill of sale - Enclosure f)

(g) Summary of Consultation with Coast Guard:

Coast Guard Point of Contact:

OSCS Jim Armstrong, Assistant Chief of Waterways, U.S.C.G, Marine Safety Unit, Morgan City, (985)397-2778

David Ledet, U.S.C.G. Marine Information Center, New Orleans, (504)671-2116

Coast Guard letter to the owner (Enclosure g1) and Coast Guard letter to the Corps of Engineers requesting immediate removal (Enclosure g2)

All hazard to navigation factors:

Hazard to Navigation Determination (Enclosure g3)

Remedial Actions Done or Planned:

USCG Marine Safety Unit Morgan City is monitoring the situation. Captain of the Port (COTP) Morgan City has established a Safety Zone within 1000 yds of the sunken rig. Owner placed USCG approved lighting on the drill rig.

Rationale For Decision: The drill rig has impeded the flow of normal traffic; has increased a liability for all tows traveling in the area and has endangered life, health and property. (Letter from Senator Vitter to Col. Lee and Col. Lee's response - Enclosure g4); (Letter from Sterling Sugars, Inc. to Col. Lee and Col. Lee's response - Enclosure g5); (Letter from St. Mary Parish Council to Col. Lee and Col. Lee's response - Enclosure g6); (Letter from Sunrise Marine Service, LLC to St. Mary Parish Council - Enclosure g7); (Email from Gulf Craft, LLC - Enclosure g8); (Email from St. Mary Sugar Cooperative, Inc. - Enclosure g9); (Email from Five Star Fuels, LLC - Enclosure g10); (Email from Big "R" Towing, Inc. - Enclosure g11); (Email from Diversified Enviro Products & Services, Inc. - Enclosure g12); (Email from Gulf Craft, LLC - Enclosure g13); (Email from Big "R" Towing, Inc. - Enclosure g14); (Email from St. Mary Sugar Cooperative, Inc. - Enclosure g15); (Email from Cajun Sugar Co-op - Enclosure g16); (Letter from Cajun Sugar Cooperative, Inc. to Col. Fleming and Col. Fleming's response - Enclosure g17); (Letter from Senator Landrieu to Col. Lee (Fleming) and Col. Fleming's response - Enclosure g18)

(h) Signature of Decision Authority: Col. Edward R. Fleming, New Orleans District, District Commander, (504) 862-2077

(i) Documentation Establishing Abandonment: The lapse of 30 days with no action is sufficient legally to establish abandonment. However, USACE policy is to provide 30 days after notification to the owner of their legal obligation. Owner was notified by certified mail, dated May 7, 2010, of her obligation to remove the drill rig. Therefore, the criteria is met to establish abandonment.

(j) Authority Site: Section (19) of the River and Harbor Act of 1899, as amended (33 United States Code, Sections 409 and 411-415 (a.k.a. "the Wreck Act", 33 USC 409, 411-415))

(k) Cost Estimate/Schedule: The owner has provided us a list of estimates, which we have confirmed, ranging from $1.5 million to $8 million. (Cost estimates - Enclosure k)

(l) Procurement Documentation: MVN plans to advertise and award a removal contract.

(m) Final disposition, data cost and disposal: NOD will submit upon completion of vessel removal an assembly of all costs.

(n) Copies of Certified Letters to Owner: Initial Certified Letter to Owner (Enclosure n1), was dated May 7, 2010 and

received May 11, 2010; Second Certified Letter to Owner (Enclosure n2), was dated June 29, 2010 and received July 6, 2010.

CEMVN-OD-T 19 May 2010

MEMORANDUM For Record (CEMVN-OD)

SUBJECT: Drill Rig Hercules 61, wreck; Determination of Hazard to Navigation and remedial actions, Charenton Canal, vicinity of Baldwin, LA.

1. The purpose of this memorandum is to document the determination of whether the subject vessel presents an obstruction or a hazard to navigation. Also included are the recommended remedies. The below definitions are based on 33 CFR Part 245.5.

a. **OBSTRUCTION**: Anything that restricts, endangers, or interferes with navigation.

b. **HAZARD TO NAVIGATION**: An obstruction, usually sunken, that presents sufficient danger to navigation so as to require expeditious, affirmative action such as marking, removal, or redefinition of a designated waterway to provide for navigational safety.

2. Applicable regulations and inter-agency agreements:

- 33 CFR Part 245 Removal of Wrecks & Other Obstructions
- ER 1130-2-520 Chap 4 Removal of Wrecks & Other Obstructions
- ER 1130-2-520 App B – MOA between Army & USCG
- EP 1130-2-520 Chap 4 Removal of Wrecks & Other Obstructions
- Local MOA with USCG

3. The partially sunken drill rig Hercules 61 was reported to the USACE on 2 May 2010 by the USCG. OD-T consulted with the USCG, investigated the wreck, and made the following findings. Ten factors, as listed in 33 CFR Part 245.20, were considered in making the determination:

a. Factor 1: Location of the obstruction in relation to the navigable channel and other navigational traffic patterns. Finding: *The wreck is partially sunk in the Charenton Canal, approximately ½ mile south of the Highway 90 bridge, in the vicinity of Baldwin, LA, at approximately 29-48-46.2 N, 91-33-01 W.*

b. Factor 2: Navigational difficulty in the vicinity of the obstruction. Finding: *The USCG closed the Charenton Canal to navigation within a 1000 yard radius of the sunken vessel from the time of the sinking on 30 April 10 to 6 May 10. From 6 May 10 to 13 May 10, the USCG opened the canal to one-way traffic during daylight hours only. In order to be authorized to proceed through the safety zone, vessels shall not exceed 8 feet in draft or 35 feet in width. In addition, tugs shall not push more than one barge. On 14 May 10, the draft restriction was increased to 10 feet. These transits will take place as approved by Coast Guard Vessel Traffic Personnel on scene.*

c. Factor 3: Clearance or depth of water over the obstruction, fluctuation of water level, and other hydraulic characteristics in the vicinity. Finding: *The vessel is capsized and partially sunk on its side in approximately 25 feet of water. A large portion of the vessel is visible above*

Encl g3

the waterline. The tidal fluctuation in the area is approximately 2 feet.

d. Factor 4: Type and density of commercial and recreational vessel traffic, or other marine activity, in the vicinity of the obstruction. Finding: *Charenton Canal is a moderate to heavy traffic area. Tugs, tows, fishing and recreational vessel traffic navigate the channel where the vessel is sunk.*

e. Factor 5: Physical characteristics of the obstruction. Finding: *The drill rig is made of steel construction and is approximately 209 feet in length, 54 feet in width, and 13 feet deep. The height of the superstructure is approximately 72 feet.*

f. Factor 6: Possible movement of the obstruction. Finding: *Due to the vessel size and being of steel construction, it is unlikely that there will be any movement of this vessel.*

g. Factor 7: Location of the obstruction in relation to existing aids to navigation. Finding: *A check with the USCG revealed that there are no existing aids to navigation in the immediate area.*

h. Factor 8: Prevailing and historical weather conditions. Finding: *This area is directly affected by thunderstorms, waterspouts, tropical storms, and hurricanes.*

i. Factor 9: Length of time the obstruction has been in existence. Finding: *The vessel sank on 30 April 2010.*

j. Factor 10: History of vessel accidents involving the obstruction. Finding: *As of 19 May 2010, no accidents were reported to the USACE which involved this wreck.*

k. Other Factors: *The Charenton Canal is a primary north/south artery between Bayou Teche, the Gulf Intracoastal Waterway (GIWW), and the Gulf of Mexico. The partially sunken drill rig is forcing the USCG to set restrictions in the canal which are seriously impacting industry located in the Charenton Canal, Bayou Teche, and the GIWW. The USCG restrictions limit the size of vessels which are allowed passage through the wreck site. These restrictions will remain in effect until the drill rig is removed. The impact of the sunken drill rig is being felt across St. Mary Parish.*

4. The findings above support an Agency determination that the sunken vessel is a **HAZARD TO NAVIGATION** which the owner is responsible to remove. The Coast Guard consultation also resulted in a determination that the selected remedial actions are appropriate remedies with 33 CFR Part 245.25, as shown parenthetically (or "in brackets"):

a. No action: [see actions b, c, d, e, and f below]

b. Charting: [USCG]

c. Broadcast notice to mariners and publication of navigational safety information: [USCG]

Sterling Sugars, Inc.
611 IRISH BEND ROAD
Franklin, La. 70538

May 27, 2010

Colonel Alvin B. Lee
District Commander
U.S. Army Corps of Engineers
New Orleans District
P.O. Box 60267
New Orleans, LA 70160

Subject: Hazard to Navigation in the Charenton Drainage and Navigation Canal, near Franklin, LA

Dear Colonel Lee,

On or about April 23rd a drilling vessel sank in the Charenton Drainage and Navigation Canal near Franklin, LA. To date, no visible action has been taken by the responsible party, T. Moore Services, LLC, to remove this hazard to navigation and it continues to pose a significant risk to any and all commercial vessels transiting this area. Under the emergency guidelines of Title 33, Code of Federal Regulations, Part 245.50 we ask that you as the District Commander and Engineer for this area of responsibility, remove this sunken vessel immediately before another vessels strikes the obstruction and potentially breaches their hull and leaks oil into the waterway or sinks solely as a result of this vessel posing a serious hazard to navigation.

As you may or may not know, this area represents a large portion of the economy to the State of Louisiana and is the economic life blood of this area and its citizens. A conservative annual revenue from sugar alone is approximately $150,000,000.00, with all shipments being made through this navigation canal. Currently with the hazard to navigation and risk to all commercial traffic as it currently sits well within the navigable waterway, we have had to cut our operations by 60%. Each week that passes with this vessel obstructing traffic, our shipping schedule is being delayed. Each barge is valued at $750,000.00, of which three barges per week were scheduled to be shipped. Additionally, we are having to incur interest cost on these lost revenues.

Currently, this vessel is not even properly marked and lighted to properly warn all other vessels in the area of its location. The possibility exists that the owner of this sunken vessel does not have the insurance or the funds to have this vessel

removed immediately. This is of great concern to us and no doubt all other commercial vessels operating in this area. To those business interests in the St. Mary and Iberia Parish areas, it would seem that we have been forgotten all together as a result of the ongoing oil spill in the Gulf of Mexico.

Again, we petition you as the District Engineer to direct the immediate emergency removal of this sunken vessel from the navigable waterway under the authority granted you by Title 33 Code Federal Regulations, Part 245.50. Should you have any questions, please feel free to contact me at 337-519-3488.

Sincerely,

Rivers M. Patout
Vice President/General Manager

cc:
The Honorable Mary Landrieu, U.S. States Senate
The Honorable David Vitter, U.S. States Senate
The honorable Charles Melancon, U.S. House of Representatives
The Honorable Bobby Jindal, Governor of the State of Louisiana
Commander Patrick Ropp, U.S. Coast Guard Alternate Captain of the Port

Sunrise Marine Service, LLC
107 Tyler Lane
Franklin, LA 70538
Phone: 337-828-0050
FAX: 337-828-0046
www.sunrisemarineservice.net

24 June 2010

Members, Parish Council
St. Mary Parish, LA.
101 Wilson St.
Franklin, LA. 70538

Re:

Sunrise Marine Service, LLC

Economic Impact resulting from closure of Charenton Drainage Canal due to capsizing of T-Moore Services salvage rig

On the morning of April 29th, 2010, an inland barge drilling rig, owned by T-Moore Services, 257 Tyler Lane, Franklin, LA., was towed into the Charenton Drainage Canal and secured at T-Moore Services. The purpose of moving the rig to that location was for the dismantling and salvage of the rig hull, structure, and equipment. Upon arrival the towed rig was tied to an ongoing salvage of another rig already there on the east bank of the canal. The hull of the barge had significant loss of structural integrity due to corrosion and rust. The seaworthiness of the barge was a known concern upon moving the rig to this location and was not a new development. The barge was taking on water and was being pumped while en-route from its previous location. Shortly after arrival the rig capsized onto its port side into the navigable channel of the Charenton Drainage Canal. As a result, the ongoing salvage barge, the capsized rig, and the fleeting of loaded sugar barges on the west bank of the canal effectively blocked the free movement of all marine traffic.

Due to the rig blocking the navigable channel of the canal, the U.S. Coast Guard (CG) determined it to be a hazard to navigation and immediately halted all vessel movement into and out of the Charenton Drainage Canal while conducting investigation and appraisal of the incident.

Encl g7

Restricted vessel movement has since been restored to its present state. Vessel movement is restricted to single tug/barge of maximum width of 35 feet and 10 feet draft during "daylight only" hours from 6:30 am to 6:30 pm, monitored and controlled by a USCG vessel traffic controller.

Sunrise Marine Service, LLC, located at 107 Tyler Lane, Franklin, LA., approximately 1/3 mile upstream of T-Moore Services, was immediately impacted. The M/V Louisiana Sunrise was secured at the Sunrise dock with two barges loaded with well servicing equipment for a job beginning Monday, May 3, 2010 at Lake Sands Field in West Cote Blanche Bay, Iberia Parish, LA. This equipment was intended for two well service jobs in the Lake Sands Field and another to immediately follow in Four League Bay, Terrebone Parish, LA. Due to the traffic restrictions these jobs were cancelled on May 1, 2010 and re-assigned to other vendors. These jobs would have required the use of the M/V Louisiana Sunrise, a deck barge, spud barge, and a Sunrise Marine crew/workboat the Sunrise 105. Sunrise Marine Service LLC suffered immediate loss of revenue from the above mentioned marine equipment in addition to daily dock revenues from this and other Sunrise Marine Services customers utilizing the dock.

The revenue for the actual losses is structured as follows:

Renaissance Petroleum Co, LLC

Wireline/Swab/ Well Work

M/V Louisiana Sunrise	$ 2100.00 / day
Spud barge	500.00 / day
Deck Barge	120.00 / day
Crew Boat Sunrise 105	950.00 / day
Dock Usage	50.00 / day
Average Daily Dock Services	500.00 / day
Average Daily Fuel Sales	225.00 / day
Total Daily Revenue	$ 4445.00 / day

Estimated Duration of Jobs Lost 21 days x $4445.00 = $93,345.00

In addition to the canceled well service jobs, there were two planned work over of wells to start upon completion of the well service work that was pending and canceled. For an additional two weeks of work for the same equipment.

Total Daily Revenue $ 4445.00 / day

Estimated Duration of additional Jobs Lost 14 days x $4445.00 = $62230.00

Estimated Total Loss Revenue $155,575.00

Gulfport Energy Corp.

Gulfport Energy Corp. utilizes Sunrise Marine Service, LLCs dock to load and unload well service trucks almost daily. Average revenue from Gulfport Energy Corp is approximately $550.00 per use. Average weekly use for Gulfport Energy is 6 per week. On the morning of April 29, 2010, Gulfport had two tugs with barge(s) en- route to Sunrise Marine Service, LLC for loading/unloading trucks and equipment. The tugs were routed to other facilities due to the blockage and vessel traffic being halted as a result of the capsizing of the rig at T-Moore Services.

Estimated revenue loss from April 29, are $1350.00

Average est. loss of subsequent work $3300.00 / wk

Duration of losses 3 weeks, 3 x $3300.00 = $9900.00

McMoran Oil & Gas LLC

McMoran Oil & Gas LLC utilizes Sunrise Marine Service dock facilities as a base of production operations for their Bayou Carlin Field, St. Mary Parish, LA. Loss of revenue for this field was minimal but estimates for normal operations loss are approximately $1500.00 total.

Sunrise Marine Service, LLC has since experienced limited daily operations of varying consequence due to vessel traffic restrictions. The prolonged removal of the capsized rig does and will continue to affect present and future operations. Customers have to move operations to other facilities at increased costs due to increased travel time and distance to the next available facilities with similar capabilities of Sunrise Marine Service, LLC dock.

Total estimated revenue losses are presently at $166,975.00.

Sunrise Marine Service LLC is presently awaiting the arrival of an imminent drilling operation that is projected to use Sunrise Marine Service dock facility as a base of operations. This project is a significant operation with estimated duration of 6-8 months at an average daily cost of $850.00 per day for dock services, not including overtime and weekend rates which are estimated to be an additional $2,000.00 per week at approximately 8 weeks over the duration of the project. Additionally, if Sunrise Marine Service, LLC is awarded the bid for the marine equipment package, revenue for this job could be an additional $7,500.00-8,500.00 per day. The capsized rig and vessel restrictions WILL absolutely undermine Sunrise Marine Service LLCs, consideration as a contender for this work.

The projected revenue for this project if awarded the complete package is estimated to be approximately $2,238,240.00 not including fuel and incidentals.

The sinking and capsizing of the rig in the Charenton Drainage Canal and the affect of the vessel traffic system restrictions as a result of it not being remedied is having a definite detrimental impact on Sunrise Marine Services ability to do business as usual. It is further affecting Sunrise Marine Service LLC's future business prospects and plans to develop additional properties purchased for expansion of Sunrise Marine Service, LLC and the impending move of its sister company Aztec Pipe Inc. to our location at 107 Tyler Lane. The restrictive conditions of operation are immediately hampering efforts to move forward with these expansions as growth for our companies, as an outlet for additional workers employment in the Franklin and surrounding area and also as an additional source of revenue and taxation to the City of Franklin and St. Mary Parish, LA.

In closing, Sunrise Marine Service LLC is seeking assurance and confirmation that this issue will be resolved in a way that our business as well as others that are affected on the Charenton Drainage Canal and Bayou Teche will be able to continue business as planned. Through no fault of our own we are being affected by the negligent actions of others with no resolution in sight. In this day and age it is completely unacceptable to be subject to such an incident without cause for repair and remediation. As of today, it is 57 days and counting and no one has seen fit to present information to the plan and timeline for the removal of the hazard to navigation. Consequently, we are suffering irrecoverable harm and losses, while the party(s) responsible for this situation, continue to do business as usual with no apparent ill effects from their actions. Specifically, T-Moore Services has not missed or otherwise been affected by any losses or shutdowns to daily operations, yet, others are. It is completely incomprehensible that no one, in a position of authority and responsibility feels the severity and urgency to repair this problem while the responsible party goes about business as usual with no apparent regard for the damages caused.

As an employer, a tax source, a resident, and neighbor, we feel completely abandoned and left to flounder in frustration at the total absence of progress that reflects the solution to removing this obstacle to all our livelihoods and businesses.

X

Gary F. Johnson
Member, Sunrise Marine Service, LLC

Gulf Craft is building a new shipyard on the Charenton Canal in order to meet the demands of its customers for larger vessels. These larger vessels cannot be built at the current location in Patterson, LA on the Bayou Teche due to waterway constraints (draft, lock width and bridge clearance). The new shipyard is located on the Charenton Canal which has a average width of approximately 300' and an average depth of 30'. The new shipyard will cost approximately $10,000,000 to construct, of which Phase I (dirt work, building pads, bulk heading, slip construction, drainage, etc.) is currently under construction at a cost of $2.75 million. Phase II, which consist of constructing the buildings and office, is under consideration at the present time.

However, now that a drilling rig has capsized in the Charenton Canal and severely restricted passage in the canal, severe economic damage is taking place. At a cost of $7 million to complete the shipyard and the rig blocking the canal, we are leaning more to delaying the completion of the shipyard construction. This delay in completing the shipyard interprets into a major negative economic impact.

Gulf Craft currently employs 85 people at the Patterson location with an average weekly payroll of $95,000 and was planning to employ 120 people at the Charenton Canal site with an average payroll of $135,000. The Charenton Canal site will allow Gulf Craft to deliver an average of 3 vessels per year for a total contract value of approximately $50,000,000. This is revenue that we will not be able to generate at the old location.

If this rig is not removed immediately, we will have no other choice but to cease construction of the ship yard resulting in a direct loss of approximately 50 – 75 construction jobs and a loss of approximately $6 - $7 million in transactions related to the construction. With the inability to deliver our vessels due to the rig blocking the canal we will be losing contracts valued between $40 - $50 million dollars annually. Due to the loss of contracts we will have to decrease our expenses in order to remain operational. One such expense cut will be employment terminations. These are choices we hope not to make.

It is imperative that this rig be removed immediately in order to eliminate the demise of Gulf Craft. Our family has plans to invest millions to expand the operations of Gulf Craft and we have hundreds of families that are depending on us for employment. Our customers too, are also relying on us to meet the market demands of larger vessels to support the offshore oil industry.

PLEASE EXPEDITE THE REMOVAL OF THE RIG.

Thank you.

Scotty Tibbs II
VP - CFO

Gulf Craft, L.L.C.
3904 Hwy. 182W
Patterson, LA 70392

Tel. (985) 395-5254
Fax (985) 395-3657
Cell (985) 397-2861

Gulf Craft, L.L.C.
Custom Builders of Aluminum Boats
Committed to Quality and Service

Encl g8

-----Original Message-----
From: David Thibodeaux [mailto:dthibodeaux@stmarysugar.com]
Sent: Thursday, June 24, 2010 11:48 AM
To: Edgar Dugas III
Subject: Charenton Canal

Hello Edgar,
As per our telecom this A.M. and our numerous discussions regarding the partially sunk drilling rig barge incident that took place in the Charenton Canal on April 30, 2010, please review the following:

It has been fifty-five (55) days since this incident has taken place & although numerous plans have been discussed with a number of entities involved, nothing has been accomplished to this date regarding the removal of this rig. The status of this partially sunk drilling rig has not changed since the first day of this incident.

St. Mary Sugar Cooperative, Inc. has been in operation in St. Mary Parish since 1946, sixty-four (64) years to be exact. We currently generate revenues that exceed $60,000,000 annually with a current payroll that exceeds $5,000,000 annually. Our property taxes paid to St. Mary Parish exceeds $400,000 annually.

All of our raw sugar is currently shipped by barge to the Domino Sugar Refinery in Chalmette, La. This is accomplished by utilizing the waterways of Bayou Teche,
Charenton Canal, Intracoastal Waterway, and the Mississippi River. On average, we ship approximately seventy-five (75) to eighty (80) barges per year, starting in October of each year thru August – September. As of this date, we have shipped forty-five (45) barges and have thirty (30) barges left to ship in order to empty our warehouses by September, in time to commence our grinding operations that is scheduled to begin on October 1, 2010.

When the Charenton Channel was temporarily closed and then reduced to an eight foot (8') draft restriction by the U.S. Coast Guard, we were forced to ship sugar by truck and load 8' draft barges which resulted in approximately $10,000 of additional freight expenses for doing same. It is imperative that this channel remain open to allow us to complete our shipments of our product in order to honor our contract commitments. Closing the channel for the removal of this rig will result in alternative measures in the way we will have to ship our sugar, thus resulting in more additional costs. My question is, who will help us pay for all these additional costs?? Not knowing a plan of action makes it difficult for us to plan our business, which hopefully I have illustrated, is always ongoing!

If you have any questions and/or problems, I can be reached at 337-276-6761 and/or 337-519-2439.

Best Regards
David Thibodeaux
General Manager

6/28/2010

Encl g9

FIVE STAR FUELS LLC

Five Star Fuels LLC located at 163 Gordy Rd. in Baldwin Louisiana was completed in September 2009. Of the $3 million investment, $2.1 million was financed with Go Zone Bonds through The Industrial Development Board of the Parish of St. Mary, State of Louisiana.

Five Star Fuels is a diesel fuel terminal located on the west bank of the Charenton Canal immediately north of the railroad track. We receive barges of diesel from Placid Refining in Port Allen Louisiana in 30,000 barrel barges (54' wide x 290' long, 10' draft). We ship this diesel out via truck through a network of distributors for sale to the agriculture, marine, oilfield and retail markets. The recent construction of this terminal reduced truck hauling mileage by 160 miles per load. Dugas Oil Co. Inc. in Franklin Louisiana is a jointly owned company of Five Star Fuels and is the primary customer of this facility. Dugas has been in business for 74 years in Franklin.

The restricted barge passage (35' wide x 10' draft – 12 hrs/day – 1 barge at a time) affects us in the following ways:

- Increased frequency. The number of times we must navigate around the existing underwater obstructions increases because we are using smaller barges.
- Increased Time. The time involved to unload 2 smaller barges is twice as long as unloading 1 larger barge. It is very time consuming to hookup and disconnect a barge.
- Increased Handling. The risk of an accident increases tremendously the more the product is handled.
- Increased Cost. An increased cost of approximately $500/day due to higher freight rates charged by the tow company's for the use of smaller barges and the increased time to discharge. If we have to resort back to trucking as we did for the time period 5/1-5/31/2010 this additional expense would almost double to nearly $1,000/day.

The receipt of this fuel by barge to be trucked out is our sole source of income at this facility and was the sole purpose of the construction of this terminal less than a year ago. By losing the unrestricted ability to navigate the Charenton Canal it has placed an unnecessary burden on us and any extended or complete closure will force us to close this brand new $3 million facility which would lead to employee layoffs and would place a tremendous financial burden on a very strong, well established local company.

Your expedited attention to the complete removal of this rig is requested.

Sincerely,

Edgar Dugas III
Five Star Fuels LLC
337-828-1182, extension 211

Encl g10

BIG "R" TOWING, INC.

7233 Hwy 87
Jennerette, la. 70544
Phone 337-923-7510
Fax 337-923-2339
Bigrtowing@aol.com

June 28,2010

Re: Charenton canal

This is to state problems and obstacles that my company has had to deal with and will continue to deal with for how long?
Every week I am loosing 24 - 36 hours of running time on my tug, due to curfew and restrictions on length of tow. I have had to put a second tug on insurance and hire another complete crew to assist this job and keep up with the schedule of the mills.
Also, since my customers are worried about a collision with the sunken barge, I have had To increase my insurance coverage. Which means I had to increase it on the whole fleet, since underwriters do not allow increases on an individual vessel.
We were promised piling clusters and lights to navigate around the sunken ring so we could have 24 hour navigation. This was weeks ago, what happened?
Due to contracts already in place, I am not able to pass any of this increase on the my customers. This is all out of my pocket.

Thank you,

Neal Roberts
Big "R" Towing

Encl g11

Cajun Sugar Cooperative, Inc.

Manufacturers of Raw Sugar and Black Strap Molasses
2711 Northside Road
New Iberia, Louisiana 70563
Phone: (337) 365-3401 Fax: (337) 365-7820

PRESIDENT
FRANK MINVIELLE
VICE PRESIDENT
ANTHONY JUDICE
SECRETARY
DONALD SEGURA
TREASURER
ALFRED T. LANDRY

DIRECTORS
BURT OUBRE
KEVEN GONSOULIN
RAYMOND HEBERT
GRADY BURNETTE
EDMOND BROUSSARD
RICKY JUDICE
KERRY FREYOU

August 2, 2010

Colonel Edward R. Fleming
District Commander
U.S. Army Corps of Engineers
New Orleans District
P.O. Box 60267
New Orleans, LA 70160

Subject: Hazard to navigation in the Charenton Drainage and Navigation Canal, near Franklin, LA

Dear Colonel Fleming,

As you may have heard, a drilling vessel sank in the Charenton Drainage and Navigation Canal in Baldwin, LA on or about April 23rd. To this date the responsible party, T. Moore Services, LLC, has taken no visible action to remove this vessel. This poses a significant risk to any and all marine traffic traveling this waterway. Under the emergency guidelines of Title 33, Code of Federal Regulations, Part 245.50, we ask that you as the District Commander and Engineer for this area of responsibility, remove this sunken vessel immediately. This sunken vessel poses an underwater hazard that another vessel traveling this waterway may possibly strike and potentially breach their hull possible releasing hazardous material, and or sinking solely as a result of this sunken vessel. This is posing a serious hazard to the navigation of this waterway.

As you are aware, this area represents a large portion of the economy of the State of Louisiana and is the economic life blood of this area and its citizens. The sugar industry alone has an annual revenue of approximately $150,000,000. Al of these shipments of sugar are made via this navigational canal. With the hazard to navigation and the risk to marine traffic as the sunken vessel is well within the navigable waterway, we will be forced to reduce our shipments. Each barge load of sugar is valued at approximately $750,000. If we are forced to reduce our shipments, we will have to increase our storage area or haul the sugar by other means. Either way we will incur an unneeded expense.

TOMMY THIBODEAUX, GENERAL MANAGER
JANCE WEBER, OPERATIONS
SEAN KIDDER, DIRECTOR OF FINANCE

DENIS DUBOULAY, PLANT MANAGER
JARON DURKEE, CHIEF ENGINEER
VICTOR LAMADRID, CHIEF CHEMIST

Cajun Sugar Cooperative, Inc.
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PRESIDENT
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DIRECTORS
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EDMOND BROUSSARD
RICKY JUDICE
KERRY FREYOU

Currently, it is our understanding that this vessel is not properly marked and lighted to warn all other vessels in the are of its location. The possibility exists that the owner of this vessel does not have the funds or the insurance required to remove it immediately. This is of great concern to us and no doubt all other residents and businesses operating in this area. To those businesses in the St. Mary and Iberia Parish areas, it would seem that we have been forgotten as a resu of the oil spill in the Gulf of Mexico.

Again, we petition you as the District Engineer to direct the immediate emergency removal of this sunken vessel from the navigable waterway under the authority granted you by Title 33 Code of Federal Regulations, Part 245.50. Should you have any questions, please feel free to contact me at (337) 365-3401 ext. 116.

Sincerely,

Tommy Thibodeaux
General Manager

Cc:
The Honorable Mary Landrieu, U.S. Senate
The Honorable David Vitter, U.S. Senate
The Honorable Charles Melancon, U.S. House of Representatives
The Honorable Charles Boustany, Jr., U.S. House of Representatives
The Honorable Bobby Jindal, Governor of the State of Louisiana
Colonel Alvin B. Lee, U.S. Army Corps of Engineers

MMY THIBODEAUX, GENERAL MANAGER
NCE WEBER, OPERATIONS
SEAN KIDDER, DIRECTOR OF FINANCE

DENIS DUBOULAY, PLANT MANAGER
JASON BURKE, CHIEF ENGINEER
VICTOR LAMADRID, CHIEF CHEMIST

Mr. LANDRY. I also, just real quickly, want to clear up a couple of matters. Who is your chief legal counsel, General? I mean who do you——

General VAN ANTWERP. We have our own legal counsel. His name is Earl Stockdale. He is the chief legal counsel for the Corps.

Mr. LANDRY. And I guess my only question—so that you understand a bit of my rub—is that as I try to work through the Corps' legal strategy, I ask them for correspondence between you all and the Department of Justice, because you mentioned you all are in litigation. I'm guessing the Plaintiff in the case is the Federal Government. Wouldn't you agree?

[No response.]

Mr. LANDRY. I mean you all are representing the Federal Government?

General VAN ANTWERP. Well, it probably is. Department of Justice has the case. It was remanded to them from the New Orleans District, so——

Mr. LANDRY. I guess—they told me I wasn't allowed to see the correspondence between the Corps and DoJ because it was a matter of client-attorney privilege, and I am trying to understand what exactly my position as a Congressman is in this litigation.

Could you just visit with Earl on that, and see——

General VAN ANTWERP. I will, I——

Mr. LANDRY. OK.

General VAN ANTWERP. I will do that.

Mr. LANDRY. Thank you so much.

General VAN ANTWERP. Thank you, Congressman. Thank you.

Mr. GIBBS. Representative Cravaack, do you have any——

Mr. CRAVAACK. Thank you. I wish Mr. Reed was here, and so I could explain to him that he got straight answers because you did come from West Point. So that's probably why he got the straight answers he wanted.

Also, being in the military myself, I understand about doing more with less, and we always seem to never get what we need to accomplish the mission. And if I can, sir, give a shout out to Colonel Price and Tamara from the St. Louis District, who have been very responsive to our requests trying to get a mine open in the Eighth District of Minnesota.

With that, ma'am, I would like to ask you a question. And I ran out of time, so I will try to be a little bit—I have a couple of questions that hopefully won't go into a third round here. But regarding the $7 billion that are in reserve—and the ranking member kind of gave me a segue into this—basically, there is no real $7 billion, is there?

Ms. DARCY. I'm not sure what your question is.

Mr. CRAVAACK. Is there $7 billion in a bank account somewhere for the Harbor Maintenance Trust Fund?

Ms. DARCY. The trust fund collects the revenues and, I believe that there is—I think it's $6.9 billion in the Harbor Maintenance Trust Fund.

Mr. CRAVAACK. So there is $7 billion of cash in a trust fund somewhere. Is that correct? Is that what you're trying to tell me?

Ms. DARCY. No. I'm told no.

Mr. CRAVAACK. In essence, what I am telling you is Congress has raided that through the years and, in essence, not being able to give the Army Corps the amount of money they need to make sure that our infrastructure is up to speed in our locks and our dams and our waterways.

So, in essence, it's Congress' fault—previous Congresses' fault—making sure that, by raiding this fund, and depleting—using these funds for something else. So that is the point I want to make. That's the dirty little secret about this, is that correct? There is really no $7 billion sitting in cash somewhere in this trust fund, is that correct?

Ms. DARCY. I don't know that answer, sir.

Mr. CRAVAACK. OK. And it has been raided. That's why you're only getting $690 million, when you could have $7 billion to get the infrastructure we need to complete making sure the commerce of this country is working successfully. And we hand this information to the Corps and say, "Do more with less," when there is plenty that should be available to them. But, unfortunately, previous Congresses have raided it.

Real quick, if I can go on, EPA. I'm very concerned about what's happening in a mine—especially coming from a mining region—where the President has basically said that he has refused, or basically taken back a permit for a West Virginia mine. Could you comment on that? And where does the President get that kind of authority? And are you fighting back?

Ms. DARCY. I believe what you're referring to is the Spruce Mine permit that was vetoed by the Environmental Protection Agency. Is that correct, sir?

Mr. CRAVAACK. That's correct.

Ms. DARCY. OK. As was stated earlier, the Corps of Engineers issued that permit in 2007. And under 404 of the Clean Water Act, the Environmental Protection Agency has the authority to veto a Corps-issued permit. And it's not the Corps of Engineers' veto, it's the Environmental Protection Agency's veto.

Mr. CRAVAACK. Have you fought back on this at all? Have you——

Ms. DARCY. We don't——

Mr. CRAVAACK [continuing]. Pushed back on the President and said, "Mr. President, where do you get such authority? Where do you—what's next?" What else is the President going to—is he going to take one of my mines and attack a mine in Minnesota's Eighth District, and decide he's going to shut that one down, too? Do we give the President authority?

Ms. DARCY. The Environmental Protection Agency has the authority to veto a Corps-issued permit, sir.

Mr. CRAVAACK. And that's very interesting about the EPA, the Environmental Protection Agency. I was very curious about what you were saying in regards to the Clean Water Act.

Tell me. Do you think that the Clean Water Act is also reaching out to—for navigable waters? Obviously, this is a very important concept. Do you believe navigable waters would include a seasonal slough or a wet meadow?

Ms. DARCY. Sir, I think you may have stepped out of the room earlier when we talked about the Clean Water Act guidance that

the Corps of Engineers is jointly developing with the Environmental Protection Agency to look at the definition of navigable waters and isolated waters.

Mr. CRAVAACK. Yes, ma'am. That's why I'm asking. I was here, and I am asking your opinion.

Ms. DARCY. Oh, sorry. I apologize.

Mr. CRAVAACK. Yes, ma'am. What is your opinion? What are you going to tell the EPA?

Ms. DARCY. We are currently in discussions with EPA on defining what the reach of that definition would be.

Mr. CRAVAACK. OK. I understand that, ma'am. And just let me express to you at least this Congressman from Minnesota will fight vehemently for the 10th Amendment to the Constitution, that waters remain within the States rights. If it's a great big lake out in the middle of Minnesota called Mille Lacs, those are States waters. So I just wanted to make that comment.

And I have one second. I yield back the remainder of my time.

Mr. GIBBS. I would just like to make one comment on your questions. Ms. Secretary, when you talk about veto of the EPA, its authority to veto, and I think it's pretty clear that this permit was issued, and it's veto versus revocation. It was revoked 3 years after you guys approved it. That's not a veto anymore, that's revoking that permit, and that sets a new, dangerous precedent. We are going to have hearings on that in the future, I can guarantee it.

Representative Harris, you have a question?

Dr. HARRIS. Yes. Thank you very much. You know, normally, as these go on you actually become more enlightened about an answer. But I am actually a little less enlightened about an answer.

Assistant Secretary, where are those $7 billion? I mean the ranking member suggests that it's just like Social Security, which would mean there is actually an IOU you hold, and you hope that it will be repaid one day. Or, actually, for those young people in the audience, maybe it won't in Social Security. But is there an IOU, or is there actually cash sitting around, as is suggested by the representative here on my right? Or is the answer that you really don't know where $7 billion is, which is a little disconcerting to me, but that is a legitimate answer, I guess.

Ms. DARCY. My answer would have to be I don't know, and I am going to get back to you.

Dr. HARRIS. Thank you very much. I am just getting used to Washington, because I guess $7 billion is not a whole lot of money, because we just don't know where it is.

Let's pretend that actually it was gone to deficit reduction in past years, but in this year it isn't. And I think the testimony was that we're going to collect about $1.4 billion in these taxes. Is that right?

Ms. DARCY. That's——

Dr. HARRIS. That's on the order. OK. So we—where is the $700 million budgeted for that does not—is not budgeted for in those funds? Where is it? I mean on paper you've got a balance sheet. I mean you're taking in $1.4 billion and you're only spending $700 million. So is it going to deficit reduction, or is it going to this other nebulous program, you know, security or something else that supports harbors? Where is it on the balance sheet for this year?

Ms. DARCY. Currently, I believe it's going to deficit reduction. But again, I want to make certain of that before I answer.

Dr. HARRIS. OK. And if it goes to deficit—is there just, like the Social Security fund, as the ranking member suggested, an IOU that will be there in order for a future transfer to occur so that, you know my little harbor might get dredged one day from these taxes that are charged on shippers?

Ms. DARCY. Well, if there is a change in the Harbor Maintenance Trust Fund, it has to be a legislative change.

Dr. HARRIS. Well, I'm just talking about the balance. So, in other words, if you could get back to me not only on what exists, but actually are IOUs—I mean is there an intragovernmental bonding process, which is my understanding of what happens with Social Security and with things like our retirement pay and things like that? That's just, you know, of great concern to me.

The last thing I want to ask is that I think, General and Assistant Secretary, I think both of you used the term "social considerations," or something like that. Now I've got to tell you. When it comes to taking care of a harbor, you know, I think about dredging, keeping things secure, things like that. Could you elaborate on what "social considerations" might be for the expenditure of monies that most people think about going to actually mechanical things, you know, keeping a port open? Could you just expand on that?

General VAN ANTWERP. That's a great question. I will start off on it, at least. Under the Principles and Guidelines, and the Principles and Standards, which is the concept, the notion is that you would go beyond just the benefit cost ratio, which is an economic piece, and you would look at the environmental considerations and the social considerations. The social considerations can be the number of people affected, the risk of not doing this on the economy in a local area. What it means—it really expands it to take a look and say, "What is this doing to the community by not doing this?"

Whereas before, it would just be an economic and what's the benefit cost ratio, and if you didn't have a lot of goods and services being dealt with there, it didn't matter that you had 100 people or 1,000 people that were disadvantaged. So——

Dr. HARRIS. Well, General, that's pretty subjective, wouldn't you say?

General VAN ANTWERP. I think that's what is the challenge of the Principles and Guidelines is when you have environmental, which doesn't have a number, and you have social, which doesn't have a number, how do you account for that? But that's our challenge.

Dr. HARRIS. And that's exactly to my point, you see. This little harbor, Rock Hall here, was told they didn't have a cost benefit ratio that was adequate. Well, is that because maybe you didn't consider that the residents of Rock Hall had as much social importance as other residents in another location?

I mean how am I going to get my handle on how to help this little jurisdiction if we have got things like, well, we've got someone in the agency making an environmental judgment or a social judgment, instead of the economic benefit of not dredging a harbor so that ships actually can come into a port?

General VAN ANTWERP. Up to this point, it has been strictly on the national economic benefit. So that ratio has been while that project——

Dr. HARRIS. So I can expect, in my dealings with the Corps, that they will not use that as an excuse anymore for not doing something, a strict economic benefit ratio?

General VAN ANTWERP. Well, I think under the new Principles and Guidelines, there will be other factors. But up until this point it has been we can tell you where your project is stacked with its benefit cost ratio.

Dr. HARRIS. Thank you very much.

Mr. GIBBS. Representative Bishop?

Mr. BISHOP. Thank you. Just very quickly, I would say to my colleagues from Maryland and Minnesota I would be happy to join you in filing bipartisan legislation that would build a firewall around the Harbor Maintenance Trust Fund, and that we would do so with the full recognition that if we were to fully spend down the Harbor Maintenance Trust Fund, it would either—if we're still in a zero deficit environment, it would either require an additional $6 billion worth of cuts, or we would be increasing our deficit by $6 billion.

But in all sincerity, many of us on this committee have long felt that that Harbor Maintenance Trust Fund should be spent for harbor maintenance, and I would join you in filing this legislation to build a firewall around it, in the same way that we used to have a firewall around the highway trust fund.

Mr. GIBBS. And I would concur with that, too. These are essentially user fees, and they ought to go for what they're supposed to go for.

I wanted to ask the last question to Mr. Thomas, because I don't believe he had a question today. And I don't want you to go back to Tennessee feeling left out.

Mr. THOMAS. Thank you.

Mr. GIBBS. We're really concerned about the debt that the TVA has accrued. And according to the reports I've gotten, your staff, the TVA staff, has said they would take action if the debt were to exceed $28 billion.

According to your own budget analysis, you exceed $28 billion by the end of fiscal year 2013. And I guess the question is, why isn't the TVA taking action today? Why are we waiting to get up to a certain level when we know it's coming?

Mr. THOMAS. Yes, thank you for that question. It is true that TVA does have a limit on its borrowing authority of $30 billion. It hasn't changed since 1979. And as TVA's assets have grown, we have taken on debt to fund those assets. And I mentioned that our financial guiding principles have—we use that, in terms of borrowing money only for new assets. And over the next several years, as we meet the needs of the demand for electricity in Tennessee Valley, we believe that it's prudent to finance those assets, and that's in the best interest of the rate payers.

And so, we are, as we look out in our planning horizon, approaching that $30 billion borrowing authority limit. And we are currently developing plans. We are not waiting until 2013. Today we are working on developing what potential options we could have to continue to provide low-cost electricity in the Tennessee Valley,

and still meet the demand for electricity. So we are not waiting until 2013.

Mr. GIBBS. Would any of those options include partners, other utilities to work with to supply power on a partnership-type arrangement, or not?

Mr. THOMAS. As a matter of fact, we are looking at—one of the potential options would be that we would have a project financing special purpose entity to be able to have partners, in terms of financing assets.

Mr. GIBBS. Because I guess my concern is—I'm on a sharp learning curve here on this issue, but I think a word of caution, and maybe to bring capital in for new asset development, to make sure that you can have the adequate base generation to meet the needs of your customers, that you might need some partners to be involved in that.

If you look at your balance sheet probably—but it's a thought.

Mr. THOMAS. The one thing I would like to add to that is certainly utilizing Tennessee—the TVA's borrowing authority is the most economical way. And bringing in partners will require higher financing costs than it would if Tennessee Valley were to do it. But if we do not have other options, then we would pursue all other means.

Mr. GIBBS. Yes. Well, I want to thank everybody for coming to the committee today, and to our esteemed panelists, for your input. And I know that we look forward to working with you in the challenges that we face here in the future. Thank you very much.

This concludes the hearing.

[Whereupon, at 4:19 p.m., the subcommittee was adjourned.]

SENIOR DEMOCRATIC WHIP

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
CHAIRWOMAN, SUBCOMMITTEE ON WATER RESOURCES & ENVIRONMENT
SUBCOMMITTEE ON AVIATION
SUBCOMMITTEE ON RAILROADS

COMMITTEE ON SCIENCE AND TECHNOLOGY
SUBCOMMITTEE ON RESEARCH AND SCIENCE EDUCATION
SUBCOMMITTEE ON ENERGY AND ENVIRONMENT

DEMOCRATIC STEERING AND POLICY COMMITTEE

CONGRESSIONAL BLACK CAUCUS
CHAIR, 107TH CONGRESS

Eddie Bernice Johnson
Congress of the United States
30th District, Texas

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STATEMENT OF CONGRESSWOMAN EDDIE BERNICE JOHNSON

T&I Subcommittee on Water Resources and Environment

Hearing on:

The Administration's FY 2012 Budget and Priorities for the U.S. Army Corps of Engineers, Natural Resources Conservation Service, and the Tennessee Valley Authority.

Tuesday March 8, 2012

Thank you. We are here to discuss the President's Fiscal Year 2012 budget and priorities for the U.S. Army Corps of Engineers,

PRINTED ON RECYCLED PAPER

Natural Resources Conservation Service, and the Tennessee Valley Authority.

I'm committed to continued oversight of the budget requests for the agencies under the jurisdiction of this Subcommittee and I thank Chairman Gibbs and Ranking Member Bishop for calling this hearing today.

I am pleased that we will hear testimony from these federal programs that serve important public services ranging from restoration of our nation's water resources, flood protection, to electricity production.

The Administration should be commended for producing an adequate budget in difficult but

improving economic times. However, there are certain budget areas that could undergo improvement.

For one, I have concerns regarding the $56 million reduction from the appropriated amount in Fiscal Year 2010 in Investigation funds for the U.S. Army Corps of Engineers. This funding goes toward studying the national need, engineering feasibility, as well as economic and environmental return on federal investment in water resource problems across the country.

I have similar concerns with the $551 reduction in Investigations Fiscal Year 2010, as well as the $86 million reduction from Fiscal Year 2010 in

Operations and Maintenance programs under the U.S. Army Corps of Engineers.

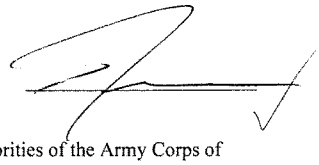
I fear that at the present requested amount, the Corps of Engineers would be unable to plan and design the next generation of projects within its core missions of environmental restoration, flood damage reduction, and navigation.

Now is not the time to reduce the Corps capability to maintain and improve our nation's ports, harbors, and inland waterways that are crucial to job creation, interstate commerce, international trade, and improving our economy.

I welcome each of the witnesses here today and thank you for your testimony. I look forward to

working with members of this Subcommittee, Committee, and administration officials to ensure that the critical needs of our country's water resources are met.

Thank you.



Rep. Tom Reed
Opening Statement: Review of the FY 2012 Budget and Priorities of the Army Corps of Engineers, Tennessee Valley Authority, and the Natural Resources Conservation Service: Finding Ways to Do More With Less
(March 8, 2011)

I would like to begin by thanking the U.S. Army Corps of Engineers for the great work they do. The Corps is very active on a number of projects throughout my district, and I appreciate the hard work they put in on a daily basis for the constituents of the 29th District of New York.

We all know we are in the middle of a very difficult economic time. All individuals, families, businesses, and government agencies are being forced to do more with less, and USACE is no exception. However, I have multiple concerns regarding the President's FY 2012 budget for USACE. Perhaps the most alarming aspect is the elimination of funding for a multitude of projects that have begun but are not scheduled to be finished in 2011. I am concerned that these projects, many of which have already received a fair amount of money, will simply be abandoned, without concern for any funds already spent or how far along the project may be.

I am a strong advocate for smaller government and less spending. However, the work that the Corps does has a direct impact on economic development in terms of protecting property values and infrastructure quality. While the Corps must make do with less, we need to be careful not to compromise its mission.

Another major concern is that of the Environmental Protection Agency's proposed new Chesapeake Bay Total Maximum Daily Load requirements. About 10 percent of the water in the Chesapeake Bay originates in New York, and that water leaves New York much cleaner than it arrives in the Chesapeake. However, the EPA's requirements will necessitate upgrades to water treatment facilities in my district, which will cost our municipalities millions of dollars. It may also add financial burdens to small businesses, particularly farmers, which form the backbone of the economy in rural New York. Moving forward with Phase II of the Watershed Implementation Plan for the Chesapeake, I hope the EPA will look at the history of water in New York State while finalizing our state's nutrient allowance.

I thank all our witnesses for testifying at this hearing today. I look forward to hearing your thoughts on the President's FY2012 budget for the Corps, and I appreciate all the Corps has done thus far not only in my district, but across the country.

Natural Resources Conservation Service

Statement of Thomas Christensen, Regional Conservationist

Before the House Transportation and Infrastructure Committee

Subcommittee on Water Resources and Environment

March 8, 2011

Mr. Chairman, Ranking Member Rahall, and members of the Committee, thank you for the opportunity to appear before you today to discuss our fiscal year (FY) 2012 budget request for the Natural Resources Conservation Service (NRCS).

Last year, NRCS celebrated its 75th anniversary, recognizing the Agency's many contributions to Americans' quality of life and our Nation's prosperity. We looked back at the landmark achievements of our predecessors in the Soil Conservation Service and NRCS, but we also continued to make some history of our own. Before providing the Subcommittee details of our FY 2012 budget, I would like to share a few of our accomplishments in FY 2010, as well as some of the work we have underway in FY 2011.

NRCS successfully entered into 1,400 contracts, grants and agreements, awarding $340 million in American Recovery and Reinvestment Act (ARRA) funding to rebuild American infrastructure and improve natural resources. This represents 100 percent of the funding the agency received. The agency's ARRA projects are being implemented through its Floodplain Easements, Watershed Operations, and Watershed Rehabilitation programs.

NRCS Farm Bill programs and other activities, funded through discretionary accounts such as Conservation Operations both provide benefits to producers and the public through installation of additional conservation practices and adoption of activities that improve water, soil, and air

quality, and enhance wildlife habitat. They also provide flood prevention, groundwater recharge, erosion and sediment reduction, and opportunities for education and recreation.

During FY 2010, NRCS issued two key reports, providing further evidence that voluntary conservation on private lands works. The 2007 data release for the National Resources Inventory underscored the need to focus on working lands. The results showed that we have reduced soil erosion by 43 percent between 1982 and 2007. However, the nation increased development of its rural land base by 56 percent over the same period. Both findings underscore the benefits of voluntary, private lands conservation and the continued need for further conservation investments.

The second report, prepared through the Conservation Effects Assessment Project (CEAP), presented the first results of the first nationwide assessment of the effects of conservation practices on cropland. One of 14 regional reports, the Upper Mississippi River Basin CEAP Cropland Report quantified the great progress farmers have made in reducing sediment and nutrient losses from cropland and the need for focusing conservation efforts on nutrient management. A few key highlights from the basin assessment include:

- Voluntary, incentive-based conservation works. Reduced tillage is used on 95 percent of the cropland - sediment losses are reduced 69 percent.
- Nutrient management is the greatest need. Much can be done through expanded adoption of existing practices. About 60 percent of the cropland needs nutrient management; Timing, rate and method of application are important factors in managing nutrient application.
- Targeting can greatly enhance program effectiveness. Treating the most critical acres can have 3 to 5 times the benefit of treating acres with less serious problems.

- Comprehensive conservation planning is essential. Suites of practices that address multiple resource concerns are more effective than single practices.

In FY 2011, we expect to release additional CEAP reports, starting with the Cropland Report for the Chesapeake Bay. The Department is also finalizing the Soil and Water Resources Conservation Act appraisal which will describe important changes in the structure of U.S. agriculture, the changes in conditions of the land base, and the allocation of public resources for natural resource conservation.

NRCS is actively delivering Farm Bill conservation programs and we have sign-ups underway across the country. We are on track to have another successful year of conservation program delivery.

The President's FY 2012 Budget

Discretionary Funding

The President's FY 2012 budget was developed after closely examining all NRCS programs and our operations in the coming years. The budget prioritizes limited resources to ensure NRCS is positioned to meet the needs of America's farmers and ranchers while doing its share to help reduce the budget deficit. It also makes a number of difficult decisions that were necessary to support the President's goals of living within our means and improving program delivery through streamlining operations and administrative efficiencies. To afford the strategic investments we need to grow the economy in the long term while also tackling the deficit, this budget makes difficult cuts. It responsibly manages deficit reduction while preserving the values that matter to Americans. American families have been forced to tighten their belts and government must do the same.

Conservation Operations

The purpose of Conservation Operations (CO) is to provide technical assistance supported by science-based technology and tools that help people conserve, maintain, and improve the Nation's natural resources. The major program components of CO are: Conservation Technical Assistance (CTA); Soil Survey, Snow Survey and Water Supply Forecasting (SSWSF); and Plant Materials Centers (PMCs).

Funding in the Conservation Operations account provides for the development and delivery of a major portion of the products and services associated with four of the Agency's five business lines: 1) Conservation Planning and Technical Consultation; 2) Conservation Implementation; 3) Natural Resource Inventory and Assessment; and 4) Natural Resource Technology Transfer. The fifth business line (Financial Assistance) is funded primarily through other conservation programs.

The President's FY 2012 budget request for CO proposes a funding level of $898.6 million, which includes $782.6 million for Conservation Technical Assistance, $93.94 million for the Soil Survey, $10.97 million for Snow Surveys and $11.1 million for Plant Material Centers.

The CO budget does not include funding for the Grazing Lands Conservation Initiative. NRCS will continue to maintain and improve the management, productivity and health of the Nation's privately owned grazing land through ongoing activities within other NRCS programs, such as the Environmental Quality Incentives Program, the Wildlife Habitat Incentives Program and the Grassland Reserve Program.

The budget proposes legislation for a user fee to cover the costs of providing technical assistance for completing a conservation plan. This fee would be applied based on the

complexity of the natural resource issues addressed in the conservation plan. Total collections from this proposal are estimated to be $22 million.

Watershed and Flood Prevention Operations Program

The Watershed Protection and Flood Prevention Operations program authorizes the Secretary of Agriculture to provide technical and financial assistance to entities of State and local governments and Tribes (project sponsors) for planning and installing watershed projects. The Watershed Protection and Flood Prevention Program is available nationwide to protect and improve watersheds up to 250,000 acres in size. Currently, there are approximately 300 active small watershed projects throughout the country. Assistance under the Flood Control Act of 1944 is available only in areas authorized by Congress; and these areas cover about 38 million acres in 11 States.

The FY 2012 budget does not include funding for the Watershed Protection and Flood Prevention Operations Program, including the Watershed Operations (PL 78-534) and Small Watersheds (PL 83-566). This reduction is in keeping with the Administration's efforts to curb spending. In addition, recent funding for this program has not been distributed based on agency prioritization including anticipated project outcomes or measurable impacts.

Watershed Rehabilitation Program

The purpose of the Watershed Rehabilitation Program is to extend the service life of dams and bring them into compliance with applicable safety and performance standards or to decommission the dams so that they do not pose a threat to life and property. NRCS may provide technical and financial assistance for the planning, design, and implementation of rehabilitation projects that may include upgrading or removing the dams.

Eleven dam rehabilitations were completed in FY 2010, and there are 23 dam rehabilitation projects currently under construction. Additionally, there were 650 ongoing assessments of high hazard dams that provided communities with technical information about the condition of their dams and alternatives for rehabilitation for dams that do not meet Federal dam safety standards.

The FY 2012 budget does not include funding for the Watershed Rehabilitation Program, reflecting the many difficult choices that were made in order to ensure fiscal responsibility within the current economic climate. Further, the continuing operations and maintenance of Federally-built dams under the program has long been understood to be the responsibility of local project sponsors.

Resource Conservation and Development

The Resource Conservation and Development (RC&D) Program encourages and improves the capability of State and local units of government and non-profit organizations in rural areas to plan, develop, and implement programs for resource conservation and development. NRCS provides program administration and assistance to RC&D areas through volunteer non-profit RC&D Councils.

The FY2012 budget does not include funding for the Resource Conservation and Development program, as other USDA agencies provide technical and limited financial assistance to RC&D Councils, which also obtain assistance from State, local, and other Federal agencies, private organizations, and foundations to carry out specific projects.

Food, Conservation, and Energy Act of 2008

The President's FY 2012 budget includes $3.6 billion in Farm Bill program spending and an additional $124 million is included for Conservation Reserve Program technical assistance. The following discussion summarizes NRCS administration of the Farm Bill conservation programs.

Easement Programs

The Wetlands Reserve Program (WRP) provides technical and financial assistance to enable eligible landowners to restore, protect and enhance valuable wetland ecosystems, including associated habitats such as uplands, riparian areas, and forest lands. The goal of WRP is to achieve the greatest wetlands functions and values, along with optimum wildlife habitat, on every acre enrolled in the program. The FY 2012 budget includes $785 million in mandatory funding for financial and technical assistance for the Wetlands Reserve Program and NRCS expects to enroll 271,158 acres.

The Farm and Ranch Lands Protection Program (FRPP) protects the Nation's highly productive agricultural lands by providing matching funds to keep productive farm and ranch lands in agricultural uses. Farm and ranch lands enrolled in FRPP are protected from threats of conversion to non-agricultural uses, and remain productive and sustainable sources of food, fiber, and fuel for the Nation. The FY 2012 budget includes $200 million in mandatory funding for financial and technical assistance for the Farm and Ranch Lands Protection Program.

The Grasslands Reserve Program (GRP) helps landowners and operators restore and protect rangeland, pastureland, and other grassland while maintaining the land's suitability for grazing. Participants voluntarily limit future development and cropping uses of the land while retaining the right to conduct common grazing practices and operations related to the production of forage and seeding. The FY 2012 budget includes $67 million in mandatory funding for financial

and technical assistance for the Grasslands Reserve Program to enroll an estimated 203,515 acres.

Healthy Forest Reserve Program (HFRP) assists landowners in restoring, enhancing, and protecting forest ecosystems to: 1) promote the recovery of threatened and endangered species; 2) improve biodiversity; and 3) enhance carbon sequestration. The FY 2012 budget includes $9.75 million in mandatory funding for the Healthy Forest Reserve Program.

Financial Assistance Programs

The Environmental Quality Incentives Program (EQIP) provides financial and technical assistance to agricultural producers to help them address environmental challenges. To meet these challenges, EQIP provides incentives for the application of farming and other land use practices that maintain or improve the condition of soil, water, air, and other natural resources. The FY 2012 budget includes $1.408 billion in mandatory funding for financial and technical assistance for the Environmental Quality Incentives Program.

The purpose of the Agricultural Water Enhancement Program (AWEP) is to promote improved ground and surface water conservation and water quality by leveraging the Federal government's investment in natural resources conservation with services and resources of other eligible partners. The AWEP program was specifically created to address serious surface and ground water shortages as well as water quality concerns in many agricultural areas. The FY 2012 budget includes $60 million in mandatory funding for financial and technical assistance for the Agricultural Water Enhancement Program.

The Wildlife Habitat Incentive Program (WHIP) provides wildlife habitat, to benefit threatened, endangered and other at-risk species. This effort is accomplished while educating and changing

public attitudes toward wildlife habitat management and land stewardship on private agricultural land, nonindustrial private forest land, and Tribal land, but the benefits extend far beyond wildlife. By prioritizing specific geographic areas, WHIP is able to target financial and technical assistance funds to benefit habitats for specific declining wildlife species such as the sage grouse. The FY2012 budget includes $73 million in mandatory funding for financial and technical assistance for the Wildlife Habitat Incentive Program.

The Conservation Security Program was a voluntary program that provided financial and technical assistance for the conservation, protection, and improvement of natural resources on tribal and private working lands. It provided payments for producers who practice good stewardship on their agricultural lands and provided incentives for those who wanted to do more. Under the 2008 Farm Bill, NRCS is not authorized to enter into new Conservation Security Program contracts, but continues to make payments to producers with five- to ten-year contracts from prior years. The FY 2012 budget includes $197 million in mandatory funding for the Conservation Security Program.

The Conservation Stewardship Program (CSP) encourages agricultural and forestry producers to maintain existing conservation activities and to adopt additional ones on their operations. CSP provides opportunities to both recognize excellent stewards and deliver valuable new conservation. The program helps producers identify natural resource problems in their operation and provides technical and financial assistance to go beyond existing conservation and deliver new environmental benefits in an environmentally beneficial and cost-effective manner. The FY 2012 budget includes $788 million in mandatory funding for financial and technical assistance for the Conservation Stewardship Program to enroll 12 million acres.

NRCS administers the conservation provisions of the Agricultural Management Assistance (AMA) program, which provides financial assistance to agricultural producers to address water management, water quality, and erosion control issues by incorporating conservation into their farming operations. The FY 2012 budget includes $2.5 million in mandatory funding for the Agricultural Management Assistance program.

The Chesapeake Bay Watershed Program (CBWP) helps agricultural producers improve water quality and quantity, and restore, enhance, and preserve soil, air, and related resources in the Chesapeake Bay Watershed through the implementation of conservation practices. CBWP encompasses all tributaries, backwaters, and side channels, including their watersheds, draining into the Chesapeake Bay. This area includes portions of the states of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia. The FY 2012 budget includes $50 million in mandatory funding for financial and technical assistance for the Chesapeake Bay Watershed Program.

All told, this budget takes important steps to grow the economy, support conservation, and enhance critical infrastructure in rural communities, while taking responsibility for our deficit. I would like to thank you for the opportunity to be here today to discuss the work of NRCS. I am happy to answer any questions from the Subcommittee members.

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

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

BEFORE

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

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE ARMY CIVIL WORKS PROGRAM

FISCAL YEAR 2012

MARCH 8, 2011

Mr. Chairman and distinguished members of the Subcommittee, thank you for the opportunity to present the President's Budget for the Civil Works program of the Army Corps of Engineers for Fiscal Year (FY) 2012.

OVERVIEW

The FY 2012 Budget for the Civil Works program reflects the Administration's priorities through targeted investments in the Nation's infrastructure that help restore the environment and revitalize the economy, while also reflecting the need to put the country on a fiscally sustainable path. With those tenets in mind, the primary objectives of the Budget are as follows:

- Focus funding on water resources infrastructure projects that produce high economic and environmental returns to the Nation and those that address public safety needs.
- Restore high-priority ecosystems such as the California Bay-Delta, Chesapeake Bay, the Everglades, the Great Lakes, and the Gulf Coast.
- Support a comprehensive levee safety initiative to help ensure that Federal levees are safe and to enhance efforts to assist non-Federal parties to address safety issues with their levee systems.
- Provide priority funding to the maintenance of high performing projects.
- Propose changes in the way Federal activities in support of commercial navigation through the Nation's ports are funded, and support increases in inland waterways receipts.
- Improve the way in which the Army Corps of Engineers addresses the Nation's most pressing water resources challenges.
- Increase the organizational efficiency and improve the management, oversight, and performance of ongoing programs.

The Budget concentrates funding for development and restoration of the Nation's water and related resources within the three main Civil Works program areas: commercial navigation, flood and coastal storm damage reduction, and aquatic ecosystem restoration. Additionally, the Budget supports hydropower, recreation, environmental stewardship, and water supply services at existing water resources projects owned or operated by the Corps. Finally, the Budget provides for protection of the Nation's regulated waters and wetlands; cleanup of sites contaminated as a result of the Nation's early efforts to develop atomic weapons; and emergency preparedness. The Budget does not fund work that should be the responsibility of non-Federal interests or other Federal agencies, such as water and wastewater treatment projects.

FY 2012 DISCRETIONARY FUNDING LEVEL

The Budget provides gross new discretionary funding of $4.631 billion, which will keep the Civil Works program moving forward to help revitalize the economy, and provide for restoration and stewardship of the environment. The Budget also proposes cancellation of the $57 million in unobligated funding previously provided in the Mississippi River and Tributaries account for construction of the Yazoo Backwater Pumps, Mississippi project. This cancellation would achieve $57 million in real savings for the American taxpayer. Of the amount proposed to be cancelled, $22 million is an offset to FY 2012 gross appropriations, for a net request of $4.609 million. (The Congress appropriated the remaining $35 million to "restore" funds that the Corps had "borrowed" under the Stafford Act while responding to a natural disaster at another project. Because the Congress restored these funds in an emergency supplemental appropriation, their cancellation does not "score" as an offset to our discretionary funding request.)

In keeping with the Administration's program to put the Nation on a sustainable fiscal path, the funding for Civil Works in the 2012 Budget is $836 million, or about 15 percent, below the enacted amount of $5.445 billion in FY 2010. It is about 6 percent below the FY 2011 Budget level. The FY 2012 funding level reflects a considered, practical, effective, and sound use of available resources, focusing on those investments that are in the best interest of the Nation.

Within the $4.631 billion recommended gross appropriations, $1.48 billion is for projects in the Construction account, and $2.314 billion is for activities funded in the Operation and Maintenance (O&M) account. The Budget also includes $104 million for Investigations; $210 million for Mississippi River and Tributaries; $27 million for Flood Control and Coastal Emergencies; $196 million for the Regulatory Program; $109 million for the Formerly Utilized Sites Remedial Action Program; $185 million for the Expenses account; and $6 million for the Office of the Assistant Secretary of the Army for Civil Works. Attachment 1 shows this funding by account and by program area.

The FY 2012 Budget continues the Army's commitment to a performance-based approach to budgeting to provide the best overall return from available funds from a national perspective in achieving economic, environmental, and public safety objectives. Competing investment opportunities for studies, design, construction, and operation and maintenance were evaluated using multiple metrics, and objective performance criteria guided the allocation of funds.

The FY 2012 Budget supports investments in flood and storm damage reduction, commercial navigation, environmental restoration, and other programs. The distribution of funding among these programs is similar to the distribution in the FY 2011 Budget, except that environmental restoration received a slightly lower proportion of overall funding. Of the total in the FY 2012 Budget, 31 percent is allocated to flood and storm damage reduction; 34 percent is allocated to commercial navigation; 18 percent is allocated to environmental restoration and protection; and 17 percent is allocated among other program areas.

NEW INVESTMENTS IN FY 2012

The Civil Works budget includes funding for two construction new starts and several other new initiatives, as described below.

In the Construction account, the budget includes $8 million for a new start for the Hamilton City project in California, which provides environmental restoration and flood damage reduction benefits. The budget also includes $3 million to initiate a storm damage reduction project along the New Jersey coast between Raritan Bay and Sandy Hook Bay in the Port Monmouth area.

There are four new study starts in the Investigations account: Fish Passage at Englebright and Daguerre Point Dams on the Yuba River in California for $100,000; environmental restoration and flood damage reduction at Cano Martin Pena in Puerto Rico for $100,000; the Chesapeake Bay Comprehensive Plan for $250,000; and the Louisiana Coastal Area Comprehensive Plan for $100,000.

The O&M program includes $12.3 million for a new environmental and energy sustainability program. This will involve developing tools to enable the Corps to meet Federal sustainability goals and implementing energy-saving measures at Corps projects and buildings. The 38 Civil Works Corps districts will compete for these funds by proposing specific measures to conserve energy. Lessons learned from this competition will inform future investments to increase environmental and energy sustainability of the Civil Works program.

The Budget provides $50 million for a comprehensive levee safety initiative. This initiative includes $46 million in the O&M account to continue and expand activities to help ensure that Federal levees are safe and to assist non-Federal entities to address safety issues with their levees. The levee safety initiative also includes $4 million in the Flood Control and Coastal Emergencies account. These funds will be used for Corps participation in the expansion of interagency teams, known as Silver Jackets, to include every State, and to provide unified Federal assistance in implementing flood risk management solutions.

AQUATIC ECOSYSTEM RESTORATION

The FY 2012 Budget places priority on collaboration with other Federal agencies in the development of funding allocations for aquatic ecosystem restoration. Attachment 2 provides a list of the ecosystems and funding amounts budgeted on this basis.

In connection with this effort, the Budget provides $168 million for the Corps for the ongoing South Florida Everglades Restoration Program, consisting of $163 million for Construction and $5 million for O&M. The Budget supports the continued construction of five ongoing aquatic ecosystem restoration projects in South Florida: Picayune Strand, Site One Impoundment, Indian River Lagoon South, Kissimmee River, and the C-111 (South Dade) project.

The Budget also supports work on other major ecosystem-wide initiatives, such as $58 million for studies and projects in the California Bay-Delta, including an important new reconnaissance study for fish passage at Englebright and Daguerre Point Dams on the Yuba River; an ongoing feasibility study for the Sacramento-San Joaquin Delta Islands and Levees; an ongoing comprehensive feasibility study for the Sacramento-San Joaquin River Basins; and a new construction project at Hamilton City for ecosystem restoration and flood damage reduction.

The Budget includes $128 million for the Columbia River Fish Mitigation program, an ongoing effort to reduce the adverse impacts of a series of Corps dams on migrating salmon. Funds will be used to construct juvenile fish bypass facilities, improve adult fish ladders and conduct other activities that support salmon habitat. The Budget also provides $73 million for ongoing work under the Missouri River Fish and Wildlife Recovery program to construct shallow water habitat and undertake other activities to recover and protect Federally listed species, such as the pallid sturgeon.

INFRASTRUCTURE RECAPITALIZATION

The Administration plans to work with Congress and stakeholders to explore ways to support recapitalization of aging Corps infrastructure, modification of its operations, or de-authorization, consistent with modern-day water resources principles and today's and tomorrow's water resources priorities. Under these principles, direct beneficiaries would be asked to pay a significant share of the costs to rehabilitate, expand or replace projects, as they would for a new project, commensurate with the benefits they receive. Options such as direct financing will be considered as part of this effort, where appropriate.

The aging of infrastructure affects all of our activities. For example, with regard to the production of hydropower, the FY 2012 Budget provides $176 million to operate and maintain Corps hydropower facilities. In order to decide how best to use the available funding, the Corps has been working under its Hydropower Modernization Initiative (HMI) to develop a long-term capital investment strategy. One significant feature of the HMI is the Asset Investment Planning Tool, which was designed to: (1) analyze the condition of critical components and the consequences of failure; (2) determine the value of additional hydropower and its cost; (3) quantify risk exposure for capital investments; and (4) create 20-year funding scenarios to allow for timely and cost-effective rehabilitation or replacement of hydropower facilities and their components. To assist the Federal government in rehabilitating aging equipment, the Corps also is pursuing increased use of non-Federal funds.

HARBOR MAINTENANCE TRUST FUND

The Budget provides for use of $758 million from the Harbor Maintenance Trust Fund to maintain coastal channels and harbors. Despite an overall Civil Works reduction

of 15 percent below the enacted FY 2010 level, the amount recommended in the FY 2012 Budget for harbor maintenance and related work is essentially unchanged from the two prior years. The Administration also plans to develop legislation to expand the authorized uses of the Trust Fund, so that its receipts are available to finance the Federal share of other efforts in support of commercial navigation through the Nation's ports. No decisions have been made yet on what additional costs would be proposed to be paid from receipts into the Harbor Maintenance Trust Fund. Development of proposed legislation will proceed in the coming months.

INLAND WATERWAYS TRUST FUND

Inland waterways capital investments are funded in the Budget at $166 million, of which $77 million is financed from the Inland Waterways Trust Fund. This is the total amount that is affordable in FY 2012 with the current level of revenue coming into the Trust Fund. The Administration will work with Congress and stakeholders to revise the laws that govern the Trust Fund, to include increasing the revenue paid by commercial navigation users of the inland waterways to meet their share of the costs of activities financed from this trust fund.

AMERICA'S GREAT OUTDOORS INITIATIVE AND CIVIL WORKS RECREATION

On April 16, 2010 President Obama signed a Presidential Memorandum establishing the America's Great Outdoors (AGO) initiative to promote and support innovative community-level efforts to conserve outdoor spaces and to reconnect Americans to the outdoors. This initiative was celebrated at several events around the country, including a public "listening" event the Secretary of the Interior and I held in August 2010 at a Civil Works project near St. Louis, Missouri.

The Corps has been actively involved with the AGO initiative, working in concert with its partners to leverage financial and human resources so the public can continue to enjoy water-based recreation opportunities at Corps lakes. The Civil Works recreation program and activities are closely aligned with the goals of the initiative and include a variety of measures to reconnect Americans, especially young people, with the Nation's outdoor resources.

The Corps manages 12 million acres of lands and waters supporting water-based recreation and environmental stewardship. The Civil Works program is particularly well-suited to support the AGO initiative, given that 90 percent of Corps projects are within 50 miles of metropolitan areas. Camping, hiking, swimming, boating, and other water-oriented recreation opportunities attract 370 million visits a year to 422 Corps projects. In addition, the Corps has active programs to conserve and protect lands and waters for wildlife, fisheries, endangered species and open space.

PLANNING IMPROVEMENTS

Working through the Chief of Engineers, the Army continues to strengthen and improve the planning expertise of the Corps, including greater support for planning Centers of Expertise, better integration of project purposes, greater reliability of cost estimates and schedules in planning and programming, and continued support for the development of revised water project planning Principles and Guidelines. Also, the Army has initiated a pilot program to identify means of enabling studies to reach decisions more efficiently.

VETERANS CURATION PROJECT

The FY 2012 Budget includes $2 million to continue the Veterans Curation Project, which provides vocational rehabilitation and innovative training for wounded and disabled veterans, while achieving historical preservation responsibilities for archaeological collections administered by the Corps. The project supports work by veterans at curation laboratories located in Augusta, Georgia; St. Louis, Missouri; and Washington, DC.

LOWER PRIORITY PROGRAMS

Funding of $76 million is provided in the FY 2012 Budget for maintenance of navigation harbors and waterway segments that support low commercial use. This is a reduction of $64 million from the FY 2011 Budget. The Estuary Restoration Program is funded at $2 million, compared to $5 million in the FY 2011 Budget.

No funding is provided for small projects in four of the nine Continuing Authorities Programs (CAPs): Section 14 (emergency streambank and shoreline protection), Section 103 (shore protection), Section 107 (navigation), and Section 208 (snagging and clearing). The Budget proposes to reprogram $23 million of CAP funds carried over from prior years from these four CAPs to finance ongoing phases of projects in four or the remaining five CAPs: Section 111 (mitigation of shoreline damages caused by navigation projects), Section 204 (beneficial use of dredged material); Section 206 (aquatic ecosystem restoration), and Section 1135 (modification of completed projects for the benefit of the environment). Section 205 (flood damage reduction) also is supported, and has sufficient carryover within it to finance the FY 2012 program without a reprogramming.

No funding is provided for the Aquatic Plant Control program, nor is specific line item funding provided for coordination activities associated with the National Estuary Program and the North American Waterfowl Management Program. Coordination activities will take place, as appropriate, in connection with separately funded programs and projects.

Funding under the Formerly Utilized Sites Remedial Action Program (FUSRAP) is reduced by $21 million, from $130 million in the FY 2011 Budget to $109 million in the FY 2012 Budget.

AMERICAN RECOVERY AND REINVESTMENT ACT

The Corps continues the work funded in the 2009 American Recovery and Reinvestment Act (ARRA). The Act provided $4.6 billion for the Civil Works program. That amount includes $2 billion for Construction; $2.075 billion for O&M; $375 million for Mississippi River and Tributaries; $25 million for Investigations; $25 million for the Regulatory Program; and $100 million for the Formerly Utilized Sites Remedial Action Program. The ARRA funds were allocated to more than 800 projects in 49 states, the District of Columbia, and Puerto Rico, and 400 of those projects have been completed.

Nearly all of the $4.6 billion of these funds have been obligated, leaving only a small amount, as authorized, for contract supervision and administration, as well as known contract claims and modifications. As of last month, more than $3.1 billion of the total had been expended, primarily payments to contractors for work already completed. Of the more than 2,100 recipients of the Corps ARRA funds, 99.8 percent submitted a report last quarter as required under the Act and provisions of ARRA contracts.

The projects funded by ARRA provide important support to the Nation's small businesses in their economic recovery. Of the total ARRA funds, small business awards account for about 51 percent of the ARRA funds obligated and about 72 percent of the total contract actions.

The Corps achievements to date with ARRA funds include improvement of 28 important commercial navigation harbors and channels; repair or improvement of dozens of hydropower projects; accelerated completion of site clean-up at 9 FUSRAP sites; completion of 822 periodic inspections of federally constructed levee systems, including both systems maintained by the Corps and those maintained by local sponsors; and completion of important work to restore 57 aquatic ecosystems.

CONCLUSION

In summary, the President's FY 2012 Budget for the Army Civil Works program is a performance-based budget that supports water resources investments that will yield long-term returns for the Nation.

Mr. Chairman and Members of the Subcommittee, I look forward to working with this Subcommittee in support of the President's Budget. Thank you.

Attachment 1

FY 2012 Budget
Business Line/Account Cross-Walk ($ Millions)

Business Lines/Funding Categories:				MR&T									
	I	**C**	**O&M**	**I**	**C**	**O&M**	**TOTAL MRT**	**FUSRAP**	**FCCE**	**REG**	**E**	**OASA (CW)**	**TOTAL**
Flood and Coastal Storm Damage Reduction	48	721	523	1	63	91	155						**1447**
Coastal	7	23	8			3	3						**41**
Inland	41	698	515	1	63	88	152						**1406**
Hydropower		6	176										**182**
Navigation	18	283	1237		13	24	37						**1575**
Coastal	7	117	706			2	2						**832**
Inland	11	166	531		13	22	35						**743**
Environment													
Aquatic Ecosystem Restoration	38	470	23		2		2						**533**
Stewardship			96			4	4						**100**
FUSRAP								109					**109**
Regulatory										196			**196**
Recreation			247			12	12						**259**
Emergency Management (incl. NEPP)			7						27				**34**
Water Supply			5										**5**
Expenses											185		**185**
OASA(CW)												6	**6**
TOTAL	**104**	**1480**	**2314**	**1**	**78**	**131**	**210**	**109**	**27**	**196**	**185**	**6**	**4631**

I = Investigations; C= Construction; O&M = Operation and Maintenance; MR&T = Flood Control, Mississippi River and Tributaries; FUSRAP = Formerly Utilized Sites Remedial Action Program; FCCE = Flood Control and Coastal Emergencies; REG= Regulatory Program; NEPP = National Emergency Preparedness Program; E = Expenses; OASA(CW) = Office of the Assistant Secretary of the Army for Civil Works.

Attachment 2

FY 12 Priority Ecosystems Funding

Ecosystem Account 1/	Projects and Studies	$ in Millions	
California Bay Delta			$ 58
I	Yuba River Fish Passage (new recon)	$ 0.1	
I	San Pablo Bay Watershed Study	$ 0.5	
C	Hamilton City (new start)	$ 8	
I/C/O&M	Additional studies and projects in Navigation and Flood Damage Reduction Programs	$ 49	
Chesapeake Bay			$ 17
I	Chesapeake Bay Comprehensive Study (new recon)	$ 0.25	
C	Poplar Island	$ 12	
C	Chesapeake Bay Oysters	$ 5	
Everglades			$168
C	Continuing Projects and Activities	$163	
O&M		$ 5	
Great Lakes			$ 27
I	Interbasin Control – (Great Lakes-Ms R Nuisance Species)	$ 3	
C	Chicago Sanitary and Ship Canal	$13.5	
O&M	Chicago Sanitary and Ship Canal	$10.5	
Gulf Coast			$ 27
GI	Louisiana Coast Comprehensive Study (new recon)	$ 0.1	
GI	LCA studies	$ 16	
CG	LCA projects	$ 10.6	

1/ Key: I = Investigation
C = Construction
O&M = Operation and Maintenance

Written Testimony of
John Madison Thomas III
Chief Financial Officer
Tennessee Valley Authority
As submitted to the
U.S. House Committee on Transportation and Infrastructure
Subcommittee on Water Resources and Environment
March 8, 2011

Chairman Gibbs, Ranking Member Bishop, and members of the committee. Thank you for this opportunity to discuss the operations and fiscal year 2012 budget of the Tennessee Valley Authority. On behalf of TVA, I appreciate the oversight and support provided by this committee and members of Congress.

In these times of economic challenge for our nation, affordable, reliable and cleaner energy is more important than ever. As the nation's largest public power provider, TVA recognizes the unique role it plays in helping sustain the economic vitality of the nation and a high quality of life for our citizens while providing leadership to our nation's electric power industry.

As you know, TVA was established by Congress to serve a unique and comprehensive mission that encompasses five key areas:

- Affordable and reliable electricity
- Environmental stewardship
- Integrated river system management
- Economic and agricultural development, and
- Technological innovation

These areas are the bedrock of TVA's longstanding partnership with the people of the Tennessee Valley region. Even in today's fast-changing world, TVA's comprehensive mission of service is as relevant as ever as TVA focuses on the issues that are critical to our nation's long-term energy security. This is why in 2010 the TVA Board of Directors adopted a renewed strategic vision for TVA.

Simply put, this vision, which is currently under review by the Administration, is for TVA to be one of the nation's leading providers of low-cost and cleaner energy by 2020.

In my testimony today, I will provide details of this renewed vision and the proposed TVA budget that will support it in fiscal year 2012.

Let me begin with a brief review of TVA's operations.

About TVA

TVA is a corporation of the United States government that sells electricity to 155 local distributors that, in turn, serve 9 million residents and 650,000 businesses and industries in the Tennessee Valley region. This region covers most of Tennessee and parts of Alabama, Georgia, Kentucky, Mississippi, North Carolina and Virginia. TVA also provides power directly to 56 large industrial customers and federal installations.

TVA is entirely self-financing from the sale of electricity, the issuance of bonds and other financings that provide capital for the power program. TVA Bonds are not obligations of the United States, and the United States does not guarantee the payments of principal or interest on Bonds. And for nearly half a century, TVA has provided a positive cash flow to the U.S. Treasury, by paying back taxpayers' original investment in the TVA power program, as appropriated by Congress, along with a yearly return on that investment. Through fiscal year 2012, these payments are expected to total $3.6 billion on the original investment of $1.4 billion. Under the TVA Act, the United States government will retain permanent equity in TVA.

The TVA power system includes three nuclear power plants, 11 coal-fired plants, 29 hydroelectric dams, 11 combustion-turbine sites, a pumped-storage facility and numerous renewable energy resources based on solar, wind, landfill gas and biomass technologies.

With nearly 16,000 miles of transmission line, the TVA power system is one of the nation's largest and most reliable, providing service not only to TVA customers but serving also as a critical link in the power grid that serves most of eastern North America. In fiscal year 2010, for the 11th year in a row, the TVA transmission system delivered power to TVA customers with 99.999 percent reliability. TVA works hard to maintain this reliability, which is among the best in the industry, and TVA is installing digital technologies that will enable it to monitor and manage transmission activity more precisely.

Besides being a vital source of affordable and reliable electric power, TVA also is responsible for protecting the natural resources of the Tennessee Valley region and managing the Tennessee River system and its tributaries. This system includes 652 miles of main river channel, 42,000 miles of streams and tributaries, and 41,000 square miles of watershed in 125 counties of the southeastern United States.

TVA's hydroelectric dams are an important and economical source of power for TVA customers. TVA operates these facilities, and 20 other non-power dams, as an integrated unit to provide wide-ranging benefits that include not only power generation but also navigation, flood control, habitat protection, land management, water quality and water supply. This integrated system of resource management pioneered by TVA is recognized around the world as a model for how people and government can work together to protect the environment and preserve water quality.

TVA also works together with local governments and economic development agencies to increase capital investment and attract and retain better-paying jobs in the Tennessee Valley region. For five consecutive years, *Site Selection* magazine has ranked TVA among the nation's top 10 utilities for economic development.

TVA partners with local communities to recruit and retain a wide range of sustainable businesses, from automobile manufacturers to data centers. TVA's Megasite Program has been a notable success in certifying nine large properties as suitable for heavy industrial development in the TVA service area. Five of these sites have been sold to companies whose projects will create almost 6,000 direct jobs and require capital investments of more than $5.5 billion. In fiscal year 2010, these projects and others helped recruit or retain more than 41,000 jobs and helped attract $4.3 billion in capital investment for the Tennessee Valley region.

TVA works closely with public and private research institutions and other government agencies to advance technological innovation throughout the electric utility industry. TVA partners with

Electric Power Research Institute, Oak Ridge National Laboratory, the University of Tennessee and others on ways to produce electricity more efficiently and use energy more wisely.

Governance and Oversight

TVA is governed by a part-time nine-member board of directors appointed by the President with the advice and consent of the U.S. Senate. Two directors may reside outside the TVA service area. The board sets the long-term policies and objectives of TVA and delegates responsibility for their implementation to a seasoned management team led by a chief executive officer. The Board also reviews and approves TVA's rates and budgets.

TVA financial statements are independently audited by Ernst & Young in accordance with standards set by the Comptroller General of the United States and the Public Company Accounting Oversight Board. The auditor also provides opinions on whether TVA financial statements conform to the generally accepted accounting principles, or GAAP, maintained by the Federal Accounting Standards Advisory Board.

TVA files annual reports with the Securities and Exchange Commission on Form 10-K. These reports include audited financial statements and opinion letters along with comparative financial information. TVA also files with the SEC its Quarterly Reports on Form 10-Q and Current Reports on Form 8-K.

An independent Office of Inspector General also audits TVA's operations and financial matters. TVA's Inspector General is appointed by the President and reports twice a year to Congress on the results of its audit and investigative work.

Proposed Budget for Fiscal Year 2012

As stated earlier, the TVA power program is entirely self-financing and does not receive federal appropriations. TVA's power budget is, however, included in the Unified Budget of the United States Government.

The TVA board approves an annual budget for TVA each summer. These budgets include estimates that reflect significant levels of uncertainty due to weather, the economy and other factors that weigh heavily on energy providers. TVA's fiscal year 2012 budget projects revenue in excess of $12.1 billion. This includes the estimated impacts of fuel cost adjustments that reflect the changing costs of fuel, purchased power and emission allowances.

The fiscal year 2012 budget projects operating expenses of $10.3 billion. Almost 40 percent, or $4.4 billion, of these expenses will be for coal, natural gas and other generating fuels, along with power purchased from other generators.

TVA must continually make prudent, long-term investments that keep pace with expected growth in energy demand, maintain system reliability and protect the environment. In fiscal year 2012, TVA projects it will invest $2.6 billion in capital projects. This includes $440 million to complete Watts Bar Unit 2, $219 million for clean air improvements and $289 million for transmission system projects.

TVA funds a significant portion of its capital projects through bond sales to private investors. In recent years, TVA has been successful in reducing the cost of its borrowings. TVA reduced the

percentage of its revenue consumed by gross interest expense from 35 percent to 13 percent over this 13-year period. Gross interest expense is forecast to range from 12 percent to 13 percent of revenue in fiscal years 2011 and 2012.

To bring a new level of discipline to TVA's decision making and ensure continued financial health, the TVA Board has established a set of sound financial guiding principles. TVA's financial guiding principles are to:

- Retire debt over the useful life of assets;
- Only issue new debt for new assets;
- Use regulatory accounting treatment for specific unusual events;
- Rate increases as necessary to fund operational spending;
- Evaluate rate actions to avoid significant rate volatility; and
- Implement rate actions to maintain financial flexibility.

While TVA's gross interest expense in fiscal year 2012 is expected to be $555 million lower than in fiscal year 1997, total outstanding debt and debt-like obligations are projected to increase this year and next, reaching $26.9 billion in fiscal year 2012. These increases are necessary to fund capacity expansions and clean air projects.

TVA funds its water and land stewardship activities from power revenues, user fees and other non-appropriated sources. No appropriations have been received by TVA for these activities since fiscal year 1999, and none are requested for fiscal year 2012. TVA will self-fund these activities in fiscal year 2012 at $90 million, which is about the same level as last year. Appropriate funding levels for future years will be addressed in a Natural Resource Plan and Environmental Impact Statement now being developed. This plan will establish the long-term strategy for implementing the TVA Environmental Policy adopted by the TVA board in 2008.

TVA's Renewed Vision

Congress created TVA to help revive the economy of the Tennessee Valley region through a thoroughly integrated mission of wide-ranging services that has served TVA well for more than three-quarters of a century.

While TVA's mission has not changed, the environment in which TVA does business continues to evolve. Facing challenging economic conditions, tougher new emission standards, the need to modernize its generating fleet and changing customer needs, TVA recognized a need to refine its strategic vision for the future.

In August 2010, the TVA Board adopted a renewed vision, which is currently under review by the Administration, which will help TVA lead the Tennessee Valley region and the nation toward a cleaner and more secure energy future, relying more on nuclear power and energy efficiency and less on coal.

The TVA Board's renewed vision is to be *one of the nation's leading providers of low-cost and cleaner energy by 2020.* More specifically, TVA intends to be:

- The nation's leader in improving air quality
- The nation's leader in increased nuclear production
- The Southeast's leader in increased energy efficiency

Improving air quality

In support of its renewed vision for improving air quality, TVA has invested $5.3 billion so far to reduce emissions of sulfur dioxide and nitrogen oxide at its coal plants about 90 percent from their peak levels. In 2010, TVA announced plans to idle some of its oldest and least-efficient coal units for which adding emission controls might not be a prudent investment. TVA also is expanding its fleet of cleaner natural-gas fired combustion turbines, as I will discuss later.

Increasing nuclear production

In support of its vision for more nuclear capacity, TVA restarted Browns Ferry Unit 1, the first nuclear unit to be brought online in the United States in this century. TVA is now in the process of completing another nuclear unit at its Watts Bar site in Tennessee and evaluating options for future nuclear generation at its Bellefonte site in North Alabama.

Increasing energy efficiency

In support of its vision for greater energy efficiency, TVA is improving the efficiency of its own facilities and helping customers get more value from their electricity dollars. TVA also is creating rate incentives that will help consumers manage their energy use to take advantage of times when production costs are lower.

Six focus areas

The three priorities of TVA's renewed vision define a new road map for TVA's energy future in which every TVA job and initiative will be linked to six focus areas:

- Low rates
- High reliability
- Responsibility
- Cleaner air
- More nuclear generation
- Greater energy efficiency

TVA's renewed vision is a fundamental part of a comprehensive strategic planning process that includes strategic objectives, scorecards and initiatives – all designed to give TVA employees the clear line-of-sight they need to improve TVA's core business operations.

Organizational effectiveness

This vision is an outgrowth of a comprehensive assessment of TVA's organizational effectiveness undertaken at the direction of the TVA Board to improve TVA's ability to do the right things in the right ways and *do more with less.*

As a result of this assessment, TVA has implemented a new organizational structure with fewer layers of management and better alignment of our leadership around TVA's core mission. This restructured organization will help TVA operate more efficiently by improving internal

communications, aligning business unit functions for optimal performance, and clarifying roles and responsibilities for greater accountability.

TVA is now addressing other areas of organizational effectiveness that include governance and accountability, operating policies and procedures, skill sets and rewards and recognition.

Budget Impacts in Review

Weather

TVA faced several significant challenges during fiscal year 2010 that impacted its operations and finances. The TVA service area experienced a colder than normal winter and a hotter than normal summer in 2010, contributing to a 6 percent increase in power sales from the previous year.

The hot summer, however, resulted in TVA having to curtail the use of some its generating assets because of increased water temperatures in the Cumberland and Tennessee rivers. As the warmer water reduced cooling capacity, TVA had to curtail some coal-fired generation on 68 days last summer and some nuclear units had to reduce generation on 56 days.

These curtailments – and the extreme weather – forced TVA to make greater use of more expensive generation and buy more power from other utilities, resulting in higher fuel-cost adjustments for TVA customers. To better address the water temperature issues, the TVA Board has approved a $160-million expansion of the cooling towers at Browns Ferry Nuclear Plant.

Kingston ash spill

TVA continues cleanup and recovery efforts related to the Kingston ash spill that occurred in December 2008. In May 2010, TVA completed its cleanup of the Emory River, and the river is now open for public recreation once again.

TVA has recorded an estimated total cost of cleanup in the amount of $1.1 billion. This amount is being charged to expense and collected in rates over a 15 year period that began in October 2009.

The work plan for the next phase of the cleanup has been approved by the U.S. Environmental Protection Agency with the concurrence of the Tennessee Department of Environment and Conservation and is now being implemented.

As the recovery effort continues and more information becomes available, TVA will review its estimates and make further adjustments if needed.

Coal combustion product and gypsum storage

Following the Kingston event, TVA retained an independent engineering firm to evaluate the safety and stability of ash and gypsum storage facilities at all it coal-burning power plants. TVA intends to convert all its ash and gypsum impoundments to dry storage over the next eight to 10 years at a cost of $1.5 billion to $2.0 billion.

TVA also is remediating or eliminating the storage facilities that were classified as high risk. The risk classification does not pertain to the integrity of the facility but rather to the likelihood that a failure could result in loss of life or significant economic and environmental damage.

TVA pension fund

In September 2009, the TVA board approved a $1 billion contribution to the TVA Retirement System as an advance on TVA contributions through fiscal year 2013. This contribution, along with a temporary change in the plan's cost of living adjustment, improved the plan's funded status.

Despite improved financial markets in fiscal year 2010, however, TVA's pension fund remains underfunded. At the end of fiscal year 2010, the plan had net assets of $6.8 billion and obligations of $10.4 billion – a net underfunding of $3.6 billion. The TVA Retirement System is exploring methods to reduce risk, return to full funding and strengthen governance of the system.

Nuclear decommissioning trust fund

TVA's nuclear decommissioning trust fund, meanwhile, increased in value by $104 million last year and was 94 percent funded as of September 30, 2010. TVA submitted a funding assurance plan to the Nuclear Regulatory Commission in 2009 to address an anticipated increase in liability over the remaining lives of TVA's nuclear units. The plan ensures that the fund will have enough money available when the nuclear plants are eventually decommissioned.

Meeting Financial and Operational Challenges

Many of the challenges TVA faced in fiscal year 2010 will continue to be challenges in the future. TVA is taking steps to address these challenges and improve its financial flexibility.

Wholesale rate structure

In August 2010, the TVA Board approved a new wholesale rate structure. This structure became an option for large industrial customers in October 2010 and will become effective for all TVA customers in April 2011. This rate structure, and a change to the TVA fuel-cost adjustment formula last October, is designed to more closely align TVA's revenue with costs and encourage energy efficiency. Over the long term, these changes are revenue neutral for TVA, but they will result in seasonal adjustments that affect when revenue is received.

Power demand will continue to grow

In fiscal year 2010, TVA sold 174 billion kilowatt-hours of electricity. TVA expects it will sell 167 billion kilowatt-hours in the current fiscal year and 170 billion kilowatt-hours in fiscal year 2012.

Reduced power demand is mostly a result of lower industrial demand due to the recent economic downturn. Most of TVA's recent sales growth has come from distributors, who serve smaller businesses and industries and residential consumers, and this has somewhat offset lower industrial demand.

TVA power sales have increased an average of 1 percent a year during the past decade. With the population in its service area growing slightly faster than the national average, TVA believes that overall power demand will continue to grow under the most likely scenarios.

During the past decade, TVA added about 8,500 megawatts of capacity, including new generation and purchased power agreements. TVA is making significant investments to further expand its baseload and peaking capacity and make greater use of renewable energy sources.

Integrated Resource Plan

In June 2009, TVA began preparing a new Integrated Resource Plan to analyze ways of addressing energy needs in the TVA service area for the next 20 years. This plan will help meet the goals of the TVA Strategic Plan and TVA Environmental Plan previously approved by the TVA board of directors. TVA conducted public information sessions and created a stakeholder review panel to provide specific and continuous guidance as the Integrated Resource Plan and accompanying environmental statement were being developed. TVA issued a final plan just last week and expects the plan to be considered by the TVA Board in mid-April.

Cleaner energy choices

Given its intention to move toward more generation with low or no carbon emission, TVA must consider fuel mix in its decisions about new generating capacity. TVA expects that clean air regulations will eventually require all coal-fired generating units to install air quality controls. This could significantly increase TVA capital expenditures and operating costs.

TVA currently has about 14,000 megawatts of coal-fired generation, about 6,800 megawatts of which is not scrubbed or otherwise controlled. Due to their age, lower capacity and lower efficiency, it may not be economical to install new clean-air controls on all these units.

In 2010, TVA announced plans to idle 1,000 megawatts of capacity at nine of its older coal-fired units during the next five years as it transitions to cleaner, lower carbon sources of energy. TVA began implementing this plan in late 2010 by idling two units at its Widow's Creek Fossil Plant in northeast Alabama and one unit at its Shawnee facility near Paducah, Kentucky.

Gas-fired capacity

In fiscal years 2006 through 2008, the TVA board authorized the purchase of three combustion-turbine plants and one combined-cycle plant. The board also approved a 15-year lease on a second combined-cycled plant and approved construction of two more combined-cycle plants. When all these assets are operational by fiscal year 2012, they will add more than 5,100 megawatts of cleaner gas-fired capacity to the TVA power system.

Nuclear capacity

Increased reliance on nuclear power is a cornerstone of the TVA Board's vision for meeting the operational challenges of the future. TVA's Browns Ferry Nuclear Plant Unit 1 returned to service in May 2007, providing 1,150 megawatts of capacity. TVA expects to increase this unit's capacity to 1,280 megawatts.

In August 2007, the TVA Board approved completing the construction of a second nuclear unit at Watts Bar Nuclear Plant. Construction of Watts Bar Unit 2 is on budget and on schedule.

When commercial operation begins in fiscal year 2012, it will provide TVA with another 1,150 megawatts of clean, carbon-free capacity.

In August 2010, the TVA Board approved $248 million to further develop an option to complete the 1,260 megawatt Bellefonte Unit 1 reactor. TVA expects to make a decision later this year on whether to proceed with construction of this unit.

Renewable capacity

TVA is taking significant steps to increase its use of renewable power and clean energy to reduce or avoid emissions and improve regional air quality. In 2008, the TVA Board approved plans to buy up to 2,000 megawatts of clean or renewable energy. TVA has since entered into nine contracts for 1,625 megawatts of wind energy from facilities in Illinois, Iowa, Kansas, North Dakota and South Dakota. These agreements will provide enough renewable energy to serve more than 400,000 homes in the TVA service area. This will increase to about 3 percent the amount of generating capacity TVA derives from renewable resources other than hydro.

Conclusion

TVA is taking a long view of the future and positioning itself to answer the challenges and prepare for the opportunities that lie ahead. Though the economy appears to be on the mend, our nation still faces considerable economic uncertainty, even more so with recent developments in the Middle East and the potential effects on world oil prices. These uncertainties challenge us all to do more with less.

TVA is doing its part by supporting the recent pay freeze for federal employees through 2012. Even though TVA salaries are not funded in the Budget or by taxpayer dollars and TVA has been entirely self-financed for 11 years and no longer receives direct federal payments, TVA reviewed the language and intent of this legislation and decided to apply its provisions not only to our senior executives but to all TVA managers, specialists and non-represented employees.

TVA is mindful of the economic challenges that its customers still face, and TVA intends to play a meaningful role in supporting a full and vibrant recovery and a cleaner and more sustainable energy future.

TVA looks forward to working with this committee, Congress, the administration, and all our stakeholders as TVA continues its service to the nation and the people of the Tennessee Valley region.

Thank you.

# # #

DEPARTMENT OF THE ARMY CORPS OF ENGINEERS

COMPLETE STATEMENT

OF

LIEUTENANT GENERAL ROBERT VAN ANTWERP
CHIEF OF ENGINEERS
U. S. ARMY CORPS OF ENGINEERS

BEFORE

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

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE ARMY CIVIL WORKS PROGRAM
FISCAL YEAR 2012

March 8, 2011

Chairman Gibbs and distinguished members of the Subcommittee:

I am honored to be testifying before your subcommittee today, along with the Assistant Secretary of the Army (Civil Works), the Honorable Jo-Ellen Darcy, on the President's Fiscal Year 2012 (FY12) Budget for the Civil Works Program of the United States Army Corps of Engineers.

My statement covers the following 12 topics:

- Summary of FY12 Program Budget
- Direct Program
- Investigations Program
- Construction Program
- Operation and Maintenance Program
- Reimbursable Program
- Proposed Legislation
- Planning Program Modernization
- Efficiency and Effectiveness of Corps Operations
- Value of the Civil Works Program to the Nation's Economy and Defense
- Research and Development
- National Defense

SUMMARY OF FY12 PROGRAM BUDGET

The Corps is fully committed to supporting the President's priorities to reduce the deficit, revitalize the economy and restore and protect the environment. The Fiscal Year 2012 Civil Works Budget is a performance-based budget that reflects a focus on the projects and activities that provide the highest net economic and environmental returns on the Nation's investment or address significant risks to human safety. The Budget also proposes cancellation of the unobligated balance of funding in the Mississippi River and Tributaries account that was previously provided for construction of the Yazoo Backwater Pumps, Mississippi project. The reimbursable Interagency and International Services Program is projected to involve an additional $1.6 billion.

DIRECT PROGRAM

The Budget includes $4.6 billion, including funding for the operation and maintenance of more than 600 flood and storm damage reduction projects, 143 commercial coastal navigation projects, and 51 commercial navigation projects on the inland waterways. It also funds continuing construction of 90 construction projects and two new construction starts. The Budget includes funds for 58 studies already underway and four new study starts. It will enable the Corps to process approximately 70,000 permit requests and to operate 75 hydropower plants with 350 generating units that produce about 24,000 megawatts per year. The Budget will enable about 370 million outdoor recreational visits to Corps projects and will provide water supply storage for about 14% of the Nation's municipal water needs. The Budget will sustain the Corps' preparedness to respond to natural disasters that we may experience. Finally, the Budget also proposes to reduce Federal costs through a reduction in funding in lower-priority programs.

INVESTIGATIONS PROGRAM

The Budget for the Investigations program will enable the Corps to evaluate and design future projects that are most likely to be high-performing within the Corps three main mission areas: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. The Budget includes $104 million for these and related activities in the Investigations account and $1 million in the Mississippi River and Tributaries account. It funds 58 continuing studies (1 reconnaisance and 57 feasibility) and four new studies: Englebright and Daguerre Point Dams (Yuba River) Fish Passage, CA; Cano Martin Pena, PR; the Chesapeake Bay Comprehensive Plan; and the Louisiana Coastal Area Comprehensive Study. Funding is also included for the Water Resources Priorities Study, a high-priority evaluation of the nation's vulnerability to inland and coastal flooding, as well as the effectiveness, efficiency, and accountability of existing water resource programs and strategies.

CONSTRUCTION PROGRAM

The goal of the construction program is to deliver as high a value as possible to the Nation from the overall availalble funding through the construction of new water resources projects and the replacement, rehabilitation, and expansion of existing water resources projects in the three main Civil Works missions (flood and storm damage reduction, aquatic ecosystem restoration, and commercial navigation) and related projects (principally hydropower). The Fiscal Year 2012 budget includes $1.48 billion in the Construction account and $78 million in the Mississippi River and Tributaries account to further this objective. Consistent with this goal, the Budget also gives priority to projects that address a significant risk to human safety.

The budget funds 92 construction projects, including: 55 Flood and Storm Damage Reduction projects (three budgeted for completion); 16 Commercial Navigation projects (including five continuing mitigation items and four dredged material placement areas); 19 Aquatic Ecosystem Restoration projects (incluing three projects to meet Biologiocal

Opinions); and mitigation associated with two Hydropower projects. Two of these construction projects are new starts. In the construction program, the aquatic ecosystem restoration mission also includes significant environmental mitigation work in the Columbia River Basin and the Missouri River Basin needed to support the continued operation of Corps of Engineers multi-purpose projects, which improves habitat and migration pathways for endangered and threatened species.

Performance measures, which the Corps uses to establish priorities among projects, include the benefit-to-cost ratios for projects with economic outputs and the most cost-effective restorations of significant aquatic ecosystems. The selection process also gives priority to dam safety assurance, seepage control, static instability correction work and to projects that address a significant risk to human safety. These performance measures maximize benefits to the Nation from the Civil Works construction program by focusing on the projects that will provide the best net returns for each dollar invested.

OPERATION AND MAINTENANCE PROGRAM

The facilities owned and operated by, or on behalf of, the Corps of Engineers are aging. As stewards of this infrastructure, we are working to ensure that its key features continue to provide an appropriate level of service to the Nation. Sustaining such service poses a technical challenge in some cases, and proper maintenance is becoming more expensive at many of our projects as infrastructure ages.

The Operation and Maintenance (O&M) program for the FY12 Budget includes $2.314 billion and an additional $131 million under the Mississippi River and Tributaries program with a focus on the maintenance of key commercial navigation, flood and storm damage reduction, hydropower, and other facilities. Specifically, the O&M program supports completed works owned or operated by the Corps of Engineers, including administrative buildings and laboratories. Work to be accomplished includes: operation of the locks and dams of the inland waterways; dredging of inland and coastal federal commercial naviation channels; operating multiple purpose dams and reservoirs for flood damage reduction, aquatic ecosystem restoration, hydropower, recreation, and other related purposes; maintenance and repair of these facilities; monitoring of completed storm damage reduction projects along our coasts; and general management of facilities and the lands associated with these purposes.

REIMBURSABLE PROGRAM

Through the Interagency and Intergovernmental Services Program, we help non-DOD Federal agencies, state, local, and tribal governments, and other countries with timely, cost-effective implementation of their programs. Rather than develop their own internal workforce to oversee design and construction of projects, these agencies can turn to the Corps of Engineers, which has these capabilities. Such intergovernmental cooperation is effective for agencies and the taxpayer by using the skills and talents that we bring to our Civil Works and Military Program missions. The work is principally technical oversight and management of engineering, environmental, and construction contracts

performed by private sector firms, and is totally financed by the agencies we serve. We only accept agency requests that we can execute without impacting our Civil Works or Military Programs missions, are consistent with our core technical expertise, and are in the national interest.

Currently, we provide reimbursable support for about 70 other Federal agencies and several state and local governments. Total reimbursement for such work in FY 2012 is projected to be $1.6 billion, reflecting completion of most ARRA work and a general reduction in budget capability for most of our other agency customers. The exact amount will depend on requests from the agencies.

PROPOSED LEGISLATION

The Budget includes several legislative proposals that will improve operations or enable execution of important national programs. The Budget proposes to extend the authority to implement measures to prevent the migration of invasive aquatic species into the Great Lakes, to transfer funds between accounts to enable completion of the New Orleans perimeter protection by June 2017, to purchase the property that houses the Cold Regions Research Engineering Laboratory in Hanover, New Hampshire, and to make a minor modification to existing law that will enable us to serve in an official capacity in meetings of the Permanent International Association of Navigation Congresses. As included in the testimony of Assistant Secretary of the Army (Civil Works) Jo-Ellen Darcy, the Budget also discusses two other important legislative initiatives, concerning the way in which Federal navigation activities are funded.

PLANNING PROGRAM MODERNIZATION

The Corps will continue to implement actions to improve its Civil Works Planning Program performance through a planning modernization effort. This effort focuses on how best to organize, manage, operate, and oversee the planning program to more effectively address 21st Century water resources challenges, including: improved project delivery that yields smarter outcomes; improved technical capability of our planners; enhanced collaboration with Federal State, local and non-governmental partners; evaluating and enhancing Corps Planning Centers of Expertise production capability and staffing; and strengthening the objectivity and accountability of our planning efforts. Our improved planning performance will include: updated planning guidance and policy; streamlined, adaptable planning processes to improve effectiveness, efficiency, accuracy, and reponsiveness; and enhanced technical capabilities.

In FY 2011, the Corps launched a two-year National Planning Pilot Program to test the concepts of this approach within our current policy and to develop and refine methodologies and processes for planning studies across all business lines in a manner that is sustainable and replicable and that will inform future Civil Works guidance. We expect to conduct approximately 7 to 9 pilot studies over the course of the National Planning Pilot Program.

EFFICIENCY AND EFFECTIVENESS OF CORPS OPERATIONS

The Corps always strives to continually improve the efficiency and effectiveness of its investigations, construction, and operation and maintenance programs. In FY 2012, the Corps will further expand the implementation of a modern asset management program; increase its focus onthe most important maintenance work; implement an energy sustainability program; pursue major efficiencies in the acquisition and operations of its information technology assets; and complete the ongoing reorganization of its acquisition workforce.

EMERGENCY RESPONSE

From across the Nation, the people who work for the Corps continue to respond whenever needed to the call to help during major floods and other national emergencies. The critical work they are doing reduces the risk of damage to people and communities. The Budget provides $27 million for preparedness for floods, hurricanes, and other natural disasters, including $4 million in support of the levee safety initiative for Corps participation in the expansion of interagency teams known as Silver Jackets, to include every State, and provide unified Federal assistance in implementing flood and storm damage reduction solutions.

RESEARCH AND DEVELOPMENT

Civil Works Program research and development provides the nation with innovative engineering products, some of which can have applications in both civil and military infrastructure spheres. By creating products that improve the efficiency and competitiveness of the nation's engineering and construction industry and by providing more cost-effective ways to operate and maintain infrastructure, Civil Works program research and development contributes to the national economy.

NATIONAL DEFENSE

Internationally, the U.S. Army Corps of Engineers continues to support the mission to help Iraq and Afghanistan build foundations for democracy, freedom and prosperity.

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, particularly with our ongoing missions in Afghanistan and Iraq. Men and women from across the Corps – all volunteers and many of whom have served on multiple deployments – continue to provide critical support to our military missions there and humanitarian support to the citizens of those nations. Currently, 1168 Corps employees (civilian and military) are deployed in Iraq and Afghanistan, where they have completed a total of over 6,000 infrastructure and water resources projects.

Ms. Darcy and I traveled to Afghanistan last month. As with every opportunity that I've had to travel to that theater, I continue to be amazed – but not surprised – by the progress being made. It was truly a privilege to visit with the outstanding Corps men and women who are making this happen, and to see their dedication and commitment.

In Afghanistan, the Corps is spearheading a comprehensive infrastructure program for the Afghan national army, and is also aiding in critical public infrastructure projects.

CONCLUSION

The Corps of Engineers is committed to staying at the leading edge of service to the Nation. We are committed to change that ensures an open, transparent, and performance-based Civil Works Program.

Thank you, Chairman Gibbs and Members of the Subcommittee. This concludes my statement.

Questions for the Record
John M. Thomas, III
Chief Financial Officer
Tennessee Valley Authority
Subcommittee on Water Resources and the Environment
United States House of Representatives
April 29, 2011

1. **What is the present status of the Kingston cleanup and how is TVA handling the recent court decision regarding fines and responsibility?**
   - **What is the status of the time-critical and non-time critical cleanup actions?**
   - **What will be completed in Fiscal Year 2011?**
   - **What is the status of the 2008 TVA and EPA agreement to the removal of the remaining 2.8 million tons of ash from the Swan Pond Embayment?**
   - **How is TVA distributing the cost of the Kingston cleanup across its operating budget, currently estimated at $1.1 billion?**
   - **Will these costs be covered through the bonds, revenues or rate increases?**

Response: The Kingston cleanup is proceeding on schedule and within budget. Major accomplishments to date include reopening of the Emory River for recreational use in June 2010, completion of Phase One of the cleanup: removing and shipping off-site all time critical ash (December 2010) and beginning the second phase of the project which includes cleanup of the Swan Pond Embayment and final closure of the ash landfill from which the spill occurred. The second phase of the work is expected to be complete in 2014 and closure reports will be submitted to the state and EPA in 2015. There have been no environmental releases during the course of the work that exceed approved permits and standards and a public health assessment issued by the Tennessee Department of Health (in collaboration with the Agency for Toxic Substance and Disease Registry) concludes that there have been no impacts to public health. The third and final phase of the project is also underway and includes ecological, groundwater and surface water (i.e. the River) studies which will support a final decision regarding whether or not additional cleanup of residual ash in the river is required. With this final decision a plan will be developed which will define TVA's stewardship responsibility for long-term monitoring beyond the end of the cleanup work.

TVA has incurred approximately $600M through the end of FY10 of the total estimate of $1.125B. As TVA incurs actual expenses, TVA reduces the total liability outstanding. The project is amortized over 15 years which is consistent with the life of the assets. The Kingston recovery project will be recovered over 15 years through rates.

TVA is not aware of a court decision regarding fines and responsibility relating to the Kingston ash spill.

2. **How is TVA proposing to reduce the overall debt of the Authority?**

   Response: TVA has the authority to issue up to $30 billion in debt outstanding at any one time. This amount has not changed since 1979. TVA plans to retire the debt associated with current assets over the course of the life of those assets. New assets will be financed with new debt, power revenues, or through alternative financing mechanisms.

   TVA's debt peaked in 1996 and was reduced in some years thereafter as capital investments were limited and more revenues were applied to paying down debt. As a result of capital needs for new capacity, emissions control equipments, system reliability projects, and other capital projects, the total amount of TVA's statutory debt has begun to increase. TVA's statutory debt was $23.4 billion for the year ended September 30, 2010, and $22.6 billion for the year ended September 30, 2009.

   While the balance of TVA's debt fluctuates from year to year, TVA's guiding financial principles are designed with the goal of TVA maintaining a healthy balance sheet and being able to meet its obligations.

   TVA is exploring obtaining greater financial flexibility and alternative ways to finance the capital projects essential for the power needs of its service territory.

3. **What is the financial approach that TVA is using to maintain credit?**

   Response: TVA is financially healthy today as demonstrated by several factors, including a competitively installed power system, a competitive capital structure, a low cost of capital, and superior credit ratings. The financial guiding principles set forth by the TVA Board will ensure financial health going forward. TVA will retire existing debt before the end of the useful life of its assets, and new debt will be supported by new assets. TVA is also committed to raising power rates as needed to fund operations and preserve financial health.

4. **How is TVA integrating renewable energy into its portfolio?**
   - **Who is paying for the integration of the renewable resource into the existing TVA grid?**

   Response: TVA defines renewable energy as energy production that is sustainable and often naturally replenished (e.g., solar, wind, methane, biomass, geothermal and hydro). There is currently no federal statutory definition of renewable energy resources, but several recent federal renewable energy legislative proposals would exclude most of TVA's extensive conventional hydropower installations. Therefore, TVA has been taking strides to increase its non-conventional hydro renewable energy portfolio. These actions align with the approved TVA Board of Directors renewed vision, currently under review by the Administration, and other policies and strategic aspirations.

TVA currently integrates renewable energy into its generation portfolio via four primary implementation vehicles: 1) asset ownership; 2) utility-scale power purchases; 3) smaller scale, distributed power purchases; and 4) customer-based initiatives.

TVA owns and operates 29 conventional hydroelectric dams (3885 MW), three wind turbines (2 MW), one digester gas co-firing site (8 MW), and 14 solar energy sites (<1 MW). Since 1992, TVA has increased generating capacity at its conventional hydropower plants by 565 MW through its Hydro Modernization Program (HMOD) to increase the efficiency and capacity of existing units. Generation associated with these HMOD improvements would be eligible to meet proposed federal renewable energy legislation. In addition, TVA operates a pumped hydro storage facility (1714 MW).

TVA currently purchases and dispatches more than 405 MW of hydropower from four Alcoa dams and eight U.S. Army Corps of Engineers dams. TVA also purchases 27 MW of energy generation from 15 wind turbines in Tennessee. In April 2009, the TVA Board of Directors authorized the purchase of up to 2,000 MW of renewable and clean energy. By February 2011, contracts or options to secure more than 1,600 MW of solar, wind and landfill methane contracts have been signed, with all of the new wind capacity located outside of TVA's service territory and all of the new solar and landfill capacity inside of TVA's service territory.

In 2010, TVA developed a renewable power purchase plan, known as the Renewable Standard Offer, to eliminate barriers and further encourage smaller scale (201 kW to 20 MW) renewable energy projects in TVA's service territory. This initiative offers a set price for energy from renewable energy projects. The first agreement was signed under this program in January 2011 with Waste Management Renewable Energy LLC for a 4.8 MW landfill methane gas facility. Additional landfill gas and solar projects are soon to be finalized.

TVA offers additional customer-based initiatives to facilitate the installation of renewable generation sources. Green Power Switch® (GPS) was launched in 2000 to offer Tennessee Valley residents the choice to support renewable energy. The GPS program was the first green power pricing program in the Southeast and currently has approximately 12,000 participants. One-hundred percent of the renewable energy produced from GPS is from Tennessee Valley resources, comprising hundreds of solar, wind, biomass, and methane gas sites. GPS is sold to residential and business consumers in 150 KWh blocks. Each block currently is $4, which is added to the consumers' power bill each month.

TVA' s Generation Partners (GP) program was launched as a pilot program in 2003 and provides technical support, incentives and premium rates to purchase energy from small-scale (<200 kW) renewable generation systems from eligible resources such as solar photovoltaics, wind, biomass and small hydro. The renewable power generated from GP currently goes towards GPS supply. Current GP capacity is 10 MW and the program is growing rapidly, with future capacity likely to exceed 50 MW, primarily due to increasing installations of small-scale solar and biomass capacity.

Additional current efforts TVA is undertaking to advance development of renewable energy include:

- Developing a renewable energy roadmap to inform future strategy and implementation;
- Completing a biomass conversion feasibility, fuel supply and cost assessment study;
- Collaborating with the Tennessee Valley and Eastern Kentucky Wind Working Group to update Tennessee Valley wind energy resource assessments and transmission capabilities using newer wind turbine technology and taller towers;
- Partnering with the State of Kentucky to evaluate Kentucky renewable energy resources
- Reviewing waste heat recovery capabilities;
- Collaborating with Tennessee Solar Institute to host a solar forum in August 2011;
- And demonstrating sustainable recreation areas, including renewable energy, energy and water efficiency, and other environmentally beneficial enhancements, throughout the recreation and campground facilities at TVA's Melton Hill Dam Reservation.

Going forward, TVA's Integrated Resource Plan (IRP), "TVA's Environmental and Energy Future," and associated Environmental Impact Statement identify resources that are acceptable and available to meet the energy needs of the Tennessee Valley region over the next 20 years. The demand for power in the region, the options available for meeting that demand and the potential environmental, economic and operating impacts of each are addressed. The IRP aligns with TVA's Environmental Policy and will serve as a guide for TVA to fulfill its renewed vision—to become one of the nation's leading providers of low-cost and cleaner energy by 2020.

In setting rates to cover the costs set out in the TVA Act, TVA uses a debt-service coverage ("DSC") methodology to derive annual revenue requirements in a manner similar to that used by other public power entities. Under the DSC methodology, rates are calculated so that an entity will be able to cover its operating costs, including the integration of renewable resources, and to satisfy its obligations to pay principal and interest on debt. This ratemaking approach is particularly suitable for use by entities financed primarily, if not entirely, by debt capital, such as TVA. This methodology reflects the cause-and-effect relationship between a regulated entity's costs and the corresponding rates the entity charges for its regulated products and services. Subject to TVA Board approval, power rates would be adjusted to a level sufficient to produce revenues approximately equal to projected costs. To date, the cost of TVA's non-hydro renewable energy, as a percentage of total revenue requirements, has been low.

Moreover, in response to customer demand for renewable energy, TVA's Green Power Switch Program (GPS) has allowed customers to pay a premium to offset the cost of developing and generating renewable energy resources inside TVA's service territory. Historically, voluntary payments under GPS offset a significant portion of TVA's investments in non-hydro, in-Valley renewable resources.

5. **How is TVA addressing the IG's report regarding the need to change the management culture at TVA in respect to the Kingston spill?**
    - **What metrics are being used to evaluate whether the culture has really changed?**

Response: After the Kingston spill, TVA hired McKinsey & Co. to assess its organizational health and performance and to help identify needed improvements. As part of the assessment process, TVA surveyed all of its employees in September 2009 using McKinsey's Organizational Health Inventory (OHI) and conducted a series of employee focus groups and executive interviews. Based on this input, improvement efforts were focused on five areas: organization structure, governance and accountability, operating policies and procedures, skill sets, and rewards and recognition.

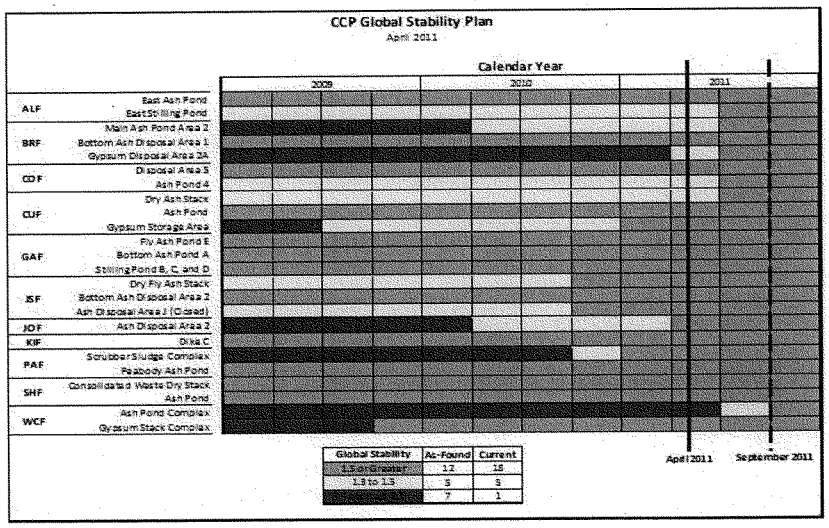
Improvements to date include:

- Creation of a new organizational structure better aligned with TVA's performance objectives and designed to improve transparency, accountability, and communication.
- A concerted effort, including a meeting hosted by the CEO with front-line supervisors, to ensure that all TVA employees understand their role in helping TVA achieve its renewed vision of becoming one of the Nation's leading providers of low-cost and cleaner energy by 2020.
- A renewed emphasis on TVA's core values: safety, integrity and respect, honest communication, accountability, teamwork, continuous improvement and flexibility.
- New enterprise-wide governance procedures specifying executive ownership and expectations.
- Formation of a new Talent Management organization charged with driving TVA's organizational health transformation process and developing and implementing a talent management strategy.
- Development of an improved performance management process aimed at differentiation of performance, robust succession planning, and employee development .
- Introducing TVA's leadership to the five frames of transformation and highlighting the critical role of the TVA leaders through one-day Change Leader Forums.
- Establishment of monthly meetings between TVA's executive leadership and small groups of randomly selected TVA employees to discuss employee "Compliments" and "Concerns."

The OHI survey conducted in September 2009 established a baseline for measuring organizational health improvement at TVA. TVA has been monitoring its organizational culture via an annual OHI survey of all TVA employees and bimonthly pulse surveys sent to about a third of the workforce at a time. The three pulse surveys conducted to date show an improvement in TVA's cultural health since 2009. The next full OHI survey is planned for late April. Results of the survey will be used to determine the need for any course corrections in TVA's organizational transformation process.

6. **How is TVA addressing the October 2010 report which identified that only half of the 24 earthen dams on TVA projects meet safety standards for stability?**
    - **Is there a response or contingency plan in place to protect the downstream communities? If not, why not?**

Response: Extensive engineering design and construction remediation has been implemented at the 12 identified sites since the issuance of the October 2010 Report. The current status, shown in the following figure, indicates that 19 of the 24 earthen dams now fully meet the Safety Standards for Stability, with the 4 of the 5 scheduled to complete remediation improvements by the end of June 2011 and the final facility to be completed by the end of September 2011.



Contingency plans have been developed to protect downstream communities. The plans are in the form of a Seepage Action Plan and an Emergency Action Plan. The Seepage Action Plan was designed to identify and remediate seepage in a timely manner to prevent subsequent failure and impact to the community. In accordance with the plan, stock piles of remediation material are present on each site in the event a seep is identified and immediate remediation is warranted. Also, each Fossil Facility has had an Emergency Response Plan developed in the event that a dike breach were to occur. This plan involves the timely notification of local emergency response personnel and implementable actions.

7. **Subsequent reports suggest that TVA identified 86 separate engineering and construction projects that would be necessary to bring these dams up to the top safety standard. Can you provide an update on the progress in addressing each of these 86 engineering and construction projects?**

Response: Of the eighty-six projects mentioned, twenty-one projects involve impoundment remediation work, twenty-eight involve impoundment closure, and the remaining projects

involve dry ash gypsum conversion and new landfills and expansions. Of these projects, currently seventy-three capital projects are in planning, design, or construction phase and thirteen have been completed. These eighty-six projects address closure of wet impoundments, converting fossil plants to dry ash and gypsum handling, building new dry storage landfills, and remediating (bringing dams up to top safety standards) existing impoundments. The chart below illustrates the number of projects by plant and project phase.

TVA Fossil Plant	Planning	Design	Construction / Implementation	Completed	Total
Allen	-	1	1	-	2
Bull Run	3	1	6	1	11
Colbert	1	5	4	1	11
Cumberland	4	-	3	-	7
Gallatin	1	-	-	1	2
John Sevier	2	-	1	-	3
Johnsonville	2	1	6	1	10
Kingston	1	2	3	-	6
Paradise	3	3	4	1	11
Shawnee	-	-	2	-	2
Widows Creek	5	2	3	1	11
System Wide	-	-	3	7	10
Total	22	15	36	13	86

Projects by category are summarized below. All impoundment remediation work will be completed by September 2013.

Project Category	Number of Projects
Dewater & Dry Fly Ash Conversions	10
Impoundment Remediation	21
New Landfills & Expansions	15
Impoundment Closures	28
Other	12
Total	86

8. **How is TVA currently handling the storage of spent nuclear fuel rods?**
   - **Do you anticipate the costs for spent fuel storage will increase substantially with the increased nuclear power percentage currently being contemplated?**

Response: The current strategy for handling spent fuel is based upon optimizing spent pool storage volume to maintain allowable pool storage capacity to support full core off load capability of any unit. Dry cask canisters are loaded as needed to maintain this margin. Subsequent to the accident at Fukushima, TVA is evaluating the potential for loading of dry cask canisters from all pools to increase storage capacity margin (spacing and heat load).

TVA expects short term costs to store spent fuel will increase based on overall volume increases. Cost per unit is an unknown variable. As a result of Fukushima and the potential desire to reduce spent fuel pool inventories, greater demand may exceed current production capacity, causing short term escalation of costs. Greater volume over time could bring per unit prices down if manufacturing efficiency increases, or greater volume could drive costs up due to increased demand on materials. Significant impact on costs related to new nuclear construction is not anticipated.

9. **Do you see the power portfolio of TVA changing over the next 20 to 50 years? For example, how will the lost generation capacity from the decommissioning of coal - fired plants are replaced?**

Response: TVA's power supply portfolio is a flexible combination of resources that best position the agency to meet the changing demands of its customers. Long term resource planning traditionally considers a 20-year horizon when mapping out a plan to best position the utility to provide reliable, low cost power consistent with TVA's mission. The power supply plan does change over time in response to changing industry conditions and regulatory requirements, in addition to the changing way our customers use electricity. The recently completed Integrated Resource Plan (IRP) discusses several possible resource portfolios that depend on the future conditions that TVA may face. While these portfolios are diverse and address different plausible futures, there are some common characteristics, including: (1) an increased role for renewable and energy efficiency; (2) continued commitment to nuclear power; (3) expanded use of plants fueled by natural gas; and (4) the idling of additional existing coal-fired capacity. These characteristics allow TVA to maintain a balanced mix of generation that minimizes power costs and reduces environmental impacts over the planning period. The IRP sets out a recommended planning direction that allows flexibility to develop a portfolio that balances cost, risk and other strategic considerations.

The replacement of idled coal-fired capacity is just one of several future conditions that are considered in the IRP when identifying the recommended planning direction; that "lost generation" is factored into the optimum mix of resources identified in the study. Details about the planning process and the various resource portfolios TVA considered can be found in the IRP report.

10. Coal supply - TVA gets its coal from four main sources. What is the expected life of these four sources?

Response: The four main areas, from which TVA obtains coal, and their anticipated life expectancy, are summarized below (reference: DOE/EIA-0584 (2009), released October 1, 2010 and updated February 3, 2011):

Coal Production, Estimated Recoverable Reserves, and Demonstrated Reserve Base by Mining Method, 2009			
Major Coal Supply Regions Utilized by TVA	**2009 Coal Production**	**Estimated Recoverable Reserves & Estimated Expected Life**	**Demonstrated Reserve Base & Estimated Expected Life**
Coal Producing Region	**Million Short Tons**		
Central Appalachia	196	22,947	41,907
Expected Life		117 years	213 years
Illinois Basin	102	50,782	132,775
Expected Life		498 years	1,301 years
Uinta	49	12,265	21,184
Expected Life		250 years	431 years
Powder River Basin	456	113,513	180,580
Expected Life		249 years	306 years

The Estimated Expected Life is calculated using 2009 annual production numbers by basin. Estimated Recoverable Reserves represent the quantity of coal that can be mined with today's technology. The Demonstrated Reserve Base represents 100% of coal in-place that has been mapped to measured and indicated degrees of accuracy.

11. As a result of the safety issues resulting from the destruction of the nuclear power plants in Japan, does TVA have a contingency plan for providing alternative power supply to cooling ponds where spent nuclear material may be kept? Is there a secondary, independent, power supply for the main reactor cooling system?

Response: Backup power supplies for spent fuel pool cooling equipment are available from redundant, independent onsite diesel generators. The generators, and their fuel supplies, are designed and constructed to survive the maximum expected earthquake and they are either located above the maximum probable flood elevation or are contained within watertight

enclosures. Additionally, replacement water can be added to the spent fuel pools though measures such as onsite portable diesel powered fire pumps and hoses.

The same redundant, independent onsite diesel generators that would provide power to the spent fuel pool cooling equipment also provide power to the main reactor emergency cooling systems.

In addition, diverse means are available to provide electricity and water makeup for spent fuel pools in situations involving station black-outs or a loss of large area event which are beyond the current design basis of the nuclear power plant.

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STATEMENT OF

THE AMERICAN SOCIETY OF CIVIL ENGINEERS

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

ON THE

ON THE FY 2012 BUDGETS AND PRIORITIES OF

THE ARMY CORPS OF ENGINEERS, TENNESSEE VALLEY AUTHORITY,

AND THE NATURAL RESOURCES CONSERVATION SERVICE: FINDING WAYS

TO DO MORE WITH LESS

MARCH 8, 2011

Statement of

The American Society of Civil Engineers

Before the Water Resources and Environment Subcommittee

House Transportation and Infrastructure Committee

On The FY 2012 Budgets and Priorities of

The Army Corps of Engineers, Tennessee Valley Authority,

and the Natural Resources Conservation Service: Finding Ways To Do More with Less

March 8, 2011

Mr. Chairman and Members of the Subcommittee:

The American Society of Civil Engineers (ASCE) is pleased to offer this statement for the record for the hearing on the fiscal year 2012 budgets of the U.S. Army Corps of Engineers, the Tennessee Valley Authority and the Natural Resources Conservation Service before the Water Resources and Environment subcommittee.

The president's budget for FY 2012 for these agencies is inadequate and must be increased. Congress must increase funding for FY 2012, and the continuing resolution for fiscal year 2011 must at a minimum restore funding for these agencies to their FY 2010 levels for key infrastructure program accounts.

I. Budget Cuts Threaten Infrastructure, Economy

A. U.S. Army Corps of Engineers

The president and Congress propose to reduce spending on critical Corps of Engineers infrastructure programs in FY 2011 and FY 2012. These budget cuts must be reversed to ensure safe infrastructure and a sound economy.

Of greatest concern, the administration's budget for FY 2012 includes $4.63 billion in funding for the Civil Works program of the Corps of Engineers. This is a reduction of $770 million from the FY 2010 enacted level of $5.4 billion. Indeed, the president's proposal is $527 million below the FY 2011 sum approved by the House Appropriations Committee in 2010.
More recently, the House passed a continuing resolution that would cut $516 million from the Civil Works program in FY 2011. The presidential and congressional reductions continue the unfortunate trend toward under investing in federal infrastructure that saves lives and promotes economic growth.
In 2005, Hurricane Katrina vividly demonstrated the perils of relying upon poorly funded infrastructure to protect lives and property. An ASCE investigation (conducted on behalf of the Corps of Engineers) reported in 2007 that chronic under funding was one of the principal causes of the levee failures after Katrina.

Because of the congressional budgeting process, the stream of funding for the New Orleans hurricane protection system was irregular at best. If a project was not sufficiently funded, the USACE was often required to delay implementation or to scale back the project.

This push-pull mechanism for the funding of critical life-safety structures such as the New Orleans hurricane protection system is essentially flawed. The process creates a disconnect between those responsible for design and construction decisions and those responsible for managing the purse-strings. Inevitably, the pressure for tradeoffs and low-cost solutions compromised quality, safety, and reliability.

The project-by-project approach—in which projects are built over time based on the availability of funding—resulted in the hurricane protection system being constructed piecemeal with an overall lack of attention to "system" issues. The project-by-project approach appears to be associated with congressional limitations. The USACE was forced into a "reductionist's" way of thinking: reduce the problem into one that can be solved within the given authority and budget. Focus only on the primary problem to be solved, inevitably making the issues of risk, redundancy, and resilience a lower priority.

American Society of Civil Engineers, The New Orleans Hurricane Protection System 71-72 (2007).

Problems continue on a larger scale: forty-one states, including all states east of the Mississippi River and 16 state capitals, are served by commercially navigable waterways. The U.S. inland waterway system consists of 12,000 miles of navigable waterways in four systems—the Mississippi River, the Ohio River Basin, the Gulf Intercoastal Waterway, and the Pacific Coast systems—that connect with most states in the U.S. The system comprises 257 locks, which raise and lower river traffic between stretches of water of different levels.

Forty-seven percent of all locks maintained by the U.S. Army Corps of Engineers were classified as functionally obsolete in 2006. Assuming that no new locks are built within the next 20 years, by 2020, another 93 existing locks will be obsolete—rendering more than 8 out of every 10 locks now in service outdated.

The Corps of Engineers continues to suffer from many years of under funding for essential infrastructure systems. If allowed to continue, this trend likely will result in ever greater system failures and the consequent expenditure of tens of billions of dollars to rebuild what could have been built more economically in the first instance.

To cite one striking example, in 1986, Congress enacted the Harbor Maintenance Trust Fund (HMTF) to provide federal funding for the operation and maintenance (O&M) costs at U.S. coastal and Great Lakes harbors from maritime shippers. O&M costs involve mostly the dredging of harbor channels to their authorized depths and widths. The HMTF is financed by a tax on importers and domestic shippers using coastal or Great Lakes ports. The tax is assessed at a rate of 0.125 percent of cargo value ($1.25 per $1,000 in cargo value).

In FY 2010, the most recent year for which a complete Treasury audit is available, the HMTF received total tax and interest revenues of $1.363 billion. In FY 2012, however, the HMTF balance will be an estimated at $6.1 billion. The administration is requesting $732 million in FY 2012 for

the O&M of channels and harbors—equal to approximately half of the anticipated FY 2012 revenues of $1.6 billion and to about eight percent of the fund's anticipated year-end balance. Despite this large and growing surplus in the trust fund, the busiest U.S. harbors are presently under maintained. The Corps of Engineers estimates that full channel dimensions at the nation's busiest 59 ports are available less than 35 percent of the time. This situation can increase the cost of shipping as vessels carry less cargo in order to reduce their draft or wait for high tide before transiting a harbor. It could also increase the risk of a ship grounding or collision.

ASCE strongly supports enactment of H.R. 104, the Realize America's Maritime Promise Act, which would requires that all revenues flowing into the HMTF (plus any interest earned) in any fiscal year would be appropriated for O&M expenses at harbors and channels.

B. The Natural Resources Conservation Service

The Watershed Rehabilitation Program at the Natural Resources Conservation Service (NRCS) plays a critical role in extending the service life of dams and brings them into compliance with applicable safety and performance standards.

There are more than 11,000 watershed dams in 47 states, however many of these dams are nearing the end of their 50-year design life. Rehabilitation of these dams is needed to address critical public health and safety issues in the communities where these dams reside. Over 600 watershed dams have already reached the end of their expected design life; and this number will increase to more than 4,300 over the next five years. Many watershed dams no longer are able to continue to provide the benefits that the local communities have counted on for so many years, such as the expected level of flood protection.

The Small Watershed Rehabilitation program has successfully been in existence since 2000. The legislation provides authorization for the USDA to assist local communities with rehabilitation of aging flood control dams, which were constructed with USDA assistance. Therefore, this important piece of legislation provides a proactive approach to address public health and safety needs before a tragic dam failure occurs. Sponsors across the country have begun rehabilitating high hazard aging dams, but funding and assistance must be available in the future to continue the work that is necessary to keep thousands safe.

In fiscal year 2010 eleven dam rehabilitations were completed and there are 23 dam rehabilitation projects currently under construction. Additionally, there were 650 ongoing assessments of high hazard dams that provided communities with technical information about that condition of their dams and alternatives for rehabilitation for dams that do not meet federal dam safety standards.

ASCE has deep concerns with the administration's proposed FY 2012 budget for the USDA Watershed Program (Watershed Protection and Flood Prevention Program). Specific language in the proposal zeroes out the Watershed Operations account in the USDA-NRCS 2012 budget marking the first time since the Small Watershed Program's inception in 1948 that funds for operations have not been appropriated. The president's budget proposes no funding for watershed planning, no funding for watershed operations and no funding for rehabilitation of aging dams. The administration's recent funding requests are not in touch with the reality of the documented demand for the program. We urge you to support adequate funding for the Watershed Program so that important work can continue that will protect our citizens and our natural resources.

ASCE respectfully requests that Congress increase the administration's proposed appropriations for FY 2012 as follows:

- $40 million for Watershed Planning
- $110 million for Watershed Operations
- $75 million for Rehabilitation (This amount is $60 million less than the $135 million authorized in the 2002 Farm Bill.

ASCE asks that Congress view funding the Rehabilitation of Watershed Dams as a significant re-investment in the benefits of the program and an investment in the safety of these dams. Therefore, we respectfully requests that this Committee authorize adequate appropriations for FY 2012.

II. Conclusion

It is not clear how federal agencies will continue to pay for essential infrastructure systems with greatly reduced appropriations. "Doing more with less" may seem like a workable fiscal solution to some, but it is obvious that drastic budget cuts or the complete elimination of funding will mean little or nothing will be done to maintain these programs.

Enabling the eventual failure of the nation's infrastructure through arbitrary budget-cutting is deeply troubling. Placing abstract notions of budget deficits above the primary duty of the federal government to protect human life is a dubious policy choice—a choice whose lethal consequences were amply demonstrated in New Orleans in the wake of Hurricane Katrina and the failure of that city's inadequately designed and constructed levee system. Federal officials will never be able to justify themselves in the event of a catastrophic infrastructure failure in which many could die. They will never be able to escape the knowledge that they were complicit in the failure. One thing Congress may never be allowed to say: We weren't told.

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Statement of

The Association of State Dam Safety Officials

Before the Water Resources and Environment Subcommittee

House Transportation and Infrastructure Committee

On The FY 2012 Budgets and Priorities of

The Army Corps of Engineers, Tennessee Valley Authority,

and the Natural Resources Conservation Service: Finding Ways To Do

More with Less

March 8, 2011

Mr. Chairman and Members of the Subcommittee:

The Association of State Dam Safety Officials (ASDSO) is pleased to offer this testimony on the proposed FY12 budget for the Department of Agriculture, Natural Resources Conservation Service (NRCS), Watershed Rehabilitation Program, which as part of the Small Watershed Programs.

ASDSO is a national non-profit organization of more than 3,000 state, federal and local dam safety professionals and private sector individuals dedicated to improving dam safety through research, education and communications. Our goal simply is to save lives, prevent damage e to property and to maintain the benefits of dams by preventing dam failures.

Several dramatic dam failures in the United States called attention to the catastrophic consequences of failures. The failure of the federally-owned Teton Dam in 1976 caused 14 deaths and over $1 billion in damages, and is a constant reminder of the potential consequences associated with dams and the obligations to assure that dams are properly constructed, operated and maintained. The recent dam failures in Hawaii, Missouri and

Iowa, and the incidents in Massachusetts recently have brought into tragic focus for the public the impact aging and under-funded dams can have on a community.

The President's proposed FY 2012 budget proposes to eliminate appropriations to fund rehabilitation of unsafe and seriously deficient dams that were originally constructed under USDA Watershed Programs. We do not support this decision. The T&I Committee is supporting a $40.2 million budget in FY12. This is more in line with recent budgets appropriated by Congress.

The Association of State Dam Safety Officials respectfully requests that Congress increase the Administration's proposed appropriations for FY12 as follows:

- **$40 million for Watershed Planning**
- **$110 million for Watershed Operations**
- **$75 million for Rehabilitation (This amount is $60 million less than the $135 million authorized in the 2002 Farm Bill.**

ASDSO has deep concerns with the Administration's proposed fiscal year 2012 budget for the USDA Watershed Program (Watershed Protection and Flood Prevention Program). Specific language in the proposal zeroes out the Watershed Operations account in the USDA-NRCS 2012 budget marking the first time since the Small Watershed Program's inception in 1948 that funds for operations have not been appropriated. The President's budget proposes $0 for watershed planning, $0 for watershed operations and $0 for rehabilitation of aging dams. The Administration's recent funding requests are not in touch with the reality of the documented demand for the program. We urge you to support adequate funding for the Watershed Program so that important work can continue that will protect our citizens and our natural resources.

The Problem

The United States Department of Agriculture (USDA) under authorities granted by Congress beginning in the 1940s provided technical and financial assistance to local sponsors and constructed watershed dams. These dams, completed primarily under the authority of PL 78-534 and PL 83-566 provided important benefits including flood protection, municipal and rural water supplies, irrigation, recreation, water quality, sediment removal and habitat. The USDA, in partnership with these local sponsors constructed over 11,000 watershed dams across the country in 47 states.

Dams constructed under these USDA programs have provided local communities with years of critical service. They have provided flood protection for many homes and businesses, and the local transportation infrastructure. Many communities rely on watershed dams for drinking water and many farmers depend on those dams for necessary irrigation water to grow food and fiber. However, these dams are aging and many have already reached the end of their 50-year design life. Over 600 watershed dams have already reached the end of their expected design life; and this number will increase to over 4,300 over the next five years. Many watershed dams no longer are able to

continue to provide the benefits that the local communities have counted on for so many years, such as the expected level of flood protection. Many dams are unable to continue to provide the same storage volume for drinking water; and many of them are so filled with sediment that they cannot provide intended flood control, water quality and sediment removal functions. More alarming is the recognition that, as these dams continue to age and deteriorate, they threaten the very same local communities that have relied on them for protection and for quality of life improvements

The challenge is enormous. Local sponsors cannot shoulder the entire burden alone. Without a fully funded Small Watershed Dam Rehabilitation Program, the flood protection provided by these dams will be diminished, irrigation and drinking storage will be reduced and water quality will continue to decline. However, the most dramatic consequences from the aging and deterioration of these dams will undoubtedly be an increase in the probability of a tragic failure.

Dam failures cause lives to be lost, downstream property to be destroyed and damage to critical public infrastructure (roads, bridges, water treatment facilities). The cost of just one dam failure, measured in loss of life, property damage and clean up costs, could easily exceed the entire cost of the Small Watershed Dam Rehabilitation authorization.

Many of these watershed dams do not have Emergency Action Plans (EAP), essential for saving lives in the event of a dam failure. These plans provide for surveillance of the dam, notification of emergency management officials, and evacuation plans. Most importantly, they identify the areas below the dam that would be flooded in the event of a dam failure. Without these plans, a local downstream community would have little chance of receiving adequate and timely warning in order to evacuate their homes and businesses.

Critical to the EAP is the completion of dam failure modeling to clearly map the downstream area flooded from a failure, often called the "danger reach." Rehabilitation funded under this program should include this, as part of the rehabilitation design and planning package. These plans are more critical than ever since dams have been identified as potential targets in our increasingly dangerous world.

Often development, attracted by the benefits provided by the dam, has significantly altered the upstream watershed and increased runoff and sediment transport to the dam. In addition, it is very common to see major downstream development in the area below the dam—within the dam failure flood zone. When this happens the consequences of a potential failure could include loss of life. This significantly alters the minimum safety requirements and causes dam safety officials great concern. So, these development consequences are typically beyond the control of the local sponsoring organizations, yet they are still responsible for compliance with the state dam safety standards.

It is essential to continue this program funding at a level that recognizes this demand, the size of the problem and the importance of maintaining the Federal government's leadership role.

Example of Success

The Yellow River Dam #14 in Gwinnett County is the first in Georgia to be rehabilitated with Federal funds. The $1.8 million project was necessary to comply with the Georgia Safe Dams Act administered by the State Department of Natural Resources Environmental Protection Division. The dam was classified as a Category I structure, which means that there would probably be loss of life if the dam were to fail. Local sponsors, the Gwinnett County Soil and Water Conservation District, the Upper Ocmulgee River Resource Conservation and Development Council, and Gwinnett County, also participated with the County paying $600,000 of the total cost.

The structure, known locally as McKendrie Lake, was constructed in 1968 by NRCS to provide flood control, recreation, wildlife benefit and improved water quality. The area was then rural and agricultural, but has experienced explosive growth in recent years. The dam was well built and maintained, but new houses placed outside the 100 year flood plain but within the dam breach zone necessitated the upgrade. The process began with public meetings at Collins Hill High School to gain input from local residents. The options presented included draining the Lake and breaching the dam, decommissioning the dam according to NRCS standards, upgrading the dam to handle the required flow, and purchasing the homes within the breach zone. Purchasing the homes turned out to be prohibitively expensive, and, not surprisingly, the residents selected the upgrade as their favorite alternative. Considering the projected loss of property value due to draining the Lake, upgrade was also the most cost-effective solution.

Request

Mr. Chairman and Members of this Committee, ASDSO are convinced that funding of the Small Watershed Program is critical to the safety of the nation's dams as well as the lives and property downstream. Identifying a funding source for rehabilitating and securing our country's dams is a major challenge. For the 11,000 Watershed Dams created through a highly successful program administered by the Federal government, Congress and the Administration should reconfirm their commitment to the structures and the American people who depend on the continuing benefits provided by these dams. These same people need to be secure that the dams the United States help them build will not fail or diminish their function.

ASDSO asks that Congress view funding the Rehabilitation of Watershed Dams as a significant re-investment in the benefits of the program and an investment in the safety of these dams. Therefore, **we respectfully requests that this Committee provide adequate appropriations for FY 2012.**

Thank you for the opportunity to submit this testimony. We look forward to working with the Committee and staff in any way to improve the safety of dams in the United States.

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