

**A REVIEW OF THE PRESIDENT'S  
FISCAL YEAR 2013 BUDGET REQUEST  
FOR THE ARMY CORPS OF ENGINEERS**

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(112-79)

**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
WATER RESOURCES AND ENVIRONMENT  
OF THE  
COMMITTEE ON  
TRANSPORTATION AND  
INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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## CONTENTS

	Page
Summary of Subject Matter .....	vi
TESTIMONY	
Hon. Jo-Ellen Darcy, Assistant Secretary of the Army (Civil Works), United States Department of the Army .....	9
Major General Merdith W.B. Temple, Acting Chief of Engineers, United States Army Corps of Engineers .....	9
PREPARED STATEMENTS SUBMITTED BY MEMBERS OF CONGRESS	
Hon. Steve Cohen, of Tennessee .....	33
Hon. Eddie Bernice Johnson, of Texas .....	34
PREPARED STATEMENTS SUBMITTED BY WITNESSES	
Hon. Jo-Ellen Darcy .....	36
Major General Merdith W.B. Temple .....	46
SUBMISSIONS FOR THE RECORD	
United States Army Corps of Engineers, responses to questions from:	
Subcommittee on Water Resources and Environment, Republican members .....	53
Individual Republican members:	
Hon. Gary G. Miller, a Representative in Congress from the State of California .....	76
Hon. James Lankford, a Representative in Congress from the State of Oklahoma .....	77
Hon. Reid J. Ribble, a Representative in Congress from the State of Wisconsin .....	79
Subcommittee on Water Resources and Environment, Democratic members .....	80
Individual Democratic members:	
Hon. Eddie Bernice Johnson, a Representative in Congress from the State of Texas .....	105
Hon. Steve Cohen, a Representative in Congress from the State of Tennessee .....	106
Hon. Grace F. Napolitano, a Representative in Congress from the State of California .....	108



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**Committee on Transportation and Infrastructure**  
Washington, DC 20515

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James W. Coon II, Chief of Staff

March 23, 2012

James H. Zeia, Democrat Chief of Staff

**MEMORANDUM**

- TO: Members of the Subcommittee on Water Resources and Environment
- FR: Bob Gibbs  
Subcommittee Chairman
- RE: A Review of the President's Fiscal Year 2013 Budget Request for the United States Army Corps of Engineers and United States Environmental Protection Agency.

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**PURPOSE OF HEARING**

The Water Resources and Environment Subcommittee is scheduled to meet on Tuesday, March 27, 2012 and Wednesday, March 28, 2012 at 10:00 a.m. in 2167 Rayburn House Office Building, to receive testimony from the Army Corps of Engineers (Tuesday) on their proposed budget and program priorities for FY 2013 and from the Environmental Protection Agency (EPA) (Wednesday) on their proposed budget and program priorities for FY 2013.

Similar to other budget hearings held by the Subcommittee, this hearing is intended to provide Members with an opportunity to review the agencies' FY 2013 budget requests, as well as Administration priorities for consideration in the Subcommittee's legislative and oversight agenda for the Second Session of the 112<sup>th</sup> Congress.

**BACKGROUND**

**ARMY 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 2013 budget submittal for the Corps of Engineers is **\$4.731** billion, 5.4% below the FY 2012 appropriations of **\$5.002** billion.

There is a proposed 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 **\$102** million for the Investigations account. This is **\$23** million less than the FY 2012 appropriations of **\$125** 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, while 6 new studies are funded, the focus is on completing existing studies.

**Construction** – The President's budget requests **\$1.471** billion for the Construction account. This is **\$223** million less than the FY 2012 appropriations of **\$1.694** 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. The budget proposes 3 new construction starts, and funds for 8 construction completions. 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 **\$2.398** billion for expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related projects. This is **\$14** million less than the FY 2012 appropriations of **\$2.412** 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 Lower Mississippi River have been closed to commercial navigation due to lack of maintenance dredging. The President's budget request for operation and maintenance in FY 2013, will continue to exacerbate this situation. Underfunding the Operations and Maintenance account and seeking subsequent supplemental appropriations when outages occur complicates effective planning and creates inefficiencies.

**Regulatory Program** – The President's budget requests **\$205** million for the regulatory program. This is **\$12** million more than the FY 2012 appropriations of **\$193** 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 **\$104** million for FUSRAP for FY 2013. This is **\$5** million less than the enacted

level of **\$109 million** for FY 2012. 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 **\$234 million** for FY 2013 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 **\$18 million** less than the FY 2012 appropriations of **\$252 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 **\$778.8 million** from the fund resulting in an increase in the estimated balance to **\$7.11 billion** at the end of FY 2013. 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.

According to the American Association of Port Authorities (AAPA), seaports themselves provide for \$200 billion in federal, state, and local tax revenue each year. Thirty million jobs are directly related to international trade, with the U.S. maritime industry alone providing 13 million jobs throughout the country. According to the United States Department of Agriculture (USDA), U.S. agricultural exports, which in FY 2009 reached \$96.6 billion, generate an additional \$135 billion in supporting business activity in the transportation, distribution, food processing and manufacturing sectors. The Economic Research Service of the USDA notes that for every dollar of goods exported, this creates another \$1.36 in supporting activities. Overall, the AAPA research finds that maritime trade creates \$2 trillion of commerce annually in the United States.

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 **\$94.78 million** from the fund in FY 2013.

Aging infrastructure along the Inland Waterway Transportation System presents a growing challenge. More than 57% of these facilities have been in service for longer than 50 years and almost 40% are more than 70 years old. Reliability of transportation networks is critical to the nation's economy. While this infrastructure has served the nation well, operation and maintenance expenditures will only slightly prolong the life of a depreciating asset that will continue to diminish in performance. And, as the asset gets older, its operation and maintenance requirements will grow.

The Administration has proposed legislation to reform the laws governing the Inland Waterways Trust Fund, including increasing the revenue paid by commercial navigation users to meet their share of the costs of activities financed from the Inland Waterways Trust Fund. To

date, no legislative proposal has been shared with the House of Representatives. The Inland Waterways Trust Fund balance by the end of fiscal year 2013 is estimated to be **\$146 million** if Congress authorizes the Administration-proposed user tax and **\$66 million** if Congress does not.

**Flood Control and Coastal Emergencies** – The Administration’s budget request proposes **\$30 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 \$2.5 million in support of the Silver Jackets, an interagency group 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.

### ENVIRONMENTAL PROTECTION AGENCY

The President’s budget request for the Environmental Protection Agency is \$8.3445 billion, \$104.9 million less than the FY 2012 enacted level of \$8.4493 billion.

#### Clean Water Act

The Federal Water Pollution Control Act (commonly known as the Clean Water Act), as amended in 1972 by P.L. 92-500, in 1977 by P.L. 95-217, in 1981 by P.L. 97-117, and in 1987 by P.L. 100-4, provides for a major federal/state program to protect, restore, and maintain the quality of the nation’s waters. The EPA has the primary responsibility for carrying out the Act but significant parts of the program may be administered by the states if approved by EPA.

**Clean Water State Revolving Loan Funds** – The Clean Water State Revolving Loan Fund (SRF) program is a highly successful program administered by states to provide capital, including low interest loans, to local communities around the country to make wastewater infrastructure improvements and to address other water quality needs. To date, Congress has provided \$32 billion in grants to help capitalize 51 Clean Water SRFs. With the 20 percent state match and the fact these funds earn interest, receive loan repayments, and are used to secure state bonds, the return on this Federal investment has been greater than 2 to 1. These federal capitalization grants have resulted in SRFs funding over \$89.5 billion in loans to date for wastewater infrastructure projects.

For FY 2013, the President’s budget is requesting \$1.175 billion to further capitalize these funds. This is \$291 million less than the FY 2012 enacted level of \$1.466 billion.

During the current Congress and preceding Congresses, the Subcommittee has held numerous hearings on financing water infrastructure projects. The hearings examined how our nation can bridge the large funding gap that now exists between water infrastructure needs and

current levels of spending, how we should fund water infrastructure projects in the future, and who should pay for it. The Subcommittee looked at various mechanisms for funding wastewater infrastructure projects, including creating a national clean water trust fund, continued support of SRFs and advancing other innovative debt financing techniques, establishing a state clean water fund and an associated fee system, and private financing through private activity bonds and other means. In addition, the Subcommittee heard about reducing infrastructure needs and costs through the use of decentralized and nonstructural approaches for managing wastewater.

**Special Purpose Infrastructure Grants** –Special purpose infrastructure grants are funds made available to address unique clean water regional needs. This total includes \$10 million for US/Mexico Border wastewater infrastructure projects, which is \$5 million more than the FY 2012 enacted level. The total additionally includes \$10 million for Alaska Rural and Native Villages, slightly more than the FY 2012 enacted level of \$9.9 million.

**Nonpoint Source Funding** –The Administration’s budget request proposes \$164.8 million for the Clean Water Act’s non-point source grants program (section 319), which is \$300,000 more than the FY2012 enacted level for this program. Section 319 of the Clean Water Act is the primary source of EPA grant funding to states for the control of non-point sources of pollution – which is now the single largest source of impairment to the nation’s rivers, lakes, and near-coastal waters.

**Regional Programs** – The President’s Budget requests \$300 million for the Great Lakes Restoration Initiative, which is \$480,000 more than the FY 2012 enacted level of \$299.52 million.

The Chesapeake Bay Program request is \$72.6 million, \$15.3 million more than the enacted level of \$57.3 million.

The Long Island Sound program request is \$2.96, \$1 million less than the FY 2012 enacted level of \$3.96 million.

The Lake Champlain request is \$1.4 million, \$1 million less than the FY 2012 enacted level of \$2.4 million.

The San Francisco Bay request is \$4.86 million, \$980,000 less than the FY2012 enacted level of \$5.84 million.

The Puget Sound request is \$19.3 million, \$10.65 million less than the FY2012 enacted level of \$29.95 million.

The South Florida request is \$1.7 million, \$360,000 less than the FY2012 enacted level of \$2.06 million.

The Gulf of Mexico request is \$4.44 million, \$1.06 million less than the FY2012 enacted level of \$5.5 million.

The Lake Pontchartrain request is \$955,000, \$995,000 less than the FY2012 enacted level of \$1.95 million.

Requested funding for the National Estuary Program is \$27.3 million, \$300,000 more than the FY 2012 enacted level of \$27 million.

**State Management Programs** – The Administration's budget request proposes \$265.3 million for State and tribal pollution control programs under section 106 of the Clean Water Act. The section 106 program generally supports State and tribal water quality improvement and monitoring programs. The enacted level for this program in FY 2012 is \$238.4 million.

The budget requests \$15.2 million for state wetlands program development, a slight increase over the FY 2012 enacted level of \$15.14 million.

The budget requests no funding for beaches protection monitoring grants, \$9.9 million less than the FY 2012 enacted level.

**Community Challenges** – Communities face numerous regulatory requirements related to the Clean Water Act. Although there are a number of federal programs to assist communities in meeting their clean water responsibilities, many struggle to afford the Clean Water Act's numerous requirements being imposed on them by EPA. While schedules for compliance can sometimes be negotiated with the EPA, these are sometimes undone by other enforcement actions or judicial actions initiated by citizen suits. The result is that often communities are faced with a variety of overlapping clean water requirements and have difficulty affording the competing regulatory requirements and controlling the schedule of when work can be carried out to meet these requirements. Communities would like to have more flexibility to move forward in a cost-effective manner.

### **Superfund**

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, commonly referred to as "Superfund," was enacted to develop a comprehensive program to clean up the nation's worst abandoned or uncontrolled hazardous waste sites. The EPA has the major responsibility for carrying out this Act. The law makes designated responsible parties pay for hazardous waste cleanups wherever possible and provides for a hazardous substances trust fund, the Superfund, to pay for remedial cleanups in cases where responsible parties cannot be found or otherwise be held accountable. Superfund is also available for responding to emergency situations involving releases of hazardous substances. In addition, the law was intended to advance scientific and technological capabilities in all aspects of hazardous waste remediation.

The total Superfund request is \$1.176 billion. This is \$38 million less than the FY 2012 enacted level of \$1.214 billion. Under the President's budget request, all of this funding will be derived from a payment from general revenues into the Superfund Trust Fund. Though Superfund is a cost recovery statute, as it did last year, the Administrations' budget requests the reinstatement of the taxes that historically funded the Superfund Trust Fund, including taxes on

oil, gas, and chemical feedstocks, and the corporate environmental tax which funded the Superfund program between 1980 through 1995.

**Superfund Response Actions** – The President’s budget requests the following amounts for Superfund response actions: \$531.77 million for Superfund remedial actions, \$33.23 million less than the FY 2012 enacted level of \$565 million; and \$188.5 million for Superfund emergency response and removal actions, \$1.1 million less than the FY 2012 enacted level of \$189.6 million.

**Superfund Enforcement** – The President’s budget requests \$184.41 million for Superfund enforcement activities. This is \$2.33 million less than the FY 2012 enacted level of \$186.74 million. The budget also includes \$8.6 million for Superfund enforcement activities at federal facilities, \$1.7 million less than the FY 2012 enacted level.

**Brownfields**

Brownfields are former industrial sites that contain contaminated soil that must be cleaned before land can be returned to productive use. The Administration’s budget request proposes \$166.58 million for the brownfields program, including \$93.29 million, \$1.6 million less than FY 2012 enacted levels, for grants to localities to assess and/or cleanup brownfields, and \$47.6 million, \$1.75 million less than FY 2012 enacted levels for States and Tribes to establish or enhance their response programs. In addition, \$25.685 million (\$2.043 million increase) is requested out of the Environmental Program and Management Account to fund contracts and requisite full-time equivalent Agency employees (FTEs).

**Oil Spill Response**

The Oil Spill Response program funds EPA’s Clean Water/Oil Pollution responsibilities. The President’s budget requests \$19.3 million, \$4.6 million more than the FY 2012 enacted level of \$14.7 million. This revenue is derived from the Oil Spill Response Trust Fund.

**Witnesses:**

(March 27<sup>th</sup>, 2012)

**United States Army, Assistant Secretary of the Army (Civil Works) Jo Ellen Darcy**

**United States Army Corps of Engineers,  
Acting Chief of Engineers, Major General Merdith “Bo” Temple**

(March 28<sup>th</sup>, 2012)

**Ms. Nancy Stoner  
Acting Assistant Administrator, Office of Water  
United States Environmental Protection Agency**

xiii

**Mr. Mathy Stanislaus**  
**Assistant Administrator, Office of Solid Waste and Emergency Response**  
**United States Environmental Protection Agency**



# **A REVIEW OF THE PRESIDENT'S FISCAL YEAR 2013 BUDGET REQUEST FOR THE ARMY CORPS OF ENGINEERS**

**TUESDAY, MARCH 27, 2012**

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

The subcommittee met, pursuant to notice, at 10:09 a.m. in Room 2167, Rayburn House Office Building, Hon. Bob Gibbs (Chairman of the subcommittee) presiding.

Mr. GIBBS. Good morning. I am going to convene the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure. Welcome.

I will start here on my opening statement. Today, we are having a hearing to review the fiscal year 2013 budget priorities of the United States Army Corps of Engineers.

I am a strong supporter of the efforts by Congress to control Federal spending, but many of the Army Corps of Engineers activities that we are examining today are true investments in America because they provide jobs and economic return.

For too long, this administration has shortchanged and misprioritized the projects and programs of this agency. I believe we must be supportive of programs that have a proven record of providing economic benefits.

For nearly two centuries, the Civil Works Commission of the Corps has contributed to the economic vitality of the Nation and improved our quality of life.

The fiscal year 2013 budget request by the administration for the Corps of Engineers is \$4.7 billion. This request is almost 5.5 percent less than what Congress enacted in fiscal year 2012.

In 2011, we had some of the worse flooding on record in this country. In 2014, it is likely the expanded Panama Canal will become operational.

Yet the President proposes to cut approximately \$20 million from flood damage, reduction activities, and once again, short changes the navigation budget.

While the President is proposing an increase of \$28 million out of the Harbor Maintenance Trust Fund for fiscal year 2013, this will not keep up with the growing demand on our ports to accommodate more and larger ships.

Dredging is a fuel intensive business, and since the administration seems intent on letting fuel prices rise, this \$28 million increase will actually continue to put us further behind in our dredging needs.

The President is once again proposing to spend only half of the money being collected from the Harbor Maintenance Fund.

Only if our ports and waterways are at their authorized depths and widths will products be able to move to the overseas destinations in an efficient and economical manner.

Once again, only 2 of the Nation's 10 largest ports are at their authorized depths and widths.

The President's budget does nothing to ensure the competitiveness of American products in world markets. That hurts businesses and costs us jobs.

Given the fact that the navigation projects and the flood damage reduction projects provide economic benefits to the Nation, I would like to see the administration place a higher priority on these types of water resources investments.

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

Savings can be found by slowing down work in some environmental restoration projects until the economy turns around.

I would like everyone to take a look on the screens on the wall around the Committee hearing room. This is a picture of the uncompleted report for the proposed navigation improvements at the Savannah, Georgia, project.

Construction of this project was authorized in 1999 and subject to completion of a general re-evaluation report.

Again, in this picture you will see a size of a report that is still not complete. This study has taken 13 years and still is ongoing. Yet, in Panama, it will likely only take them 7 years to go from a concept to a completed project.

In addition, more than 40 percent of the project costs will be for fish and wildlife mitigation. These were requirements added to the project by the United States Department of the Interior and the National Marine Fisheries Service.

Sadly, Savannah is not the extreme case. It instead is the new normal.

In some cases, the Corps of Engineers places unnecessary hurdles on its own way it completes studies and projects. We have heard the Corps sometimes agrees to conduct additional studies on a project for information that they do not really need just to avoid a lengthy lawsuit.

In many other cases, outdated laws written by Congress or "one size fits all" regulations from other Federal agencies will delay or even kill a project.

I do not necessarily want to repeal an environmental or coordination requirement, but all of us have to make the whole process more efficient.

In today's economy, delaying a project is synonymous with killing it. Killing a project in this way means loss of economic opportunity and lost jobs.

I look forward to hearing from the Corps of Engineers as to how they plan to work with Congress to streamline this costly and broken study process.

I look forward to the testimony from the witnesses, and I yield and recognize the ranking member, Mr. Bishop, for any statement he might have.

Mr. BISHOP. Thank you very much, Mr. Chairman. Thank you for holding this hearing on the President's fiscal year 2013 budget request for the Army Corps of Engineers.

The past year has been challenging with the Mississippi and Missouri floods, the tropical storm impacts along the eastern seaboard, and the continual challenge to keep our inland waterways accessible and our harbors deep enough.

Over the last several weeks, we have held hearings focused on the failing state of our waste and drinking water systems.

It is clear that we need to reinvest in our country's water infrastructure in a way that will allow our country to provide for our citizens and to protect our investments in our waterways, harbors and dams.

Historically, this committee has provided direct guidance to the Corps of Engineers, identifying specific projects that we felt should be a priority for the agency.

Today, with our ability limited, we are dependent upon the Corps internal decisionmaking process to determine for us where the priorities are.

I, for one, am more than a little uncomfortable with this, and I hope today that we can get information from our witnesses on how priorities and workloads are made.

Our subcommittee has a fiduciary and administrative responsibility to oversee and review the Federal agencies that are under our jurisdiction.

Without this oversight, the Corps priorities, focus, and resulting budgets are not put through the rigorous review that the American public expects us to perform.

Our committee has oversight over all or portions of 7 agencies out of 26 that are involved in managing the water resources of America.

The Army Corps of Engineers is the largest water engineering agency in the country. In that role, the agency has supported the maintenance of our coastal and inland harbors and waterways, constructed and maintained locks and levies that allow our rivers to be used for commerce and recreation, maintains coastal barrier islands to protect our coast lines, and certain levies that protect our cities and farm lands, operates and maintains 693 dams, 75 of them providing renewable hydropower production, and leads the way in providing engineering support to our troops and providing water security around the world.

We are going to hear today that once again the budget of the Army Corps of Engineers is being reduced. I also am not happy about that.

This Congress has continuously issued the mantra of "Do more with less." In my estimation, we are now at a critical threshold where these reductions are jeopardizing the ability to sustain our infrastructure and protect our citizens.

We are either going to have to step up and have a conversation about investing for the future or we need to deauthorize certain projects and programs or otherwise transfer programs to protect beneficiaries.

The current approach of “fix it as it fails” is costing us more money and is very inefficient from an engineering perspective.

We have a tremendous investment in our country’s water navigation, electrical grids and irrigation systems. As we review the Corps budget, we should keep in mind this investment and make sure we are not impulsively cutting important and vital programs without regard for the impacts, and instead, look to ensure the decisions we are making are focused on protecting these investments and being smart with our allocation of funding.

The President’s 2013 budget concentrates funding in three primary areas, commercial navigation, flood and coastal storm damage reduction, and environmental programs, while continuing to support the responsibility for hydropower generation, water supply services, environmental stewardship, and recreation.

In terms of percentages, 37 percent is going toward navigation; 30 percent to flood risk reduction, and 33 percent to environmental, hydropower, and regulatory programs.

The proposed fiscal year 2013 budget for the Civil Works Program is \$4.73 billion, which is 5.4 percent below the appropriations for fiscal year 2012.

This continues a disturbing trend. When we compare this budget to fiscal year 2010, we see a 13.1-percent reduction and a 3.5-percent reduction from fiscal year 2011.

This 2013 budget request will see funds reduced yet again in the investigation, construction, operations and maintenance of Mississippi River and tributaries, and WRDA accounts.

I apparently am not understanding this concept of doing more with less. In my opinion, we are clearly going in the wrong direction and we are clearly doing less with less.

As we compare the administration’s budget proposals through 2017 with the proposed budget from Representative Ryan for the Natural Resources and Environment Function 300 Budget Authority, we get an idea of what doing more with less looks like.

Chairman Ryan’s budget cuts an additional 18.5 percent from the administration’s request by 2017. We all get to vote on that proposal this coming Thursday.

I applaud the Corps for working hard to reduce overlap and increase internal efficiencies, but I am concerned that we are risking substantial increased costs to the Federal Government and the public by not maintaining critical program assets, including the maintenance of the human capacity in water leadership.

There are two key areas I would like us to focus on. First, addressing the backlog of authorized projects, and second, addressing the needs of the Harbor Maintenance and Inland Waterways Trust Fund programs.

The backlog of authorized but unconstructed Corps projects is rightly or wrongly restricting our ability to focus on new projects.

It was used as a pretext for Former President Bush’s veto of the Water Resources Development Act of 2007, as well as a reason for not moving forward on a new WRDA in the last Congress.

The Corps calculates that prior to WRDA 2007, there was an unconstructed backlog of \$60 billion worth of previously authorized projects, some of them dating back to the 1960s and earlier. This backlog needs to be carefully reviewed and appropriate actions implemented.

With respect to the Harbor Maintenance Trust Fund, we need to work together with industry and the administration to fix the problem of fully funding the Trust Fund to make our harbors and waterways competitive.

We have to get not only the largest harbors ready for the future of shipping but also provide critical dredging to the medium and small harbors that support our local and tribal fishing communities, provide for cost effective local commerce, and support the ability of the Coast Guard and other law enforcement entities to launch and protect our coast lines and waterways.

Similarly, for projects funded out of the Inland Waterways Trust Fund, I recognize the efforts of the administration to prioritize the highest use projects within the constraints of available funding from the Trust Fund.

However, in my view, this subcommittee should not be complacent when the greatest limiting factor on how much can be spent on inland waterways projects is the available revenues from a 20-year-old user fee.

Voices from both sides of the aisle have said that the current inland waterways model is broken. It is time for this subcommittee to lead on renewing investment in these critical projects while ensuring that this increased investment does not come at the expense of other Corps mission areas.

Mr. Chairman, this subcommittee has a responsibility to ask the tough questions of the leaders of the agencies we oversee.

We are here to ensure that our investments are being properly managed and appropriately with an eye to the future.

We do have concerns that many of the cuts being made will reduce the Corps effectiveness.

In my opinion, many of the cuts proposed in the President's budget are taking the Nation down a path that will ultimately result in increased costs and the loss of critical infrastructure capacity.

This concern is amplified by several orders of magnitude if we go the route of the massive additional cuts proposed by Chairman Ryan.

Before I yield back the balance of my time, Mr. Chairman, I would like to take a moment to congratulate General Temple. My understanding, General, is you have announced your retirement after 37 years of phenomenal service to this country.

Thank you, sir, very much for your service. I yield back the balance of my time.

Mr. GIBBS. Any other Members? Yes, go ahead.

Mrs. NAPOLITANO. Thank you, Mr. Chairman. Thank you and Ranking Member Bishop for holding this hearing.

To Secretary Darcy and General Temple, thank you for the outstanding staff you have in the Los Angeles District. We meet regularly with Colonel Toy, your District Commander.

It is a great partner for my communities, and I want to pay very special attention to your Deputy District Engineer who is retiring this summer, who has worked with my staff since I came to Congress in 1999, always returns phone calls, and is responsive and collaborative with my office, the cities and the water agencies I represent, and has managed the major projects in our region, the restoration of the Los Angeles and San Gabriel Rivers, and that is Brian Moore, your Deputy District Engineer.

The flood control environmental restoration and water replenishment projects that he has worked on will benefit several million people in southern California for many, many years to come.

I do agree with my ranking member about the budget cuts that are going to not allow us to do the work that protects a lot of people in California and the rest of the Nation.

Whittier Narrows and the Santa Fe Dam continue to be concerned with the slow pace at which the Corps is funding and implementing the Whittier Narrows and the Santa Fe Dam water conservation projects. That means the ability for us to store more water and be able to have protection for the communities, the millions of people that both of them serve.

The finalization of the Whittier Narrows Dam's safety study is funded in the Army Corps budget. Hopefully, the Corps will finish the study quickly and make any changes that need to be made to increase the conservation pool.

The Corps has not budgeted funds to perform the dam safety study on the upstream Santa Fe Dam, and it is similar to Whittier Narrows, and would increase the water capacity by 1,100 acre-feet annually, much needed water, especially with drought cycles. This water is currently going to the ocean and is being lost to us.

I do urge the Corps to quickly work on the Santa Fe Dam study in order to save that water and replenish our groundwater aquifer.

On the Harbor Maintenance Trust Fund, the Corps budget continues to be unfair to those ports. I cannot find another program in the entire Federal Government that has as an equitable Harbor Maintenance Trust Fund as the ports of Los Angeles and Long Beach.

It provides \$265,000 to both ports for harbor maintenance while the Harbor Maintenance Trust Fund took in \$220 million from both ports.

This means the Port of Los Angeles will receive less than .01, I repeat, not 1 percent, not 10 percent, .01 percent of the funds they put into the system. They receive \$1 for every \$1,000 they put into the system.

The further tragedy is that they are diverted to competitor ports and shippers of Los Angeles and Long Beach.

Mr. Chairman, this is as if the Government taxed McDonald's to build bigger Burger Kings. We must correct and fix this inequity.

There should be a minimum amount appropriated to the ports where the shippers pay into that fund and expand the inwater uses of the Harbor Maintenance Trust Fund.

The Fund should pay 100 percent of the cost of harbors over 45 feet in depth, and should pay for the construction in dredging the harbor.

There are issues that I certainly would want to go over, but I do want to ensure that we continue to work with the Army Corps so that we can not only fund it properly so they can do their job, but also be able to ensure that it protects and continues to provide safety for the areas with Mother Nature coming in and throwing us all kinds of different weather throughout the United States.

With that, I yield back the balance of my time, and I thank you.

Mr. GIBBS. Any other Members? Go ahead, Representative Richardson.

Ms. RICHARDSON. Thank you, Mr. Chairman. Good morning, Chairman Gibbs, Ranking Member Bishop, and members of the subcommittee.

I want to thank you for convening this hearing today to discuss the administration's fiscal year 2013 budget priorities for the U.S. Army Corps of Engineers.

I would also like to thank our witnesses for being here today to highlight the priorities of the Army Corps in this fiscal year.

The Civil Works Program of the Army Corps of Engineers plays a critical role in developing, maintaining, and restoring important water infrastructure projects in the U.S. and abroad.

Even in this difficult fiscal climate, as my colleagues have already alluded to, it is critical that the Army Corps is provided the adequate resources to protect our Nation's investments in water infrastructure projects and to keep America safe.

In the full year 2013 budget proposal, the administration has made tough choices to the program to ensure that the Government is living within its means. We just need to make sure that is in the right area.

I want to start off by thanking Assistant Secretary Darcy and her staff for meeting with me to discuss some of the Corps projects in and around my District.

Los Angeles and the Corps are fortunate to have Colonel Toy heading our Los Angeles District Office and the entire staff, some of which are here today.

Three issues I would like to put before the Committee that have been great interests of mine, and I look forward to working with my colleagues as this budget goes forward.

One, to make the Committee aware that in November 2011, we had an ocean bluff collapse in the Paseo del Mar area. The city of Los Angeles is currently conducting a study to determine the cause of the landslide. However, initially, the reports are saying that it has to do with beach erosion.

The study is expected to be completed, and I am looking forward to working with the Corps and their expertise to assist us through programs like Continuing Authorities Project Section 103, that could help in this particular area.

I would like to discuss with the chairman and the ranking member how we might fund the Continuing Authorities Project Section 103.

Second of all, we have a situation with the Corps dating back to 2006, looking at the Los Angeles River, and for those of you who had an opportunity to go there, although it is not as grand as some of the rivers in your community, it is about as big as it gets in mine.

The Corps has been looking, needs \$1.6 million to complete that study, which would have an essential element of restoration.

While no funding is currently included in the President's fiscal year budget, it is important that the study have an opportunity to move forward, and it is my understanding they would be eligible out of the Statement of Managers that accompanies H.R. 2055, the Consolidated Appropriations Act of Fiscal Year 2012.

In addition to the restoration of the Los Angeles River, it is critical to the continued economic development of our city.

One last point about that. We are also very concerned about the Los Angeles River ecosystem restoration feasibility study that I will be asking further questions on in this hearing.

Last but not least, in the community I represent, we have the Long Beach Breakwater, which was established to enable the vessels to come in, particularly in time of war. Now, the Corps has looked at that initially and considered the possibility of a reconfiguration.

I would like to discuss with the Corps how the projects are selected and how we might move forward on some of these ideas, which would certainly promote navigation, preserve coastal zones, and protect property and human life.

Once again, I thank our witnesses for being here today, and I look forward to hearing your testimonies. I yield back the balance of my time.

Mr. GIBBS. Representative Crawford, do you have a statement?

Mr. CRAWFORD. Thank you, yes, Mr. Chairman. Thank you. I real quickly want to thank you, Secretary and General, for being here.

The Mississippi River, of course, runs along the eastern border of my District. The Mississippi River and Tributaries Project employs a variety of engineering techniques including an expansion levy system to provide flood protection coverage for my District and the entire population along the Mississippi River and its tributaries.

The Mississippi River and Tributaries Project has proven to be one of the wisest investments by our Federal Government, preventing over \$350 billion in flood damages on an investment of under \$14 billion. Never has the value of this investment been more evident than last year during the historic flooding along the Mississippi River.

The Mississippi River and Tributaries Project performed as designed, despite rainfall exceeding 600 to 1,000 percent of the normal average rainfall in a 2-week period between April and May.

As a result, the MRT Project protected over 10 million acres of land and prevented more than \$110 billion in damages in 2011 alone.

This success can be attributed to decades worth of lessons learned along the Mississippi.

Last year under the American Recovery and Reinvestment Act, Congress funded the MRT Project at \$375 million. The President has requested \$234 million for this project in his fiscal 2013 budget.

I am concerned that the level of funding in the President's budget for the MRT Project will not adequately fund and maintain this

program so that it can continue to protect communities along the Mississippi from devastating floods.

Rather than take the success of this project for granted, we should look to last year's flooding as another testament to just how important this project has been.

I am committed to working with the Army Corps of Engineers to ensure that the Mississippi River and Tributaries Project is adequately funded.

Mr. Chairman, I yield back.

Mr. GIBBS. Thank you. At this time, I want to ask unanimous consent that Mr. Fleischmann from Tennessee be allowed to join the subcommittee today. So ordered.

At this time, I would like to welcome our two witnesses. Our first witness is The Honorable Assistant Secretary of Army Civil Works, Ms. Jo-Ellen Darcy, and our second witness is Major General Temple.

I, too, want to congratulate you and commend you on your 37 years of military experience, and wish you many, many years in the future of a well-rounded retirement and enjoyment.

At this time, Ms. Darcy, the floor is yours.

**TESTIMONY OF HON. JO-ELLEN DARCY, ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS), UNITED STATES DEPARTMENT OF THE ARMY; AND MAJOR GENERAL MERDITH W.B. TEMPLE, ACTING CHIEF OF ENGINEERS, UNITED STATES ARMY CORPS OF ENGINEERS**

Ms. DARCY. Thank you, Mr. Chairman, and distinguished members of the subcommittee.

Thank you for the opportunity to present the President's fiscal year 2013 budget for the Civil Works Program of the Army Corps of Engineers.

I am Jo-Ellen Darcy, Assistant Secretary of the Army for Civil Works, and I will summarize my statement and ask that my complete statement be entered into the record of the hearing.

The President's 2013 budget provides \$4.7 billion for the Civil Works Program. This is \$100 million above the President's 2012 budget for Civil Works.

The budget reflects the administration's priorities through targeted investments in the Nation's water resources infrastructure, including dams and levies, to address flood risks, navigation projects and support of both domestic and global trade, especially at coastal ports that support the greatest national economic activity, restoration of major ecosystems affected by past water resources development and support of administration initiatives such as America's Great Outdoors and the Clean Water Framework.

The budget also supports programs that contribute to the protection of the Nation's waters and wetlands, the generation of low-cost renewable hydropower, the restoration of certain sites contaminated as a result of the Nation's early atomic weapons development program, emergency preparedness and training to respond to natural disasters, and recreation, environmental stewardship and water supply storage at existing projects that are owned or operated by the Corps of Engineers.

The budget funds a number of activities to completion, including 5 flood risk management projects, 3 navigation projects, 1 hydro-power mitigation project, and 18 studies.

The Civil Works budget includes funding for three high-performing construction new starts, six study new starts, and a new activity in the operations and maintenance account to reduce the vulnerability of Civil Works projects to extreme natural events.

The budget also includes funding to evaluate the potential for as well as encourage the use of nonstructural alternatives during post-disaster recovery decisionmaking while also leveraging the expertise of intergovernmental teams known as "Silver Jackets" to support States and communities as they develop and implement actions to reduce flood risks.

The budget includes the highest amount ever budgeted for use of receipts from the Harbor Maintenance Trust Fund to maintain coastal channels and harbors.

Inland waterway capital investments and the construction account are funded at the maximum amount that is affordable within the projected Trust Fund revenue under existing law.

Last September, President Obama transmitted to Congress a proposal to modernize financing of capital investments on the inland waterways through establishing a new vessel user fee to supplement the existing fuel tax.

The administration will continue to work with Congress and stakeholders to enact a mechanism to increase revenues for this Trust Fund.

The 2013 budget provides \$532 million for dam and levy safety activities, including \$491 million for dam safety activities in both the flood risk management and the navigation programs, as well as \$41 million to continue the comprehensive levy safety initiative.

The Army continues to work to modernize the Civil Works planning program. Proposed changes are aimed at dramatically shortening the time and costs for completion of preauthorization studies while retaining the quality of the analyses.

The budget again includes \$3 million for the Veterans Curation 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 of Engineers.

This program will contribute to the goals of the President's recently announced Veterans Job Corps.

In summary, the 2013 budget for the Army Civil Works Program is a fiscally prudent, appropriate level of investment that will generate jobs, contribute to a stronger economy, and continue progress on important water resources investments that will yield long-term returns for the Nation and its citizens.

Mr. Chairman and members of the subcommittee, I look forward to working with you in support of the President's budget.

Thank you.

Mr. GIBBS. Thank you.

General Temple, welcome. The floor is yours.

General TEMPLE. Good morning, Mr. Chairman and members of the subcommittee.

Mr. GIBBS. General, make sure your mic is on.

General TEMPLE. Can you hear me now?

Good morning, Mr. Chairman and members of the subcommittee. I am Major General Bo Temple, Acting Chief of Engineers, and I am honored to be here with Ms. Darcy to testify regarding the President's fiscal year 2013 budget for the Civil Works Program.

The Corps is wrapping up an unprecedented period of construction and project execution. Over the past 5 years, we provided \$12 billion in BRAC-related construction, \$7 billion of American Recovery and Reinvestment Act work, in both our Military and Civil Works Programs combined, and about \$14 billion of Gulf Coast recovery work.

In 2011, over 2,000 Corps employees deployed in response to multiple disasters, including Midwest tornadoes and flooding in the Missouri, Mississippi, and Suarez River Basins, and also throughout the Northeast due to Hurricane Irene and Tropical Storm Lee.

Our systems performed in saving lives and preventing billions in damages. However, as you are aware, many of our projects were damaged, and we are currently working to address these systems, utilizing the \$1.7 billion Congress appropriated for this purpose.

The fiscal year 2013 budget includes \$4.7 billion to fund Civil Works activities within the Corps three main water resources missions, commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration.

The budget includes \$102 million for these and related activities in the Investigations Account and \$1 million in the Mississippi River and Tributaries Account.

It funds 81 continuing studies and 6 new studies. It also includes over \$10 million for work on proposals to deepen seven U.S. ports.

The budget includes \$1.47 billion in the Construction Account and \$99 million in the MR&T Account, funding 101 construction projects including 57 flood and coastal storm damage reduction projects, 5 of which are budgeted for completion, 23 commercial navigation projects, 19 aquatic ecosystem restoration projects, and mitigation associated with 2 of our hydropower projects.

The Operation and Maintenance Program includes \$2.53 billion and an additional \$134 million under the MR&T Program with a focus on the maintenance of key commercial navigation, flood and storm damage reduction, hydropower, and other facilities.

The Corps will continue to implement actions to improve its planning program performance through planning modernization efforts focusing on how best to modernize the planning program to more effectively address water resources challenges.

The Corps always strives to improve its efficiency and effectiveness. In fiscal year 2013, the Corps will further expand the implementation of a modern asset management program, using the larger portion of its funds for the more important maintenance work, while implementing an energy sustainability program that pursues major efficiencies in the acquisition and operations of its information technology assets, as well as finalizing the reorganization of the Corps acquisition workforce.

The fiscal year 2013 budget provides \$30 million for preparedness for floods, hurricanes, and other natural disasters, including about \$3 million in support of the Corps participation in levy safety and other flood mitigation initiatives, such as the Silver Jackets

program, to provide unified Federal assistance in implementing flood and coastal storm damage reduction solutions.

Internationally, the Corps of Engineers continues to support the mission to help Iraq and Afghanistan build foundations for democracy, freedom and prosperity.

In Iraq and Afghanistan, we completed or closed out hundreds of projects in support of the host nations and coalition forces. This critical infrastructure and our capacity building efforts will play a key role in ensuring stability and security for these nations.

The Corps remains committed to change that ensures an open transparent and performance based Civil Works Program while remaining focused on consistently delivering innovative, resilient risk informed solutions to the Armed Forces of the Nation.

Thank you, Mr. Chairman and members of the subcommittee. This concludes my statement, and I am happy to answer any questions you may have.

Mr. GIBBS. Thank you. I will start off the first round of questions.

Secretary Darcy, I just want to start off by asking about the Keystone Pipeline that has been in the news a lot. Can you tell me when TransCanada applied to the Corps of Engineers for their Section 404 permit to construct the pipeline?

Ms. DARCY. Yes, Congressman. TransCanada did apply for Section 404 permits for that pipeline. However, when the decision was made that the pipeline was not going forward, when the State Department made that decision, we suspended consideration of those permits.

However, we are anticipating new permits for a portion of that project that would go from Cushing, Oklahoma, to Port Arthur, I think, in Texas. We have yet to receive those new applications.

Mr. GIBBS. The status of all the 404 permits are kind of on hold right now for the pipeline across the country?

Ms. DARCY. For those 404 permits that the Corps of Engineers got for the larger pipeline, they are suspended because it is no longer under consideration.

However, this new portion that goes from—a portion of the project that goes from Cushing to Texas, we are anticipating—we have three districts that are involved and anticipating receiving those applications.

Mr. GIBBS. Can you be more specific on the time period when they applied for the first 404 permit? Was that several years ago?

Ms. DARCY. I do not know. I can look in my notes and see if I have the exact date they applied for it.

Mr. GIBBS. Any idea? Was it 2 years ago, 3 years ago?

Ms. DARCY. I would be guessing. Let me ask.

Mr. GIBBS. Can you get that for the record for us?

Ms. DARCY. Yes, sir.

Mr. GIBBS. Thank you. I am trying to think, when the Corps completes its field work on these permits, during a typical 404 permit process, how long after the field work has been completed is the permit issued normally?

Ms. DARCY. What would be our average time?

Mr. GIBBS. Yes.

Ms. DARCY. From application to actual granting the permit?

Mr. GIBBS. When you do the field work, the work you have to do when they apply for the permit, the field work is completed, how long is it normally before you issue the permit?

Ms. DARCY. General Temple is telling me 60 to 120 days, but I would want to ask staff about what the average is and what statutory obligations we have to meet a certain timeline. I think we do have a statutory requirement to turn around some permits from the day we receive them until we grant or disapprove them.

I do not think it is for all 404s, but I would like to clarify that for you.

Mr. GIBBS. OK. What does the President mean when he said he asked the Corps of Engineers to expedite the process? I think he just referred to that recently.

Ms. DARCY. That is correct. When he was in Oklahoma talking about this project, I think what he wants us to do is take a look at those as soon as we receive them, and we have all three districts standing ready, and we are getting daily reports from our districts as to what permits are coming in.

As I say, we have not gotten new applications for this portion of the project, but we are anticipating them, and have had some preapplication meetings with the local sponsor.

Mr. GIBBS. He is not referring to the permits that were already applied for earlier?

Ms. DARCY. No, sir, because those were part of the larger project. Because it is part of a new project and has a new purpose and need, which has to be demonstrated in the application, we have to look at these new permits from that standpoint.

Mr. GIBBS. Even under an expedited process, what would the timeline be then?

Ms. DARCY. Again, I would be guessing. Well, it would all depend on the scope of the project, whether we would have to do an individual permit or a nationwide permit.

Often times, a nationwide permit takes less time than an individual permit. That will all depend on the scope of the application, which authority we can use.

Mr. GIBBS. I will move on to another area. The Corps of Engineers is involved in major permitting actions in the phosphate mining underway in Florida, along with an area wide phosphate mining environmental impact statement that is being conducted by the Corps.

While I understand and agree with the need to protect the environment, other parts of the world such as Morocco, China, and Saudi Arabia are becoming more competitive as domestic producers of phosphate.

While the United States is blessed with its natural resources of phosphate, because of the bureaucracy involved with mining permitting processing in the United States, many companies are being forced to import raw materials from other places.

Why does the administration not think it would be easier for American companies to do business overseas for what they could do right here in America, particularly when facing such a difficult, pressing economic and trade concerns?

Should we not expedite these types of environmental studies and permit processes so they can keep their businesses here in this country where it belongs?

What I am asking is why permit delays in Florida have taken so long. They have to actually bring in the raw materials to process, to produce fertilizer, from offshore.

Why can we not move that process further, faster, expedite it, so they do not have to do that?

Ms. DARCY. Congressman, I am assuming that they are needing to get 404 permits under the Clean Water Act for the phosphate mining in Florida.

Mr. GIBBS. Correct.

Ms. DARCY. I am not familiar with these permits in particular, but any kind of expedited process, we would have to always consider what the requirements of the law are as far as what kind of review is needed for that activity.

Mr. GIBBS. I am just concerned we are going to lose our infrastructure to produce this valuable fertilizer for American agriculture and be more dependent offshore like we are for some other things, and we need to take that into account.

My time has ran out. I yield to Mr. Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman. Secretary Darcy, General Temple, thank you for being here.

Let me just start by saying more than one word of praise for the Army Corps. I represent a district that has water on three sides, several hundred miles of coast land, four navigatable inlets that are maintained by the Army Corps, and I will say that each of my interactions with every single person from the Army Corps that we have encountered has been at the highest possible level of professionalism.

I think that is a tribute to the Corps, it is a tribute to your leadership, and I thank you for that.

I want to take a somewhat broader view right now. The mantra of this committee has been "Do more with less." I think that looks great on a bumper sticker. When you translate it into action, I think it becomes a little more difficult.

I have not, for example, been able to figure out how you do more dredging with less money. I have not been able to figure out, and perhaps if you have, tell us, how you put more sand on beaches with less money.

I am concerned about the President's budget request, very frankly. I am even more concerned about the budget proposal that we are going to vote on later this week, which in many ways will drive the conversation going forward, and I am referring to Chairman Ryan's proposal, which as I said, cuts Function 300 by 18.5 percent over the next 4 years.

I guess my question—this calls for conjecture, obviously, but my own view is that the Corps, and I will come back to this in a minute with some specificity, is struggling to accommodate the President's budget request.

My question is how would the Corps respond or to what level would you be able to—to what extent would you be able to accommodate an 18.5 percent cut over a multiyear period, if that were to ever become the budget of the Corps?

Ms. DARCY. It would certainly be a challenge, Congressman Bishop. As you noted, the “Do more with less” bumper sticker is something, but we are challenged to do the best we can with the resources we have, and I think going forward, we would have to be even more efficient than we are now.

We are looking to efficiencies in order to accommodate the budget that we have.

Mr. BISHOP. If I may, is it not reasonable to assume that this backlog of projects that we have now that is some \$60 billion—is it not reasonable to assume that backlog is only going to grow if we are cutting available funding by 18.5 percent?

Ms. DARCY. Yes.

Mr. BISHOP. OK. Let me go to a specific which I hope all of my colleagues find troubling, although I say I recognize it is with the fact that this is not an action that I think is imposed upon you by reality.

My understanding is the Corps has identified 16 recreation areas that will be closed entirely, and another 135 recreation areas in 23 States that will be partially closed. This is because the Corps simply does not have the funds available to keep them open.

Is this correct?

Ms. DARCY. Yes.

Mr. BISHOP. This is a priority decision that the Corps is making, that is in effect imposed upon the Corps by the fiscal realities that we are imposing on you? Is that about right?

Ms. DARCY. About right.

Mr. BISHOP. General?

General TEMPLE. Yes, sir.

Mr. BISHOP. This is alarming. Let me go to the backlog of projects. As I said, we have a backlog of some \$60 billion worth of projects. This is pre-WRDA, 2007.

My question is—we all know the fiscal reality that we are in. There is no indication it is going to get any better. In fact, there is a pretty substantial indication it is going to get worse.

What do we do with those? Do we begin to take projects off the list and say we were only kidding, we did the reconnaissance study, we did the feasibility study, but we are now not going to proceed to construction?

How do we prioritize those? How is Congress involved in that prioritization or individual Members?

A lot of questions.

Ms. DARCY. Congressman, I think we need to look at the backlog with a view toward the future, and that is does that project that was authorized—several of these projects were authorized a long time ago, do not have local support any longer.

Since 1986, we have had to have a local sponsor to cost share a project. Some of these projects were authorized before cost sharing.

Do they still meet the needs of the community? Do they still have a project purpose that is supportable, and if not, we need to come up with a system to deauthorize them.

We have a current system of deauthorization that you are familiar with, if a project has not gotten any funding for 5 to 7 years, I think it is still 5 years, that it goes on a list for deauthorization that is approved by the Congress.

I think we need to look beyond that, quite frankly, because we have projects out there that just not only would not work any more but do not have the support. If we can get those off the books and look toward the future and look at the assets that we have and that we still have to fund.

Mr. BISHOP. This is my last question, Mr. Chairman. Do you have an internal process in place that is working through this backlog, and if the answer is no, can I urge you to put in place an internal process?

Ms. DARCY. We are beginning to look at that, Congressman. We have started to evaluate just the whole universe that is out there. We are looking at all of our existing authorities that we have, not only for authorizations for deauthorizations, and how we might be able to use that.

We are also trying to get a handle on just what that universe is, not only for the \$60 billion that you talked about, but what else is out there, ones that are partially constructed, all of that.

We are doing that. I think we are going to need to work with this committee and the Congress in order to come up with a way to implement a deauthorization process that gets us to where we need to be, which is not having a \$60 billion backlog.

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

Mr. GIBBS. Mr. Shuster?

Mr. SHUSTER. Thank you, Mr. Chairman. Secretary Darcy and General Temple, welcome. General, wish you the best in your retirement.

General TEMPLE. Thank you, sir.

Mr. SHUSTER. Thanks for your service to our Nation.

My question deals with TransCanada and their permits. I wanted to know when did they apply for the 401 permits to construct the Keystone Pipeline, and can you share with the Committee the status of all the 401 permits related to that pipeline?

Ms. DARCY. Congressman Shuster, the permits that were requested by TransCanada for the Keystone Pipeline were—I am asking staff to get the exact date they were requested—once the project was determined to not go forward, when the State Department made that determination, we suspended consideration of those permits.

We also, however, are anticipating new permit applications for a portion of that project, from Cushing, Oklahoma, to Texas.

Mr. SHUSTER. Speaking of that pipeline, what does it mean to expedite, when the President said he is going to ask the Corps to expedite the permit? What does that entail?

Ms. DARCY. He is going to ask us to consider them as soon as we receive them. As I said, we have not received them yet, but once we do, depending on the scope of the permit, what exactly the purpose and need of the permit is, we will determine which kind of permit is being applied for, either a nationwide permit or an individual permit.

A nationwide permit in many instances is a faster process for processing than an individual permit.

Once we get those applications, we will be able to make—

Mr. SHUSTER. What is the typical timeline for permitting those two types?

Ms. DARCY. I cannot give you an exact—I will get you an exact answer. What is called the “nationwide general permits” are usually more expeditious than individual permits, because it is a smaller scope usually.

Mr. SHUSTER. Can you give me the numbers compared to a typical expedited permit? What is the timing difference? Can you put a percentage on it? Thirty percent faster? Sixty percent faster?

Is that something you can get back to me?

Ms. DARCY. I can. I do not want to guess.

Mr. SHUSTER. I know I have seen the numbers out there. If you take all the permits out there that are in review or going to review, there is \$240 billion worth of investment out there.

My question would be to the President and to the Corps, why do we not expedite everything and get \$240 billion worth of work to create jobs and get the economy moving.

Again, I would ask you to get those numbers for me.

Ms. DARCY. Yes, sir.

Mr. SHUSTER. Typical versus expedited, I appreciate that.

Also, under the WRDA, 2007 WRDA bill, Congress authorized the Corps to utilize the independent peer review for some of its projects.

A couple of those projects, Savannah; Freeport, Texas, specifically, it was supposed to be a 45-month feasibility study. It is now at 115 months.

Also, when you read through it, there has been almost a dozen changes, major policy changes to order the port to do.

I understand also the Mobile, Alabama District reviewed it and said one thing and then the Jacksonville District came in and not understanding the economics of the Gulf Coast, gave a very different assessment of the projects.

When you see that, it frustrates not only us in Congress but the American people.

What is the Corps doing to streamline this? It was supposed to help, using these peer reviews to help the process along. It seems like in this one, and in Savannah, which I saw, it is has caused great upheaval and slowed the process down and costing millions of dollars more than it should have.

If either one of you could take that.

General TEMPLE. Yes, sir. There is no question that studies have taken longer than anyone desires. We have already instituted some measures to address this issue by reforming our planning process, and in fact, transforming our Civil Works process as well.

With respect to Freeport itself, using an independent technical review, actually it helped us refine the model that will allow this project to move forward reasonably expeditiously here in the future, sir.

Mr. SHUSTER. I think you understand and we all understand time is money. It seems the longer these projects go, the more expensive they get.

Finally, just a quick question on design/build. What is your view of design/build projects? I have seen a couple of them. Just last

week, I was in Tennessee, and they did a design/build on a roadway.

I know there are some in Congress that do not want to move to that model, but it seems to me time is money and a design/build is a positive way to do.

If I could get quickly your response as to your view on design/build projects.

General TEMPLE. Sir, we use a number of acquisition techniques to provide construction and related services, and design/build is definitely in our portfolio.

You may recall, sir, the hurricane storm sewage barrier nearly 2 miles long down in New Orleans was the largest design/build project ever built by the Corps, and it was a Civil Works project.

We do use it, sir.

Mr. SHUSTER. That methodology, design/build, are you increasing that in your portfolio?

General TEMPLE. Yes, sir. We have used it quite frequently here lately.

Mr. SHUSTER. Great. Thank you, Mr. Chairman.

Mr. GIBBS. Representative Napolitano?

Mrs. NAPOLITANO. Thank you, Mr. Chair.

Secretary Darcy, as you heard my opening statement, I talked about the Harbor Maintenance Trust Fund inequity in ports at Long Beach and Los Angeles, and that 1 percent out of every \$1,000 they pay into the system goes back, in order words, \$265,000.

How or what can be done to address this inequity?

Ms. DARCY. Congresswoman, the money that comes in, as you know, comes in from the tax on exports. The spending out from the Trust Fund goes to those harbors that are in need of the most dredging and maintenance money.

The priorities are based on that high performance of those ports. There is not a one-for-one, dollar-for-dollar—

Mrs. NAPOLITANO. Understood, but .01-percent return is so unfair. It just does not make sense. These are the ones that bring in 40 to 50 percent of the Nation's goods through those ports. We need to be able to keep them maintained so we can continue to compete against other ports.

Ms. DARCY. The allocations from the Trust Fund, as I say, are based on the greatest need, but I think what we can do is just be able to allocate the resources that we have to the greatest need.

Mrs. NAPOLITANO. I can understand that, but for how long can this keep going on?

Ms. DARCY. I guess we will just have to evaluate with each year as to how we are going to—

Mrs. NAPOLITANO. I would appreciate that, Ms. Darcy. We will talk about this.

The second issue on this particular Trust Fund is that the law only allows 50 percent of those funds for harbor maintenance, dredging of ports deeper than 45, but could we not propose to expand 100 percent for ports of any depth, and allow for construction dredging and berth dredging?

Expanding the use of these funds would allow the ports that pay the most in the system to use the funds.

Is it possible we should expand the use of this Fund?

Ms. DARCY. I was checking to see. I am sure there is the possibility of expanding uses of the Fund. I was checking to see at what depth do those people pay into the Fund, whether it is all users or if it is a port at a certain depth.

That question, I would like to be able to answer for you.

Mrs. NAPOLITANO. Would you just send the subcommittee the answers? It would be important.

Going over to the two dams I mentioned previously, the Whittier Narrows and the Santa Fe in my area, if the study is positive in the Whittier Narrows Dam, which has been probably in 8 years or more under consideration, they found some leak, so they are having to do the re-study to be able to increase the capacity.

If the study is positive and no major construction or repair is required, how long would it take to increase the water conservation level to store more water that can be captured for the settling ponds and recharge of the aquifers, if no repair is required?

General TEMPLE. As you know, ma'am, the study, the dam safety study, is funded in the—

Mrs. NAPOLITANO. And it is underway.

General TEMPLE. We intend to finish that as expeditiously as we can. Once we finish that, we will know what actions we need to take with respect to dam safety and public safety first, and then we can assist in addressing the water supply issues in an appropriate way.

Mrs. NAPOLITANO. Right. My question is the timeframe after the studies are complete to be able to proceed to build up the levies to capture more water and be able to put into settling ponds to the aquifer.

General TEMPLE. I would have to get back with you on that.

Mrs. NAPOLITANO. Thank you. I really appreciate that.

Secretary, when will the Corps begin the dam safety study on the Santa Fe Dam so we can conserve more water? This is above the Whittier Narrows Dam.

It does have a lot of dredging, not a lot, but it does require dredging, so it will be able to conserve more water, and that is above the Whittier Narrows.

Ms. DARCY. I do not have the exact date, Congresswoman, but we can get it for you.

Mrs. NAPOLITANO. Would you, please? I would be really very, very thankful.

Again, I did not realize you were retiring, sir, so my congratulations for all the work you do, especially in Iraq and Afghanistan, a tremendous amount of work with Colonel Magnus. Thank you so much for your service, sir.

General TEMPLE. Thank you, ma'am.

Mr. GIBBS. Mr. Fleischmann?

Mr. FLEISCHMANN. Thank you, Mr. Chairman. Chairman Gibbs, Ranking Member Bishop, I appreciate the opportunity to participate today. I am a member of the Full Transportation Committee but I am not on this subcommittee.

Secretary Darcy and General, thank you for being here today.

I wanted to speak about Chickamauga Lock. Just last week, Chairman Shuster was kind enough to visit the Chickamauga Lock

with me. This is my second physical visit to the Lock since I was elected to Congress. It is not a pretty sight.

It is my understanding, Secretary Darcy, that in fiscal 2013, the President has zero dollars set for maintenance for the Lock. There is another lock that actually is being constructed next to it. There is no ancillary lock, which has basically had construction stopped on it.

As you all know, under the Trust Fund, there is a priority of lock systems, and there is just no dollars for the future construction.

Right now, there are about 300 monitoring devices on this lock. The indigenous materials are expanding.

By the way, General, I want to thank Colonel Dunlap. He was most kind, has done an excellent job, and has met with me, and I appreciate his hospitality.

Secretary Darcy, in terms of the maintenance phase, is there anything we can do? We have gone from \$3 billion to zero on maintenance with a lock that is in tremendous disrepair. Your thoughts?

Ms. DARCY. Congressman, I believe we still will be performing maintenance on the lock, it is just the enhanced maintenance that was not budgeted for. I think that is what you are referring to, the increased maintenance.

We will continue to be able to operate the lock, however, as you know, it did not compete within that ranking, in the Waterways Trust Fund, as what we can afford as enhanced maintenance at this time.

Do I have that right, General?

General TEMPLE. That is correct, ma'am.

Mr. FLEISCHMANN. A followup question. In terms of ultimately getting the new lock completed, the work that has been done is about half completed. It is going to take approximately \$500 to \$600 million in projected costs to complete the new lock.

What are your thoughts in terms of the way it is set? Right now, all the funds appear to be going to the Olmsted Lock in Kentucky, which has cost overruns. It is out there in terms of when it is going to be completed.

This lock is literally getting starved out. What are your thoughts in terms of getting this funded?

Ms. DARCY. Congressman, as I said in my opening statement, the President has proposed an user fee for the Inland Waterways Trust Fund, in order to increase the revenues coming into that Trust Fund.

There is just not enough money there for all the outstanding needs, including the lock you are referring to.

Hopefully, in being able to adopt an user fee soon, we will be able to get increased revenues into the Trust Fund and be able to fund more of the pressing needs in the inland waterways system.

Mr. FLEISCHMANN. Secretary Darcy, I understand there is a desire to get more funds into the Trust Fund.

Secretary Darcy, is it not fundamentally flawed the way that it is set up now, so that even with more funds in there these funds would just go to Olmsted without any reformation of the existing Trust Fund?

I think that appears to be the fundamental problem if I'm correct, and I'm solicitous of your thoughts.

Ms. DARCY. Well, within the revenues that have come into the fund, we do have to make choices and prioritize, but we do work with the Inland Waterway users to help to advise us on what those priorities should be with the limited funding that we have.

I do not know if you want to add.

Mr. FLEISCHMANN. General, do you have any thoughts on this issue?

General TEMPLE. Well, I certainly agree with the Secretary in that with limited funds we have had to make some difficult choices. With additional income, it may give us the opportunity to expand the number of choices that we are able to apply these limited dollars to, sir.

Mr. FLEISCHMANN. Thank you, Mr. Chairman. I yield back.

Mr. GIBBS. Would you yield your time to me?

Mr. FLEISCHMANN. I would be glad to.

Mr. GIBBS. I just wanted to follow up a little bit on his time. When you are talking about the President's, say, user fee, do you have any details of that? Because there is a question if it is for operation and maintenance versus construction, for the first part of that, and what the details of that proposal are.

Ms. DARCY. It would be used for the same purposes as the current tax is used for. So it would be for construction, and that is what the additional fee would be used for.

In the President's proposal, it is a vessel fee. We have not worked out the details of what exactly that would be, and our hope is that we can work with this committee and others to help to fashion what that should look like, but any sort of fee change or restructure will also need the concurrence of the Ways and Means Committee, I would think.

Mr. GIBBS. OK. So the proposal right now is just conceptual basically.

Ms. DARCY. Yes.

Mr. GIBBS. OK. Thank you.

Representative Richardson.

Ms. RICHARDSON. Yes, thank you, Mr. Chairman.

Several questions: first of all, according to our committee memo, recreational areas managed by the Corps may see a cut of approximately \$7 million. Can you share with the Committee which parks potentially would be closed and services reduced?

Ms. DARCY. Congresswoman, I would have to get back to you on the list of which ones, but what we are trying to do is with the resources that we have, continue to operate as best we can and operating maybe reducing hours as opposed to actually closing a facility or closing some of the campsites at a facility, not all of them.

Also we are trying to do a lot with our partners. We have a lot of partnerships at our core facilities with a lot of local either NGOs or education organizations that have been helping us leverage, you know, the kinds of time we have. We have more volunteers who have helped us with our recreation program, over 1.4 million hours of volunteers last year. So it helped us to keep our program vibrant.

So I will get you the list of what will actually be closed this year.

Ms. RICHARDSON. I doubt that any of them are in my District in particular, but I can tell you as Members of Congress have to vote on these issues, it would be helpful for them to know, and then that way they could advocate. And I am sure my interest is on behalf of the entire American public obviously that can benefit.

My second question is if you could share with the Committee a little bit about the importance of the Continuing Authorities Project, Section 103, and the planning assistance to States. I plan on coming to the chairman, Mr. Gibbs, and Ranking Member Bishop to seek their assistance as we go through this process, but there are existing programs that do exist that have the ability to fulfill the mission of the Corps, which is to work with State and local governments to insure that we can have appropriate restoration, and so on. But unfortunately, these programs are not adequately funded.

So could you share on my behalf for the chairman and the ranking member why these are so vitally important and we consider funding them?

Ms. DARCY. Congresswoman, planning assistance to States is an important program that we have within the Corps, and I know that we have worked in your District on some of that, and that is funded in the President's 2013 budget request.

However, Section 103, which is a Continuing Authorities Program, is not. In looking at priorities, some of our Continuing Authorities Programs were ones that decided were not budgetable this year because of competing needs.

Ms. RICHARDSON. A couple of questions. I am sorry. Specifically I am asking can you explain what can be done with the Continuing Authorities Projects, Section 103. What are some of the typical projects or programs that you could work with local governments to assist with? Why is it important?

Ms. DARCY. Well, I guess I am confusing 103 and Planning Assistance to States. Planning Assistance to States is each State gets a portion of the funding, and we are able to work with States as the local sponsor for developing projects, as well as being cost share partners with them.

The 103 Continuing Authorities Program is specific to, I believe, shoreline protection, and those are smaller projects that are part of a larger program that do not require individual authorization or study. And for that particular Continuing Authorities Program we did not budget for it this year because of, as I say, the competing needs within the programs.

Ms. RICHARDSON. So, Mr. Chairman, what I would like to share for the record, it is my understanding that the planning assistance to States was only funded for \$4 million, and what that equates to to individual States is what, less than 500,000 or something? At least in California that is what is received.

So if you can imagine in, you know, the second largest State in the Union, 500,000 clearly is not adequate to deal with the problems that we are facing in the area, and I really appreciated your comments, Mr. Chairman, when you talked about the concern of, yes, we need to be fiscally prudent, but we also have to make sure that we are not penny wise and pound foolish down the road.

So, for example, the Continuing Authorities Project, Section 103, gives us the ability, for example, in my District where you have got literally roads that are falling into the ocean, I mean, eventually it is going further. The cracks are going further and further and further, and finally you are going to have homes and everything else.

So I would like to follow up with you about these two particular programs to see how they might be adequately funded for the future.

My last question has to do with Urban Waters Federal Partnership. It is my understanding that that might be on the board of funding for the EPA, however not at this time with the Army Corps. Do you have anything you would like to share with us about that program?

Ms. DARCY. We are in partnership with EPA on some of those projects, but as you say, the Urban Water Partnership Programs we are just becoming actually involve in in some areas, including, I believe, we are in L.A. River.

Ms. RICHARDSON. OK. All right. With that I will yield back the balance of my time. Thank you, Mr. Chairman.

Mr. GIBBS. Mr. Cravaack, do you have questions?

Mr. CRAVAACK. Thank you, Mr. Chairman. I do.

Thank you very much. I appreciate your being here today, General. Good seeing you. I would like to give a good shout-out to Colonel Mike Price of St. Paul District. A great officer, fantastic; represents the Corps well.

Ms. Darcy, I have a question for you in regards to how much is in the Harbor Maintenance Trust Fund.

Ms. DARCY. The balance, sir?

Mr. CRAVAACK. Yes, ma'am.

Ms. DARCY. The balance, I believe it is about \$6 million.

Mr. CRAVAACK. OK. Does 100 percent of that go directly to Harbor Trust Fund, Harbor Maintenance?

Ms. DARCY. It does not. The amount that goes to harbor maintenance, dredging, is an appropriated amount from that Trust Fund.

Mr. CRAVAACK. About 80 percent, I would assume, or something around there. Let me ask you a question though. All of the money that is in that Trust Fund right now, is there actually money in the fund?

Ms. DARCY. Yes, sir.

Mr. CRAVAACK. So it is sitting there. It cannot be touched by anybody else? It is not an IOU or anything?

Ms. DARCY. It has to be appropriated.

Mr. CRAVAACK. OK. It has to be. So it is sitting there in an account ready to be used at any time.

Ms. DARCY. Yes.

Mr. CRAVAACK. OK. Then why are only—and, General, you might be able to help me out with this—why are we having such difficulty in getting our harbors into the widths and depths that are needed or they are supposed to be? Why are we having such trouble doing that then?

The number I have is we have about 7.1 in the account. Why is that? Because every inch of silt in the harbor in Duluth, for example, that is taconite that is left on the shore. So why is it 10?

General TEMPLE. Sir, we work the dimensions of each of the harbors based on a system of prioritization first, and then work within the appropriated amount second, and there is no question that that constrains us in most cases from providing the authorized dimensions of the channels. But it is our purpose to insure that the channels are sufficient dimensions to insure the safety and economic success of that particular harbor, sir.

Mr. CRAVAACK. With all due respect, sir, who is the person or who makes the decision on the safety of that?

Correct me if I am wrong, but is there not a specified direction of certain harbors, the depth and width that they should be? Is that a correct statement?

General TEMPLE. Oh, there is, sir, but in cooperation with the Coast Guard and the local Port Authority, we are able through collaboration to determine what we believe the minimum safe dimensions are for that harbor under certain operating conditions.

Mr. CRAVAACK. OK. Then why do we have minimums already specified? I mean, Duluth Harbor is supposed to be a certain width, a certain depth, and I am hearing from my District that it is not good enough. What is the issue? Why are we not making sure that all the harbors, at least specifically Duluth, why are they not dredged to the proper depths and widths so we can get more tonnage on the ships and get them off the port?

General TEMPLE. Sir, because we are operating within the appropriated amount that we are given to support the entire Nation. So that means there is virtually no harbor that is getting the full dimensions under those constraints.

Mr. CRAVAACK. OK. An you are saying that all the monies, all of the fees that are collected, because it is fee based, that are collected for this Harbor Trust Fund are used specifically for harbor maintenance only and what it was intended to be used for; is that correct?

Ms. DARCY. The amount that is used for dredging is what is appropriated from the account, and the request for this year from the President is \$848 million.

Mr. CRAVAACK. I see my time has expired.

Mr. BISHOP. Mr. Cravaack, may I ask you to yield to me the balance of your time?

Mr. CRAVAACK. I would be happy to, sir.

Mr. BISHOP. And, Mr. Chairman, indulge me for a few minutes because this is really important, and I think we have some real bipartisan both agreement here and concern here.

Let me state my understanding of how the Harbor Maintenance Trust Fund operates, and please correct me if I'm wrong. It operates essentially the way the Social Security Trust Fund does, and in years in which we collect more than we use, the balance that is not being used is used to fund other areas of the budget, just like Social Security, and the Harbor Maintenance Trust Fund is, in effect, repaid with U.S. Government bonds in the same way that the Social Security Trust Fund is.

This is a problem of longstanding and bipartisan causation, if you will. The Harbor Maintenance Trust Fund, as I understand it, was established under President Reagan in 1980. Not a single President from 1980 to now has requested that the full amount of

the annual proceeds be spent exclusively on harbor maintenance, dredging and so on. So we have built up this balance over the course of the years.

I am right so far, am I not?

Ms. DARCY. Yes, sir.

Mr. BISHOP. OK. So here is the problem. We take in, and I am round numbering it, we take in roughly \$1.4 billion a year. We spend roughly \$700 million a year. If we were to fully expend that \$1.4 billion, which you would want and I would want and I think Chairman Gibbs would want, then either we are going to have to increase our expenditures as a country so instead of spending \$3.7 trillion we are going to spend \$3.77 trillion, or we are going to have to cut \$700 million somewhere else.

So part of the problem is us. Part of the problem is the Appropriations Committee. So we have this thing called the RAMP Act, which we are trying to get passed, although even the RAMP Act does not fully address the problem because it deals with a point of order, does not increase the 302(b) allocations, and so on.

So collectively we are onto something here. We want to spend more money, but it is not the Army Corps. It is the combination of OMB and the appropriators because if we went to the appropriators right now and said, "Do you know what? This is not fair. We need to spend this fully on harbor maintenance dredging or harbor dredging," they would say, "Do you know what? That is fabulous, but where are we going to cut the other \$700 million that we are now going to spend on dredging that right now we are spending on" fill in the blank?

So that is the problem, and I mean, I am 100 percent behind the idea of fully spending down the Harbor Maintenance Trust Fund. We have got needs all over this country, but all I am suggesting is that it is not fair to have the Army Corps be the entity that is responsible for the fix. We are the ones responsible for the fix. On a bipartisan basis we have got to just step up to the plate and tackle this one.

Mr. GIBBS. The gentleman's time has expired.

Mr. BISHOP. Pardon the mixed metaphors of two different sports.

Mr. GIBBS. Thank you.

I wanted to follow with my question. We are starting the next round of questions, and my next questions were starting to address this.

But I wanted to, first of all, clear something up that my ranking member said in his first round of questions about doing more with less. This committee is always about that, and I have been a strong proponent of the RAMP Act, and we are trying to get the RAMP Act in the Highway Surface Transportation bill because I realize the need to get this dredging done, especially when the President has put a challenge out there to double our exports or whatever it is in the time period, whatever it was.

So that goes to my questions, Secretary. Why does the administration not just go ahead and say, we are going to fully recommend to spend the full amount, the \$1.4 billion per year, instead of 50 percent of it, especially knowing that the circumstances of our infrastructure and trying to get our exports up?

Ms. DARCY. The amount that is requested in the President's budget is as I said \$848 million, the highest any President has ever requested from this fund, and it is also a 12-percent increase over last year's request. So at that level we believe that we can meet the President's initiative of doubling exports by 2015.

Mr. GIBBS. I will respectfully disagree on that one, but I think we ought to go for the full amount, and that is what my ranking member is saying, too, I believe.

Mr. BISHOP. I am with you, Mr. Chairman.

Mr. GIBBS. We have got bipartisan support there.

I have not really been able to figure out where the rest of the \$700 million goes, but that seems to be somewhere out there.

General Temple talked a little bit about Olmsted because that is taking so much of our capital budget, and I did visit there last August. I see in the President's budget justification sheets he has requested change so that the project will increase approximately over \$3 billion. How much of that would be spent on salaries and administrative costs at the district level? Do you know?

General TEMPLE. Approximately 7 percent, sir.

Mr. GIBBS. Seven percent. OK. Due to the schedule delays of getting Olmsted done, as we all know, that Locks 52 and 53 that Olmsted would be replacing, what funding increases in schedule are we going to have to do to those locks to keep them in service for the next 5 to 8 years?

Is that part of this \$3 billion or is there additional money that will go for 52 and 53?

General TEMPLE. Sir, the \$3 billion is focused on finishing construction of Olmsted. With respect to 52 and 53, we will continue to use O&M funds to sustain those locks and continue to monitor them as we do all of our inland waterway infrastructure, and if we see indications of continued deterioration there, we will enter into a study to determine what additional O&M dollars may be needed to keep 52 and 53 open until Olmsted becomes operational.

Mr. GIBBS. Negating another study right now, how many expenditures do you anticipate will have to be spent before you have to do another study on 52 and 53?

General TEMPLE. Sir, I would have to get back with you on the exact amount.

Mr. GIBBS. I appreciate that. Another question following up on the Olmsted. Is there any consideration of finishing the dam using the cofferdam instead of doing it in the wet since that was kind of a new deal?

General TEMPLE. Right, sir. We have asked the Division and District to take a look at the full venue of possibilities with respect to construction techniques, contracting techniques, plans and specs, to see what other options we may have with respect to finishing this important project, and we expect that report back a little later this spring, sir.

Mr. GIBBS. Because the wicker part of the dam, that has not even started yet. You are on the other part of the dam, right, the conventional type?

General TEMPLE. Yes, sir. I am talking about Olmsted.

Mr. GIBBS. Yes, Olmsted is what I am talking about, yes.

General TEMPLE. Yes, sir.

Mr. GIBBS. I heard a little bit of General Walsh's comments to a group that I spoke to afterwards a few weeks ago, and he mentioned about establishing the 3-3-3 proposal. Because I am really concerned about these studies and additional studies and the protraction and lengthening of the projects. What can you tell me?

You had an 18-month pilot program, I believe. Where are we with the 18-month pilot program versus the 3-3-3, which is 3 years to complete the study—and I like this—in a three-ring notebook, and it should cost no more than \$3 million, correct?

General TEMPLE. That is correct, sir, and at less than 100 pages ideally.

Mr. GIBBS. So are we moving forward there pretty well on this?

General TEMPLE. Well, as you know, sir, we have six pilot projects ongoing, and one of the first that we expect to address is Central Everglades in Florida, which should be available in the January 13 timeframe, sir. So we think we may be onto a technique that will help us and the Nation compress these studies and move forward with projects in a more rapid fashion.

Mr. GIBBS. Well, I want to compliment you on this concept because as you heard my opening statement, I am really concerned about the studies and studies on top of studies. We are studying things to death, and we are losing our global competitiveness because of it. I think sometimes we know what the end result is going to be anyway.

Anything we can do to work with you, I know some of it is because of legality reasons, but we need to do as much as we can.

Mr. Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman.

Quickly, I have a couple of things that I want to go over. First, on Harbor Maintenance Trust Fund, just to try to close the loop, Congressman Landry and I sent a letter. We got over 80 signatures, bipartisan, to Chairman Ryan asking him in his budget proposal to fully spend down at least the annual proceeds of the Harbor Maintenance Trust Fund as it comes in.

I will say to my friend from Minnesota and to the chairman, I would be happy to join you in sending a letter to the appropriators urging them to spend the full amount. If that is something that you are interested in, let's talk and we can do that because I think it is very important. And, again, it is something that I think we agree on.

Just with respect to the comments that Representative Shuster was making on process and how long it is taking, my understanding of the budget includes a \$9 million increase in the regulatory portion of the budget. Is it reasonable for me to assume that that will allow you to add to the resources that are necessary to go through the review process?

Ms. DARCY. The increase is welcome because we have seen an increase in our permits over the years, over the last couple of years, and anticipate even more.

Mr. BISHOP. But it will give you the staff to handle these reviews in a somewhat more expeditious fashion; is that correct?

Ms. DARCY. That is our expectation.

Mr. BISHOP. OK. Great. Thank you.

I have a district specific thing that I would like to raise with you. I represent, as I have said, the eastern end of Long Island, and there is a project there. It is the Mattituck Inlet Section 111 Project, and as I understand the status of the project, the New York District and, Madam Secretary, your office are currently discussing language for a proposed partnership agreement that would be executed with the Town of Southold. It is my understanding that given the limited number of Section 111 projects in the Nation, the New York District is required to get the sign-off of the Secretary in order to move forward, and so my questions are, and I will understand if you do not have the answers at your fingertips, but if you do not, if you could get them to me as quickly as possible because this is a big, big priority for me and for my District; can you (a) please update me on the status of the project?

(b) Can you give me a sense of when the project is ready to move to the next phase?

And (c) can you give me a sense of what the next phase of the project is?

As I say, of the big areas in my District, this is now the top of the list in terms of getting that done. So as I say, if you cannot answer now, I understand, but if you could, get it to us quickly.

Ms. DARCY. What I can tell you, Congressman, about this project is that the draft Project Partnership Agreement is being developed, and it will probably be in my office before the end of the year.

Mr. BISHOP. OK. Before the end of the?

Ms. DARCY. The year.

Mr. BISHOP. Before the end of the year?

Ms. DARCY. And if you want more specifics, I can get those for you.

Mr. BISHOP. I would also like it a little quicker than that because it is only March. I thought you had said the end of the week.

Ms. DARCY. Oh, no.

Mr. BISHOP. Which I was going to say that is fabulous.

[Laughter.]

Ms. DARCY. They would kill me.

Mr. BISHOP. Yes, yes. How about by the end of the month?

Ms. DARCY. End of the month? No.

Mr. BISHOP. If you could accelerate it and give it some priority, I would appreciate it greatly, and I know the people that are the residents of the North Fork of the island would appreciate it as well.

One last thing. Mr. Fleischmann raised some very important points, as did the chairman a second ago. It is very clear we have a broken system here. We have a proposal from the President. We have pushback and, in effect, a counterproposal from the industry and the stakeholders. Can we please, and whether Congress is involved or not, but can we please sit down and try to figure out how to go forward here?

Because we have needs all over this country. I mean, I was at the lock in I guess it is the Industrial Canal.

Ms. DARCY. In New Orleans?

Mr. BISHOP. In New Orleans. I mean, the thing has been functioning for 90 years, and if it were not for the professionalism of

the Corps employees who maintain it, I think we would be in big, big trouble, and we are inviting a disaster here.

We have a system that is outdated, needs to be fixed, and I think we all agree we have got to fix it.

And lastly, let me just say one last thing, Mr. Chairman, and that is that we have water needs all over this country. I hope that we can take on as a challenge that we would undertake on a bipartisan basis working on award of 2012 or award of 2013 because we definitely need to impose, if you will, the perspective of the Congress on the needs that we have.

With that I yield back. Thank you.

Mr. GIBBS. Do any other Members have any questions? Yes, go ahead.

Mrs. NAPOLITANO. Thank you, Mr. Chair.

And this is regarding the Corps vegetation policy. I have been contacted by the California Water Resources and the L.A. County Flood Control, and they are concerned about the Corps proposed levy vegetation policy that would remove a lot of that vegetation from the levies, and it requires the State and the county to remove that vegetation.

The concerns that they have outlined have included the extremely high cost of levy construction and mitigation resulting from the policy will divert limited resources from the remediation of critical risk factors with little or no improvement to public safety. For many years the vegetation has encouraged and protected, all introduced by the Corps on levies in California.

Now, the Corps should make a clear distinction between existing levy systems and new Federal project improvements. They accept the concept that the new levies should be constructed and maintained in full compliance with Corps vegetation policies, but a reasonably adaptable approach that recognizes the integration of woody vegetation is imperative for those existing levies.

The Corps policy guidance is so stringent, according to these two agencies, it is burdensome and it is expensive; that the variances are unlikely to be sought or issued except under specialized local circumstances.

Would you care to give us some information as to how this is going to work out? Any comments?

Ms. DARCY. We do have a levy vegetation policy and we have been working with the State of California on it and trying to be flexible in not only the implementation, but also the variances that would be granted for that, recognizing that the levies, especially the existing ones with some woody vegetation may in some instances be able to get a waiver.

So we have been working with the local Districts on that.

Mrs. NAPOLITANO. Well, it just says that the variances are unlikely to be sought or issued except on very specialized circumstances.

Ms. DARCY. The variances would be issued on a case-by-case basis, depending on the condition of the levy and, you know, the main concern, of course, with any vegetation on a levy is does it impair the integrity of the levy. Does it impede with flood fighting? And does it in any other way impede the effectiveness of the levy?

So those things will have to be considered before we would be able to even grant a variance.

Mrs. NAPOLITANO. OK. Since the Corps did actually include levy vegetation in the past, am I assuming that any new construction will then seriously consider what effect this might have in the future on those levies?

Ms. DARCY. Yes, in any future construction, yes.

Mrs. NAPOLITANO. Thank you.

I would appreciate any information so I can get it back to these agencies that have inquired.

Ms. DARCY. We can do that.

Mrs. NAPOLITANO. And I yield back.

Mr. GIBBS. Mr. Cravaack.

Mr. CRAVAACK. Thank you, Mr. Chair.

I just want to continue on with the Harbor Trust Fund to make sure I am perfectly clear on that. Now, General, you said that the widths and depths of the harbors are not to the specified specifications, and yet do I understand that there is an overage from the ranking member saying that money is being taken from the Harbor Trust Fund and given back into the general revenue? Is that correct, Ms. Darcy?

Ms. DARCY. Yes. The entire balance that is collected is not expended for dredging.

Mr. CRAVAACK. OK. Because I thought pretty much I asked that question. I said was all of the money out of the Harbor Trust Fund being used for the harbors, and you said, yes, it was.

Ms. DARCY. It is the amount that is appropriated that is used for dredging. I did not want to confuse construction with dredging.

Mr. CRAVAACK. OK. So as I understand it, in the Harbor Trust Fund Maintenance Fund, there is an overage, and that overage is given at times back to the general revenue; is that correct?

Ms. DARCY. That is correct. Only a portion of it historically has been used for dredging.

Mr. CRAVAACK. OK, and that is because of the specifications within the appropriations process that only a certain amount is being used for harbor dredging.

Ms. DARCY. Yes. It is appropriated out of the Trust Fund. That is correct.

Mr. CRAVAACK. OK. And as I understand, General, 100 percent of that money that is appropriated for harbor dredging is being used for that; is that correct?

General TEMPLE. That is correct, sir.

Mr. CRAVAACK. So every dime.

General TEMPLE. Yes, sir.

Mr. CRAVAACK. Excellent. So you need more money to dredge, to get the appropriated amount of money so that harbors can be dredged to their specific widths and depths.

General TEMPLE. Yes, sir. As I said earlier, if we had more dollars available, we would be able to more closely achieve the authorized dimensions.

Mr. CRAVAACK. OK. So what we need to do is change the appropriations aspect of it to make sure you get the money you need to do it.

OK. Thank you very much. I appreciate that clarification. It was very educational, and I will yield back.

Mr. GIBBS. Just to follow up on Representative Cravaack's to the General, every dime that is used is supposed to go for dredging, but what percent of the HMT goes for staffing administrative costs?

General TEMPLE. I would have to get back with you on the exact costs there, sir.

Mr. GIBBS. OK. You know, I am hearing things out there that maybe we are getting too much on personnel costs and we are not adjusting that the way we should be. I do not know. That is why I asked the question.

I have a question for Secretary Darcy. Last October, there was a court decision in *National Mining v. Jackson*. It ruled on enhanced coordination procedures, including the use of multicriteria resource assessment developed by the EPA and the Army Corps was unlawfully changed in permitting the process for Section 404 coal mine permits under the Clean Water Act.

What steps are being taken by the Corps to ensure, as it is stated in the decision, that if the responsibility involving the permitting process has not been delegated to the EPA by Congress, that function is vested in the Corps as the permitting authority?

So where are we with that?

Ms. DARCY. As a result of that court decision, we are processing the permits as we had done before.

Mr. GIBBS. OK. In light of that decision, the permits that were caught up during the illegal enhanced coordination process, what is the status of those permits?

Ms. DARCY. Those permits, as I say, will just go into the regular process that we had done before the Enhanced Coordination Program.

Mr. GIBBS. OK, and I have a followup question from the ranking member of the full T&I, Mr. Rahall. He says there is some confusion about the 404 permits that are now illegal, as I just said. In your estimation how many of these Section 404 permits have been issued for mining activities in Appalachia?

Ms. DARCY. I believe the number is 80.

Mr. GIBBS. Eighty? OK. How many of these permits involve Valley Fill activities of the 80, I guess?

Ms. DARCY. That I would have to get back to you on.

Mr. GIBBS. OK. Can you also share with the Committee when these permits were issued?

Ms. DARCY. We can get that information for you.

Mr. GIBBS. OK. I appreciate that.

Does anyone else have anything?

Mr. BISHOP. Just real quickly.

Mr. GIBBS. Go ahead.

Mr. BISHOP. Thank you very much, Mr. Chairman.

Secretary Darcy, I understand the National Academy of Sciences is conducting a review of the Army Corps. Can you give us a sense of what the Army Corps plans to do with that review once it is completed?

Ms. DARCY. Whenever the National Academy of Sciences takes a look at our agency or our program, we take it very seriously. So I am awaiting their review, and I am not sure when that is coming.

Mr. BISHOP. And one other question on the River Basin Commissions' award of 2007 directed the Corps to fund the three River Basin Commissions, but that has not happened since 2009. Can you tell us why the Corps budget does not include funding for the three River Basin Commissions?

General Temple.

General TEMPLE. As a former Commissioner, sir, for the Susquehanna, Potomac, and Delaware River Commissions, the Federal participation has never been funded as far as I know. It was not funded when I was a Commissioner from 2002 to 2005.

Mr. BISHOP. All right. Thank you. Thank you very much.

I yield back, Mr. Chairman.

Mr. GIBBS. I want to thank the witnesses for coming today.

Just a parting thought. I am a little bit disturbed when we were talking about the Keystone Pipeline and the permits and the President's request to expedite the process, but then I hear from the Secretary about they have to re-apply. They have already got permits pending. You know, either amend them or move forward and maybe truly expedite the process. I just make that as a closing comment. I am concerned about if this is not a more political way to say, well, we are moving forward, but in reality since we are making them re-apply and go through that entire process that it drags it on. I question the definition of "expedite" then.

So thank you, again, for coming today.

Ms. DARCY. Thank you, sir.

Mr. GIBBS. And this concludes this hearing.

[Whereupon, at 11:44 a.m., the subcommittee was adjourned.]



**OPENING STATEMENT OF REP. STEVE COHEN**

The Subcommittee on Water Resources and Environment

“Hearings on the Administration’s FY 2013 Budget and Priorities for the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency”

March 27, 2012

I am pleased to be here today to receive testimony from our distinguished witnesses about the President’s FY 2013 budget for the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency (EPA).

The U.S. Army Corps does critically important work, and they need to be provided the necessary resources to fulfill their mission. When the Mississippi River swelled to record levels last year and threatened to flood my district, the Army Corps stepped in and helped avert disaster. I owe them my gratitude and believe they need to be funded to ensure they can rebuild the infrastructure that was destroyed last year and have the capacity to fight flooding in the future.

In addition to flood prevention, the Army Corps serves a vital role as one of the nation’s largest producers of renewable energy. However, most of these facilities are decades-old and in desperate need of repair. President Obama has established an ambitious and important goal to move our country away from dependence on fossil fuels and foreign oil to renewable energy, and the Army Corps will certainly play a significant role in this transition. Therefore, I believe we need to provide the Army Corps funding to modernize their existing facilities so they can maximize their hydropower potential.

I thank the witnesses for being here today and look forward to hearing your testimonies today.

SENIOR DEMOCRATIC WHIP  
 COMMITTEE ON SCIENCE, SPACE  
 AND TECHNOLOGY  
 RANKING MEMBER  
 COMMITTEE ON TRANSPORTATION  
 AND INFRASTRUCTURE  
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 SUBCOMMITTEE ON AVIATION  
 SUBCOMMITTEE ON HIGHWAYS AND TRANSIT  
 CONGRESSIONAL BLACK CAUCUS  
 CHAIR, 107<sup>TH</sup> CONGRESS



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

PLEASE RESPOND TO:  
 WASHINGTON OFFICE:  
 225 RAYBURN BUILDING  
 WASHINGTON, DC 20515-4290  
 (202) 225-8885  
 DALLAS OFFICE:  
 302 MAPLE AVENUE  
 SUITE 600  
 DALLAS, TX 75201  
 (214) 922-8885

WWW.HOUSE.GOV/EBJOHNSON/  
 REP.E.B.JOHNSON@MAIL.HOUSE.GOV

Congresswoman Eddie Bernice Johnson  
 House Committee on Transportation and Infrastructure  
 Subcommittee on Water and the Environment  
 President's Fiscal Year 2013 Budget Request for the Army Corps of Engineers  
 March 27, 2012  
 Statement for the Record

As we review the Administration's Budget request for Fiscal Year 2013, I am concerned that, in an effort to cut federal spending, we may be taking a short-sighted approach to protecting and improving our Nation's waterways and infrastructure.

I realize that this is a difficult fiscal climate, but much like the Administration's support for a jobs bill, robust federal spending on Corps construction projects serves the dual purpose of repairing our aging infrastructure and creating the kinds of good paying construction jobs that will lower the unemployment rate and strengthen our economy.

The President's Fiscal Year 2013 Budget requests \$4.731 billion for the Army Corp of Engineers. This request is \$271 million less than the FY 2012 level of appropriations. \$1.471 billion has been requested for construction. While the Administration has promoted its own American Jobs Act, and the Democratic members of Congress are advocating for the kind of policies that will get the American people back to work, I believe we may be missing an opportunity to promote the same sort of infrastructure improvement and job growth. I would advocate for at least the continued level of funding for construction and investigations.

I want to thank the witnesses for their testimony, and to continue working with the Administration to address our Nation's water infrastructure needs. My improving

our cities' flood protection and water reservoirs, we can promote economic development and job growth.

36

**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**

**A REVIEW OF THE PRESIDENT'S FISCAL YEAR 2013 BUDGET  
FOR THE ARMY CORPS OF ENGINEERS**

**FISCAL YEAR 2013**

**MARCH 27, 2012**

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) 2013.

### OVERVIEW

The FY 2013 Budget for the Civil Works program reflects the Administration's priorities through targeted investments in the Nation's water resources infrastructure, including dams and levees, navigation investments in support of both domestic and global trade, restoration of ecosystems affected by past water resources development, and support of Administration initiatives such as America's Great Outdoors and the Clean Water Framework. These investments will generate American jobs, contribute to a stronger economy, improve reliability and efficiency of waterborne transportation, reduce flood risks to businesses and homes, and provide low-cost renewable hydropower. In addition, investment in the restoration of significant aquatic ecosystems and the remediation of sites associated with the Manhattan Project of the 1940s will not only provide important benefits, but also support jobs.

The primary objectives of the Budget are as follows:

- Focus funding on water resources investments that will yield high economic and environmental returns or address a significant risk to public safety.
- Support commercial navigation through maintenance and related activities at the most heavily used commercial harbors and waterways in the Nation.
- Modernize financing of capital investments on inland waterways by establishing a new user fee.
- Restore large ecosystems such as the California Bay-Delta, Chesapeake Bay, the Everglades, Great Lakes, and Gulf Coast.
- Invest in improvements to the Corps regulatory program that will provide greater efficiency, providing benefits to businesses and more protection to regulated wetlands and small streams.
- Provide significant funding for dam and levee safety, including interim risk reduction measures designed to immediately mitigate risk at the highest risk dams, and continue funding to advance the Corps' national levee safety initiative to help improve the safety of Federal levees and to provide available levee data on levee safety issues to non-federal entities.
- Support the modernization of Federal water resources infrastructure processes to address 21<sup>st</sup> Century water resources needs through improvements to policies and procedures that govern Federal water resources development and strategies for

both managing the Nation's aging infrastructure and restoring aquatic ecosystem functions affected by past investments.

- Increase the organizational efficiency and improve the management, oversight, and performance of ongoing programs.

The Budget funds the planning, design, construction, operation and maintenance of projects, and focuses on the three main Civil Works mission areas: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. The Budget also supports programs that contribute to the protection of the Nation's waters and wetlands; the generation of low-cost renewable hydropower; the restoration of certain sites contaminated as a result of the nation's early atomic weapons development program; emergency preparedness and training to respond to natural disasters; and recreation, environmental stewardship, and water supply storage at existing projects owned or operated by the Corps.

#### **FY 2013 DISCRETIONARY FUNDING LEVEL**

The Budget for FY 2013 for the Civil Works program provides a fiscally prudent, appropriate level of investment in the Nation's water resources infrastructure and in the restoration of its aquatic ecosystems.

In keeping with President Obama's commitment to put the country on a sustainable fiscal path, while continuing to invest in those efforts that are a priority for the Nation, the Budget includes \$4.731 billion in discretionary appropriations for the Army Civil Works program. This represents a reduction of \$271 million, or about 5%, from the 2012 enacted level, but is a \$100 million above the President's FY 2012 Budget. The FY 2013 funding level reflects a considered, practical, effective, and sound use of the Nation's financial resources.

Within the \$4.731 billion recommended appropriations, \$1.47 billion is for projects in the Construction account, and \$2.398 billion is for activities funded in the Operation and Maintenance (O&M) account. The Budget also includes \$102 million for Investigations; \$234 million for Mississippi River and Tributaries; \$30 million for Flood Control and Coastal Emergencies; \$205 million for the Regulatory Program; \$104 million for the Formerly Utilized Sites Remedial Action Program; \$182 million for the Expenses account; and \$5 million for the Office of the Assistant Secretary of the Army for Civil Works. Attachment 1 shows this funding by account and program area.

The FY 2013 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 2013 Budget supports investments in commercial navigation, flood risk management, aquatic ecosystem restoration, and other programs. The distribution of funding among these programs is similar to the distribution in the FY 2012 Budget, except for an 11% increase in investments in support of waterborne transportation. Of the total in the FY 2013 Budget, 30 percent is allocated to flood risk management activities; 37 percent is allocated to commercial navigation; and 33 percent to environmental, hydropower, and other activities. Five flood risk management projects, three navigation projects, one hydropower project, and 18 studies are funded to completion in this Budget.

#### **NEW INVESTMENTS IN FY 2013**

The Civil Works budget includes funding for three high-performing construction new starts and six new study starts, and a new activity to focus on reducing the vulnerability of Civil Works projects to extreme natural events.

In the Construction account, parallel to the recommendation for FY 2012, the budget includes \$7.5 million for the Hamilton City project in California, which will provide environmental restoration and flood damage reduction benefits in the Bay-Delta area; \$16.8 million for the Louisiana Coastal Area Ecosystem Restoration program, a nationally significant and urgent effort to both restore habitat and protect the important Louisiana Gulf region from the destructive forces of storm driven waves and tides, which will complement the ongoing Federal effort under the Coastal Wetlands Planning, Protection, and Restoration Act, as amended; and \$2 million for the Lower Colorado River Basin, Onion Creek, Texas, project, which will significantly reduce the risk of flood damages using non-structural solutions.

There are six new studies in the Investigations account, five of which were recommended in FY 2012. These six studies are: an important new reconnaissance study for 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; the Louisiana Coastal Area Comprehensive Plan for \$100,000; and the national Water Resources Priorities Study for \$2 million. The FY 2013 Budget also includes \$100,000 for a new study of the Houston Ship Channel, Texas.

The Water Resources Priorities Study will establish a baseline assessment of the Nation's flood risks on both national and regional scales, improve existing programs, and reduce future costs by focusing on which ongoing and future investments will best reduce flood risks. The \$8 million for new line-item called Reducing Civil Works Vulnerability in the Operation and Maintenance account will aid the Corps in creating a more robust Civil Works infrastructure.

Within the Floodplain Management Services Program, \$3 million is recommended to evaluate the potential for and encourage the use of nonstructural alternatives and actions during post-disaster recovery decision-making. With these funds, the Corps would leverage the expertise of intergovernmental teams known as Silver Jackets to provide selected technical services and support States and communities in the development and implementation of actions to reduce flood risks, with an emphasis on nonstructural alternatives.

### **INFRASTRUCTURE MODERNIZATION**

The Administration is developing and considering proposals to serve as the foundation of a comprehensive water resources infrastructure modernization initiative, which will help the Federal government support a 21<sup>st</sup> century water resources infrastructure. In considering and developing these new policies, procedures, and strategies, the Administration will continue to engage and collaborate with Congress and the many stakeholders whose interests are tied to the Nation's water infrastructure, including State, local, and Tribal governments.

### **NAVIGATION**

The Budget includes a high level of investment in support of domestic and global waterborne transportation, especially at coastal ports that support the greatest national economic activity. On the inland waterways, the Budget focuses on maintaining reliable service at those waterways with a high level of commercial use, specifically, the Lower Mississippi River, Ohio River, Upper Mississippi River, Gulf Intracoastal Waterway, Illinois Waterway, Tennessee River, and the Black Warrior Tombigbee Waterway. Funding to operate and maintain the Mississippi River, Baton Rouge to the Gulf project is \$82 million, a significant increase above the \$68 million requested for FY 2012.

The Budget provides \$68 million to continue deepening the New York and New Jersey Harbor project in order to complete construction by FY 2014. The Budget also includes \$38 million to construct dredge material placement sites at several deep draft ports to provide additional capacity for the maintenance of these projects in the future. It provides \$12 million to continue studies and designs at coastal ports, including several proposals to deepen existing channels to accommodate Post-Panamax commercial shipping.

The Budget also provides for use of \$848 million from the Harbor Maintenance Trust Fund to maintain coastal channels and harbors. This is a 12% increase over the FY 2012 Budget and the highest amount ever proposed in a President's Budget for use of receipts in the Harbor Maintenance Trust Fund.

Inland waterway capital investments are funded at \$201 million, of which \$95 million will be derived from the Inland Waterways Trust Fund. This is the amount that is affordable within the projected level of revenue to this trust fund under existing law. In September 2011, as part of his Jobs Bill proposal, President Obama transmitted to Congress a proposal to modernize financing of capital investments on the Nation's inland waterways. The proposal includes increasing the revenue paid by commercial navigation users sufficiently to meet their share of the costs of capital development activities financed from the Inland Waterways Trust Fund. A new vessel user fee would supplement the existing fuel tax. The Administration will continue to work with Congress and stakeholders to enact such a mechanism to increase revenue to this trust fund, in order to enable a significant increase in funding for high-performing inland waterway capital investments in the future.

### **FLOOD RISK MANAGEMENT**

Through both structural and non-structural measures, the flood risk management program serves as a vehicle to reduce the risk to human safety and property from riverine and coastal flooding. The FY 2013 Budget provides \$1.4 billion for the flood risk management program, including \$492 million that is directed at dam and levee safety.

This flood risk management program also includes \$41 million to continue the comprehensive levee safety initiative to assess the conditions of Federal levees and help ensure that they are safe. These funds will also enable the Corps to better assess and communicate risk, for example, by providing information that will assist non-federal entities in identifying safety issues with their levees. The Corps will be conducting levee inspections and levee risk screenings, adding to the data in the national levee inventory, and providing the available levee data to communities for their use in gaining accreditation under the Federal Emergency Management Agency's National Flood Insurance Program.

In addition to this funding in the flood risk management program, the Budget includes \$40.2 million in the navigation program to address dam safety issues at two navigation dams (Locks and Dams 2,3,4, Monongahela River, Pennsylvania, and Lockport Lock and Dam, Illinois).

### **AQUATIC ECOSYSTEM RESTORATION**

The FY 2013 Budget reflects a continuing effort by the Corps and other Federal agencies to collaborate developing a unified budget proposal, which reflects the Nation's priorities for restoring its most significant aquatic ecosystems. Attachment 2 provides a list of these ecosystems and the Corps funding amounts budgeted on this basis.

The Budget for the Army Civil Works program provides \$161 million to efficiently fund the ongoing South Florida Ecosystem Restoration Program, which includes the Everglades, consisting of \$153 in the Construction account and \$8 million in the Operation and Maintenance account. It also supports several major ecosystem-wide initiatives, by providing a total of \$81 million in the aquatic ecosystem restoration program in support of the Federal efforts in the California Bay-Delta, Chesapeake Bay, the Great Lakes, and the Gulf Coast.

The Budget includes \$98 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 \$90 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.

#### **PLANNING IMPROVEMENTS**

The Army continues to work to modernize the Civil Works Planning Program to better address the current and future water resources needs of the Nation. The Army has undertaken an aggressive review of all ongoing, protracted feasibility studies to assure that studies are scoped appropriately and to focus limited resources on studies with the highest probability of leading to high performing projects. Proposed changes are aimed at dramatically shortening the timeframe for completion of pre-authorization studies while retaining the quality of the analyses, reducing the cost of conducting planning studies, and increasing Corps corporate and individual accountability for decisions.

The FY 2013 Budget includes \$4 million for the national Planning Support Program. These funds will be used to improve training of Corps planning personnel, including through the Planning Associates Program; support development and implementation of revisions to the Water Resources Principles and Guidelines in accordance with requirements in the Water Resources Development Act of 2007 (Sec 2031, PL 110-114); and provide for more stable, capable national planning centers of expertise.

#### **REGULATORY PROGRAM**

The Budget includes \$205 million for the Regulatory Program, which is a \$9 million increase above the FY 2012 Budget. This funding increase is one of the Army's priorities. It will support a transparent and timely permit review process, bringing greater program efficiency and customer service. It will enable the Corps to better protect high-value aquatic resources, enable more timely business planning decisions, and support sustainable economic development.

### **VETERANS CURATION PROJECT**

The FY 2013 Budget includes \$3 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, D.C. This project will contribute to the goals of the President's recently announced Veterans Job Corps.

### **AMERICAN RECOVERY AND REINVESTMENT ACT**

The American Recovery and Reinvestment Act provided \$4.6 billion for the Civil Works program. That amount includes \$2 billion for Construction; \$2.1 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 Used Sites Remedial Action Program. The Corps applied ARRA funds to more than 800 projects across the Nation.

The Army is proud to report that 99.8% of the ARRA appropriations for Civil Works are obligated, and more than 87% of the funds have been outlaid to date. These investments helped create or maintain direct construction industry jobs, jobs in firms supplying or supporting construction work and the businesses that sell goods and services to these workers and their families.

### **CONCLUSION**

In summary, the President's FY 2013 Budget for the Army Civil Works program is a performance-based budget that supports continued progress on important water resources investments that will yield long-term returns for the Nation and its citizens.

These investments will generate jobs, contribute to a stronger economy, support waterborne transportation, reduce flood risks to businesses and homes, provide low-cost renewable hydropower, restore important ecosystems, and deliver other benefits to the American people.

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

ARMY CORPS OF ENGINEERS – CIVIL WORKS																
FY 2013 Budget																
Business Line/Account Cross-Walk (\$ Millions)																
Business Lines/Funding Categories:	I			C			O&M			MR&T			TOTAL			
	I	C	O&M	I	C	O&M	I	C	O&M	TOTAL MRT	FUSRAP	FCCE		REG	E	OASA (CW)
Flood and Coastal Storm Damage Reduction	46	652	536	<1	83	89	172									1406
Coastal Inland	5	17	11		0	4	4									37
Hydropower	41	635	525		83	85	168									1369
Navigation	25	352	1326		14	30	44									180
Coastal Inland	17	151	797		0	2	2									967
Environment	8	201	529		14	28	42									780
Aquatic Ecosystem Restoration	31	464	14	<1	2		2									512
Stewardship			92			4	4									96
FUSRAP										104						104
Regulatory													205			205
Recreation			241			11	11									252
Emergency Management (incl. NEPP)			6									30				36
Water Supply			5													6
Expenses														182		182
OASA(CW)															5	5
<b>TOTAL</b>	<b>102</b>	<b>1471</b>	<b>2398</b>	<b>1</b>	<b>99</b>	<b>134</b>	<b>234</b>	<b>104</b>	<b>30</b>	<b>205</b>	<b>182</b>	<b>5</b>	<b>4731</b>			

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

<b>ARMY CORPS OF ENGINEERS – CIVIL WORKS FY2013 LARGE ECOSYSTEM FUNDING</b>			
<b>Account 1/</b>	<b>Study/Project</b>	<b>FY 2013 BUDGET</b>	<b>Ecosystem Totals</b>
		<b>(\$ in millions)</b>	<b>(\$ in millions)</b>
<b>Bay Delta</b>			<b>51.5</b>
I	Yuba Fish Passage	0.10	
I	CALFED Coordination	0.10	
	San Pedro Watershed	0.20	
I	Sac-San Joaquin Delta Island and Levee Study	1.02	
I	Sac-San Joaquin Comp Study	0.30	
C	Hamilton City	7.50	
C	American River Common Features	8.00	
C	Sac River Bank Protection	3.00	
C	Success Dam Remediation (DSAP)	3.00	
O&M	Additional studies and projects in Navigation and Flood Risk Management Programs	28.3	
<b>Chesapeake Bay</b>			<b>19.6</b>
I	Chesapeake Bay Comp (new recon)	0.30	
I	Lynnhaven	0.30	
I	Upper Rappahannock	0.05	
I	Anacostia - Montgomery	0.25	
I	Anacostia - Prince Georges	0.25	
C	Chesapeake Oysters	5.00	
C	Poplar Island	13.50	
<b>Everglades</b>			<b>161.08</b>
C	Everglades	153.30	
O&M	Everglades	7.78	
<b>Great Lakes</b>			<b>102.59</b>
I	Interbasin Control Study (GLMRIS)	3.00	
C	Chicago Sanitary and Ship Canal (CSSC)	24.50	
O&M	Dredging	75.09	
<b>Gulf Coast</b>			<b>26.26</b>
I	LCA - studies, PED	9.96	
C	LCA - Beneficial Use	5.00	
C	LCA - Amite Diversion	5.60	
C	LCA- Atchafalaya to N Terrebonne	6.20	

**DEPARTMENT OF THE ARMY CORPS OF ENGINEERS**

**COMPLETE STATEMENT**

**OF**

**MAJOR GENERAL MERDITH W. B. TEMPLE  
ACTING 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**

**A REVIEW OF THE PRESIDENT'S FISCAL YEAR 2013 BUDGET  
REQUEST FOR THE ARMY CORPS OF ENGINEERS**

**MARCH 27, 2012**

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 2013 (FY13) Budget for the Civil Works Program of the United States Army Corps of Engineers.

The Corps is wrapping up an unprecedented period of construction and project execution. Over the past five years, we provided \$12 billion in BRAC-related construction; \$7 billion of American Recovery and Reinvestment Act (stimulus) work in our Military and Civil Works programs combined; and about \$14 billion of Gulf Coast recovery work.

In 2011 the Corps responded to several devastating tornadoes and floods, as well as hurricanes and tropical storms, under the National Response Framework in support of FEMA. Flooding was a significant problem as we experienced record high water levels for a much longer duration than is the norm throughout much of the country. Our flood risk reduction systems were operated at their maximum capacity, some for the first time. The great men and women of the Corps of Engineers worked tirelessly, together with our state, local and industry partners, to ensure that we could deliver on all of our commitments last year. It is through their efforts that we were successful and will continue to be able to carry out the projects and programs included in the FY13 Budget.

My statement covers the following 11 topics:

- Summary of FY13 Program Budget
- Direct Program
- Investigations Program
- Construction Program
- Operation and Maintenance Program
- Reimbursable Program
- 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 FY13 PROGRAM BUDGET**

The Corps is fully committed to its support of the Nation's priorities to reduce the deficit, contribute to the economy, and restore and protect the aquatic environment. The Fiscal Year 2013 Civil Works Budget provides the Corps with the means to support these priorities. It is a performance-based budget, which 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, to include continuing a comprehensive levee safety initiative and supporting increased interagency and stakeholder collaboration. The Reimbursable Program funding is projected to provide an additional \$1.6 billion.

#### **DIRECT PROGRAM**

The Budget includes \$4.7 billion for civil works activities, with priority on the highest performing activities within our three main water resources missions – commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. The Budget invests in more than 600 flood and storm damage reduction projects, 143 commercial coastal navigation projects, and 51 projects on the inland waterways. For example, it provides increased funding for high use, commercial, coastal channels and harbors including support of efforts to accommodate Post-Panamax ships. In total, the Budget supports ongoing construction of 98 projects and three new construction starts. The Budget includes funds for 81 studies already underway and six new study starts. It will enable the Corps to process approximately 80,000 permit requests and to operate 75 hydropower plants with 350 generating units that produce approximately 24,000 megawatts annually. At its multi-purpose projects, the Corps also stores water to supply about 14% of the Nation's municipal water needs. The Budget will also sustain the Corps' preparedness to respond to natural disasters.

#### **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 water resources mission areas. The Budget includes \$102 million for these and related activities in the investigations account and \$1 million in the Mississippi River and Tributaries account. It funds 81 continuing studies and six new studies: Englebright and Daguerre Point Dams (Yuba River) Fish Passage, CA; Cano Martin Pena, PR; the Chesapeake Bay Comprehensive Plan; the Louisiana Coastal Area Comprehensive Study; and the Houston Ship Channel, TX. 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. Investigations funding also includes \$10.63 million for work on proposals to deepen seven U.S. ports: Boston, Massachusetts; Charleston, South Carolina; Savannah, Georgia; Wilmington, North Carolina; Brazos Island, Brownsville Channel, Texas; Jacksonville, Florida and Houston, Texas.

## CONSTRUCTION PROGRAM

The goal of the construction program is to deliver as high a value as possible to the Nation from the overall available funding through the construction of new water resources projects and the replacement, rehabilitation, and expansion of existing flood and storm damage reduction, aquatic ecosystem restoration, commercial navigation, and hydropower projects. The Fiscal Year 2013 budget includes \$1.47 billion in the Construction account and \$99 million in the Mississippi River and Tributaries account to further this objective. Consistent with this objective, the Budget also gives priority to projects that address a significant risk to human safety.

The Budget funds 101 construction projects, including: 57 Flood and Coastal Storm Damage Reduction projects (five budgeted for completion); 23 Commercial Navigation projects (including eleven continuing mitigation items and six dredged material placement areas); 19 Aquatic Ecosystem Restoration Projects (including four projects to meet Biological Opinions); and mitigation associated with two Hydropower projects. Three of these construction projects are new starts: Hamilton City, California; Louisiana Coastal Area Ecosystem Restoration, Louisiana; and Lower Colorado River, Wharton-Onion Creek, Texas. This program 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, and static instability correction work and to activities that address a significant risk to human safety. These performance measures maximize the overall return to the Nation from the investment in 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 American people, a growing challenge in some cases, as proper maintenance is becoming more expensive at many of our projects.

The Operation and Maintenance (O&M) program for the FY13 Budget includes \$2.53 billion and an additional \$134 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 navigation channels; operating multiple purpose dams and reservoirs for flood damage reduction, commercial navigation, aquatic ecosystem restoration, hydropower, and related purposes; maintenance and repair of the facilities; monitoring of completed storm damage reduction projects along our coasts; and general management of Corps facilities and the land 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 workforces to oversee project design and construction, these agencies can turn to the Corps of Engineers, which already 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 Programs 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 service.

We only accept agency requests that we can execute without impacting our Civil Works or Military Programs missions that are consistent with our core technical expertise and that 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 FY13 is projected to be \$1.6 billion, reflecting the completion of ongoing reimbursable work and an estimated amount for FY 13.

#### **PLANNING PROGRAM MODERNIZATION**

The Corps will continue to implement actions to improve the performance of its Civil Works Planning Program through a planning modernization effort. This effort focuses on how best to prepare, organize, manage, operate, and oversee the planning program to more effectively address 21<sup>st</sup> Century water resources challenges. This means improved project delivery that yields smarter outcomes; improved technical capability of our planners; enhanced collaboration with Federal, Tribal, State, Local and non-government partners; evaluating and enhancing production capability and staffing at Corps Planning Centers of Expertise; 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 that improve our effectiveness, efficiency, transparency, and responsiveness; and enhanced technical capabilities.

In FY 2011, the Corps launched a two-year National Planning Pilot Program to test these concepts and to develop and refine processes for planning studies across all business lines. This approach will be both sustainable and replicable, which will inform future Civil Works guidance. Seven to nine Pilot studies will be executed over the course of this National Planning Pilot Program.

#### **EFFICIENCY AND EFFECTIVENESS OF CORPS OPERATIONS**

The Corps always strives to continually improve its investigations, construction, and operations programs' efficiency and effectiveness. In 2013, the Corps will further expand the implementation of a modern asset management program, using a larger portion of its funds for the most important maintenance work, while implementing an energy sustainability program that pursues major efficiencies in the acquisition and operations of its information technology assets, as well as finalizing the reorganization of the Corps' acquisition workforce.

#### **VALUE OF THE CIVIL WORKS PROGRAM TO THE NATION'S ECONOMY AND DEFENSE**

Corps of Engineers personnel continue to respond whenever needed to assist during major floods and other natural disasters. The critical work that they perform reduces the risk of damage to people and communities. The Budget provides \$30 million for preparedness for floods, hurricanes, and other natural disasters, including funding in support of Corps participation of the levee safety and other flood mitigation initiatives, including the Silver Jackets program, with a goal of one in every state, and to 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 and our quality of life.

#### **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, 885 Corps employees (both civilian and military) are deployed in Iraq and Afghanistan. Since these deployments began, the Corps has completed over 9,000 civilian and military projects that were managed by the Corps in support of U.S. and Coalition efforts in those countries.

In Iraq, we completed a more than \$15 billion construction program and in Afghanistan we have constructed \$5 billion worth of work through FY11. By the end of 2014 we will complete another \$10 billion, for a total Afghanistan program of \$15 billion. This critical infrastructure and our capacity building efforts will play a key role in ensuring stability and security for these nations.

#### **CONCLUSION**

The FY13 Budget represents a continuing, fiscally prudent investment in the Nation's water resources infrastructure and in the restoration of its aquatic ecosystems. The Corps of Engineers is committed to change that ensures an open, transparent, and performance-based Civil Works Program, while remaining focused on consistently delivering innovative, resilient, risk-informed solutions to the Armed Forces and the Nation.

Thank you, Mr. Chairman and Members of Subcommittee. This concludes my statement.

**House Committee on Transportation & Infrastructure**  
**Subcommittee on Water Resources & Environment Hearing**  
**March 27, 2012**  
**Questions for the Record**

1. In the President's proposed FY 2013 budget, language is included that proposes to establish a White House-led Navigation Task Force to develop a Federal strategy for future navigation investments. How does the US Army Corps of Engineers create a strategy for navigation investments? Who will be included on the Task Force? How will the Task Force differ from the navigation mission of the US Army Corps of Engineers?

**Answer:** The current Corps strategy is based on using our authority to study, construct, and maintain navigation projects to provide as much value as possible for the Nation from the available funds. Details of the Task Force composition and scope of work are being developed. The Task Force will provide a forum for developing a broad strategy for investments in support of navigation and may also seek to coordinate amongst the many Federal navigation programs. The Task Force would develop this broad strategy through a multimodal view of the Nation's investments in navigation, whereas the Corps is focused on the type of infrastructure that the Corps has constructed and maintains.

2. Recently it has come to the attention of the Committee that the Army Corps of Engineers is proposing to close certain segments of the nation's inland waterway transportation system. Can you share with the Committee how the Corps is planning on closing these segments, why they are proposing to close these segments, and when these segments are proposed to be closed? Will this action go through a typical notice-and-comment period and be published in the Federal Register?

**Answer:** For certain locks or certain segments of the inland waterways, the Corps is working with its navigation stakeholders to identify an appropriate level of service (hours of operation) based upon the level of commercial use, for example, in order to reduce costs and extend the service life of the locks. At this time, the Corps does not plan to close any lock or river segment, but is taking a nationally consistent approach to adjusting the levels of service and hours of operation commensurate with the level of commercial use. We do not plan to use the Federal Register process for review and comment for these situations. Instead, the proposed levels of service will be coordinated directly with the navigation stakeholders for each affected lock or inland waterway segment, in order to come to a local agreement on the appropriate levels of service - an increase or decrease in operating hours - based on usage.

3. Thank you for your work in attempting to establish the “3-3-3” proposal that no study should cost more than \$3 million, that no study should take more than 3 years to complete, and all studies should fit within a 3-ring binder. At one time, the Corps of Engineers had proposed a series of 18-month pilot studies. What became of those worthwhile pilot studies? Is the “3-3-3” proposal designed to supplant the 18-month pilots or is this in addition to the 18-month pilots?

**Answer:** The National Pilot Program for Feasibility Studies was initiated in February 2011 to identify means to shorten the timeframe for pre-authorization study completion while retaining analytical quality, with a goal in most cases of 18 months but no more than 3 years. The Corps is developing and refining feasibility study methodologies and processes in a manner that will be sustainable and replicable across all business lines, which will inform future Civil Works guidance. The five ongoing pilot studies are:

- Sutter County, CA (flood risk management, ecosystem restoration, and recreation). Project Partner: California Central Valley Flood Protection Board and the Sutter Butte Flood Control Agency.
- Jordan Creek, Springfield, MO (flood risk management). Project Partner: City of Springfield.
- Lake Worth Inlet, Palm Beach County, FL (navigation). Project Partner: Port of Palm Beach.
- Westside Creeks, San Antonio Improvement Project, TX (ecosystem restoration and recreation). Project Partner: San Antonio River Authority.
- Central Everglades, FL (ecosystem restoration). Project Partner: South Florida Water Management District.

No additional pilot studies are being proposed, as the intent is to analyze the lessons learned from these five pilot studies and apply them to all active feasibility studies by FY 2014. The concepts of the new planning paradigm are already being applied to existing feasibility studies and will also inform the “3x3x3” rule, which is intended to emphasize execution, instill accountability, and ensure consistent quality.

4. Under WRDA 2007, Congress authorized the Corps to utilize independent peer review for some of its projects. How long do these reviews typically take? How much do they typically cost?

**Answer:** Independent peer reviews of project studies are conducted by eligible outside organizations and typically take 3-6 months. The cost of those reviews varies, but is typically around \$150,000.

5. The feedback the Congress is getting shows these reviews are merely telling the Corps what it already knows. Noting this, why does the Corps feel it's worthwhile to continue these costly and time-consuming reviews, especially on projects that weren't even intended to be reviewable under WRDA 2007?

**Answer:** The Corps is currently in the process of reviewing the overall efficiency and effectiveness of the Civil Works Review Policy (EC 1165-2-209). Corps policy must be responsive to all applicable statutes, including the requirement for external independent review, Army policies and professional responsibilities. The Corps introduced independent peer review requirements in May 2005, two and a half years before WRDA 2007 became law, and continues to see value in independent reviews.

6. One project that is being internally and independently reviewed is the Port of Freeport, Texas. Currently, it is in the 115<sup>th</sup> month of what was supposed to be a 45 month Feasibility Study. This has led to the cost of the study increasing almost 50%. Independent peer review was supposed to bring a halt to this type of federal government excess. What is the Corps of Engineers doing to expedite feasibility studies like Freeport that seem to suffer from too many reviews?

**Answer:** The original completion schedule for the Port of Freeport, Texas study was developed without regard to funding constraints. The increase in study costs is attributable to the fact the original study cost underestimated the level of complexity to perform the formulation and environmental studies required to identify the recommended plan. The need for an independent peer review of this study has not been a significant contributing factor to the cost increase or the delayed completion date.

7. For FY 2012, the Consolidated Appropriations Act which passed last year contained the following language: "*Water Resources Principles and Guidelines*. -No funds are provided for the line item proposed for Water Resources Principles and Guidelines, as this is considered a new start. No funds provided to the Corps shall be used to develop or implement rules or guidance if an update or replacement to the document dated March 10, 1983, and entitled "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies" is finalized during the fiscal year period covered by the Energy and Water Development Act for 2012. The Corps shall continue to use the Water Resources Principles and Guidelines in effect as of the date of enactment of this Act during that same period." Yet, in February 2012, the Institute for Water Resources (IWR) proposed "Toward Integrated Water Resources Management, A Conceptual Framework for the U.S. Army Corps of Engineers Water and Related Land Resources Implementation Studies." How does this work carried out by IWR stay within the spirit and letter of the law?

**Answer:** The Corps is complying with the FY 2012 Statement of Managers, and is not expending FY 2012 funds to develop or implement rules or guidance associated with an update or replacement to the 1983 Principles & Guidelines.

The IWR report mentioned above was initiated several years ago and prepared by one of IWR's visiting scholars on the broad topic of Integrated Water Resources Management using funds appropriated prior to FY 2012. This report raises questions regarding how the Corps might pursue integrated management of water resources at the watershed level, but is not conclusive and does not recommend any changes to the 1983 Principles & Guidelines or constitute an implementing rule or guidance to the proposed revisions to the 1983 Principles & Guidelines. The report's publication does not represent a position or policy of the Executive Branch, Department of the Army, or Corps of Engineers, nor does it imply any official endorsement of the report contents by those entities.

8. The U.S. District Court for the District of Columbia decision on October 6, 2011 in *National Mining Association v. Jackson* ruled that the Enhanced Coordination Procedures (ECPs), including the use of the Multi-Criteria Resource assessment, developed by the U.S. Environmental Protection Agency (EPA) and the Army Corps unlawfully changed the permitting process for Section 404 coal mine permits under the Clean Water Act (CWA). What steps are being taken within the Corps to ensure that (quoting from the decision) "...if a responsibility involving the permitting process has not been delegated to the EPA by Congress, that function is vested in the Corps as the permitting authority."?

**Answer:** After the Court ruling, guidance was verbally provided to the Corps Appalachian Districts (the Huntington and Louisville Districts were the only two Corps districts that had pending applications remaining on the ECP list at the time of the ruling) to cease using the ECP. Written guidance was subsequently provided to the Corps districts reinforcing the previous verbal instructions and indicating that further processing of any former ECP applications should be done strictly in accordance with the published provisions of the Corps Section 404 regulations. The guidance also stated that any coordination or communication with EPA regarding these permit applications must be based upon, and done in accordance with, the specific provisions in the Corps' permit regulations or applicable MOAs regarding coordination or communication with EPA.

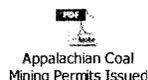
9. What progress has the Corps made on this Court decision? Are the Corps and EPA still unlawfully obstructing Clean Water Act permits for energy production and domestic mining operations that are vital to the U.S. economy? What has happened to all of the permits that got caught up in the illegal Enhanced Coordination process?

**Answer:** The Corps has implemented and is complying with the Court ruling and is not unlawfully obstructing Clean Water Act permits for energy production and domestic mining. On September 30, 2009, EPA selected 79 permit applications for processing in accordance with the Enhanced Coordination Procedures (ECP). Of these 79 applications, at the time of the October 6, 2011, court decision, eight permits had been issued, 50 applications had been withdrawn, and 21 applications were still pending. Subsequent to the ruling/court decision, three additional applications have been withdrawn, leaving 18 of these applications pending processing completion in the Huntington and Louisville Districts. These remaining applications continue to be processed in accordance with Corps regulations and standard procedures and not the ECP.

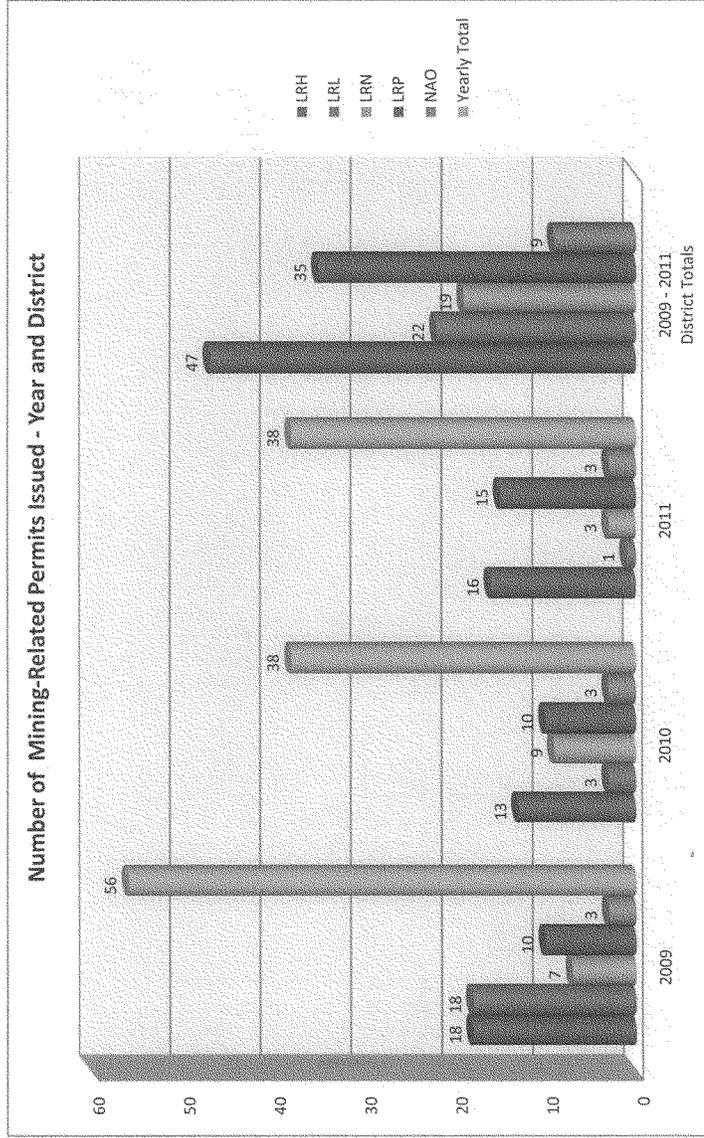
10. There is some confusion as to how many Sec. 404 permits have been issued since the initiation of the now-illegal “enhanced coordination” on April 1, 2010. At the hearing on March 27, 2012, the Corps of Engineers stated that approximately 80 permits had been issued. Yet, at a hearing held the following day on March 28, 2012, the Environmental Protection Agency stated that 110 permits had been issued. How many Sec. 404 permits have been issued for actual mining activities in Appalachia? How many of these permits involved valley fill activities? Can you share with the Committee when these permits were issued?

**Answer:** The Enhanced Coordination Procedures (ECP) were implemented in conjunction with the June 2009 Interagency Appalachian Surface Mining Memorandum of Understanding (MOU). April 1, 2010, is the date when EPA issued its’ interim water quality guidance to EPA Regions 3, 4, and 5.

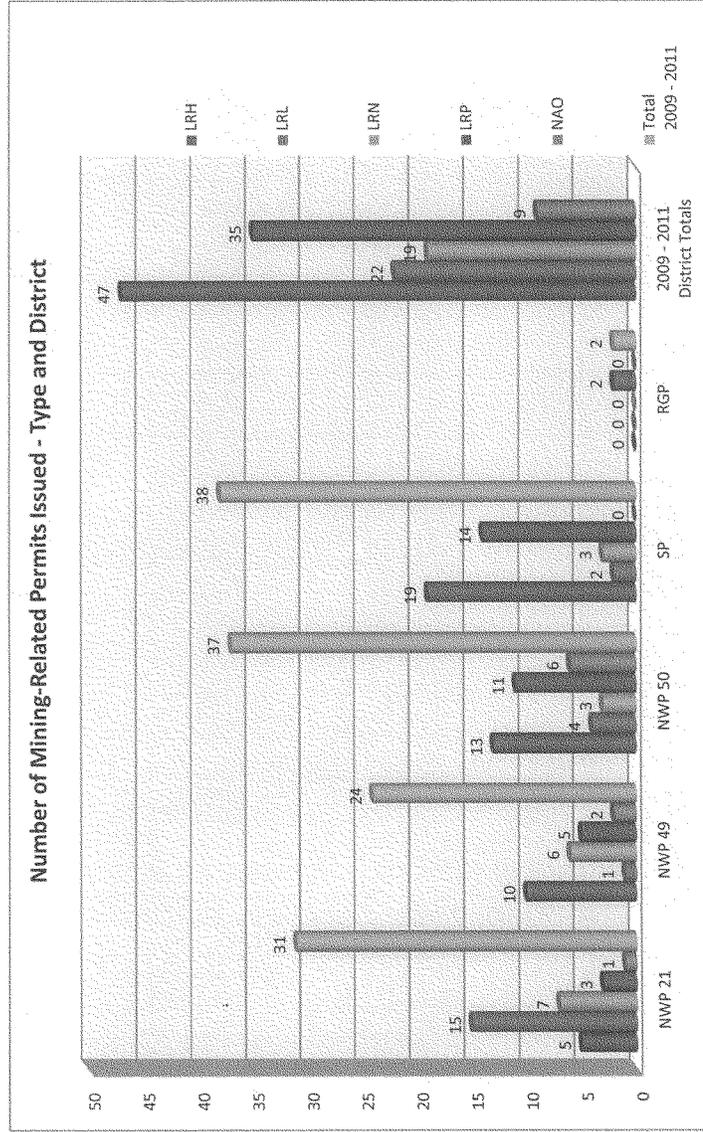
The differing responses for the numbers of permits that have been issued are a result of the differing time frame being used for the response. Since April 1, 2010, the Corps of Engineers has issued 82 Section 404 permits for mining-related projects in the Appalachian region covered by the MOU. The response of 110 given by the EPA representative was actually the number of permits that had been issued by the Corps from January 1, 2009, through early July 2011 (this number had been provided to EPA in preparation for Corps and EPA testimony before the House Oversight and Government Reform Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending on July 14, 2011). From January 1, 2009, through December 31, 2011, a total of 132 mining-related permits had been issued by the five Corps districts in the six state Appalachian region. A spreadsheet listing those 132 permits with basic information about each permit is attached. A set of five charts is also attached to graphically depict the number, types, etc. of permits issued during this three year period. The Corps database does not specifically track how many of these permits involve valley fills. In addition to the permits listed on the 2009 – 2011 spreadsheet, another 15 Section 404 permits for mining-related activities have been issued thus far in 2012 in the Appalachian region.



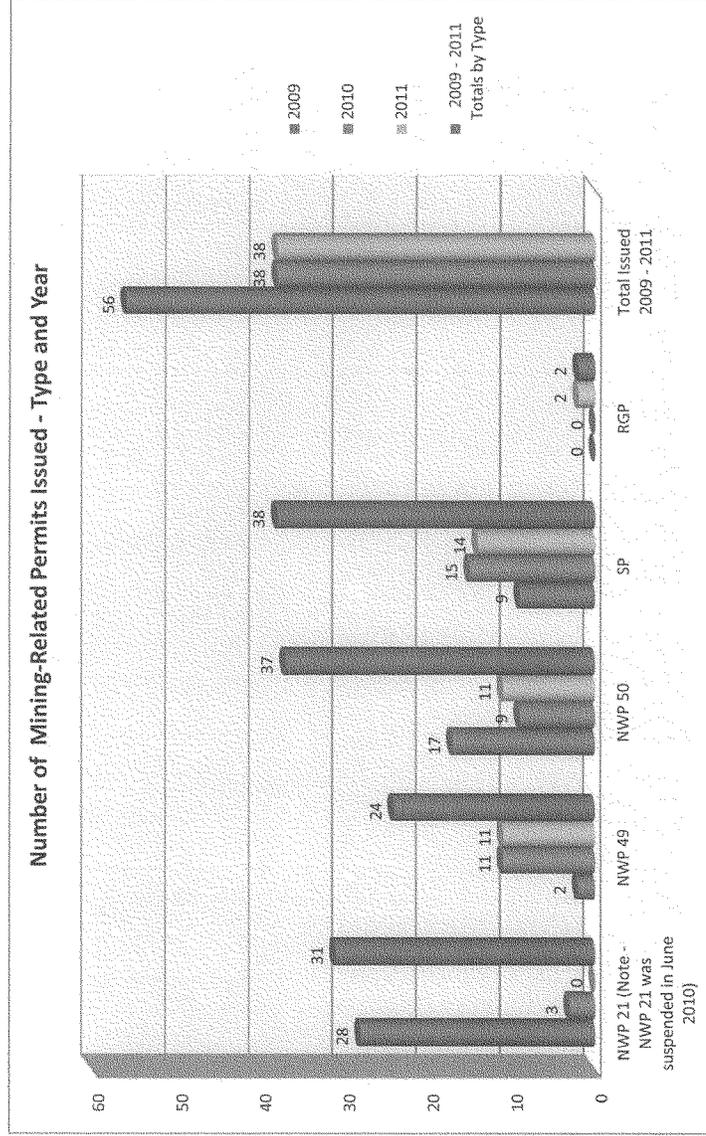
Section 404 Clean Water Act Mining-Related Permits Issued in Appalachia  
 1 January 2009 – 31 December 2011



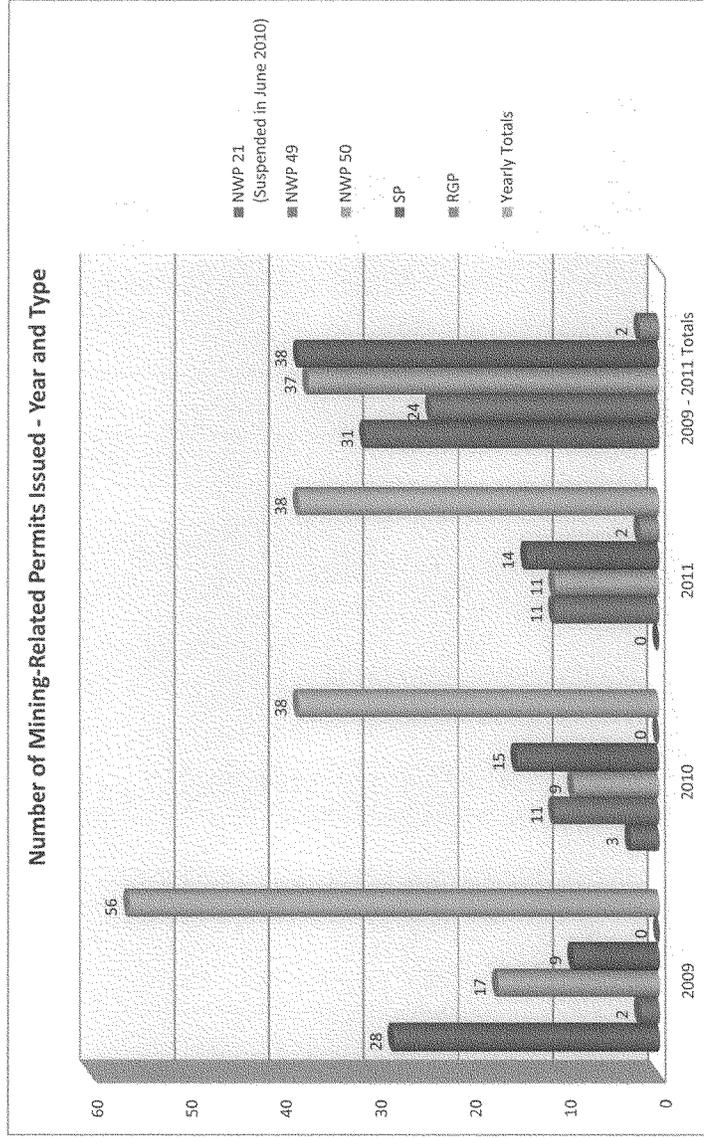
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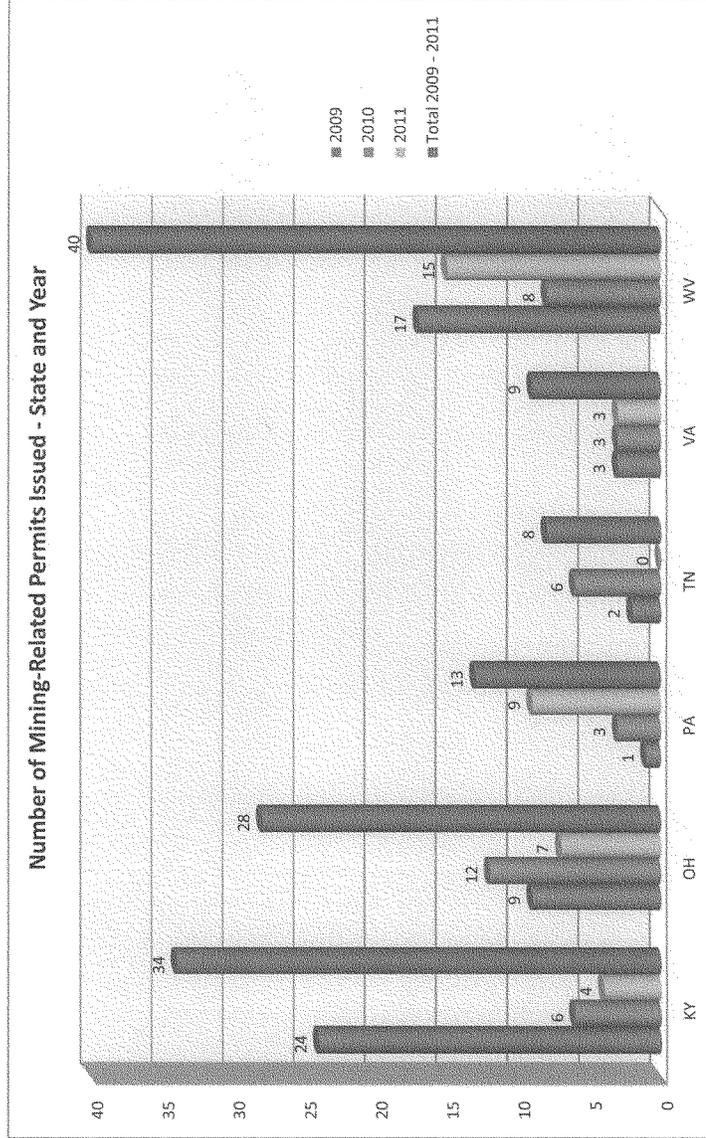
Section 404 Clean Water Act Mining-Related Permits Issued in Appalachia  
 1 January 2009 – 31 December 2011



Section 404 Clean Water Act Mining-Related Permits Issued in Appalachia  
 1 January 2009 – 31 December 2011



Section 404 Clean Water Act Mining-Related Permits Issued in Appalachia  
 1 January 2009 – 31 December 2011





Section 404 Appalachian Mining-Related Permits Issued 1 January 2009 - 31 December 2011  
 Source: US Army Corps of Engineers - Huntington, Louisville, Nashville, Pittsburgh, and Norfolk Districts

DA NUMBER	PERMITTEE	PROJECT NAME	PERMIT TYPE	DATE ISSUED/ VERIFIED	ST	COUNTY
LRP-2007-01180	Nathan Leggett-Oxford Mining Company	Oxford Mining Company, LLC Ellis Area, Coal	NWP 49	August 17, 2011	OH	Jefferson
LRP-2008-02414	Patton Mining Co.	Patton Mining Company, Johnson Surface Mine, unit of Gnaty Creek, Harrison County, WV, D	NWP 49	November 18, 2011	OH	Harrison
LRP-2009-01605	Valley Mining, Inc.	Valley Mining, Inc. D-2288-1 Surface Coal Mine Adjacent Area Application, Harrison County, OH	NWP 49	December 22, 2010	OH	Belmont
LRP-2009-01852	Reynolds Surface Mine, Inc.	Reynolds Surface Mine, Inc. D-2288-1 Surface Coal Mine Adjacent Area Application, Harrison County, OH	NWP 49	February 14, 2011	PA	Greene
LRP-2009-02059	Paramount Coal	Paramount Coal, Dry Fork Surface Mine	NWP 49	February 14, 2011	PA	Greene
MAO-2009-02381-8ET	Chris Stanley-Climaxwood Elkhorn Mining Company	Dry Fork Surface Mine	NWP 49	September 15, 2010	VA	Wise
LRH-2003-00794-GUJ	Independence Coal Corporation	(COAL) Elwell's Fork Surface Mine	NWP 49	November 10, 2011	VA	Buchanan
LRH-2006-00067-RCR	Independence Coal Corporation	CM500W - Deep Mine 65, U-4002-02, Independence Coal Company, UT Suljbur Branch	NWP 50	May 29, 2009	WV	Wayne
LRH-2007-00347-LCR	Hillside Mining Company, Inc.	CM500W - Midway Deep Mine, U-5014-07, Independence Coal Company, UT Pond Fork	NWP 50	March 10, 2009	WV	Boone
LRH-2007-00361-GAU	Hillside Mining Company	CM500W - Pond Fork No. 2 Deep Mine, U-5001-07, Hillside Mining Company, Pond Fork	NWP 50	May 15, 2009	WV	Boone
LRH-2008-00487-TUG	Atlantic Leaseco	CM500W - Peerless No. 1 Deep Mine, U-3008-07, Atlantic Leaseco, McMillon Creek	NWP 50	April 6, 2009	WV	Nicholas
LRH-2008-00801-GUJ	Peachontas Coal Company, LLC	CM500W - Horse Creek Mine No. 1, U-4012-07, Riverside Energy Company, UT Horse Creek	NWP 50	January 12, 2009	WV	McDowell
LRH-2008-01031-RCK	Performance Coal Company, Inc.	CM500W - East Gulf Complex Prep Plant, U-0162-83, Peachontas Coal Company, UT Tommy Creek	NWP 50	October 27, 2011	WV	Raleigh
LRH-2009-00015-RCK	Kanawha Eagle Coal	CM500W - Upper Big Branch Deep Mine - South, U-3016-95, Performance Coal Company, UT Marsh Fork	NWP 50	April 1, 2009	WV	Raleigh
LRH-2009-00189-RCK	Hillside Mining	CM500W - Eagle #2 & Colborne #5 Deep Mines, US096-08, Kanawha Eagle Coal, UT Ioneys Branch	NWP 50	April 21, 2011	WV	Boone
LRH-2009-00427-DHR	Atlas Energy, LLC	CM500W - Workman Branch Deep Mine, US00309, Hillside Mining, Workman Branch	NWP 50	August 6, 2010	WV	Boone
LRH-2009-00619-DUG	City of Kentucky, Inc.	CM500W - Penitentiary No. 2 Pouch-Out Mine No. 8, U-3023-92, BR 2, Argus Energy, Parker Branch	NWP 50	May 13, 2010	WV	Wayne
LRH-2010-00052-NEW	PSA Energy, LLC	CM500W - Elwell's Fork Surface Mine	NWP 50	February 10, 2011	WV	Logan
LRH-2010-00052-NEW	PSA Energy, LLC	CM500W - Elwell's Fork Surface Mine	NWP 50	February 10, 2011	WV	Logan
LRH-2008-01361	CAM Mining	CM500W - CM514750WV - Africh's Stockpile, U-0152-82, Peachontas Coal, Snake Creek	NWP 50	October 27, 2011	WV	Raleigh
LRL-2009-00042	Don Gibson-EG Knott County	CAM Mining 888-4235-8V-9	NWP 50	October 22, 2009	KY	Pike
LRL-2009-00075	Don Gibson-EG Knott County	EG Knott County 860-5312	NWP 50	November 25, 2009	KY	Knott
LRN-2005-00480	Hiram Manion-Martin County Coal Corporation	Ready Fork Deep Mine RDNR # 880-5071 A4	NWP 50	May 12, 2010	KY	Knott
LRN-2005-00854	Premium Coal Company, Inc.	Premium Coal Company, OSM # 3235, Mine #15, National Coal Corporation - OSM #3188	NWP 50	November 2, 2009	KY	Martin
LRN-2008-01013	Bell County Coal Corporation	Bell County Coal Corporation - 807-522, NW	NWP 50	March 17, 2010	TN	Anderson
LRN-2009-00119	James Thacker-Kopper Glo Fuel, Inc.	Kopper Glo Fuel, Inc. - OSM # 3228 - Proposed Deep Mine	NWP 50	January 14, 2009	KY	Bell
LRP-2007-00395	International Coal Group	Ohio Valley Coal, No. 2 Slurry Impoundment	NWP 50	May 21, 2010	TN	Claborn
LRP-2008-01882	Consolidation Coal Company	Wolf Run Mining Company	NWP 50	October 7, 2009	OH	Belmont
LRP-2009-00286	Consolidation Coal Company	Consolidation Coal Company, 18A Bleeder Shaft Site, unit to Buffalo Creek, Marion County, WV	NWP 50	June 10, 2010	WV	Grant
LRP-2009-00293	Robert Coit-Consolidation Coal Company	Enlow Fork E-22 Bleeder Shaft, unnamed Tributaries, Washington County, PA	NWP 50	January 27, 2009	WV	Marion
LRP-2010-01649	Robert Coit-Consolidation Coal Company	Enlow Fork E-22 Bleeder Shaft, unit to Fresh Run, Marshall County, WV	NWP 50	August 31, 2009	PA	Washington
LRP-2010-01649	Robert Coit-Consolidation Coal Company	Enlow Fork E-22 Bleeder Shaft, unit to Fresh Run, Marshall County, WV	NWP 50	August 17, 2009	WV	Marshall
LRP-2010-01649	Robert Coit-Consolidation Coal Company	Consolidation Coal Company, Lovelidge Mine No. 22-9 South No. 3 Inhibit, unit to Pyles Fork, Marion County, WV	NWP 50	July 13, 2009	WV	Marion
LRP-2010-01649	Robert Coit-Consolidation Coal Company	Consolidation Coal Company, Lovelidge Mine No. 22-9 South No. 3 Inhibit, unit to Pyles Fork, Marion County, WV	NWP 50	October 25, 2011	PA	Armstrong
LRP-2010-01649	Robert Coit-Consolidation Coal Company	Consolidation Coal Company, Lovelidge Mine No. 22-9 South No. 3 Inhibit, unit to Pyles Fork, Marion County, WV	NWP 50	October 25, 2011	PA	Armstrong
LRP-2010-01649	Robert Coit-Consolidation Coal Company	Consolidation Coal Company, Lovelidge Mine No. 22-9 South No. 3 Inhibit, unit to Pyles Fork, Marion County, WV	NWP 50	October 25, 2011	PA	Armstrong
LRP-2011-00057	Brian Osborne-Dana Mining Company of PA, LLC	Dana Run Deep Mine	NWP 50	October 28, 2011	WV	Marion
LRP-2011-00259	Jacelyn Duke-Consol PA Coal Company, LLC	Garads Fort Mine	NWP 50	July 12, 2011	PA	Greene
MAO-2004-011860	Chris Stanley-Climaxwood Elkhorn Mining Company	Enlow Fork Mine Concrete Borehole at Quaker Ridge	NWP 50	June 2, 2011	PA	Washington
MAO-2004-011860	Greg Clark-Paramount Coal Company, LLC, Paramount Coal Company, Virginia, LLC, Paramount Coal Company, LLC	Climaxwood Elkhorn Mining Co. 04-11351 Hurricane Fork	NWP 50	April 27, 2009	VA	Buchanan
MAO-2008-00068-9JP	Richard Waidell-Dominion Coal Corporation	(COAL) FCCV, Deep Mine 41	NWP 50	December 15, 2009	VA	Dickenson
MAO-2009-02879	Sigma Coal Company	(COAL) Dominion Coal - Webb Branch	NWP 50	June 28, 2011	VA	Buchanan
MAO-2010-00272	Maggard Br. Coal	Har-Leaf#9 Underground Mine	NWP 50	February 22, 2010	VA	Lee
LRP-2010-00773	Ambridge Br. Coal Company	Oskala Wilton	NWP 50	August 8, 2011	VA	Wise
LRP-2011-00222	Warques Mining Corporation	Kent Dumber Deep Mine	RCP	May 26, 2010	VA	Wise
LRP-2011-00222	Warques Mining Corporation	Proposed Stream Crossing Mine 388	RCP	August 1, 2011	PA	Somerset

Section 404 Appalachian Mining-Related Permits Issued 1 January 2009 - 31 December 2011  
 Source: US Army Corps of Engineers - Huntington, Louisville, Nashville, and Norfolk Districts

DA NUMBER	PERMITTEE	PROJECT NAME	PERMIT TYPE	DATE ISSUED/ VERIFIED	ST	COUNTY
LRP-2011-01714	AmeriNorth Mining, Incorporated	Nicholson Mine	RCP	November 18, 2011	PA	Fayette
LRH-2005-00488-TUG	Sands Hill Coal Company, Inc.	CMPOH - CM210H - Big Valley Mine, D-2114, Sands Hill Coal, Racoon Creek	SP	December 12, 2011	OH	Jackson
LRH-2004-01152-NOG	Natural Resource Group	CMXPY - KY Permit 638-5063, Natural Resources Group, UT Mill Creek	SP	July 2, 2009	KY	Johnson
LRH-2005-00478-TUG	Buckingham Coal	CMPOH - Buckingham Coal Wash Plant, D-2331, Buckingham Coal Company, UT Sunday Creek	SP	October 26, 2009	OH	Perry
LRH-2005-00479-TUG	Wendell Coal Company, Inc.	CMPOH - Wendell Coal Wash Plant, D-2331, Buckingham Coal Company, UT Sunday Creek	SP	November 30, 2010	OH	Tuscarawas
LRH-2005-00723-MUS	Shelby Coal & Lignite Company, Inc.	CMPOH - Black Lignite, D-2331, Buckingham Coal Company, UT Sunday Creek	SP	January 30, 2010	OH	Tuscarawas
LRH-2005-01057-TUG	Orford Mining Company, Inc.	CMPOH - Long Sinks Adjacent, D-2360, Orford Mining Company, UT Beaver Creek	SP	February 12, 2010	OH	Noble
LRH-2005-01365-MUS	Jeffco Resources, Inc.	CMPOH - North Barroville, D-2310, Jeffco Resources, Spencer Creek	SP	February 12, 2010	OH	Guernsey
LRH-2006-02194-TUG	Orford Mining Company, Inc.	CMPOH - Halls Knob, D-2334, Orford Mining Company, UT Leatherwood Creek	SP	July 12, 2010	OH	Guernsey
LRH-2006-02194-TUG	Consolidated Kentucky, Inc.	CMPOH - Halls Knob, D-2334, Orford Mining Company, UT Leatherwood Creek	SP	August 6, 2009	WV	Mingo
LRH-2006-02194-MAN	Maple Coal Company	CMPOH - Halls Knob, D-2334, Orford Mining Company, UT Leatherwood Creek	SP	July 1, 2009	WV	Kanawha
LRH-2007-00089-ORH	Maple Coal Company	CMPOH - Halls Knob, D-2334, Orford Mining Company, UT Leatherwood Creek	SP	May 13, 2010	WV	Wayne
LRH-2007-00089-GUY	Highland Mining Company	CMPOH - Halls Knob, D-2334, Orford Mining Company, UT Leatherwood Creek	SP	March 4, 2011	WV	Logan
LRH-2007-00284-GUY	Highland Mining Company	CMPOH - Halls Knob, D-2334, Orford Mining Company, UT Leatherwood Creek	SP	July 7, 2011	WV	Logan
LRH-2007-00488-TUG	Powdermill Processing, Inc.	CMPPWY - Powdermill Branch Deep Mine & Refuse Fill, U-5017-06, Powdermill Processing, Powdermill Branch	SP	September 22, 2011	WV	Wayne
LRH-2007-00488-TUG	Orford Mining Company, Inc.	CMPOH - Page, D-2335, Orford Mining Company, UT Stillwater Creek	SP	February 17, 2009	OH	Tuscarawas
LRH-2006-00279-ECR	Forest Mining, LLC	CMPPWY - Bragg East Impoundment, S-128-78 BR-3, Hobart Mining, Bragg Fork	SP	October 21, 2011	WV	Boone
LRH-2006-00371-GUY	Forest Mining, LLC	CMPPWY - Surface Plant, No. 45, S-128-78 BR-3, Hobart Mining, Bragg Fork	SP	January 6, 2010	WV	Boone
LRH-2006-00383-ORH	Forest Mining, LLC	CMPPWY - Surface Plant, No. 45, S-128-78 BR-3, Hobart Mining, Bragg Fork	SP	January 6, 2010	WV	Boone
LRH-2006-00714-ORH	BAK Coal Company	CMPOH - Marshal II, D-2385-1, BAK Coal Company, East Fork Buck Creek	SP	October 5, 2011	OH	Noble
LRH-2007-00334	CG Hazard	CG Hazard, LLC 897-0486 AM-1	SP	March 25, 2009	KY	Leslie
LRH-2008-00226	Paul Horn-Car Coal Corporation	CG Coal Corporation 890-8002 AM-4	SP	March 14, 2011	KY	Martin
LRN-2004-00062	Premium Coal Company, Inc.	Premium Coal Company, Inc. - D5A 3143, Area 19	SP	May 18, 2010	TN	Anderson
LRN-2004-00197	Harian Reclamation Services, LLC	Harian Reclamation Services, LLC - 848-9018, RN-2, RN-3, AM-1, AM-2	SP	March 10, 2011	KY	Harlan
LRN-2006-02131	Cumberland River Coal Company	Cumberland River Coal Company - 867-9004 AM-1, AM-2	SP	April 2, 2009	KY	Letcher
LRP-2003-00098	Nathan Leggett, Oxford Mining Company	Oxford Mining Lafferty Area, Lafferty Adj	SP	May 13, 2010	OH	Beimont
LRP-2006-02461	Consolidation Coal Company	Wilson Hollow Coal Refuse Disposal Facility	SP	March 3, 2009	WV	Monongalia
LRP-2006-00477	Jim Ashby, Tunnel Ridge, LLC	Tunnel Ridge Preparation Plant and Coal	SP	April 16, 2010	WV	Ohio
LRP-2007-00323	Ohio American Energy Incorporated	Ohio American Energy Salt Run North Mining - Adjacent Area	SP	March 31, 2010	OH	Jefferson
LRP-2007-00463	Ed Suter-Consol Pennsylvania Coal Company, LLC	Oh Amer. Energy Salt Run North Mining - Adj. Area Major Mod	SP	September 22, 2010	OH	Jefferson
LRP-2007-01180	Nathan Leggett-Oxford Mining Company	Bailey Central Mine Complex, Disposal Area No. 5 & 6	SP	September 20, 2010	PA	Greene
LRP-2008-00953	McEroy Coal Company	Oxford Mining Company, LLC Ellis Area, Coal	SP	November 3, 2011	OH	Jefferson
LRP-2008-00953	McEroy Coal Company	McEroy Bettine, Marshall County, WV	SP	January 12, 2009	WV	Marshall
LRP-2008-01182	Kerry Kemper-Consol PA Coal Company, LLC	McEroy Bettine, Marshall County, WV	SP	April 8, 2010	WV	Marshall
LRP-2008-01182	Kerry Kemper-Consol PA Coal Company, LLC	McEroy Bettine, Marshall County, WV	SP	August 25, 2010	WV	Marshall
LRP-2008-01182	Kerry Kemper-Consol PA Coal Company, LLC	McEroy Bettine, Marshall County, WV	SP	November 12, 2010	WV	Marshall
LRP-2010-00420	Consolidation Coal Co.	Project Elbow Fork Mine Overhead Conveyor	SP	March 12, 2011	PA	Monongalia
LRP-2010-04487	AmeriNorth Mining, Incorporated	Mining Harvey Run II Coal Refuse Disposal Facility Lower Ridge Mine No. 22	SP	November 10, 2011	WV	Monongalia
LRP-2010-04487	AmeriNorth Mining, Incorporated	Germany Mine	SP	May 23, 2011	PA	Indiana

11. The Corps of Engineers has stated “in light of the Court’s ruling, we are providing guidance to these two districts to ensure compliance with the ruling and consistent implementation of the court’s decision.” What is the content of that guidance and how is it being implemented? What additional steps do you intend to take to give effect to the Court’s ruling in *NMA v. Jackson*?

**Answer:** After the Court ruling, oral guidance was provided to the Corps Appalachian Districts to cease using the ECP. The Huntington and Louisville Districts were the only two Corps districts that had pending applications remaining on the ECP list at the time of the ruling. Written guidance was subsequently provided to the Corps districts reinforcing the previous verbal instructions and indicating that further processing of any former ECP applications should be done strictly in accordance with the published provisions of the Corps Section 404 regulations. The guidance also stated that any coordination or communication with EPA regarding these permit applications must be based upon, and done in accordance with, one of the specific provisions in the Corps’ permit regulations or applicable MOAs. The Corps is confident that the guidance is sufficient to ensure compliance with the Court’s ruling.

12. When did Trans-Canada apply to the Corps of Engineers for their Section 404 permit(s) to construct the Keystone Pipeline? Can you share with the Committee a status of all Section 404 permits related to the Keystone pipeline?

**Answer:** The following response presumes that the question asked is related to the TransCanada Keystone XL project proposal. The U.S. Army Corps of Engineers Omaha, Kansas City, Fort Worth, Tulsa and Galveston Districts were involved in the review of the proposed Keystone XL project proposal and the Corps served as a cooperating agency in the Department of State NEPA process. However, only three districts, Fort Worth, Tulsa, and Galveston actually received pre-construction notification (PCN) requests for the Keystone XL Pipeline Proposal in September and October 2011 from TransCanada. TransCanada requested verification for work in waters of the United States under Nationwide Permit 12 Utility Line Activities (NWP 12). TransCanada provided information to the Corps that the Presidential Permit was denied on January 31, 2012. On April 19, 2012, TransCanada requested that the PCNs they submitted to the Fort Worth, Tulsa and Galveston Districts be withdrawn.

13. When did the Corps complete the “field work” on these permits related to the Keystone Pipeline? During a typical 404 permit process, how long after the field work has been complete is a decision reached on a permit application?

**Answer:** The field work was not done since the Corps' review of proposed activities in waters of the United States may or may not require field work and the determination of whether field work is required is based on many factors. Once a district has confirmed either the presence or absence of jurisdictional waters, they work with the applicant to evaluate proposed project impacts to jurisdictional waters and process an application in the most expedient manner. If a proposal qualifies for a NWP and all of the information required by the terms of the NWP, including general and regional conditions, is received by the Corps, a written decision will be provided to the applicant within 45 days of receipt of that complete application. Any necessary fieldwork for CWA jurisdictional determination purposes would be accomplished before the end of this 45 day period.

14. As it relates to the Keystone Pipeline, what does it mean when the President asks the Corps of Engineers to “expedite”?

**Answer:** The Corps always seeks the most expeditious way to evaluate proposed actions while ensuring protection of the aquatic environment and compliance with regulations, policy and guidance. Nationwide Permits are a type of general permit that have been developed to efficiently verify minor work in waters of the United States when those activities would result in no more than minimal adverse impacts to the aquatic environment. NWP 12 may be used to authorize work in waters of the United States in association with utility line construction activities, provided the activities in waters of the United States do not result in more than minimal impacts. For NWP 12, activities may be authorized, provided that the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project. General and regional conditions of the NWPs also require compliance with other relevant Federal laws (e.g., Endangered Species Act, National Historic Preservation Act, etc.) and receive State and local approvals prior to initiating work in jurisdictional waters. Once all of the information required by the terms and conditions of the NWP is received by the Corps, a written decision will be provided to the applicant within 45 days of receipt of that complete application.

15. The Corps of Engineers is involved in major permitting actions for phosphate mining operations underway in Florida along with an areawide phosphate mining Environmental Impact Statement that is being conducted by the Corps of Engineers. While the Committee understands and agrees with the need to protect the environment, other parts of the world, such as Morocco, China, and Saudi Arabia, are becoming more competitive with domestic producers of phosphate. While the United States is blessed with substantial resources of phosphate, because of the bureaucracy involved with mine permitting processes in the United States, many companies, are being forced to import raw materials from other places. Why does the Administration think it should be easier for American companies to do business in overseas places that they could do right here in America, particularly when we are facing such difficult and pressing economic and trade concerns? Shouldn't we expedite these types of environmental studies and permit processes so that we can keep their business right here in our country where it belongs?

**Answer:** The jurisdictional authority granted to the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act does not extend beyond the United States. The U.S. Army Corps of Engineers is fully aware of the current economic climate and has set an aggressive schedule for the Areawide Environmental Impact Statement related to phosphate mining in the Central Florida Phosphate District. Additionally, as a general policy, Corps districts work hard to process permit applications as effectively and efficiently as possible by encouraging early coordination, integration of regulatory and compliance processes with other federal and state agencies, sharing information and data, and closely managing schedules and key tasks. The Corps strives to make timely final permit decisions which are clear, objective, and defensible.

16. It is my understanding that the Corps is currently conducting an Areawide Environmental Impact Statement (AEIS) for phosphate mining in the central Florida phosphate district. It is essential that the AEIS be completed so that the United States can continue to produce the critical components used in fertilizer needed to grow crops around the world. It is also essential to keep the jobs affiliated with this industry in the United States and not ship them overseas should no additional land be permitted for mining. Can you provide the Committee with a status of the AEIS process?

**Answer:** The U.S. Army Corps of Engineers will continue to meet weekly with CH2M Hill, the third party contractor preparing the EIS, and the cooperating agencies to clarify, identify, and resolve issues while recognizing the timeline for the EIS. Currently the Corps expects to publish a Notice of Availability for the draft AEIS by the end of May 2012, followed by a 45 to 60-day public comment period. During the month of June the Corps will hold two public meetings on the draft AEIS. The Notice of Availability of the Final AEIS is anticipated by the end of November 2012.

17. Originally, the proposed Corps schedule had a draft AEIS in March 2012, a Notice of Availability of the Final AEIS in August of 2012 and a Record of Decision (ROD) by the end of 2012. Now the new schedule has a draft AEIS in June 2012, a final AEIS in November 2012 and no date yet released for the ROD. It is critical to keep the AEIS on track. How is the Corps of Engineers committed to working to ensure that the current AEIS process remains on schedule and there are no additional slippages? Does the Corps of Engineers foresee any additional reasons for delay?

**Answer:** The average timeframe for an EIS is three years. The Corps set an aggressive schedule of 18 months for the AEIS. The EIS process starts with the publishing of the Notice of Intent in the Federal Register, which was accomplished for the AEIS on 18 February 2011. The U.S. Army Corps of Engineers has a team of environmental professionals working daily with the applicants, the third party contractor, and cooperating agencies, including the U.S. Environmental Protection Agency and the Florida Department of Environmental Protection to produce a thorough document. Phosphate mining is a complex issue with many competing interests. The Corps responsibility is to seek a balance among the competing interests, disclose the issues required under the National Environmental Policy Act (NEPA), and use the information developed in the final AEIS to deliver fair and balanced decisions to the regulated public. Volumes of information are available on all of the issues surrounding phosphate mining. The Corps is committed to distilling the information in a methodical way and to disclosing the issues in plain language to comply with all applicable laws. While the Corps also is committed to an aggressive schedule, it is important that they produce a legally defensible document. The Corps does not foresee additional reasons for delay; however, if issues are raised through the public comment period that require analysis, additional revisions to the schedule are possible. . The Corps will review the schedule after the publication of the Draft AEIS in the Federal Register and receipt of agency and public comments as required under NEPA.

18. How much in FY 2012 will the Corps spend out of the Harbor Maintenance Trust Fund on salaries and administrative costs? How much in FY 2013?

**Answer:** The Corps anticipates expending \$809,000 in FY 2012 and \$825,000 in FY 2013 on administrative costs associated with Harbor Maintenance Tax data collection. This is about 0.1 percent of the total Harbor Maintenance tax spending planned for those years.

19. Why does the Administration recommend spending only approximately half of the dedicated funds collected from users for harbor maintenance for FY 2013?

**Answer:** The amount proposed in the Budget for harbor maintenance and related work reflects a recognition of the contribution of our ports to the Nation's economy. At the current level of Federal funding, importers and exporters generally are able to move their goods reliably and safely through our major coastal ports, and the ports are able to process this cargo successfully.

The proposed level of Federal spending reflects consideration of the economic and safety return to the Nation from these activities. The overall funding that the Federal government provides for this purpose should be, and is, determined on the merits, independent of the amount collected from the harbor maintenance tax.

To make the best use of these funds, the Corps evaluates and establishes priorities using objective criteria. These criteria include transportation cost-savings, risk reduction, and improved reliability – all relative to the cost. Our objective is to provide operational capabilities and efficiencies, with a focus on the most heavily used commercial channels (carrying 10 million tons or more of cargo per year), which together carry about 90 percent of the total commercial cargo by tonnage traveling through our coastal ports. The Budget includes significant funding for other commercial ports as well, with emphasis on those that carry between 1 million tons and 10 million tons of cargo per year, which carry about 9 percent of the total commercial cargo by tonnage traveling through our coastal ports.

While the large ports (10 million tons or more per year) and most medium-sized ports (1 million to 10 million tons per year) manage to process current levels of cargo successfully at the current levels of funding, some carriers at these ports encounter delays, need to proceed more slowly due to hazards, light load their vessels, or offload some cargo to smaller vessels.

The sufficiency of the channel for commercial navigation depends upon the economic and safety return from an additional potential increment of maintenance work, which in turn is a function of actual traffic utilization patterns and other factors. The Corps is working to develop better analytical tools to help determine whether additional spending in this area is warranted based on the economic and safety return.

20. In a response to an inquiry from Congressmen Bishop regarding the implications of increasing annual appropriations from the Harbor Maintenance Trust Fund to match annual revenues into that fund, the Assistant Secretary of the Army indicated that it would be highly unlikely that such increases would be offset by reductions in Department of Energy programs and instead assumed that Army Corps civil works program funding would be reduced. The Army Corps' civil works budget represents only one-sixth of the Energy and Water Development Appropriations bill funding, and other Committees have exposed hundreds of millions or billions of dollars in wasteful Department of Energy program spending. Since Army Corps civil works projects, especially navigation projects, have been shown to provide positive net economic benefits, doesn't it make more sense that any such offsets within the Energy and Water development Appropriations bill for increased harbor maintenance appropriations not come from Army Corps of Engineers civil works programs?"

**Answer:** The Administration recognizes the importance of maintaining the Nation's commercial harbors, and the President's FY 2013 Budget included the highest funding ever proposed from the Harbor Maintenance Trust Fund. The letter points out that there could be adverse impacts on other Civil Works missions if spending from the Harbor Maintenance Trust Fund were increased, depending on the level and how it was achieved.

21. Due to the schedule delays and cost overruns at Olmsted Lock and Dam, more work will have to be done to keep Locks 52 and 53 operational. How much of this funding increase included in the President's FY 2013 budget proposal is going to rehabilitate Locks 52 and 53? When would the major rehabilitation(s) occur? How much would such major rehabilitation(s) add to the total?

**Answer:** The Corps plans to remove Locks 52 and 53 following completion of Olmsted Locks and Dam. It does not plan to rehabilitate Locks 52 or 53. The Corps therefore has not prepared a current estimate of the cost to rehabilitate Locks 52 and 53. The 1985 feasibility report, which recommended construction of Olmsted Locks and Dam to replace Locks and Dams 52 and 53, found that it would not be cost-effective to rehabilitate Locks and Dams 52 and 53 due to their poor condition, the unknown circumstances associated with the wood cribbing foundations, and site location (a seismic zone).

Therefore, none of the funds requested in the FY 2013 Budget would go to rehabilitate these structures. However, the FY 2013 Budget does include funding for their routine maintenance, as well as \$1.672 million to repair the lower miter gates at L&D 53, replace the L&D 52 auxiliary miter gate anchorages, and band the sheet pile on the L&D 52 main lock wall.

22. What consideration has been given to completing the project using traditional cofferdam construction procedures rather than the current experimental "in the wet" procedures?

**Answer:** Early in the project an analysis was prepared to compare the traditional method of construction (cofferdams) to the innovative "in-the-wet" method of construction. In 1997, the decision was made, based on the best information available at the time, to use the "in-the-wet" method for the dam construction. Over the past few years, the current "in-the-wet" construction method has proven more expensive and complex than originally envisioned. In response, the Corps has assembled a team of experts to consider alternative construction techniques. The team is developing a concept level design for "in-the-dry" construction to a degree that can be used to prepare a reliable cost estimate and schedule suitable for comparison to the ongoing "in-the-wet" construction concept level design and certified cost estimate for the navigable pass portion of the dam. This comparison is expected to be complete in the summer of 2012.

23. What are the average annual economic benefits that the Olmsted project is expected to return to our national economy when the project is finally completed? Is this average annual economic benefits figure also a measure of the cost to the nation's economy of each year that the Olmsted project's completion is delayed? In other words, does this average annual economic benefits figure help measure the amount of economic value the nation is "washing down the river" each year that we fail to complete the Olmsted project?

**Answer:** Equivalent annual net benefits, that is, total benefits less the costs needed to generate those benefits, is an appropriate measure of the long-term economic impact of the Olmsted Project. Economic analyses in the draft Olmsted Locks and Dam Post Authorization Change Report, which is currently under review, indicate that the Olmsted Project will generate an estimated \$875 million in total equivalent annual National Economic Development (NED) benefits. The equivalent annual cost required to generate those NED benefits is estimated as \$235 million. Thus, the indicated equivalent annual net benefit is an estimated \$640 million.

However, these estimates reflect differences in benefits and costs over a 50-year period, after discounting. They do not reflect the benefits and costs associated with any particular subset of those years, such the actual construction period. The estimates also are based on a variable and somewhat arbitrary discount rate, as provided in section 80 of the Water Resources Development Act of 1974. This mandated discount rate does not reflect the long-term opportunity cost of capital for the economy as a whole. Finally, any delay in project completion at this point is due to the low level of receipts in the Inland

Waterways Trust Fund. The Administration has proposed legislation to address that problem.

24. Under current law, if Congress were to appropriate the requested \$144 million every year for Olmsted until the project's construction was completed, how little would be left in the Inland Waterways Trust Fund for any other inland waterway project's modernization?

**Answer:** Based on projected revenues from the current fuel tax, if Olmsted Locks and Dam is provided approximately \$144 million annually, with \$72 million funded from the Inland Waterways Trust Fund (IWTF), approximately \$45 million to \$50 million per year (depending upon the level of actual receipts) would be available annually for other IWTF cost-shared projects for several more years. This highlights the importance of enacting a long-term mechanism to increase receipts to the IWTF.

25. How many "902 fixes" (Congressional authorization of cost increases) will be needed in FY 2012? FY 2013? Can you provide the Committee with a list of those projects?

**Answer:** Little Calumet River, IN is the only ongoing construction project in the FY 2013 Budget that may need additional authorization of cost increases as early as FY 2012. Olmsted Locks and Dam, Ohio River, IL & KY is the only ongoing construction project in the FY 2013 Budget that may need additional authorization of cost increases as early as FY 2013.

26. The recently Senate-passed highway bill contains language that would create a new bureaucracy at the Department of Transportation to oversee the nation's maritime freight policy and set up a system of metrics, models, and criteria to decide which projects should be prioritized. Isn't this something the Corps of Engineers already carries out? Doesn't the Corps of Engineers update regularly their metrics, models, and other criteria for examining and comparing projects? Doesn't this provision sound duplicative to Corps of Engineers activities?

**Answer:** Interstate and international freight movement typically includes multiple transportation modes between shipping point and destination. To the extent that the bill language referred to in the question (Title III of Division C of S. 1813) is intended to include navigation infrastructure that the Corps has developed or maintains, there would be some overlap and the potential for conflicting policies. While the Corps has metrics, models, and criteria for prioritizing funding for coastal harbors and channels and inland waterways, the Corps generally does not consider the characteristics of related landside infrastructure (at and near the port, including the connections to rail and highways) to move freight to or from the water to its final destination.

27. The Port of Los Angeles and their Main Channel Deepening Project now being constructed by the Corps, was originally authorized in WRDA 1986 with a federal cost share of \$60.7 million. In recent years, they received funding of \$885,000 in FY 2009 and \$836,000 in FY 2010 under the construction account for this project. It was the understanding of the Committee that the Corps had committed that \$800,000 would be included in the FY 2011 Work plan, but that the Corps ended up funding another “emergency” project, and they were not funded in the FY 2012 Work Plan either. When will this Federal funding be restored to the Main Channel Deepening project at the Port of LA and when the final details of the project will be completed? Can you explain to the Committee the details of other projects where similar circumstances have occurred in the Civil Works program?

**Answer:** No commitments were made in advance on how the Corps would allocate the funds provided in the FY 2011 Energy and Water Development Appropriations Act. No additional Federal funds are currently needed for the Port of Los Angeles project. Once the final accounting has been performed for the project, if any additional Federal funds are needed to balance the Federal and non-Federal shares, the project could be considered for either a reprogramming or for funding in a future Budget.

28. It is the Committee’s understanding that the Army Corps of Engineers has the potential to generate up to 21,000 MW of power, and that a report put out by the agency indicates potentially enormous energy savings if the Corps modernizes its existing hydropower assets. How much would it cost for the Corps to modernize and upgrade all of its facilities to fully operational status? What steps is the Corps taking to increase hydropower production to contribute to the nation’s energy needs?

**Answer:** Investments estimated at approximately \$4 billion over 20 years would be necessary to both restore design level efficiencies and capture potential opportunities to improve and upgrade facilities.

The Army is implementing a Hydropower Modernization Initiative (HMI) to address its aging hydropower infrastructure including 197 generating units representing 54 power plants that are not directly funded by the Department of Energy Bonneville Power Administration. HMI was established to assess and prioritize investment needs and opportunities across the Army's hydropower assets, which include replacing turbines, generators, and other major generating components with modern equipment that can deliver better efficiency and additional generating capability. The John H. Kerr power plant modernization was completed in July 2011 adding 65 MW of additional capacity to the plant. The Webbers Falls, Ozark and Denison power plants are being modernized, which will improve operating efficiency and increase energy production by 57,000 MWh.

**Questions from Mr. Miller of California**

1. Is the proposed \$7.2 million enough to keep the Santa Ana River Project on schedule in FY 2013?

**Answer:** Funding included in the FY 2013 Budget will continue progress on the Santa Ana River Mainstem project that is project approximately 80% complete.

2. Given an FY 2012 appropriation of \$20 million, why did the Administration add \$3 million to the Santa Ana River Project in the Corps 2012 work plan—for a total of \$23 million? Would it not have made more sense to add that additional \$3 million to the proposed \$7.2 million in 2013, for a total of \$10.2 million, as opposed to \$23 million in 2012 and less than one-third that amount in 2013?

**Answer:** An additional \$3 million was provided to the Santa Ana River Mainstem project in the FY 2012 work plan, in accordance with the Additional Construction guidance in the Statement of Managers accompanying the Energy and Water Development Appropriations Act, 2012, to complete Reach 9 mitigation in conjunction with the construction of Reach 9, thereby minimizing the overall impacts of construction.

The additional \$3 million was needed in FY 2012 to complete the Reach 9 mitigation work in the most optimal time possible for the project and consistent with law requiring concurrent or prior mitigation of project impacts.

3. Are there additional unexpended funds from 2010 or 2011 available to the Corps to augment the proposed \$7.2 million in FY 2013?

**Answer:** Yes, an estimated \$1,000,000 from prior appropriations is expected to be carried over for use in FY 2013, along with approximately \$7 million of Non-Federal Sponsor funds, to augment the \$7.2 million President's Budget in FY 2013.

4. Is the Administration committed to finishing the SARP now that it is 80 percent complete?

**Answer:** The SARP project will compete for funding with other Army Corps programs and activities.

**Questions from Mr. Lankford of Oklahoma**

1. I know there are lands, lakes, levees, and other assets that the Corps has essentially turned over to local and regional authorities to care for, but these assets never completely transition off of the Corp's books. Since these assets remain on the Corp's books, when maintenance and repair comes due, the Corps and thus the federal government is expected to pick up the tab. How could we designate deadlines to transfer complete control of these assets to the local or regional entities that directly benefit from these assets?

**Answer:** For projects authorized after the Water Resources Development Act of 1986, the Corps turns the project over to the local sponsors once construction is completed and project is operational. In these cases the project lands were generally purchased by the local sponsor and the Federal government never took real property title to the lands. Project Partnership Agreements signed prior to construction define the terms of the transfer and require that the local sponsor agree to operate and maintain the project for the project purposes forever and to provide all future repair, rehabilitation, and replacement. On these projects the local sponsor is legally responsible for future major maintenance and repair costs. In the case of a dam, the project would fall under regulation by the State Dam Safety Agency once it was turned over to the sponsor. The Corps can facilitate turning over completed projects by ensuring the timely financial audit and closeout of the projects.

Some older projects have been fully turned over to a local agency by an act of Congress. Any local government agency can petition Congress to give them a Corps project with the local agency promising to provide all future operation, maintenance, repair, rehabilitation, and replacement (OMRR&R). When this occurs again, the project is no longer the responsibility of the Corps and the Federal government does not provide any future funding. Again, in the case of a dam, the project would fall under regulation by the State Dam Safety Agency once it was turned over to the sponsor. The Administration is considering expansion of opportunities to turn over to sponsors some older projects that are no longer national priorities for operation and maintenance.

While Congress has been known to give projects to local sponsors, there are several cases where local sponsors have successfully petitioned Congress to take their locally owned projects from them and require the Corps to take over operation and maintenance. The Army typically opposes the transfer of such project to the Federal government.

2. I understand the Corps has a huge backlog of studies and I understand the goal in only funding high priority studies first, but there are needs throughout the country that are going unmet. There are a number of studies on hold with sponsored agreements, what is the Corps doing to balance the needs for planning across the country?

**Answer:** As part of the Civil Works Planning Modernization Program, all ongoing studies across the Nation are currently being closely examined in order to establish priorities among the studies that have both local sponsor support and a high likelihood of being Federally justified.

3. The Southwest Army Corp's focus is on maintaining the McClellan Kerr's current 9 foot system and hoping that dredging for the 12 foot system materializes, this might be different if the industry was able to contribute funds to help maintain the system. If this was allowed, how could this help the entire waterway system to be more sustainable?

**Answer:** If private industry were to contribute funds to help sustain the existing system, those funds could be used to perform additional maintenance, such as unwatering locks to repair scour holes in lock walls, repair damage to stilling basins caused by erosion, rehabilitate tainter gates, and replace lock control wiring, and hydraulic, air, and water piping.

**Questions from Mr. Ribble of Wisconsin**

1. Does the Army Corps believe the Renard Island project in Green Bay, Wisconsin is still a federal responsibility?

**Answer:** Yes. The operation and maintenance manual and local cooperation agreement require capping of the Renard Island Confined Disposal Facility (CDF) prior to formal transfer from the Corps to Brown County.

2. The Renard Island Project is almost completed; does the Army Corps of Engineers have this project on the list of projects to fund in the upcoming Fiscal Year?

**Answer:** This project will be considered for funding in FY 2014 along with many other worthwhile project, programs, and activities competing for limited funding throughout the Nation. However, given the current fiscal environment, the Corps and Brown County have begun discussing other potential sources of funding that could be utilized to complete closure of the facility.

3. If so, when will the work begin, and can you estimate how fast the project will be completed?

**Answer:** A completion schedule will be developed once funding is secured.

**Questions from Minority Staff****Ecosystem Restoration**

We understand that due to budget reductions that a number of Corps supported recreation facilities, including campgrounds and parks, are going to either close or be operated on at a significantly reduced level.

1. Can you describe for us where the reductions are likely to take place and what specific public facilities will be closed and where?

**Answer:** The attached summary identifies both full and partial closures. Full closures consist of areas where vehicular traffic would be eliminated by closing a gate and/or installing traffic barriers to prevent public access. Partial closures are defined by closure of specified areas or facilities within the recreation area or closure at certain times of year. There are multiple recreation areas at each project and all 442 Corps projects (lakes and rivers) will maintain areas that continue to be open to the public for recreational use.



House T&I -- Rec  
Closures.pdf

2. Can you describe for us the overlapping nature of most ecosystem restoration projects? Take for example Poplar Island in the Chesapeake Bay. Is it not fair to say that this project, while designated as an Ecosystem Restoration Project, also serves as a disposal area for dredge spoils from Baltimore Harbor?

**Answer:** The goal of ecosystem restoration is to restore degraded ecosystem structure, function and dynamic processes to a less degraded, more natural condition. At times, the best solution is one that involves more than one project purpose, such as Poplar Island. The current Poplar Island project reconstructs Poplar Island to its approximate size in 1847 (1,140 acres) using an estimated 40 million cubic yards of uncontaminated dredged material from maintenance dredging of the southern approach channels of the Baltimore Harbor and Channels navigation project. Prior to the start of project construction, Poplar Island was eroding at more than 13 feet per year and would have disappeared without an effort like the ongoing one. To date, 140 acres of tidal wetlands have been created with additional available acreage being established with the FY 2011- 2013 material inflow and wetlands design efforts. A Poplar Island expansion plan, which is authorized but would not start in the near term, would restore an additional 575 acres of the Island using dredged material from maintenance of the Baltimore Harbor and Channels navigation

**U.S. Army Corps of Engineers  
Recreation Area Closures Forecast by State  
For Fiscal Year 2013**

**Full Closure:**

Vehicular traffic eliminated by closing a gate and/or installing traffic barriers to prevent public access.

**Partial Closure:**

Closure of specified areas or facilities within the recreation area or closure at certain times of year.

**Totals:**

Partial Closure of Recreation Areas (134+)

Full Closure of Recreation Areas (13)

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<b>Alabama</b>	Partial Closure (15)	<b>Missouri</b>	Partial Closure (5)
<b>Arkansas</b>	Partial Closure (10) Full Closure (1)	<b>Montana</b>	Partial Closure (1)
<b>California</b>	Partial Closure (2)	<b>Nebraska</b>	Partial Closure (2+)
<b>Georgia</b>	Partial Closure (7) Full Closure (5)	<b>North Dakota</b>	Partial Closure (4)
<b>Idaho</b>	Partial Closure (2)	<b>Ohio</b>	Partial Closure (5)
<b>Illinois</b>	Partial Closure (3)	<b>Oregon</b>	Partial Closure (8) Full Closure (3)
<b>Iowa</b>	Partial Closure (2) Full Closure (1)	<b>Pennsylvania</b>	Partial Closure (1)
<b>Kansas</b>	Partial Closure (12) Full Closure (1)	<b>South Carolina</b>	Partial Closure (3)
<b>Kentucky</b>	Partial Closure (8)	<b>South Dakota</b>	Partial Closure (6+)
<b>Louisiana</b>	Partial Closure (8)	<b>Washington</b>	Partial Closure (15) Full Closure (2)
<b>Mississippi</b>	Partial Closure (7)	<b>West Virginia</b>	Partial Closure (5)
		<b>Wisconsin</b>	Partial Closure (3)

**Alabama****Partial Closure (15)**

Reduced Seasons (will open later in the season and close earlier in the season)

Walter F. George Lake  
 White Oak Campground (CG)  
 Hardridge Creek CG  
 Bluff Creek CG  
 Cheneyhatchee Day Use (DU) Park  
 Hardridge Park  
 White Oak Creek DU Park  
 Bluff Creek Boat Ramp

George W. Andrews Lake  
 West Bank Park

Black Warrior & Tombigbee Lakes  
 Burchfield Branch CG  
 Forkland CG

Alabama River Lakes  
 Chifatchee Creek CG  
 Gunter Hill CG  
 Prairie Creek CG  
 Six Mile Creek CG

West Point Lake  
 Amity CG

**Arkansas****Partial Closure (10)**

Beaver Lake  
 War Eagle Park – Reduce season, close 16 of 27 campsites. Operate with volunteer host/cleaner.

Greers Ferry Lake  
 Damsite CG – Four loops with total on 89 campsites closed. Remaining 141 campsites will be available for camping.

Heber Springs CG – Close 28 of 124 campsites and 1 waterborne restroom.

Sugar Loaf CG – Close 17 (non-electric) of 88 campsites.

Shiloh CG – Close 17 of 115 campsites.

Mill Creek CG – Closed (39 campsites). Boat Ramp will remain open. Project has a volunteer group agreement (mowing and trash removal) to keep ramp open.

April 24, 2012

Cherokee CG Closed (33 campsites). Boat Ramp will remain open.

Millwood Lake

Paraloma Park – Seasonal Closure 1 November through 28 February.

Saratoga Park – Seasonal Closure 1 November through 28 February.

Arkansas River – Rockefeller Lake

Sweden Island CG – Closed 52 out of 52 campsites. Boat Ramp will remain open.

**Full Closure (1)**

Arkansas River – Pine Bluff

Huff's Island DU Area – Full closure, No boat ramp.

**California**

**Partial Closure (2)**

Lake Sonoma

Recreation area has not been selected

Lake Mendocino

Recreation area has not been selected

**Georgia**

**Partial Closure (7)**

Hartwell Lake

Poplar Springs DU

West Point Lake

Ringer CG (primitive camping area will be closed, but DU area will remain open)

Reduced Seasons (will open later in the season and close earlier in the season)

Walter F. George Lake

Cotton Hill CG  
Cool Branch DU Park  
Rood Creek Park

Carters Lake

Woodring Branch CG  
Doll Mountain CG

**Full Closure (5)**

Hartwell Lake

Milltown CG  
Long Point DU Area

J. Strom Thurmond Lake  
Broad River  
Hesters Ferry  
Clay Hill

**Idaho**

**Partial Closure (2)**

Dworshak Lake  
Dent Acres - shorten recreation season  
Boat-in Mini Camps - close 25 campsites

**Illinois**

**Partial Closure (3)**

Mississippi River  
Blanding Landing Rec Area  
Thompson Causeway Rec Area  
Fisherman's Corner Rec Area

**Iowa**

**Partial Closure (2)**

Miss River  
Clark's Ferry Rec Area  
Shady Creek Rec Area

**Full Closure (1)**

Rathbun Lake  
Buck Creek - Lease CG to marina

**Kansas**

**Partial Closure (12)**

Pomona Lake  
Wolf Creek - close 6 campsites  
Michigan Valley - close 8 campsites  
TBD – shorten recreation season

Kanopolis Lake  
Yankee Run Point - change from free camping to DU only  
Bold Bluff - change from free camping to DU only

April 24, 2012

Melvorn Lake  
 Arrow Rock - shorten recreation season  
 Outlet South - shorten recreation season

Milford Lake  
 CONSIDERING closing 1 DU area  
 Will close underutilized sites at various locations (approx 10 sites)

Perry Lake  
 CONSIDERING closing 2 DU areas  
 Old Town-move from GA staffed park to self pay CG

Tuttle Creek Lake  
 Tuttle Creek Cove - shorten recreation season

**Full Closure (1)**

Perry Lake  
 Perry Beach - lease area to marina

**Kentucky**

**Partial Closure (8)**

Dewey Lake:  
 Downstream Recreation Area (season shortened)  
 Picnic Hollow (season shortened)

Fishtrap Lake:  
 Below Dam Recreation Area (season shortened)  
 Grapevine Recreation Area (season shortened)

Barren River Lake:  
 Baileys Point CG (intermittent loop closures)  
 Tailwater CG (intermittent loop closures)

Green River Lake:  
 Smith Ridge Recreation Area - restroom will be closed

Rough River Lake:  
 Cave Creek Recreation Area (Class B CG) - Partial closure (permanently reducing size of the CG and converting some for day-use sites as partnerships develop -- 34% of campsites will be closed in FY12)

**Louisiana**

**Partial Closure (8)**

Bonnet Carre Spillway  
 Dog Field Trial Area

Caddo Lake  
Caddo Lake Dam Rec Area

J. Bennett Johnson Waterway  
Lindy C. Boggs Lock and Dam #1 Rec Area  
John H. Overton Lock and Dam #2 Rec Area

Ouachita and Black Rivers  
Clayton Landing  
Jonesville L&D Rec Area  
Columbia L&D Rec Area

Wallace Lake  
Wallace Lake Rec Area

**Mississippi**

**Partial Closure (7)**

Reduced Seasons (will open later in the season and close earlier in the season)

Okatibbee Lake  
Collinsville Park  
East Bank Park  
Gin Creek Park  
Pine Springs Park  
West Bank Park

Temporary Closures (totally closed for one year)

Tennessee – Tombigbee Waterway  
Fulton (Whitten Park) CG  
Town Creek CG

**Missouri**

**Partial Closure (5)**

Harry S. Truman  
Close underutilized sites (approx 20 sites)  
Berry Bend Equestrian - close 24 sites

Pomme de Terre  
Close underutilized sites (approx 20 sites)  
Shorten recreation season at majority of parks

Stockton Lake  
Close underutilized sites at various locations (approx 15 sites)

**Montana****Partial Closure (1)**

Fort Peck Lake  
TBD - shorten recreation season, reduce services

**Nebraska****Partial Closure (2 +)**

Harlan County  
Methodist Cove - shorten recreation season  
Hunter Cove - shorten recreation season  
  
Gavins Point  
TBD - shorten recreation season, reduce services

**North Dakota****Partial Closure (2)**

Garrison  
TBD - shorten recreation season, reduce services  
  
Oahe  
TBD - shorten recreation season, reduce services

**Partial Closure (2)**

Lake Ashtabula  
Sundstrom's Landing  
West Ashtabula Crossing

**Ohio****Partial Closure (3)**

Berlin Lake:  
Mill Creek CG (season shortened)  
Mill Creek DU Area (season shortened)  
Dam DU Area (season shortened)  
  
Dover Dam (FY12 and FY13):  
Public Use Area  
  
Bolivar Dam (FY12 and FY13):  
Upstream Recreation Area

**Oregon****Partial Closure (8)****John Day**

Irrigon, First Street Access - eliminate vehicle use, walk in only; no services

**Dorena Lake**

Bake Stewart Park - eliminate vehicle access, walk in only

**Cottage Grove Lake**

Primitive CG - convert to reservation only (group DU/camp), shorten recreation season

**Bonneville**

Navigation Lock Visitor Center - shorten recreation season

Bradford Island Visitor Center - shorten recreation season

Bradford Island Recreation Area - shorten recreation season

Robins Island Recreation Area - shorten recreation season

**The Dalles**

Seufert Visitor Center - shorten recreation season

**Full Closure (3)****John Day**

Philippi Park - CONSIDERING closure, analysis underway

Biglow Canyon Access Point- change operations to Habitat Mgt Unit

**Green Peter**

Quartzville Corridor - eliminate dispersed camping (50+ sites)

**Pennsylvania****Partial Closure (1)****Shenango Lake:**

Shenango Recreation Area CG (season shortened)

**South Carolina****Partial Closure (3)****Hartwell Lake**

Weldon Island (as in 2012)

Coneross CG

River Forks DU (Leave ramp open)

**South Dakota****Partial Closure (6+)**

## Fort Randall

Visitor Center - shorten recreation season  
 TBD - reduce services

## Big Bend

Old Fort Thompson Recreation Area - shorten recreation season, reduce services  
 TBD - shorten recreation season, reduce services

## Oahe

TBD - Visitor Center - Partnership  
 TBD - reduction of services

**Washington****Partial Closure (15)**

## McNary

Hood Park - shorten recreation season  
 Madam Dorian Park - transfer to USFWS, DU only

## Ice Harbor

Levey Park - no services, access point only  
 Charbonneau Park - shorten recreation season  
 Fishhook Park - shorten recreation season  
 Windust Park - no services, access point only  
 Matthews Landing - no services, access point only

## Lower Monumental

Devil's Bench - no services, access point only  
 Ayer Boat Basin - no services, access point only  
 Lyons Ferry - CG and ramp closed, DU only  
 Riparia Park - no services, access point only  
 North Shore - no services, access point only

## John Day

Plymouth Park - shorten recreation season  
 Rock Creek - convert multi-use to DU only, no services

## Bonneville

Washington Shore Visitor Center - shorten Recreation Season

**Full Closure (2)**

## Little Goose

Central Ferry Park (leased area) - change operations to Habitat Mgt Unit

John Day  
Paradise Park - change operations to Habitat Mgt Unit

**West Virginia**

**Partial Closure (3)**

Beech Fork Lake:  
Upstream Recreation Area (season shortened)  
Downstream Recreation Area (season shortened)

East Lynn Lake:  
East Fork CG (season shortened)

Bluestone Lake (FY12 and FY13):  
Downstream Area #1  
Downstream Area #2

**Wisconsin**

**Partial Closure (3)**

Lake Winninibigoshish  
Winninibigoshish CG

Miss River  
Blackhawk Rec Area

Miss River  
Grant River Rec Area

project. That expansion plan was developed through a cooperative effort by state and Federal agencies, as well as private organizations.

Another multipurpose type would be the construction of a setback levee that provides floodplain restoration and FRM benefits. (Hamilton City, CA is an example).

### **Project Determination and Tracking**

For the last several fiscal years the Administration budgets have not included any specific projects requested by Members through the historic “earmarking” process. Due to the moratorium on these traditional ways of directing Corps priority and the lack of a Water Resources Development Act legislation, the last being 2007), we have had to depend upon the agency to make wise priority decisions.

What has resulted is that Corps budgets now include specific business line program areas that give the agency wide discretion over how and when the funds are spent.

3. Can you please briefly explain the internal process that the Corps now goes through to determine where and how much money is allocated to specific projects.

**Answer:** Studies and projects proposed in the budget are initially prioritized and proposed by each district. Studies are prioritized based on the likelihood that they will result in high-performing projects or the potential to complete during the budget year. Construction projects are prioritized based on Construction Performance Guidelines that include risk to life, mitigation, economics, and the potential to complete during the budget year. Operations and maintenance work packages are prioritized based on Operation and Maintenance Performance Guidelines that give priority to key infrastructure by considering the condition of the project and the potential consequences if the O&M activity is not undertaken. The criteria include project purpose, asset availability, asset reliability, economic impacts, public safety, environmental concerns and legal requirements. Division offices then analyze and prioritize studies and projects on a regional basis. Business Line Managers at headquarters review the proposed studies and projects for accuracy, prioritizing studies and projects at the national level.

The process used to formulate the work plan is similar to that used in preparing the President’s Budget, which allocates funds based on performance using objective criteria. The Corps considered only work on ongoing projects for which funds could be obligated in the applicable fiscal year and priority was first given to those projects that were in the President’s Budget. Eligible work also generally included existing commitments such as contract management, claims, continuing contracts, legal mandates, and safety of project

sites; other ongoing O&M and MR&T work; and other ongoing Construction and Investigations work on programs, projects, and activities that received funding in any of the three prior years, except for the Continuing Authorities Program. In FY 2012, the Corps developed “funding allocation priorities” that reflected the guidelines from the Statement of Managers on funding priorities, as well as existing commitments. The Corps evaluated increments of work on each eligible project for their performance, results, and consistency with the Appropriation Committees’ funding allocation priorities, and selected the increments of work for funding with the greatest contributions to overall performance.

4. Are the decisions on funding allocations made at the District, Division or Headquarters level?

**Answer:** The project allocations in the Army Civil Works budget are developed primarily through an iterative process requiring recommendations to be made at the Corps District, Division, and Headquarters levels. However, the final decision rests with the Assistant Secretary for Civil Works.

5. The accountability of specific project planning and accomplishment is at best convoluted and at worst frustrating and lacking in accountability. How best can we as Members ensure that projects that are important for our Districts are considered in the Corps decision-making hierarchy?

**Answer:** Each construction project is evaluated based on its individual merits to ensure projects selected for funding provide the best return on investment to the Nation.

#### **Project Backlog**

We understand that according to the Corps information and assessment that in excess of \$60 billion dollars, plus the \$23 billion or so of projects identified in WRDA 2007, have been authorized for construction and as of yet remain to be constructed. This backlog of projects has severely constrained the ability to authorize new projects.

6. How would you propose that we move forward on the backlog issue now that we have a good idea of what the backlog set of projects includes?

**Answer:** All projects that are available for construction, both continuing construction (previously funded) and new start construction projects, are considered for inclusion in the budget. In selecting the projects to be included in the budget, priority is given to those investments that reduce risk to public safety, those with the highest economic and

environmental returns, and those that support continued safe and reliable operation and maintenance of Corps projects. This process fosters the best use of the available funding.

7. Do you believe that the backlog of projects constrains the ability for the Corps to address new authorization of projects?

**Answer:** No. The Army budgets for the highest priority Civil Works projects to the extent that available funding will allow. Newly authorized projects compete with the projects that are already underway as well as with previously authorized, but unstarted, projects. If those new projects are determined to be a higher priority, then they may be included in the budget.

#### **Doing More with Less**

8. Is the Corps developing a divestiture process to guide it in making decisions on which projects are the lowest priority to maintain?

**Answer:** The Corps is in the initial stages of developing a comprehensive process to review its entire portfolio of aging Civil Works infrastructure to determine the most effective and cost-efficient means to continue project operation and maintenance (O&M) into the future and to examine whether projects are still in the Federal interest. Potential future outcomes include continuing to operate and maintain projects as Corps owned and operated projects financed with federal appropriations; using existing authorities to accept contributed funds from project sponsors, while the Corps continues to operate and maintain these O&M projects; seeking new authorities for project sponsors to fund and perform O&M, except for in times of national or regional emergency; or divestiture, if it no longer serves its authorized purpose or there is no longer a Federal interest in maintaining the project. Thus, project divestiture would be one possible outcome of this comprehensive portfolio review process.

9. Will Members have any involvement in those discussions as it directly impacts our constituents?

**Answer:** The Corps has limited authority to institute major process changes without the involvement of the Congress. For example, current law requires the Congress to approve, through legislation, the de-authorization of any constructed project. It is anticipated that any future final review and decision process would enable the Congress, impacted customers or stakeholders, and the general public to comment on proposals to change the means by which a project is operated and maintained.

**Status of the levee safety program.**

The Corps has recently published in the Federal Register direction and guidance on how local communities can apply for variances from the policy on vegetation on levees. We have heard from levee managers from across the country that have identified that the proposed process is cumbersome and does not get to the issue that in many cases the vegetation on the levees actually provide support and stability.

10. Can you explain for us why the Corps has undertaken this approach to addressing the issue of vegetation on levees and why it is so difficult to develop regional specific protocols for a common sense approach to a vegetation levee program?

**Answer:** The Corps' vegetation management standards are one of many criteria used to ensure the reliability, resiliency and operability of levee, floodwall, and dam projects nationwide. It is important to recognize that the Corps' vegetation standards are in place to address access to levees, as well as the structural stability of levees.

The Corps spent the last few years searching world-wide for research and other reliable information addressing the impacts of vegetation on levee systems, advancing research efforts on the impacts of woody vegetation on levee systems, and working collaboratively to develop the best path forward for addressing vegetation on levees.

The Corps recognizes that there are many existing levees with noncompliant vegetation and has worked diligently over the past two years to develop a best path forward that takes into account regional differences. Developing and implementing solutions that address the multiple priorities in these complex cases may take a significant amount of time due to the cost involved, the possible impacts to sensitive habitat and species, and the risk to those living and working behind the levees.

**Olmsted Lock and Dam Project.**

We understand that the Post Authorization Change Report has been sent to OMB for review. This report along with the recent announcement that the costs have escalated to close to \$3 billion dollars threatens to severely constrain the Inland Waterways Trust Fund for years to come and is sucking away inland waterways money from other projects.

11. Can you give us the status of the Post Authorization Change Report and your perspective on why the Corps so underestimated to problems that have been encountered with the project?

**Answer:** The Post Authorization Change Report is currently under review and is expected to be transmitted to Congress shortly. The Olmsted cost increase to \$2,918,000,000 (October 2011 price levels) is attributed primarily to a low initial estimate, which increased substantially in light of construction and contractual complexities associated with the innovative in-the-wet construction technique. This method also lengthened the duration of construction, which pushed costs into an unanticipated period of higher than average inflation associated with building materials utilized for construction.

There are several factors that contributed to the low initial cost estimate for the innovative in-the wet construction technique. Unknown factors when the project was authorized include the negative impacts on productivity due to river conditions (elevation & velocities) and the complexity of shell fabrication necessitated by the seismic condition at the site. After constructing and setting the first set of shells in 2010, the government and contractor realized that the effort associated with fabrication and setting these large pieces of precast concrete and filling them with tremie concrete was not like any work they had previously experienced or previously had estimated. The construction challenges associated with developing this innovative method of construction have been overcome, but required a lot more effort than originally envisioned.

Roughly 77 percent of the increase in the estimated total cost of the project, in real terms, (above inflation), is associated with the increase in the cost of constructing the dam.

12. There are some members of the user community who are suggesting that we abandon the ongoing "in the wet" construction program at Olmsted. The Nation and the inland waterway community have already made a significant investment in the Olmsted program.

Would there be significant stranded costs associated with shifting gears now? Do you have a sense on how big that financial number would be? Have you evaluated the potential cost of going back to a more traditional approach to lock and dam construction?

**Answer:** The costs associated with changing the construction method at this time are currently unknown. The Corps has assembled a team of experts to consider alternative construction techniques. The team is developing a concept level design for "in-the-dry" construction to a degree that can be used to prepare a reliable cost estimate and schedule suitable for comparison to the ongoing "in-the-wet" construction for the navigable pass portion of dam. The Corps will evaluate the team's recommendation based on the concept design and certified cost estimate by the summer of 2012 to determine the most cost effective way to complete construction.

#### **Inland Waterways and Harbor Maintenance Trust issues**

**The Harbor Maintenance Trust Fund** was established and funded through an ad-valorem tax on imported commodities. It provides a funding vehicle that when used properly provides a revenue stream to support the dredging of harbors. It is true that the largest harbors generate the largest revenue and that revenue's intent was to assist the medium and small harbors.

Concern has been raised over how much, where and how often the money is allocated to support the dredging programs. Small and medium size harbors that are the lifeblood of local and regional economies are often left out of the equation, resulting in shoaled in harbors that can no longer support local fishermen, watermen, law enforcement, Coast Guard or emergency personnel.

13. Can you explain for us how the Corps internally decides where and how to allocate the funding for dredging? Is it entirely based on the importance of a harbor to the national economy? How can a small harbor that supports a fishing community say in Alaska or New York, gain any traction against a harbor the size of Savannah or Miami?

**Answer:** The budget focuses on the projects that provide the greatest economic, environmental, and public safety returns to the Nation. Navigation projects are categorized as high, moderate and low commercial navigation use. Funding is focused

on the projects with a high or moderate level of commercial navigation use (coastal projects carrying at least one million tons of cargo and inland waterways with at least one billion ton-miles of traffic), which move 99 percent of the Nation's waterborne commercial cargo.

For coastal navigation projects with a low level of commercial use, the Corps considers a range of factors such as whether the harbor is a critical harbor of refuge or a subsistence harbor, or supports public transportation, U.S. Coast Guard search and rescue operations, national defense, or other Federal agency use; the reliance on marine transportation for energy generation or home heating oil deliveries, and the level of commercial use (albeit less than a medium level of commercial use).

**The Inland Waterways system** of allocating funds for the maintenance of locks and dams made sense and worked well when we had a relatively new set of working parts. Now when the average age of almost all of the system components is in excess of 50 years, and one project, the Olmsted, is utilizing almost all the available funds for the next 10 years, we obviously need to rethink the funding tools.

14. The Corps philosophy today seems to be fix when fail. This approach to the inland waterways system is not a good way to run program of such importance to the Nation. Is the Corps internally evaluating all the elements of the Inland Waterways System and determining which of them warrant allocation of additional funds? If so, could you please share that process and result with us?

**Answer:** Yes. The Corps instituted a process in FY 2010 to conduct operational condition assessments of all its navigation lock and dam components to determine the condition and risk of failure of its infrastructure. Each component is given a condition rating and ranked on its importance to maintaining navigation and whether failure of the component would stop navigation traffic (i.e. failure of a lock gate for single lock chambers would halt navigation). The economic consequences of a component failure were calculated as a function of the component's probability of failure based on its condition, and the estimated time it would take to repair or replace the component and return the lock to service. The condition of the Corps' infrastructure and the economic consequences of failure are used to inform funding decisions.

**Support and Funding of River Basin Commissions**

Three **River Basin Commissions** presently exist - the Susquehanna, Delaware and the Potomac.

These River Basin Commissions provide technical expertise and forums for discussing issues that affect the water supply of supporting states. In WRDA 2007 the Corps was directed to fund the three river basin commissions and yet since 2009, no funds have been identified and appropriated for them.

15. Can you explain why the Corps has abandoned the three River Basin Commissions?

**Answer:** The Corps has not abandoned the three river basin commissions. Before 1997, there was a Federally appointed, non-military representative serving as the Federal Commissioner who received a salary. Due to budgetary constraints and congressional efforts to streamline the government, Congress recommended termination of Federal participation in these and other commissions. With the enactment of the Energy and Water Development Appropriations Act of 1996, Congress informed each Commission that Federal funding for salaries and commission expenses would be discontinued. Congress directed each Commission to transition to financial self-sufficiency through the compact states and to terminate the Office of the Federal Commissioner for each basin commission with the funds appropriated. In 1997, Congress decided to restore Federal participation in these three commissions—due to their importance in their geographic regions—by designating the North Atlantic Division (NAD) Commander as the Federal Commissioner with the enactment of Section 3001(a) of the FY 1997 Emergency Supplemental Appropriations Act. The NAD Commander continues to serve as the Federal designated Commissioner on the three river basin commissions.

**Matilija Dam:**

16. Please explain the status and future steps for removal of Matilija Dam.

**Answer:** The overall Matilija Dam project, as authorized in Section 1001(10) of the the Water Resources Development Act of 2007, will restore natural sediment transport functions of the Ventura River and reconnect 17 miles of high quality aquatic and riparian habitat upstream of the dam, in the Los Padres National Forest. The Project includes dam removal, stockpiling and relocation of 6 million cubic yards of impounded sediment to restore habitat connectivity, downstream bridge replacement and modification, levee construction and modification, sediment bypass improvements at a water diversion facility, well construction, and removal of invasive species. Recovery and Reinvestment Act funding was provided in FY 2009 for the 60 percent design for the Sediment High Flow Bypass feature. The levees are 90 percent designed. The non-federal sponsor is designing the bridge replacement/modification features. Carryover funds will continue to support the contracted design effort for the Sediment High Flow Bypass feature in FY 2013.

The Corps is also participating in a stakeholder group, which is helping to refine the Corps' authorized plan for the dam removal that it was directed to undertake by Section 1001(10) of the 2007 Water Resources Development Act. That stakeholder group is primarily assisting in developing methods to handle the large amount of fine sediment upstream of Matilija Dam. However, the Administration has not expressed support for removal of Matilija Dam, and the Army has not budgeted for its removal.

**Reservoir Sedimentation and Data Base Development**

17. Can you please explain if the ACOE is looking at the impacts of sedimentation on the life span and usability of existing reservoirs?

**Answer:** During the original design of each project, the Corps considered and estimated the volume of sediment that would be deposited in the reservoir pools and designed the projects for sustainability of operations over the 50-year project life. The Corps monitors the extent of sediment deposition on a periodic basis to determine the extent of impacts to authorized purposes. If unanticipated upstream development and land-use decisions increase sedimentation beyond the planned volumes, the period of sustainable operations may be lessened.

18. Is the ACOE continuing to support the development of the multi-agency Reservoir Sedimentation (RESSED) data base?

**Answer:** Yes. The Corps recently worked with USBR and USGS to develop an interface to the RESSED database that would allow entry of surveys that have been conducted in recent years and will continue to collaborate with these and other Federal agencies to maintain and update the database.

**General Questions for Ms. Darcy (Minority continued):**

As you continue working to advance the FY13 budget request, we have several questions. Specifically, we are strong supporters of the Llagas Creek Flood Control Project in Santa Clara County, CA. We are deeply concerned about the current lack of federal funding for the Llagas Creek project in the fiscal year 2012 work plan or the recently-unveiled budget request. We would like to better understand the Corps' decision making process with respect to this initiative and others that may be similarly situated.

In 2011 the project received guidance for the implementation of WRDA 2007. The guidance directs the Corps to prepare a Limited Reevaluation Report (LRR) and to identify pathways for moving forward based on the project benefits. The Santa Clara Valley Water District and the City of Morgan Hill have invested millions in the Llagas project and agreed to pay for the LRR, but it is our understanding that the Corps must review the completed version before the project can move forward. We are concerned that, despite strong local backing and a long history of federal commitment, insufficient support from the administration is severely threatening the future of this project.

We have the following questions:

19. If a local sponsor(s) is putting its own resources toward completing a document that the Corps has required and therefore must review, should the Corps be responsible for providing the resources to review these documents?

**Answer:** No. Section 3022 of the WRDA of 2007 authorizes the Secretary to complete construction of the Llagas Creek project. The guidance implementing this provision of law provides that, if funds are provided for such work, the first step is for the Corps to prepare a limited evaluation report (LRR) to document the project's environmental acceptability, technical feasibility, level of flood damage reduction and the national economic development (NED) benefits. Documentation of the NED benefits is particularly important for this project given that the Section 3022 authority requires an analysis of the application of Section 903(c) of the WRDA of 1986. There is no authority under Section 3022, or otherwise, for the non-federal sponsor to complete the LRR and for the Corps to fund a review of the non-Federal document. However, under the contributed funds authority, the local sponsor may contribute funds to the Corps to complete the LRR or for review of the document. Upon request of the non-Federal sponsor to provide contributed funds, the Army would provide notification to the Committees prior to initiating negotiations of an agreement for the acceptance of contributed funds. More importantly, the authorization for the Corps to complete construction of the project, originally planned as part of the Natural Resources Conservation Services' Small Watershed Projects program, directs cost sharing that is

inconsistent with cost sharing applicable to other Civil Works projects. Thus, the project is not supported in Administration Budgets.

20. How will the Army Corps of Engineers proceed with projects, such as Llagas Creek, where the agency clearly has an important role but funding has not been specifically allocated? Does the Corps have the authority to provide funds for necessary reviews even if a project was not included in the work plan or FY13 budget request?

**Answer:** The Corps has no authority under Section 3022 of WRDA 2007, or otherwise, to fund the reviews of documents completed by non-Federal interests.

21. How much weight are recommendations from local district offices given as the Corps develops its annual work plan? Are final funding decisions made by headquarters? Are decisions determined strictly by benefit/cost ratio? If not, how much weight is given to the B/C ratio? What other factors are considered, and how much weight are they given?

**Answer:** The FY 2012 Energy and Water Development Appropriations Act Statement of Managers provided \$507 million in additional funding for ongoing work in 26 program areas. The Corps developed a work plan for each of the program areas, detailing the programs, projects, and activities that would receive this funding. Work eligible for consideration generally included ongoing work such as contract management, claims, earnings on certain types of contracts, legal mandates, and safety of project sites; other ongoing Construction and Investigations work on programs, projects, activities that received funding in any year FY 2009-FY 2012; and other ongoing Operation and Maintenance and Mississippi River and Tributaries (MR&T) work. Previously unfunded programs, projects, and activities (new starts) were not considered. Work was selected for funding based on performance and on the criteria provided in the Statement of Managers. Funded work includes: ongoing work as described above; useful project increments; work contributing to job creation and economic growth; work in disaster areas; work that reduces risks to life and property; priority maintenance and repairs; MR&T work on the tributaries and for non-traditional purposes; and additional work on budgeted programs, projects, and activities.

For projects in Preconstruction Engineering and Design or Construction, benefit-cost ratio was considered, where applicable, along with other performance information.

Recommendations and project information from Districts were considered by Divisions, and recommendations of Divisions were considered by Headquarters and by the Assistant Secretary's office, within the context of performance and criteria discussed above.

22. Given that many Army Corps projects are conducted in partnership with local agencies, how is community support and involvement factored into the work plan?

**Answer:** The capabilities of non-Federal project partners to provide their cost shares and to carry out the items of non-Federal cooperation are considered by Districts when estimating their capabilities for projects. For each project, the District capability estimate is the upper limit on funding that the project could receive. The allocations among the projects, within these limits, are based on performance and on criteria provided by the FY 2012 Energy and Water Development Appropriations Act Statement of Managers.

23. Should review of LRRs or other types of reports be carved out of the Operations and Maintenance account in order for the Army Corps of Engineers to meet its obligations and community responsibilities to projects?

**Answer:** Limited Reevaluation Reports (LRRs) and other reports compete with other potential work for funding, as part of our effort to set priorities. With limited exceptions, Civil Works projects are developed in accordance with standard planning, design, and implementation procedures. LRRs are appropriately funded out of either the Investigation or the Construction account, depending on the scope of the LRR and whether or not the project has been funded for construction.

The Operation and Maintenance account is used for a limited set of project activities beyond normal O&M, such as interim risk reduction measures leading to dam safety improvements, reevaluation reports for major rehabilitations, and initial assessments in the review the operations of existing projects. The O&M account also is used to initiate Section 216 restudies of completed projects, which then move into Investigations if a broader report is appropriate or if further authorization is needed.

24. If an authorized project is not funded by the Corps in a specific year but the local project sponsor(s) continues to invest significant sums to keep the project moving forward, what authorities does the Corps have, pursuant to WRDA 2007 or other legislation, to continue providing support for the project? If local sponsor(s) advance funds to continue work on a project when federal funding is not allocated, can the Corps potentially reimburse those funds later? What crediting authorities does the Corps have in a situation such as this?

**Answer:** The Corps is authorized to accept contributed and advanced funds from non-Federal sponsors or provide credit to non-Federal sponsors in certain situations. Individual requests to use these authorities are evaluated to ensure that the acceptance of such funds is legally appropriate, that the accomplishment of such work is advantageous in the public interest, and that the work will not negatively impact other work in the affected Corps district for which Congress has appropriated funds. Under the contributed funds authority, a sponsor can enter into an agreement with the Army to provide funding for a study or project gratis, without any authority to be reimbursed. Repayments by Army are not authorized for contributed funds agreements. Under the advanced funds authority, the Corps may accept advanced funds when a sponsor can finance more than its share of project costs provided that some federal funds have been spent on the project; this option has the possibility of credit or repayment. However, any advanced funds agreement would be clear that the acceptance of advanced funds did not constitute or imply any commitment to budget or appropriate funds for repayment of the advanced funds. In the case of either contributed or advanced funds, the Army would notify the Committees prior to initiating negotiations of an agreement for the acceptance of such funds. Section 105 of WRDA 1986 and Section 221 of the Flood Control Act of 1970, as amended by section 2003 of WRDA 2007, provide general authority for the crediting of eligible work-in-kind toward a non-Federal sponsor's share of study and construction costs, respectively.

**Questions from REP Eddie Bernice Johnson**

1. (Ms. Darcy). Texas, as you know, suffered a record drought last year. Last year's historic drought devastated the state's agricultural industry, and emphasized how critical it is to plan and invest in our water resources.

With 35% of the State's water behind Corps reservoirs, the Texas Water Development Board has been working with the Corps to identify ways to balance the existing water resources with the population's needs, and how to plan through conservation and water reuse to optimize the resources we have. Much of this planning comes through studies conducted by the Corps, and without this analysis, we are not necessarily making the best of both our resources and our taxpayer dollars. I am concerned that the Administration's budget only provides \$102 million for the types of studies that can potentially save resources and tax dollars. How is the Administration planning to make the best use of such dollars?

**Answer:** Studies and Preconstruction Engineering and Design (PED) efforts are funded based on the likelihood that they will result in high-performing projects. This involves consideration of 1) the relative expected performance of the potential projects, and 2) the likelihood that the study or PED would result in a project with a willing cost sharing sponsor. Funding was also targeted at studies and PEDs that could complete the applicable phase in Fiscal Year 2013.

2. (Ms. Darcy). According to the Corps own estimates, the Dallas Floodway Extension project will increase the level of protection to the existing Dallas Floodway, and provide an additional \$6.7 million in average annual benefits to approximately 10,000 structure. What is the Corps schedule for the commencement of construction on the upper chain of wetlands?

**Answer:** The Upper Chain of Wetlands consist of Cells A, B, and C. The Corps is scheduled to initiate construction of Cell A by September 2012. Initiation of construction of Cells B and C awaits action by the City of Dallas, which must first remediate the site to remove materials regulated by the Texas Commission of Environmental Quality. Accounting for the time frame for completing this remediation, the award of the construction contract for Cells B and C is currently scheduled in the 4<sup>th</sup> Quarter of FY 2013. It is anticipated that the construction of the Upper Chain of Wetlands can be accomplished with funds currently available for the project.

**Questions from Mr. Cohen of Tennessee**

1. Has the USACE examined its facilities to determine how much additional renewable energy could be produced with the proper, modern equipment?

**Answer:** Yes. The Army is implementing a Hydropower Modernization Initiative (HMI) to address its aging hydropower infrastructure issues for 197 generating units representing 54 power plants that are not directly funded by the Department of Energy Bonneville Power Administration. HMI was established to assess and prioritize investment needs and opportunities across the Army's hydropower assets. The initial HMI assessment prioritized equipment modernization and improvements that would result in 830,000 MWh of additional renewable energy being produced. This amount of energy would avoid 630,000 tons of CO<sub>2</sub>e emissions into the atmosphere and serve 87,400 additional American homes.

2. How much funding would be required to modernize USACE facilities and bring them in line with the most technologically advanced generation equipment? Given obvious federal funding limitations, are you looking at creating partnerships with private sector hydropower developers in order to get the job done?

**Answer:** HMI study results show that an investment of approximately \$4 billion over 20 years would restore design level efficiencies and capture improvement and upgrade opportunities where they exist.

In June 2011, the Corps sponsored a forum inviting the private sector to present investment proposals to improve and upgrade hydropower assets. More than ten private sector interest attended. Since that time, the Corps has worked with private sector interests to explore ways to make private investments a reality. Among other options, the private sector is evaluating the possibility of using some modification of the Energy Saving Performance Contracting (ESPC) concept as a feasible investment mechanism.

3. I understand that the USACE is investing in R&D for new hydropower technologies. But is the USACE in the process of modernizing and improving the efficiency of any of its existing facilities? If not, why not?

**Answer:** Yes. Where the application is prudent and funding is available either in the budget or directly from users, the Corps installs more efficient and environmentally-friendly hydropower equipment. The most recently completed projects include the installation of more efficient and environmentally-friendly aerating turbines at the J. Strom Thurmond Dam power plant, minimum-gap fish-friendly turbines in the Bonneville Dam power plant, and turbines with greater efficiency at the John H. Kerr Dam power plant.

4. How much added efficiency could modernizing the USACE's twenty most outdated dams/hydropower facilities result in? How many jobs would be created from such an endeavor?

**Answer:** Typically, when a hydroelectric power plant's generating units are replaced or refurbished, efficiency improvements can range from three percent to as high as ten percent. If the Corps modernizes its top twenty plants as identified in its Hydropower Modernization Initiative, efficiency gains on average would be 5 to 6 percent. This efficiency improvement represents a significant amount of additional renewable energy and avoided greenhouse gas emissions.

Several thousands of direct and indirect jobs would be created over a ten year period in order for the Corps to modernize its top twenty prioritized hydroelectric facilities. These jobs would range from project development, manufacturing, construction and operations.

**Questions from Ms. Napolitano of California**

1. **Sec. Darcy**, the shippers at the Ports of Los Angeles and Long Beach paid \$220 Million into the Harbor Maintenance Trust Fund in 2011. The Corps' Budget provides the Los Angeles and Long Beach ports with \$265,000 of that money. That is \$1 out of every \$1000 they pay into the system. This is incredibly unfair. One of the problems that causes this inequity is that the Harbor Maintenance Trust Fund is so outdated that even if Los Angeles and Long Beach received a larger share of funds, they would not be able to use the funds within the restrictive definitions of Harbor Maintenance dredging. The law only allows 50% of HMT funds for harbor maintenance dredging of harbors deeper than 45 feet. I propose we expand the use to allow harbors of any depth to receive 100% of HMT funds for harbor maintenance dredging. We should also allow HMT funds to be used for construction dredging of the harbor and berth dredging in a harbor accessible from a federal channel. Lastly, we should change the law to allow for the dredging and disposing of contaminated and clean sediments from federal channels and berths adjacent to federal channels. Expanding the use of HMT funds for these purposes would allow the ports that pay the most into the system to use the funds. What do you think of these ideas for expanded use? Do you have other ideas for expanding the use of HMT so that harbors like Los Angeles and Long Beach are able to do more with the HMT funds they put into the system?

**Answer:** The shippers rather than the ports are responsible for paying the Harbor Maintenance Tax, and the tax affects primarily imported goods. The shippers may or may not reside in the states in which the tax is collected. The HMTF is authorized to pay up to 100 percent of the eligible operations and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States, which includes the dredging of contaminated material from Federal channels. However, the Water Resources Development Act of 1986, as amended, requires non-Federal sponsors to pay an amount equal to 50 percent of the "excess" of the cost of the operation and maintenance of the project over the cost which would have been incurred for operation and maintenance of the project if the project had a depth of 45 feet. The HMTF, therefore, still pays for a significant share of the operation and maintenance costs, even for the portion of a project that is deeper than 45 feet.

The FY 2012 Budget proposed to expand the authorized uses of the HMTF. Such a proposal could be limited to areas that the Federal government now funds or could also include areas such as maintenance dredging of berthing areas, which is now a non-Federal responsibility. However, a proposal to finance some or all of the costs of maintenance dredging of berthing areas through the HMTF would raise questions, for

example, concerning the possible assumption of risk resulting from both structural stability of the non-Federal piers, docks, and facilities and debris.

2. **Sec. Darcy**, when will the dam safety study at Whittier Narrows Dam be completed? If the study is positive, how long will it take to increase the water conservation level to store more water since no new construction is needed?

**Answer:** Project completions dates are dependent on a number of factors. As of June 2012, the Whittier Narrows Dam Safety Modification study is 5% complete. The Dam Safety Modification Report (DSMR) is scheduled to be complete in June 2014. The DSMR takes the project to the 60% design level.

The dam safety modification study will identify risks and provide recommended solutions to minimize those risks. Assuming the dam safety modification study does not result in construction modifications to the facility, water conservation could be initiated as soon as the water conservation study is completed and approved, water conservation agreements are executed and an implementation plan is developed.

3. **Sec. Darcy**, when will the Corps begin the dam safety study of the Santa Fe Dam so that we can conserve more water at the Santa Fe Dam?

**Answer:** The Santa Fe Dam Issue Evaluation Study commenced in FY 2011 and will be considered for funding along with many other worthwhile projects, programs, and activities across the Nation competing for funding.

4. **Sec. Darcy**, the Corps has delayed the removal of sediment from the Santa Fe Dam that could be performed at no cost to the taxpayer. The Los Angeles Flood Control district would like to remove the sediment quickly so that they can more efficiently use the Santa Fe Dam. What is the Corps doing to speed up the process for sediment removal at Santa Fe Dam?

**Answer:** At this time the Corps is aggressively pursuing a contract to allow private contractors onto Federal lands for the purpose of excavating and removing the sediment. The Corps has determined that the sediment has significant value and may be sold on the open market, which may occur as early as this fiscal year. The Corps is also exploring other options such as requesting that outgrantees paying rent in the Santa Fe Basin area consider amending their existing outgrants to include provisions for in-kind services in lieu of rent. The Corps could also negotiate in-kind services for any prospective outgrantee during negotiations of a lease or license pursuant to 10 U.S.C. 2667. This in-

kind service in lieu of rent can be used to reduce the deferred maintenance for the Santa Fe Dam project, to include sediment removal.

The Corps continues to work with the Los Angeles County Flood Control District, local community, and regional water districts to identify strategies for sediment management throughout the Los Angeles County Drainage Area system without negatively impacting the operation of the Corps' projects, including Santa Fe Dam.