

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FOR 2015

HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED THIRTEENTH CONGRESS SECOND SESSION

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ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FOR 2015

WEDNESDAY, MARCH 26, 2014.

DEPARTMENT OF THE ARMY—UNITED STATES ARMY CORPS OF ENGINEERS

WITNESSES

**JO ELLEN DARCY, ASSISTANT SECRETARY OF THE ARMY FOR CIVIL
WORKS, UNITED STATES ARMY**

**GENERAL THOMAS P. BOSTICK, CHIEF OF ENGINEERS, UNITED
STATES ARMY CORPS OF ENGINEERS**

Mr. SIMPSON. The hearing will come to order. Good morning to everyone and thanks for being here this morning. I would like to dispense with a little bit of administrative business. I would like to ask your unanimous consent to allow two of our full committee members, Mr. Kingston and Mr. Bishop, to join us on the dais when they arrive and to ask questions of the witnesses once all subcommittee members have had an opportunity. Without objection we will proceed in that order.

Our hearing today is on the fiscal year 2015 budget request for the Civil Works programs of the US Army Corps of Engineers.

I would like to welcome our witnesses, Assistant Secretary of the Army for Civil Works, Jo Ellen Darcy, and Chief of Engineers, Lieutenant General Tom Bostick. It is good to see both of you again, and I look forward to your testimony.

The Corps of Engineers, through its Civil Works programs, is charged with addressing water resource needs across the nation. Corps ports and waterways handle more than 2.3 billion tons of cargo directly serving 41 states. The Corps helps states and local communities reduce their vulnerability to flooding, saving lives and preventing average annual damages of more than \$37 billion over the past decade.

The Civil Works program also promotes restoration of degraded ecosystems, maintains water supply storage sufficient to supply daily indoor needs of 96 million households, and provides recreation opportunities for millions of Americans nationwide. The Corps' hydropower facilities generate more than 77 billion kilowatt hours and approximately five billion dollars in gross revenues annually.

The Corps also has a significant role in responding to natural disasters under the National Response Framework and has personnel engaged in supporting various missions overseas.

All of these activities are critical to the nation's safety and economic wellbeing, but you would never know it by this year's budget request.

The fiscal year 2014 Civil Works budget for the Corps of Engineers totaled nearly \$5.5 billion; \$741 million above the budget request for that year. The request for fiscal year 2015 totals only \$4.5 billion, a \$934 million reduction from our appropriation last year. Let me reiterate that: Even with the deteriorating water resource infrastructures in this country, the request is a full \$934 million below last year. That is an incredible seventeen percent reduction.

It is apparent to me that Congress has one vision for the Corps of Engineers and the administration has a starkly different one. We hear frequently about the challenges facing our shippers from filled in channels and locks and dams which are falling apart. Every few years we have to address significant flooding in one part of the country or another.

These are challenges that the Corps should be addressing, yet instead the administration asked for a twenty percent reduction in the navigation program, including a more than ten percent reduction in harbor maintenance trust fund activities, and a sixteen percent reduction in flood control programs, including a twenty-seven percent reduction in construction.

I am also concerned that these competing visions are contributing to a growing disconnect between Congress and the executive branch over the Corps of Engineers. It is one thing for the administration to outline a vision for the Corps that differs from the Congressional vision, but once the Energy and Water Appropriation bill is passed by Congress and signed by the President, that is the law, and this subcommittee expects the Corps to follow both the letter and intent of that law. There have been a few notable instances in the past year or so where adherence to the law has been questionable at best.

Secretary Darcy, we need to figure out how to be on the same page when it comes to the implementation of the Civil Works program. I am not sure if it is a question of simple misunderstanding coupled with lack of communication or whether the administration doubts how serious this committee is about its directions. Perhaps it is something else entirely. I look forward to discussing these issues and specific examples with you later in the hearing.

Again, I would like to welcome our witnesses to the subcommittee, and thank you for all that you do for this country.

Secretary Darcy, please ensure that the hearing record, questions for the record, and any supporting information requested by the subcommittee are delivered in final form to us no later than four weeks from the time you receive them. Members who have additional questions for the record will have until close of business tomorrow to provide them to the subcommittee's office.

With that, I will turn to Ms. Kaptur, the ranking member, for her opening comments.

Ms. KAPTUR. Thank you, Mr. Chairman, and we welcome our guests today. We are so very happy that you are here, and we appreciate your appearance and your service to our country.

The last several years have been busy ones for Corps, especially busy ones. Between Superstorm Sandy, Hurricane Irene, all the

droughts, tornadoes, and flooding in the Mississippi and Missouri River Basins, you have had a great deal to do. Let us hope that the year ahead of us is less full of inclement surprises, though severe weather events seem to be occurring more frequently.

The Corps response to these events demonstrates the vital role that the Corps plays in our nation's ability to prevent and respond to natural disasters and maintain domestic security. We are all very thankful to the Corps for all of your efforts. However, these events draw attention to the significant cost borne by government, the federal government, and ultimately the taxpayer.

In the initial response and long-term reconstruction efforts we will never be able to entirely prevent damage from catastrophic natural disasters. Yet there is every indication that such events will become more frequent and more costly in human life and physical damage. Therefore, we must begin to address the long-term sustainability of our nation's infrastructure.

We cannot continue to underinvest in the short term and pay several times over that in the long term recovering from damages that could be mitigated with proper front-end investment. With this budget request however, it seems that historical patterns in budgeting for the Corps persist as the request continues national disinvestment.

The request cuts thirty-two percent from the construction account and includes a seventeen percent reduction overall. I have said this many times, in many venues: If you want to create jobs in America, fully fund the Corps.

In the constrained budget environment in which we currently find ourselves, I have doubts as to whether Congress will again be able to augment funding for your critical activities.

Finally, and most importantly, as a Great Lakes lawmaker, I would like to take this opportunity to address the Corps on its efforts to prevent the spread of Asian Carp as well as the attendant Great Lakes dredging needs. I continue to share the grave concerns of my constituents and citizens across the Great Lakes Basin, the entirety of it, about the growing threat of the voracious Asian Carp to the entire ecosystem of our precious, fragile lakes and river systems.

The Corps recently concluded a study, as you well know, on this threat that the Asian Carp poses to the Great Lakes, the largest body of freshwater on the face of this earth, and on strategies to address that threat. While the study was a step forward, it seems only a small step, and one written on paper, not embodied in protective infrastructure.

Lake Erie alone, the lake in which my district actually tracks from one end of the state to the other, is likely the largest freshwater fishery in the United States, and it is completely vulnerable. That threat is real; more real everyday. And I am really disappointed that the Corps did not recommend a, what I would call, strategic course of action in it's study, what we do this year, what we do next year, what we do the following year, because there is not much time.

I expect that today you can explain to us how what you plan to do to remediate the advance of the carp, short-term, medium-term, long-term, what barriers have been placed and what is being con-

templated to prevent the infestation of our freshwater lakes and the multibillion dollar fishery and marine industry that current system allows.

In addition, let me just say, in terms of the dredging needs of the Great Lakes, of course, they are not being met. Resources are woefully inadequate to state the obvious. And Great Lakes ports are critical to our regional and national economy.

It was actually shocking to me recently when we were talking in another subcommittee meeting about the potential gas shipments out of this country to other places. That a very important department of the government of the United States, not your own, didn't look at the Great Lakes as the fourth seacoast of this country, and they didn't even know that shipping a container from there is the shortest distance to northern Europe; people who are highly placed in this government. I couldn't believe it.

So, in any case, moving raw materials, agricultural commodities, and industrial products to support heavy manufacturing, construction, and energy capabilities all rest in our region as well. We must keep these ports open for business, and our Great Lakes system must be understood as a system. Not just individual harbors assessed in a vacuum, but a major fourth seacoast in this country, indeed the longest.

I expect that today you will speak to how you are responding to these pressing needs, and I look forward to your testimony and thank the chairman and membership for this time.

Mr. SIMPSON. Thank you, and again thank you all for being here. I think it is important that we have this frank and open discussion every year and talk about Congress's desires and the Army Corps' challenges that they face, but it will be a frank and open discussion.

But I do want to thank all of you for the job the Corps does across this country. It is very important, as we said in our opening statements, and it has been very educational to me as we have gone around and seen the Port of New York and Port of New Jersey and others. You almost have to see how complex all those things are to try to understand them, so it was very educational to me. Thank you for hosting me up there.

Ms. Darcy.

Ms. DARCY. Thank you, Mr. Chairman and distinguished members of the subcommittee. Thanks for the opportunity for me to present the President's Budget for the Civil Works program of the Army Corps of Engineers for fiscal year 2015.

I would like to summarize my statement and ask unanimous consent that my complete statement be included in the record.

Mr. SIMPSON. Noted.

Ms. DARCY. The budget for 2015 for the Civil Works program provides a fiscally prudent and sound level of federal investment in the nation's water resources. The President's 2015 budget includes \$4,561,000,000 in gross discretionary appropriations for the Army Civil Works program offset by a \$28 million cancellation of unobligated carry-in funding in FY15.

A total of 9 construction projects: 3 navigation, 4 flood-risk management, and 2 aquatic ecosystem restoration projects, 28 studies, and 6 designs are funded to completion in this budget. Completed

construction projects will result in immediate benefits to the nation and directly impact many local communities as benefits are realized from the combined federal and nonfederal investments.

The Civil Works budget includes funding for one priority construction new start, and 10 new studies starts in the investigations account, including the water resources priority study which will build upon and broaden the progress being made by the Corps and its North Atlantic Coast Comprehensive Study which was funded under the Sandy Supplemental.

At a funding level of \$915 million, the budget provides, for the third consecutive year, the highest amount ever proposed in a president's budget for work financed from the Harbor Maintenance Trust Fund in order to maintain coastal channels on related works. The budget funds capital investments and the inland waterways based on the estimated revenues to the Inland Waterways Trust Fund under current law. However, the budget also assumes enactment of the legislative proposal submitted to the Joint Select Committee on Deficit Reduction in 2011, which would reform the laws governing the Inland Waterways Trust Fund.

The Administration's proposal would generate an estimated \$1.1 billion in additional revenue over 10 years from the commercial users of these inland waterways. This amount reflects estimates of future capital investment for navigation on these waterways over the next decade including an estimate adopted by the Inland Waterways Users Board.

The proposal is needed to ensure that the revenue paid by commercial navigation users is sufficient to meet their share of the costs of capital investments on the inland waterways, which would enable a significant increase in funding for such investments in the future.

The budget also provides \$398 million for dam and levee safety activities, which includes \$38 million to continue the levee safety initiative which involves an assessment of the conditions of federal levees.

In continued support for the President's Veterans Job Corps, the budget includes \$4.5 million to continue the Veteran's Curation Program which provides vocational rehabilitation and innovative training for wounded and disabled veterans while achieving historical preservation responsibilities for archaeological collections that are administered by the Corps.

In summary, the FY15 budget for the Army Civil Works program is a performance-based budget that supports an appropriate level of federal funding for continued progress with emphasis on those water resource investments that will yield high economic, environmental, and safety returns for the nation and its citizens.

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

Mr. Chairman and members of the subcommittee, I look forward to hearing your questions. Thank you.

[The information follows:]

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

THE HONORABLE JO-ELLEN DARCY

ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

BEFORE

**THE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT**

UNITED STATES HOUSE OF REPRESENTATIVES

ON

**THE FISCAL YEAR 2015 BUDGET
FOR THE ARMY CIVIL WORKS PROGRAM**

MARCH 26, 2014

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) 2015.

OVERVIEW

The FY 2015 Budget for the Civil Works program reflects the Administration's priorities through targeted investments to develop, manage, and restore water resources. Commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration are the primary mission areas of the Army Civil Works program. The Budget also supports related efforts at existing projects owned or operated by the Corps (hydropower, recreation, environmental stewardship, and water supply storage); as well as emergency preparedness and training to respond to natural disasters, the regulatory program, and the restoration of certain sites contaminated as a result of the nation's early efforts to develop atomic weapons. These investments will contribute to a stronger economy, improve reliability of waterborne transportation, reduce flood risks to businesses and homes, increase public safety, protect and restore aquatic ecosystems affected by water resources development, and support American 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, including investing in restoring significant aquatic ecosystems to help promote their ecological sustainability and resilience.
- Support commercial navigation through investments in maintenance and related activities at the most heavily used coastal ports and inland waterways in the Nation.
- Increase the organizational efficiency and improve the management, oversight, and performance of ongoing programs.

FY 2015 DISCRETIONARY FUNDING LEVEL

The Budget for FY 2015 for the Civil Works program provides a fiscally prudent and sound level of Federal investment in the Nation's water resources.

In keeping with the Administration's commitment to continue to invest in those efforts that are a priority for the Nation, while putting the country on a sustainable fiscal path, the Budget includes \$4.561 billion in gross discretionary appropriations for the Army Civil Works program offset by a \$28 million cancellation of unobligated carry-in to FY 2015, including funds previously earmarked for particular programs, projects, or activities.

This gross funding level represents the amount of new Federal discretionary resources that would be available to the Civil Works program.

Within the \$4.561 billion recommended appropriations, \$1.125 billion is for projects in the Construction account, and \$2.6 billion is for activities funded in the Operation and Maintenance account. The Budget also includes \$80 million for Investigations; \$245 million for Mississippi River and Tributaries; \$28 million for Flood Control and Coastal Emergencies; \$200 million for the Regulatory Program; \$100 million for the Formerly Utilized Sites Remedial Action Program; \$178 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.

A total of nine construction projects (three navigation projects, four flood risk management projects, and two aquatic ecosystem restoration projects), 28 studies, and 6 designs are funded to completion in the Budget. Completed construction projects will result in immediate benefits to the Nation and directly impact many local communities as benefits are realized from the combined Federal and non-Federal investments.

BUDGET CRITERIA

The FY 2015 Budget continues the Army's commitment to a performance-based approach to budgeting to provide the best overall return for the Nation in achieving economic, environmental, and public safety objectives. Competing investment opportunities for studies, design, construction, and operation and maintenance were evaluated using objective performance metrics, which guided the allocation of funds.

Within the Investigations account, deciding which studies to pursue can be a challenge. The Corps must use its professional judgment in these situations. Generally, funding is allocated to those studies that appear the most promising based on the potential for high economic, environmental, and safety returns to the Nation; and have an active local sponsor. Under the SMART Planning initiative, to be eligible for funding the Corps (the District, Division, and Headquarters) must also have reached agreement with the local sponsor on the scope, cost, and schedule of the study. This improvement to the planning process is helping to bring studies to a conclusion sooner and with less money without compromising the quality of the analyses.

NEW INVESTMENTS IN FY 2015

The Civil Works budget includes \$10 million to start construction of a nationally significant aquatic ecosystem restoration effort, the Louisiana Coastal Area Ecosystem Restoration program. This program, authorized in the Water Resources Development Act of 2007, is needed to restore habitat while reducing the risk of damage to coastal Louisiana from storm driven waves and tides, and complements the ongoing Federal effort under the Coastal Wetlands Planning, Protection, and Restoration Act. The

Administration is committed to restoration of the Gulf Coast, and starting construction on this program serves as an important step in fulfilling that commitment.

The Budget also includes funding for eleven new study starts in the Investigations account. Two of these studies support efforts to encourage States and communities to assume responsibility for the development, management, restoration, and protection of water resources. Those studies focus on the disposition of locks that are no longer being used for commercial navigation, or have very little commercial navigation; these studies are the Allegheny River Disposition study in Pennsylvania and the Kentucky River Locks 1-4 Disposition in Kentucky.

Three additional studies are focused on deep draft navigation improvements - Manatee Harbor, Florida; New Haven Harbor Deepening, Connecticut; and San Juan Harbor Navigation Improvements, Puerto Rico. The principal criterion used to select these studies was the anticipated economic return to the Nation.

Three studies are focused on flood risk management - Du Page River, Illinois; Fairfield and New Haven Counties, Connecticut; and Short Creek and Wheeling Creek, Ohio. The principal criteria used to select these studies were the population affected, the condition of the flood damage reduction measures that currently exist, and the potential consequence of a flood event.

One new aquatic ecosystem restoration study—Salton Sea Restoration, California—will examine the potential for a project of environmental improvements to the Salton Sea.

Finally, the Budget again includes funding for the Water Resources Priorities Study. This study would assess the Nation's vulnerability to inland and coastal flooding; compare the flood risks faced by different regions of the United States; evaluate the effectiveness of current approaches to reducing these risks in different settings at the Federal, state, and local levels; and develop recommendations to improve existing programs to save lives, and reduce flood losses and associated recovery costs nationwide, in ways that will also promote the long-term sustainability of communities and ecosystems. In short, it would improve our understanding of why flood costs are increasing so dramatically and identify better ways for the Nation to address these risks. This is not being proposed as a study leading to a new project, and thus should not be subject to any potential limitation on new starts. Rather, this study will build on, and broaden, progress being made by the Corps in its North Atlantic Coast Comprehensive Study under the Disaster Relief Appropriations Act of 2013, P.L. 112-3, and is a logical next step to that effort.

NAVIGATION

The Budget includes \$1.825 billion in support of global and domestic waterborne transportation, with emphasis on the coastal ports and inland waterways that support the greatest national economic activity.

The Cleveland Harbor (Dike Raise), Ohio; New York and New Jersey Harbor, New York & New Jersey; and Texas City Channel (50-Foot Project), Texas Dredged Material Placement Facility projects are all funded to completion in FY 2015.

At a funding level of \$915 million, the Budget provides, for the third consecutive year, the highest amount ever proposed in a President's Budget for work financed from the Harbor Maintenance Trust Fund to maintain coastal channels and for related work. The FY 2015 Budget includes \$595 million for the operation and maintenance of inland waterways.

Overall, the total number of lock closures due to mechanical failures at main chamber locks on the high and moderate commercial use inland waterways has decreased, in both FY 2012 and FY 2013.

For the operation and maintenance of navigation projects with a low level of commercial use (coastal and inland combined), the Budget provides \$113 million. Starting in 2012, the Corps modified the levels of service for certain inland waterways locks. This has resulted in reduced operating costs and the Corps is using these savings for work on these waterways or other inland waterways.

The Budget continues to include funding in both the Investigations and Construction accounts on proposals to deepen and widen channels at several of our coastal ports to accommodate post-Panamax vessels with deeper drafts. Within the Investigations account, funding is included to complete feasibility studies for Charleston Harbor, South Carolina and Wilmington Harbor, North Carolina; continue design efforts at Boston Harbor, Massachusetts, Savannah Harbor, Georgia, and Freeport Harbor, Texas; and to complete design efforts at Jacksonville Harbor, Florida. Within the Construction account, funding is included to continue construction of a new dredged material placement facility at Charleston Harbor, North Carolina.

The Budget includes \$160 million for Olmsted Lock and Dam, Illinois, of which \$80 million would be derived from the Inland Waterways Trust Fund. The Budget does not support a reduction in the portion of the costs of this project financed from this trust fund. The Budget also includes \$9 million for ongoing work to address dam safety issues at Locks and Dams 2, 3, 4, Monongahela River, Pennsylvania, of which \$4.5 million would be derived from the Inland Waterways Trust Fund.

The Budget funds capital investments in the inland waterways based on the estimated revenues to the Inland Waterways Trust Fund under current law. However, the Budget also assumes enactment of the legislative proposal submitted to the Joint Select Committee on Deficit Reduction in 2011, which would reform the laws governing the Inland Waterways Trust Fund, including an annual per vessel fee to increase the amount paid by commercial navigation users of the inland waterways sufficiently to meet their 50 percent share of the capital investments that the Army Corps of Engineers incurs on their behalf. The revenue from this user fee would supplement the revenue from the existing excise tax on liquids used as fuel in commercial transportation on the inland waterways.

The Administration's proposal would generate an estimated \$1.1 billion in additional revenue over 10 years from the commercial users of these inland waterways. This amount reflects estimates of future capital investment for navigation on these waterways over the next decade, including an estimate adopted by the Inland Waterways Users Board (Users Board). The proposal is needed to ensure that the revenue paid by commercial navigation users is sufficient to meet their share of the costs of capital investments on the inland waterways, which would enable a significant increase in funding for such investments in the future.

Under the Administration's proposal, the Corps would be able to structure the user fee in two tiers. Nearly all of the capital investment by the Corps to support commercial navigation on these waterways involves work at Corps locks and dams. Under a two-tiered fee system, those who use the locks and dams would pay more of the non-Federal share of capital investments, as they should. This would increase economic efficiency by requiring the specific users who benefit from these investments to internalize the costs. The Administration's proposal also includes other needed changes, which would clarify the scope of cost-sharing for inland waterways capital investment, and the authority for appropriating funds from the IWTF and from the General Fund to finance inland waterways costs; and would close an existing loophole under which traffic on roughly 1,000 miles of the inland waterways does not now pay the fuel tax.

FLOOD RISK MANAGEMENT

Through both structural and non-structural measures, the flood risk management program serves as a vehicle to reduce the risk to safety and property from riverine and coastal flooding.

The FY 2015 Budget provides \$1.3 billion for the flood risk management program, which includes \$325.7 million for construction of dam safety projects, \$34 million for the assessment of existing dam safety projects, development of dam safety modification reports, and preconstruction engineering and design for existing dam safety projects, and \$38 million to continue the levee safety initiative, which involves an assessment of the conditions of Federal levees.

Between 10 percent and 15 percent of the levees in the Nation are maintained by the Corps, or are maintained by others and inspected by the Corps. The FY 2015 Budget includes funds for periodic inspections, levee screenings, and risk characterization by the Corps of these levees. The most prevalent deficiencies that the Corps has found to date have mostly been related to vegetation, encroachments, and culverts. Where the levee is a local responsibility, the Corps will suggest both structural and non-structural risk reduction measures that the local authority can take to improve the condition of its levee and manage its flood risk.

The Budget also includes \$2 million under the National Flood Risk Management Program to support the continued development of interagency teams known as Silver Jackets to provide unified Federal assistance in implementing flood risk management solutions. Silver Jackets teams have now been established in 41 States.

The Dover Dam, Muskingum River, Ohio and Muddy River, Massachusetts projects are both funded to completion in the FY 2015 Budget.

AQUATIC ECOSYSTEM RESTORATION

The FY 2015 Budget reflects a continuing effort by the Administration to have a coordinated approach to restoring significant aquatic ecosystems. The Corps has been working collaboratively with other Federal resource agencies on this effort. Attachment 2 provides a list of these ecosystems and the associated funding in the FY 2015 Budget for the Civil Works program.

The Budget for the Army Civil Works program provides \$74.9 million for the ongoing South Florida Ecosystem Restoration Program, which includes the Everglades, consisting of \$65.6 million in the Construction account and \$9 million in the Operation and Maintenance account. The Budget includes \$29 million in Construction and \$500,000 in Investigations to continue efforts to combat the threat of Asian Carp and other aquatic invasive species in the Great Lakes region. Approximately \$1.5 million of FY 2014 funds are projected to be carried into FY 2015, which will be used in conjunction with the budgeted funds to further the Great Lakes Mississippi River Interbasin Study efforts.

The Budget includes \$71 million for the Columbia River Fish Mitigation program in order to meet requirements laid out in the Columbia River Biological Opinion and to meet commitments made under the Columbia River Basin Fish Accords. The Budget includes statutory language to increase the authorized program limits for the Lower Columbia River Ecosystem Restoration, Oregon and Washington construction program and for the research efforts on the Lower Columbia River, which have both been relied upon to meet requirements laid out in the Columbia River Biological Opinion.

In addition, the Budget includes funds to initiate two new phase feasibility studies on the Russian River in California in order to address requirements laid out in the 2008 Russian River Biological Opinion. These feasibility studies will serve as the follow-up to the reconnaissance study that was initiated in FY 2014. The Corps anticipates that the operational requirements and the likely alternatives needed to address problems in the study area will be specific to each facility, warranting separate feasibility studies. It has been common practice for the Corps to use one reconnaissance study to determine if there is a Federal interest in addressing the same water resource challenge in the same geographic area with the same project sponsor, before moving to separate feasibility studies.

The Budget also provides \$48.8 million for ongoing work under the Missouri River Fish and Wildlife Recovery program, including funds to award construction of the Yellowstone Intake Dam Diversion project.

RESILIENCE TO A CHANGING CLIMATE

The Budget supports continued progress on very important investments that will yield long-term returns for the Nation. For example, the Corps of Engineers continues its active role in climate change adaptation. Through the Administration's proposed Opportunity, Growth, and Security Initiative, the Corps would be able to further its efforts to increase the resilience of water resources infrastructure to a changing climate. This would include investments in small flood risk reduction projects, with the focus on nonstructural and/or natural approaches to risk reduction. It would also provide technical assistance to non-Federal, State, and local agencies to assist and enable their development and implementation of nonstructural actions to reduce risks; and an interagency study by Corps and the Bureau of Reclamation to develop more resilient approaches to Federal development and management of water resources infrastructure to support project planning.

SUSTAINABILITY AND ENERGY

We have redoubled our efforts to leverage third party financing to achieve Administration, Energy Policy Act (EPAct 2005), and Energy Independence and Security Act (EISA 2007) energy efficiency and renewable energy goals while reducing the demand on appropriated funds. By leveraging investments made since January 1999 in USACE hydropower infrastructure, we are now solidly "GREEN" on the federal renewable energy goal (7.5 percent of total agency electricity in FY 2013). We achieved a new high in renewable energy use in FY 2013: 12.1 percent of our electricity consumption in FY 2013 was provided by renewable resources, the majority of which (78 percent) we generated on-site in our hydropower dams.

REGULATORY PROGRAM

The Budget includes \$200 million for the Regulatory Program, which is the level provided in the enacted appropriations for FY 2014, to enable the Corps to continue to protect high-value aquatic resources, enable more timely business planning decisions via a transparent and timely permit review process, and support sustainable economic development.

VETERANS CURATION PROJECT

In continued support of the President's Veterans Job Corps, the FY 2015 Budget includes \$4.5 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 August, Georgia; St. Louis, Missouri; and the Washington, D.C. area.

CONCLUSION

In summary, the President's FY 2015 Budget for the Army Civil Works program is a performance-based budget that supports an appropriate level of Federal funding for continued progress, with emphasis on those water resources investments that will yield high economic, environmental, and safety returns for the Nation and its citizens.

These investments will contribute to a stronger economy, support waterborne transportation, reduce flood risks to businesses and homes, restore important ecosystems, provide low-cost renewable hydropower, 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.

Mr. SIMPSON. Thank you. General Bostick.

General BOSTICK. Thank you, Chairman Simpson, Ranking Member Kaptur, and members of the subcommittee. I am honored to testify before the subcommittee today along with the Assistant Secretary of the Army for Civil Works, the Honorable Jo-Ellen Darcy, on the president's fiscal year 2015 budget for the Civil Works program of the United States Army Corps of Engineers.

I have been in command of the Corps for nearly two years, and I am extraordinarily proud of the people and the missions they accomplish each and every day. I want to take this opportunity to thank Chairman Simpson and Representative Kaptur for recognizing the great work that they do each and every day and for visiting some of the troops that are on the front line, both soldiers and civilians. They deeply appreciate those visits and your recognition of the value that they add.

I want to touch briefly on the US Army Corps of Engineers and our campaign goals; there are four of them. The first is to support the warfighter, and we continue working in more than 130 countries using our civil works, military missions, and research and development expertise to support Army service component and combat and commanders.

We often find ourselves at the apex of defense, diplomacy, and development with our work, and as such the Corps supports the national security of the United States. Also within this goal, we are focused on sustainability and energy, as well as our support to our interagency partners such as the Department of State, the Department of Veterans Affairs, the Department of Energy, and many others.

Second: Transform Civil Works. I have had the opportunity to speak with many stakeholders, elected officials, about the state of our nation's water resource infrastructure, and its shortfalls.

The four elements of our Civil Works transformation strategy will help us address some of these issues and make us more efficient and effective. Those elements are: Modernize the project planning process, enhance the budget development process through a systems-oriented approach and collaboration, evaluate the current and required portfolio of water resource projects through an infrastructure strategy to deliver solutions to water resources challenges, and finally to improve our methods of delivery; to produce and deliver both products through water infrastructure and other water resources solutions.

The third part of our campaign goal is to reduce disaster risk and to continue to respond to natural disasters under the Natural Response Framework as well as the ongoing effort with flood-risk management. The Sandy recovery work is progressing on schedule. More than 200 projects from Florida to Maine and into Ohio were inversely impacted by the storm.

In 2013, the Corps successfully repaired many projects and returned approximately 15 million cubic yards of sand to affected beaches. In 2014, the Corps is on track to remediate the remaining Sandy-impacted beaches, and we expect to place approximately 50 million cubic yards of sand on these projects.

The study team has been working with over 100 regional partners on the comprehensive study. The framework developed in this

study looks at vulnerabilities across a large coastline and identifies measures that can be used to mitigate future risk. It will include a full range of possible risk reduction strategies from structural to nonstructural and nature-based features, and it will provide regional partners with methods they can adjust to meet the needs within their specific communities.

And fourth in our campaign plan is to prepare for tomorrow. This is about our people; ensuring that we have a pipeline of science, technology, engineering, and mathematics professionals, as well as a talent management plan for the growth and development of our entire team.

We are also focused on research and development efforts that will help solve some of the nation's toughest challenges. One great example is the Sandy sea level rise tool first developed for use in our post-Sandy recovery efforts. The interagency team that developed this tool won the President's Green Government Award last fall. The calculator is now being used to analyze other vulnerable areas across the nation.

We are reviewing our internal operations and processes to ensure that, in a time of fiscal uncertainty and challenge, the Army Corps of Engineers is postured for future success. And lastly, we want to help our wounded warriors and soldiers transition into fulfilling civilian careers. I am proud that last year we had 140 operation warfighter interns in the Corps of Engineers, and we assisted 120 wounded warriors in obtaining civilian jobs.

Mr. Chairman, I ask you and the other members to refer to my complete written testimony submitted to the committee for the fiscal year 15 budget specifics. Thank you for this opportunity, and I look forward to your questions.

[The information follows:]

DEPARTMENT OF THE ARMY CORPS OF ENGINEERS

COMPLETE STATEMENT OF

LIEUTENANT GENERAL THOMAS P. BOSTICK

CHIEF OF ENGINEERS

U.S. ARMY CORPS OF ENGINEERS

BEFORE

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE PRESIDENT'S FISCAL YEAR 2015 BUDGET:

ADMINISTRATION PRIORITIES FOR

THE U.S. ARMY CORPS OF ENGINEERS

MARCH 26, 2014

Mr. Chairman and Members of the Subcommittee:

I am honored to be testifying before your committee today, along with the Assistant Secretary of the Army for Civil Works, the Honorable Jo-Ellen Darcy, on the President's Fiscal Year 2015 (FY 2015) Budget for the Civil Works Program of the United States Army Corps of Engineers (Corps).

This is my second time before this Subcommittee and I continue to look forward to working with you. I have been in Command of the Corps for nearly two years, and I want to touch briefly on the four Campaign Goals for the U.S. Army Corps of Engineers (Corps) that are now in place.

First, **Support the Warfighter** - we continue working in more than 130 countries, using our Civil Works, Military Missions, and Water Resources Research and Development expertise to support Combatant Commanders. We often find ourselves at the apex of Defense, Diplomacy, and Development with our work. As such, the Corps supports the National Security of the United States. Also within this goal, we are focused on sustainability and energy as well as our support to the interagency partners such as the Department of State, the Veterans Administration, the Department of Energy and others.

Second, **Transform Civil Works** - I've had the opportunity to speak with many stakeholder groups and elected officials about our Nation's approach to water resources and the condition of its existing water resources infrastructure. The four elements of our Civil Works transformation strategy will help us address some of these issues and make us more efficient and effective. Those elements are: Modernize the project planning process; Enhance the budget development process through a systems-oriented approach and collaboration; Evaluate the current inventory of projects and the portfolio of proposed water resources projects through an infrastructure strategy to identify priorities and develop better solutions to water resources problems; and Improve methods of delivery to produce and deliver sound decisions, products, and services that will improve the ways in which we manage and use our water resources.

Third, we must **Reduce Disaster Risks** and continue to respond to natural disasters under the National Response Framework as well as our ongoing efforts with flood risk management. The Sandy recovery work is progressing on schedule. More than 200 projects, from Florida to Maine and into Ohio, were adversely impacted by the storm. In 2013 the Corps successfully repaired many projects and returned approximately 15 million cubic yards of sand to affected beaches. In 2014 the Corps is on track to remediate the remaining Sandy impacted projects that involve a constructed beach. We expect to place approximately 50 million cubic yards of sand on these projects. The study team has been working with over 100 Regional Partners on the Comprehensive Study. The framework developed in this study looks at vulnerabilities across a large coastline and identifies measures that could be used to mitigate for future risk, based on the characteristics of each reach and patterns of land use. It will include a full range of possible risk reduction strategies (structural, non-structural, and nature-based features).

The study will provide regional partners with methods that they can adjust to meet their needs/values within their specific communities.

Fourth, **Prepare for Tomorrow** – This is about our People – ensuring we have a pipeline of Science, Technology, Engineering and Mathematics workers, as well as Workforce Development and Talent Management. We are also focused on Research and Development efforts that will help solve some of the toughest challenges facing the Army and the Nation. One great example is the Sandy Sea Level Rise Tool first developed for use in our post-Sandy recovery efforts; the interagency team that developed this tool won the President’s Green Government award last fall. The calculator is now being used to analyze other vulnerable areas across the Nation. We’re reviewing our internal operations and processes to ensure that in a time of fiscal uncertainty and challenge, the Army Corps of Engineers is postured for future success. Lastly, we want to help our Wounded Warriors and Soldiers transitioning out of active duty to find fulfilling careers. I am proud that last year we had 140 Operation Warfighter interns in the Corps and assisted 120 Wounded Warriors in obtaining civilian jobs!

My statement covers the following 10 topics:

- Summary of FY 2015 Budget
- Investigations Program
- Construction Program
- Operation and Maintenance Program
- Reimbursable Program
- Planning Program Modernization
- Efficiency and Effectiveness of Corps Operations
- Emergency Management
- Research and Development
- National Defense

SUMMARY OF FY 2015 BUDGET

The FY 2015 Civil Works Budget is a performance-based budget, which reflects a focus on the work that will provide the highest net economic and environmental returns on the Nation’s investment or address significant risks to safety. These investments support waterborne transportation, reduce the risk of flooding to businesses and homes, restore significant aquatic ecosystems, improve the resiliency and safety of existing water resources infrastructure, provide low-cost renewable hydropower, and support American jobs.

The Budget focuses on high performing projects and programs within the three main water resources missions of the Corps: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. The FY 2015 Budget includes \$4.561 billion in gross discretionary funding—offset in part by a proposal to cancel \$28 million in prior appropriated funds—to fund Civil Works activities, including work on more than 400 flood and storm damage reduction projects, 192 coastal navigation projects, and 193 sites with navigation locks.

The Budget will also enable the Corps to process approximately 90,000 permit requests while protecting our Nation's waters and wetlands; operate 75 hydropower plants with 353 generating units that annually produce about 20,000 megawatts, providing 24 percent of the nation's hydropower capability and 3 percent of the total electric capability; and sustain our preparedness to respond to natural disasters.

INVESTIGATIONS PROGRAM

The FY 2015 Budget provides \$80 million in the Investigations account, and \$10 million in the Mississippi River and Tributaries account to fund projects and activities that will enable the Corps to evaluate and design projects that are the most likely to be high-performing within the Corps three main mission areas. The FY 2015 Budget includes funds to complete 34 feasibility-level studies, and Preconstruction, Engineering, and Design work on six proposed projects.

CONSTRUCTION PROGRAM

The goal of the construction program is to produce as much value as possible for the Nation from the available funds. The Budget provides \$1.125 billion for the Construction account, and \$84 million in the Mississippi River and Tributaries account, to further this objective and gives priority to the projects with the greatest net economic and environmental returns per dollar invested, as well as to projects that address a significant risk to safety. The Budget funds construction on 68 projects, including one high-priority construction new start (Louisiana Coastal Area Ecosystem Restoration, LA). In keeping with our Civil Works transformation strategy, the Budget allocates construction funding among projects to allow us to complete projects and deliver their benefits to the Nation sooner. The 68 construction projects consist of: 31 Flood Risk Management projects; 16 Commercial Navigation projects; 18 Aquatic Ecosystem Restoration projects; 1 Hydropower project; and 2 Water Supply projects. The FY 2015 Budget funds to completion 9 construction projects.

The Corps uses objective performance measures to establish priorities among projects. These include benefit-to-cost ratios for projects that are being funded primarily due to their economic outputs and cost-effectiveness for the restoration of significant aquatic ecosystems. The selection process also gives priority to dam safety assurance, seepage control, and static instability correction projects and to projects that address a significant risk to safety.

OPERATION AND MAINTENANCE PROGRAM

All structures age over time with a potential decline in reliability. With proper maintenance and periodic rehabilitation, we can extend for many years the effective lifetime of most of the facilities owned or operated by, or on behalf of, the Corps. 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. In some cases, this is proving to be a challenge.

The Budget provides \$2.6 billion for the Operation and Maintenance (O&M) account, and \$153 million under the Mississippi River and Tributaries account with a focus on the operation and maintenance of key commercial navigation, flood and storm damage reduction, hydropower, and other facilities. The Budget gives priority to those coastal ports and inland waterways with the most commercial traffic, and increases the total amount to be spent from the Harbor Maintenance Trust Fund to a level that is higher than in any previous Budgets. The Budget also funds small harbors that support significant commercial fishing, subsistence, or public transportation benefits. The Budget provides operation and maintenance funding for safety improvements at Federal dams and levees based on the risk and consequence of a failure.

Generally, the O&M program supports completed works owned or operated by the Corps, including administrative buildings and laboratories. Work to be accomplished includes: operation of the locks and dams along the inland waterways; dredging of inland and coastal federal channels; operating multiple purpose dams and reservoirs for flood control, hydropower, recreation, and related purposes; maintenance and repair of the facilities; monitoring of completed coastal projects; and general management of Corps facilities and the land associated with these purposes.

The FY 2015 Budget provides \$209 million in Operation and Maintenance for hydropower activities to maintain basic power components such as generators, turbines, transformers and circuit breakers at Corps hydropower facilities to keep them operating efficiently and effectively.

REIMBURSABLE PROGRAM

Through the Interagency and Intergovernmental Services Reimbursable Program, the Civil Works program helps other Federal agencies, state, local, and tribal governments, and other countries with timely, cost-effective implementation of their programs. These agencies can turn to the Corps of Engineers, which already has these capabilities, rather than develop their own internal workforce to oversee project design and construction. 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 Missions programs. The work is principally technical oversight and management of engineering, environmental, and construction contracts performed by private sector firms, and is financed by the agencies we service.

We only accept agency requests that we can execute without impacting our missions that are consistent with our core technical expertise and that are in the National interest.

PLANNING PROGRAM MODERNIZATION

Planning modernization includes a transformation of how the Corps of Engineers Planning Program manages its portfolio of studies. In the past three fiscal years, to

better manage its study portfolio, the Corps has significantly reduced the active study portfolio from 650 to under 200 studies, a 60% decrease, which enables us to focus available funding on the studies that are most likely to identify solutions with high economic or environmental returns to the Nation or that address significant safety risk.

To better deliver studies, the Corps has embraced a new planning process referred to as “SMART Planning” (Specific, Measurable, Attainable, Risk-informed, and Timely). SMART Planning is risk-informed, decision focused planning that utilizes a 6-step planning process, which emphasizes the scoping of our analyses based on what is necessary for decisions. This approach aims to reduce resource requirements—both time and money—by appropriately focusing on the key drivers in resolving problems while complying with all applicable laws.

The Corps is fully committed to this initiative, while improving the quality of the analyses that are needed to inform our cost-sharing partners, the public comment process, and project decisions. The goal under SMART planning is to complete most feasibility studies within 3 years for \$3 million or less. However, some of our studies will take longer or cost more, particularly where the proposal is costly, complex, or controversial. The end product is a decision that has considered the full range of alternatives, is based on an in depth evaluation of all the relevant factors, and has been fully coordinated by three vertical levels of the organization (Corps Headquarters, the Corps Division, and the Corps District) from study inception to completion.

EFFICIENCY AND EFFECTIVENESS OF CORPS OPERATIONS

The Corps strives to continually improve the efficiency and effectiveness of its investigations, construction, and operation and maintenance programs. In FY 2015, the Corps will further expand the implementation of a modern asset management program, dedicating an increased amount of its Operation and Maintenance funding to the key features of its infrastructure and for work that will reduce long-term O&M costs in real terms, while implementing an energy sustainability program and pursuing efficiencies in the acquisition and operation of its information technology.

EMERGENCY MANAGEMENT

The FY 2015 Budget provides \$28 million in the Flood Control and Coastal Emergencies account to prepare for emergency operations in response to natural disasters as well as \$2 million in the Investigations account for the Corps participation in the development and expansion of interagency teams, known as Silver Jackets, which collaboratively reduce the risks associated with flooding and other natural hazards. The Corps Emergency Management Program also includes \$4.5 million in the National Emergency Preparedness Program to ensure that the Corps continues to be prepared to respond to man-made disasters such as acts of terrorism, while assuring continuity of organizational operations.

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 of the Nation's engineering and construction industry and providing more cost-effective ways to operate and maintain public infrastructure, Civil Works program research and development contributes to the national economy.

NATIONAL DEFENSE

We often find ourselves at the apex of Defense, Diplomacy, and Development with our work. As such, the Corps supports the National Security of the United States. The Corps is supporting U.S. Foreign Policy and the President's initiative of Rebalancing to Asia, which includes the ramp up of resources and activities to support the Host Nation Program in Japan and Korea. Projects include relocation of runways/infrastructure; construction of airfield operations, housing, installation, and support facilities in Japan; and movement of much of the US Forces in Korea further south into Camp Humphreys.

The Corps is supporting fellow Federal agencies with work for the State Department, the Department of Veterans Affairs, Department of Energy, USAID, and many more. In Afghanistan we have completed \$9.3 billion of work and have another \$1.5 billion in construction to complete, for a total Afghanistan program for the Corps of \$10.8 billion. We are focused on completing as many of the remaining projects as possible by the end of the 2014 calendar year. However, after December 31, 2014, we expect to have approximately 45 projects left to complete. The final project (Dahla Dam Phase II) is scheduled for completion in 2017.

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 civilian employees of the Corps from across the Nation – all volunteers; and many of them have served on multiple deployments – continue to provide critical support to our military missions there and humanitarian support to the citizens of those nations.

CONCLUSION

The FY2015 Budget represents a continuing, fiscally prudent investment in the Nation's water resources infrastructure and restoration of its aquatic ecosystems. The U.S. Army Corps of Engineers is committed to a performance-based Civil Works Program, based on innovative, resilient, sustainable, risk-informed solutions.

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

Mr. SIMPSON. Thank you. And again, I want to say thank you all for the work that you do for this country. It is vitally important, and the Corps is one of the agencies that I think most members of Congress are pretty proud of. We obviously have some disagreements occasionally, and let us get to those right away if we could.

Madame Secretary, as I mentioned in my opening statement, I believe there is a growing disconnect between the Committee's direction and the Administration's implementation when it comes to the Corps of Engineers.

A prime example is the issue of the fiscal year 2014 new starts. Congress was clear in its intent that no more than three new environmental studies were to be initiated, yet the Administration chose to select four studies for the fiscal year 2014 budget requested, combining two of them into the work plan in order to claim that it was a total of only three, and then at the exact same time split them apart again in the fiscal year 2015 budget request.

Those actions, to me, clearly violate the intent, if not the letter, of what Congress intended. How do you justify that, Madame Secretary?

Ms. DARCY. Thank you for the question and the opportunity to explain what we did.

Mr. SIMPSON. Okay.

Ms. DARCY. You are correct. In the 2014 President's budget submission we had two studies, both of them on the Russian River in California:

Warm Springs and Coyote Dam. Since the submission of the 2014 budget and the submission of the work plan, we relooked at those two studies and realized that they were both on the same river and were in the reconnaissance phase, they were both going to be covered by the same BiOp, and they were both going to have the same local sponsor. We felt that combining them for the purposes of a reconnaissance evaluation made sense.

As you pointed out in the 2015 budget, we have them as separate studies. The reason for that is once we get to the feasibility study, we believe that the two projects have different hydrologic patterns and needs, so they would have to be evaluated in that instance in different studies.—What I think we should have done, Mr. Chairman, quite honestly, is told you before we submitted the 2014 work plan. We didn't. For that I apologize. I agree with what you mentioned in your opening statement about better communication early on, and this is an example of what we could have done better.

Mr. SIMPSON. That was going to be my next question, did you consult with Congress on doing that and inform us of what you were doing? I think that communication is vitally important; that you allow us and our staff to know what you are proposing when that happens so that there isn't this disconnect that goes on. So, I appreciate that.

Ms. DARCY. I also believe that we should communicate when developing work plans. We have had to do this recently but haven't had to do in the past; we need to more clearly understand your intent. And that requires communication with you and your staff.

Mr. SIMPSON. The issue of work plans brings up a second concern I have with the lack of information to support the fiscal year 2014 work plan that has been submitted to date. Congress was clear

about wanting more transparency and allocation of the additional funding provided, yet the Administration has provided basically the same information that it did in fiscal year 2012 which this Committee has been telling you for two years was insufficient.

Did the Corps and Administration actually develop rating systems for use in allocating additional funding as directed?

Ms. DARCY. Yes, we did, sir. I believe that the rating system is on its way to you today.

Mr. SIMPSON. Any idea when that will be here?

Ms. DARCY. As soon as the——

Mr. SIMPSON. Like 10:30?

Ms. DARCY. You will get it today.

Mr. SIMPSON. Okay, I appreciate that.

Ms. DARCY. Before dinner.

Mr. SIMPSON. I appreciate that very much. Let us talk about the vision of the Corps. I mentioned in my opening statement that it seems to be apparent that Congress and the Administration have very different visions for the Corps.

This is your first opportunity before this subcommittee with me as the chairman, and I would like to hear from you what your vision is for the Corps of Engineers and how this budget request fulfills that vision. Kind of a general question, but——

Ms. DARCY. My vision for the Corps has gotten more broad each year that I am in this job, and that is because I see the abilities that this agency brings to water resources management and the American people. You have all made great accolades about the work they do, and you have seen it and can see it every day.

I don't think there is a member of Congress that doesn't have a Corps project or some Corps-related presence in their district. And I think that my vision for the Corps is to increase the face of the Corps of Engineers wherever we are, by continuing to provide the services that are expected. Within constrained budgets we have to be able to see what we can actually accomplish, but my vision is that we would not only continue to provide what we have in the past, but also in ways to increase our presence as far as our ability to deliver what is expected, such as the flood control mission, one of our main missions, as well as providing the commerce that this maritime nation depends on.

My vision is not only to continue, but to increase and improve our delivery. And our methods of delivery are something that, as the Chief mentioned, we are working on and looking forward to in order to improve that delivery. The Chief has a different vision.

Mr. SIMPSON. Would you like to talk to that Mr. Bostick?

General BOSTICK. I would like to address that, Mr. Chairman, and thanks for the question.

The history of the United States is really the history of the Corps of Engineers. We have been with this country and worked along major challenges and major successes throughout our history. I think the Corps is known for solving the nation's toughest challenges. Whether it was in the early 1800s when we would help settlers move up and down the Ohio and the Mississippi and our work started on the rivers, whether it was NASA or the Panama Canal or many of the things—the great dams and levees that are helping

this country, I think we have been there to help solve the nation's toughest challenges.

I think in the future that is what we would like to continue to do, and those challenges could come in a number of different forms. From a headquarters standpoint, we have looked at it in the context of these four goals that I talked about: Support the warfighter, transform Civil Works, reduce disaster risk, and prepare for tomorrow.

We are in 130 plus countries. We are supporting combatant commanders. We are supporting the nation. We are using Civil Works expertise. We are world renowned in our water resources management. Some of the very best minds, scientists, and researchers from our Engineering Research and Development Center and our other labs are highly sought after from around the world.

I don't want to point out Steve Stockton here, but I will. When the floods were recently occurring in England, we got a call on a Friday night to send one of our experts to No. 10 Downing Street to talk with the UK about what they could do in that current situation. Steve flew in Saturday, had the meeting all day Sunday, and was back on Monday. It is that sort of technical expertise that we have in the Corps, and we must continue to reach out and use it throughout the world.

Transforming Civil Works, I think that is really the future of the Corps and how we are able to transform and modernize our planning process, our budgeting process, how we deliver products and services in a better way, how we look at the infrastructure of the nation and assess it, determine what do we retain, what do we repurpose, where do we look for alternative financing. That part of our four campaign goals is critical to the future of the country in how well we are able to execute.

Reducing disaster risk: we are very well-prepared, very well-trained to respond, but what we would like to do is make the country more resilient in how it lives on the coastlines, how it lives in an environment that is adapting to climate change or must adapt to climate change. I think the comprehensive study that the North Atlantic Division is doing in the wake of Hurricane Sandy with the Congress-provided supplemental funds, will help the nation.

And then finally, in preparing for tomorrow, we see ourselves as a critical teammate in the challenges that the nation is facing with science, technology, engineering, and math shortages, and the number of youngsters that are either choosing not to pursue those areas or where academics have inadvertently closed the door on those areas. So, we are trying to work as best we can as the nation's federal engineer to try to help out as best we can in critical areas so that we have the talent for the future.

Mr. SIMPSON. Well, thank you. Those are admirable goals and history also, and I agree with those.

We will get into a discussion as we go through this hearing process how a seventeen percent reduction in the budget request is going to meet those goals and challenges that we face, and we know that we all have great challenges in the infrastructure across this country. But I know the line; you support the President's budget request. But that is something that we need to discuss; how with this almost billion dollar reduction, how we are going to meet those

challenges with that kind of reduction in the budget proposal. So, Ms. Kaptur.

Ms. KAPTUR. Thank you. Thank you, Mr. Chairman. I am going to be somewhat regional in my first set of questions because if you look at this committee, it represents talented people, but, though Mr. Visclosky used to serve here, we usually don't have people from the Great Lakes region that rise to the top. So, I feel a particular responsibility today and that is in view of the budget shortfalls that Chairman Simpson has referenced.

I am going to ask you to take a look at your budget and think about a reset; a reset for the Great Lakes as employment shortages and constraints limit your ability to do certain things.

Let me say for the record, if I look at the employment in the Corps it is coastal. You see which states most people work in to carry out the duties that you are sworn to carry out. The physical expenditures are there along with the Mississippi River Corridor. What I saw in California with the protection of the Delta Smelt, and along the west coast with salmon was quite instructive. But I represent a fishery that's value just in one lake at over \$7 billion, and it is completely threatened and there is no protection of any significance.

I see the regional disparity and it is deeply troubling to me. Further evidence. We have something called a Great Lakes Commission. You are not responsible for it. It is based in Ann Arbor, Michigan in the Watershed of the Great Lakes. There is something called the Great Lakes Restoration Initiative that the Environmental Protection Agency administers. They are based in Chicago. That is in the Great Lakes Watershed.

There are Great Lakes Science Centers that operate in places like Cleveland and Chicago, they are in the Great Lakes Watershed. But the core for its administering office for the Great Lakes places it in Cincinnati. That is not in the Great Lakes Watershed. Yes, you have offices in Buffalo, and on occasion somebody shows up in Detroit, but all I am saying to you is the Great Lakes is a System. It is the largest body of fresh water on the face of the earth.

Somebody in our government ought to be thinking about that in the same way as we thought about electrifying and watering the west so seven states could populate and settle. We are now in a different era. I can tell you now after 32 years' experience in the Congress of the United States there is never anything that I have worked on with the Corps where, if I have not been persistent, we finally achieved it. But we have to have a reset on the way you treat the Lakes.

There has to be a way that we work together in a systematic way as happens in other parts of the country. Whether it is navigation on the Mississippi, whether it is water provision in the west, looking at the manner in which you move water. It is just unbelievable the structures that are there.

The Great Lakes has been sort of dealt with port to port, and, you know, a little bit of infrastructure here, a little bit of infrastructure there. We need a better administrative focus at the core, all right?

Today in the Cleveland Plain Dealer which is located in the Watershed of the Great Lakes there is not such a nice editorial about the Corps. It relates to dumping tainted Cuyahoga River dredge in Lake Erie. Unfortunately there is a disagreement between the head of the Cuyahoga Cleveland Port Authority, Will Friedman, who was told by Lieutenant Beaudoin of the Army Corps in Buffalo that if, at least this is how Mr. Friedman interpreted what the Corps said, if the Corps cannot dump tainted dredge in Lake Erie they will not dredge. Which, of course, shuts down business for the greater Cleveland area that is seaborne.

Senator Portman, in the other chamber, is quoted in the paper as saying, "It is unconscionable that the Corps is threatening to defer dredging should it not get its way. Dredging should begin in May."

I'm only saying here again, we need a better administrative architecture for the Corps dealing with the Great Lakes. One subset of this relates to the threat of invasive species. The Corps's study which Congress pushed you into, you did not initiate it, possibly because the Corps's historic nature is infrastructure, not environment. I mean, lately you have gotten more into environmental issues, but that is not your steak. That is sort of your mashed potatoes. It is not the main protein source. But in places like we live they are joined at the hip.

So you identified some alternatives for preventing the spread of aquatic nuisance species from one basin to the other. My question is, Secretary Darcy, for this year right now 2014 as we begin the fishing season, what does the administration envision as the next steps on preventing the spread of the carp?

There is \$500,000 in your 2015 budget request for more study. There may be some carryover of funds, perhaps as much as \$1.5 million. How in heavens' name are we going to give any confidence to people that live in the Great Lakes Basin that their entire fishery is not about to go south? And I mean extinct.

Ms. DARCY. Congresswoman Kaptur, the funding that you mentioned in the 2014 and 2015 budget are going to be used to evaluate. As you are well aware, the GLMRIS Study was completed in January. Since then, we have been hearing from the public around the region. We were in seven different cities along the lakes. I was not at the hearing, you were, but I was in Chicago and Ann Arbor.

The purpose of those hearings was to hear from the public about what their reaction was and to hear their ideas about the eight alternatives that were presented in that GLMRIS Report.

Those alternatives range from doing what we are doing now to building hydrologic separation and run the gamut in between.

The public comment period ends on the 31st of March. We are going to continue to assess what those comments have brought up and hoping that working with other people within the region, including the Great Lakes Commission, that there might be a consensus of what the next steps should be. Whether that be a short-term implementation of one of those alternatives or whether we should be looking more in depth at some of the alternatives that were presented.

I know that the Great Lakes Commission has passed a resolution asking about looking at the Brandon Road. Currently there is a

lock and dam there. Should there be additional barriers put there? Should there be experimental locks put there? That is not part of our alternatives, but that has come out as part of the public comment period. We are looking at evaluating the other recommendations that are coming out of that as well.

Ms. KAPTUR. It is my understanding that there are 18 waterways through which fish can reach the Great Lakes. Is that true?

Ms. DARCY. That is what we identified in the study.

Ms. KAPTUR. Of those 18 are they are sealed off now? Are barriers installed? We need an infrastructure understanding of where we stand.

Ms. DARCY. The Corps of Engineers operates, as you know, the fish barriers in the Chicago Sanitary Ship Canal. Those are the only Corps of Engineer's barriers that we currently operate. Am I right, General Peabody?

General PEABODY. Yes, ma'am. There is one other that is in the vicinity of northeastern Indiana close to the intersection between the headwaters of the Maumee River.

Ms. KAPTUR. Maumee is the largest spawning river into the largest fishery.

General PEABODY. Yes, ma'am. I am very well aware of that, but that prevents any fish from migrating in the occasional periods where there is intermittent seasonal connections with heavy rains between those two headwaters. Asian carp in Indiana are, I forget the exact distance, but it is quite a long way and I think at least two dam structures from that marsh area.

Ms. KAPTUR. I would appreciate, General, for the record, and then we will move onto others, I appreciate my colleagues patience here, but this is, believe me, an imminent threat.

What can you give us in the way of mapping and understandable material we can provide to the general public including our entire tourism industry, all of our marinas, all of our maras, everyone who is so concerned in our entire basin where we stand in preventing the movement of these creatures into our system?

If 17 of the waterways are not blocked we need to know that. What material? Who is in charge? Who can give us this material? We do not possess it.

Ms. DARCY. Part of the GLMRIS Report identifies those waterways and identifies the species that have been identified that pose an imminent threat both coming into the Lakes and also from the Lakes into the Mississippi because we were tasked at looking at the transfer both ways.

That summary can give some of that information, but as far as an overall blueprint for the way forward I think that needs to be done with the federal family including the Fish and Wildlife Service who are the experts in fish and wildlife migration.

Ms. KAPTUR. How do we get that done, Secretary Darcy?

Ms. DARCY. Well, I think working through the Asian carp recovery task force. We have representation on that from the federal family as well as the states. All the states are involved in that. That is one way I think we can look.

Ms. KAPTUR. Do you chair that?

Ms. DARCY. Pardon me?

Ms. KAPTUR. Do you chair that?

Ms. DARCY. No. The Council on Environmental Quality chairs that.

Ms. KAPTUR. Okay. I will save more questions for the next round. Thank you.

Mr. SIMPSON. I thank the gentlelady from Ohio and the passion that she brings to this, but I have to tell you being from Idaho, mashed potatoes and steaks are joined.

Ms. KAPTUR. I saw your reaction from the potato comment on that.

Mr. SIMPSON. Mr. Fleischmann.

Mr. FLEISCHMANN. Thank you, Mr. Chairman. I want to thank everyone on the Committee. Last year you all testified before me and I appreciate that. Secretary Darcy, I appreciate that you visited with me a couple of weeks ago in my office. Thank you so much. I want to thank the Corps. for everything you do in America.

I would like to talk a little bit about the Chickamauga Lock. As many on the Committee know there are basically two Chickamauga Locks. There is the old Chickamauga Lock which is basically a new deal era lock which is in somewhat disrepair. It has about 300 monitoring devices on it. It is functional.

Then there is the new Chickamauga Lock that has been started and stopped. It is my understanding it is kind of dormant right now, but it is going to be our Chickamauga Lock of the future.

I am going to ask these questions and please, you all decide whom you would like to answer this. Can either of you clarify the current condition of the older Chickamauga Lock as it stands today? Is it structurally sound? What is the risk of the Lock either falling down or being shut down within the next five years? Please.

General BOSTICK. Congressman, I am not sure we can predict what might happen in the future, but we are closely monitoring it as you had mentioned. We have the ability to monitor the movement. We are very concerned that the situation is getting worse there, but we are monitoring it, and we believe that if things were to start happening, that we needed to take some actions, we could take those. But it is really not possible to say what might happen in the next five years.

Mr. FLEISCHMANN. The inland waterways capital development plan as part of the IMTS capital project's business model of 2010 provides a broad template for the Army Corps of Engineers construction strategy going forward, although not binding. The Corps has followed the recommendations of the Capital Development Plan when prioritizing construction projects.

My first question is, is the Corps using the capital development plan to determine criteria for additional construction funding as a result of the 2014 omnibus? What additional criteria, if any, are being used?

Ms. DARCY. I believe we are using that plan in the development of the work plan. What is contained in that document you referred to is one of several criteria we use in making the decisions about what gets funded out of the Inland Waterway Trust Fund.

Mr. FLEISCHMANN. As a follow-up, does the Corps intend to follow the capital development plan for fiscal 2015 and beyond?

Ms. DARCY. I believe so at this time. That is my understanding, but I will clarify if that is not the case, Congressman.

Mr. FLEISCHMANN. Okay. Can you possibly give me an idea of what your next five projects are based on their priority?

Ms. DARCY. I believe, the priority currently in that plan is Olmsted which we are currently funding. Monongahela Locks, I think it is two, three, and four, that we are currently funding in the 2015 budget.

I think next on that list is Kentucky.

General BOSTICK. Kentucky. That's correct.

Ms. DARCY. Then Chick Lock would be fourth.

Mr. FLEISCHMANN. So you all in your priority plan would have Kentucky over Chick?

Ms. DARCY. At this time.

Mr. FLEISCHMANN. At this time, okay. Let me ask you all a question. The fiscal 2014 omnibus reformed the cost share for the Olmsted Lock and Dam Project for fiscal 2014. I thought that was a major accomplishment that we got done here in Congress. Freeing up approximately \$80 million for inland waterways construction.

My understanding is that the deadline to notify the Committee of how the funding is spent is rapidly approaching. When can the Committee expect to hear the Corps's plan for how to spend the additional funding?

Mr. MAZZANTI. It was submitted with the work plans, Congressman: the funds that were going to be used out of the 2014 consolidated appropriations act. They are on the Monongahela Lock and Dam, I'm blank on the name of the contract. Charleroi.

Mr. FLEISCHMANN. Okay. But we have got these funds appropriated exclusive of Olmstead. I guess a more pointed question is, it is my understanding we need about \$6.9 million to begin construction on Chick Lock. Is there any plan to put any funds on Chick Lock this year for fiscal 2014?

Ms. DARCY. No, sir.

Mr. FLEISCHMANN. Is that something that you might possibly reconsider and look at or is that pretty well set?

Ms. DARCY. Not in 2014, sir.

Mr. FLEISCHMANN. Mr. Chairman, I have some more questions, but I will yield back at this time.

Mr. SIMPSON. Thank you. Mr. Pastor.

Mr. PASTOR. Thank you, Mr. Chairman. Good morning to the panel. For the past two years this subcommittee has realized that we have had a problem with the 902 limitations. Water bills differing in House and the Senate, and not having water bills, and the pent up frustration that there are many projects that are desired as new starts.

So for the last two years, at least this energy and water bills, carried a one year waiver on the 902 limitations. This year H.R. 3547, the consolidation appropriation act of 2014 extended the waiver for two years. So that meant that both the Senate and the House agreed that there was a problem with the 902 limits, and we needed to start addressing them.

The intent was to give the Corps of Engineers its own flexibility, and also to develop a work plan that would hopefully complete those projects that had 902 limitations so that we could finish the

project, and hopefully then free up, and hopefully allow the Corps of Engineers to look at possible new starts.

I think even in this 2014 bill we put in some new starts for the administration to look at which I heard this morning. So we went through the exercise or you guys have gone through the exercise, so my first question is how did you apply the 902 waivers in those projects that had the limitations?

Ms. DARCY. Sir, we funded those projects that had 902 limitations that could be completed within the two year waiver that was given in the appropriations bills.

Mr. PASTOR. So that was the only consideration?

Ms. DARCY. We funded the ones that could be completed within the window of the waiver, sir.

Mr. PASTOR. Did OMB and the administration have a different interpretation to your work plan and how you developed a work plan? Was it projects you wanted to complete?

Ms. DARCY. No, this is the Administration's position on those projects, sir.

Mr. PASTOR. We in Arizona are trying to complete a project, Tres Rios, and it was my understanding, and I do not know if we share my understanding that the Corps was hoping that that would be one of the projects in the work plan that would be considered by OMB?

Ms. DARCY. It was considered, sir, because it does have that 902 issue. We evaluated all of the projects that had a 902 issue. But as I say, funded only those that we know could be complete within the waiver window, and for Tres Rios, only an element of that could be completed.

Mr. PASTOR. It is my belief that 2014 we are also probably going to have a bill funding again. Is there a possibility that you might look at Tres Rios or other projects where it has a 902 limitation in 2015 work plan to be submitted to OMB?

Ms. DARCY. If there is a 2015 work plan, sir, we will consider those projects again.

Mr. PASTOR. In the flexibility that we try to provide to the Corps, have you been able to exercise that flexibility or has the administration been determining how much flexibility they want you to have?

Ms. DARCY. Within the development of the Administration's work plan the flexibility that you provided regarding the 902 enabled us to fund seven projects—

General BOSTICK. Seven projects, correct.

Ms. DARCY [continuing]. To completion in the 2014 work plan.

Mr. PASTOR. Okay, Mr. Chairman. I will yield back. Thank you.

Mr. SIMPSON. Mr. Graves.

Mr. GRAVES. Thank you, Mr. Chairman. I will follow-up a little bit on that line of questioning. I thank the gentleman for his questions, and thank you all for being here.

As you are all well aware, the Savannah Harbor Expansion Project was authorized in 1999. It is very, very unique. That was last century that it was authorized. It has required a six-way agreement between four federal agencies and two states prior to the start of the project. Even with this high level of mandated co-

ordination that was required it has enjoyed long-term bipartisan support on the local, the state, and the federal level.

The Administration has not been shy in supporting the project with words. The President included SHEP as a 2012 We Can't Wait project. The Vice President visited the port, and said we will complete this project, in his words, "Come hell or high water." However, in this case words have not translated into actions, and it is hard for my state to understand why.

After jumping through so many hoops the delegation was in the home stretch. We were almost there. Congress was explicit in the 2014 omnibus. We included a two year Section 902 waiver as discussed in previous questions. Continuing the practice we have engaged in since 2009, we shifted research funds to the construction side. We included explicit report language instructing the Corps to treat SHEP as under construction in the FY 2015 budget, and yet here we are. At the first significant opportunity for action OMB tells us that they have had a change of heart.

OMB tells us that they have to follow long-standing practices. But by my reasoning law trumps practice, and the law is unambiguous here. All of the work we have done, and by "we" I mean a lot of folks, a lot of individuals, including yourself get us to this one point where all we have to do is have a signature of a PPA document, a Project Partnership Agreement.

It seems clear to me that you have no reason not to sign the PPA. So I guess my question goes to this. After you have been specifically told to get this project underway—Congress has not left any question about this—the OMB, maybe they have made a decision not to fund it, and it is somehow impacting your decision. Can you give us an explanation as to why you will not sign the PPA as requested? The funding that we have so unambiguously put forward as far as it goes with the Savannah Harbor Expansion Project.

Ms. DARCY. Congressman Graves, as you say, the budget reflects that the Administration believes that the entire scope of the project needs to be authorized before we can appropriate money for construction. That authorization, as you know, is included in the Water Resources Development Act for the full scope of the project. We would need to have that authorized before we could fund it for construction.

Mr. GRAVES. Some would say the Administration is playing politics with this project. Congress has been very clear. The law is very clear. The President signed it into law. I would say that the State of Georgia is really wondering what is going on here. You are saying now that the full project has to be funded. Do you not believe you have the legal capacity as required by law to sign the PPA?

Ms. DARCY. Sir, we believe that the full scope of the project needs to be authorized before we could do that.

Mr. GRAVES. Have you been advised by your legal counsel not to sign the PPA?

Ms. DARCY. No, sir. I have not sought legal counsel on this issue.

Mr. GRAVES. So there is nothing restricting you from signing the PPA as Congress has instructed you to do, and the President signed into law?

Ms. DARCY. I would just need to say, again, that until the full scope of the new project is authorized by the Congress we, at this point, would not be funding it for construction.

Mr. GRAVES. What portion of the project is outside the scope that you are referencing and has not been—

Ms. DARCY. You referenced the authorization that needed the concurrence of all the other four agencies as well of the states. A large portion of that is a mitigation. I think it is over \$300 million.

Mr. GRAVES. And are you aware that the State of Georgia has set aside with the support of the Governor as well as the General Assembly, over \$200 million towards this project and your lack of signature on the PPA prohibits the State of Georgia from moving forward on this?

Ms. DARCY. Yes, I'm aware of that.

Mr. GRAVES. And my understanding is the Corps is always looking for partnerships on the local level, the State level—the State of Georgia has been very committed to this. Tell us, what would it take—what does Congress need to do besides passing a law, having it signed by the President, in order to move forward and sign the PPA?

Ms. DARCY. We would need to have the additional scope of it authorized.

Mr. KINGSTON. Will the gentleman yield?

Mr. GRAVES. Absolutely.

Mr. KINGSTON. Ms. Secretary Darcy, I'm sorry to jump in but as you know we have a little bit of passion about this issue. The items that are beyond the scope—what are those that would fall beyond Commerce or Interior or the Corps of Engineers or EPA? What items specifically were beyond the scope of those agencies? Because if those are the agencies that required it, then it would be within the scope of the authorization, so there must be something outside those four agencies. And I'm wondering if you could tell us what those would be?

Ms. DARCY. Congressman—the four agencies agreed on the expanded scope of the project and needed to do that in order for it to get authorized, so it is those agencies with which we consulted and reached consensus on the increased mitigation.

Mr. KINGSTON. But they were in the scope of those four agencies and so therefore they would have been in the scope of the authorization.

Ms. DARCY. Right, but the authorization has to be enacted.

Mr. KINGSTON. The 1999 authorization did have a sign off on those four agencies, so anything that those four agencies required would automatically be authorized.

Ms. DARCY. That is not the way we view the authorization for the—

Mr. KINGSTON. But you didn't get a legal opinion? I just heard you say, correct?

Ms. DARCY. I did not seek a legal opinion on this issue, however it is not viewed as a legal issue, it is an authorization and a fiscal issue.

Mr. KINGSTON. Well, I will have some questions on this during my time, I apologize.

Mr. GRAVES. Yes, and I am just reclaiming my time Mr. Chairman. I must say how frustrating this is to hear how the scope of the project has changed and yet since 1999, the State of Georgia as well as our entire delegation—this has bipartisan support, I know, Ranking Member Bishop has joined us as well. We have done everything we can do to make sure this project moves forward and it is amazing how scope all of a sudden changes and no one is made aware of that. I would be curious as the hearings go on Mr. Chairman, if other project scopes change through time. I would be interested to know that. Thank you.

Mr. SIMPSON. Thank you gentlemen. We are glad to welcome the chairman of the full Appropriations Committee, the gentleman from Kentucky, Mr. Rogers, and I will yield to him for any opening comments that he might have or any questions he might have.

Mr. ROGERS. Thank you Mr. Chairman and congratulations on taking that seat. We think you are going to be a great Chairman of this Subcommittee. Ms. Darcy, welcome to the Committee and the rest of your staff. We are rolling right along through these hearings in the Committee, with all twelve subcommittees holding hearings. We have had 40 or 50 hearings so far, I believe. Most all of the department heads, Cabinet Secretaries, have been before us already. We are getting an awfully early start this year because, thanks to the work of the Ryan-Murray Budget Agreement, we have got a number to mark to, both House and Senate, that is consistent, which will give us the chance to try to pass all of these bills singly, as we are supposed to. And that is my goal and that is what we will try to stick to. I want to thank the Corps for their very good work as of yesterday in resolving a problem with Lake Cumberland and the Wolf Creek Dam that backs it up for a hundred miles—the largest manufactured body of water east of the Mississippi. Seven years ago, you had to lower the level of that lake by 40 feet to accommodate the need to repair the dam, which was in imminent danger of collapse, which would have wiped out Nashville and probably Paducah and Memphis and everything downstream. It is that big a body of water. But in the meantime, 14 houseboat manufacturers closed their doors. The 11 marinas on the lake, most of them had to move at great expense, to deeper water. Businesses failed. It has been a terrible drag on the economy of that whole region of southern Kentucky, and all along, and so far, this Committee's given the Corps around \$560 million to repair that dam. Well just recently, six months ago, the Corps says, we got it fixed, finally. Seven years, and I take heart that that is true. We were getting ready to raise the level of the lake to its regular pool for this summer's tourist season. Everyone was all excited and a twitter at the possibilities of getting our tourists back by the hundreds of thousands, even millions, and then the U.S. Fish and Wildlife Service says, wait a minute, we found a one and a half inch minnow in the headwaters of one of these tributaries to the lake and we are calling it the Duskytail Darter. They said—the Corps says we cannot fill the lake up until we deal with this endangered species. Well I waded creeks all over Eastern Kentucky. I have been among those little darters and minnows all my life. They are not endangered. Nevertheless, the law required that the U.S. Fish and Wildlife go through a long laborious biological study

and they finished that day before yesterday, and ahead of schedule. And then immediately, thank goodness, the Corps says, okay, we are going to move ahead. So they are going to take some of those darters and those minnow and put them in the fish hatchery for safe keeping and development and replanting, relocating when the level of the lake is raised 40 feet. So thank goodness that we are going to now be able to get those houseboats back on that lake by the tens of thousands and get the tourism business in that part of Kentucky going again. So I want to thank the Corps for taking appropriate and quick action. That is not always typical of the Corps, but it was certainly in this case and I want to thank you for that. Now, just yesterday, we received word that the Corps and the EPA are working together on a new regulation for "the waters of the United States." In particular, the new rule would greatly expand the miles of waterways that you would have jurisdiction over, including thousands of miles of stream that are considered seasonal or rain dependent, meaning, a dry bed. Now as I understand the Constitution and the court rulings so far, what we are talking about is whether or not you have got jurisdiction over navigable streams, right? That is the question. Navigable streams. It does not say part-time streams; it does not say dry bed streams; it does not say rain dependent streams. It says navigable. What does that mean? It means you have to navigate it in some type of vessel. Now I will buy tickets and give them away to see you go out there in the middle of the desert in a dry bed and navigate that dry bed. I will give away a prize to see that. And yet, that is what you are talking about, and as such you are saying that you would have authority over streams on private property even when they are not streams. The economic impact of that kind of a power grab would be absolutely profound. So what process under this proposed set of rules would a local community need to go through if they intended to build on private land that had a seasonable stream that you considered a waterway under this new rule? How would a community go about getting out from under that kind of a rule?

Ms. DARCY. Sir, the rule that you are referring to, we proposed yesterday to the Federal Register for a 90—

Mr. ROGERS. Would you pull the microphone closer?

Ms. DARCY. Sure.

Mr. ROGERS. I can't hear.

Ms. DARCY. We proposed this rule yesterday, put it in the Federal Register for a 90 day public comment period. Part of the reason for doing that is to get responses from the public and others who would be impacted by this rule, as to how it could actually be implemented. In your specific question about a community needing to build where there might be ephemeral or intermittent streams, the Corps of Engineers would have to make a determination as to whether there was indeed an intermittent or ephemeral stream there and whether or not it needed to be permitted, if there was going to be dredge or fill material put in that stream.

Mr. ROGERS. Now what role would the EPA have under that proposed rule?

Ms. DARCY. The Corps of Engineers would make the jurisdictional determination for that water body.

Mr. ROGERS. Well, in the past we have seen the Corps cave under the threat of law suit by the EPA time and time again, so I am not too confident of the backbone that the Corps would have in this rule, like all of the others where it stands aside and lets EPA really make the decisions. Now, suppose we needed to build a highway across one of these dry beds. What would that entail under the rule?

Ms. DARCY. There would need to be a determination as to what the applicability was of the 404 Regulatory Program on that specific water body.

Mr. ROGERS. I didn't understand that.

Ms. DARCY. If someone wanted to build a highway across one of these intermittent streams—

Mr. ROGERS. Yes.

Ms. DARCY. We would need to make a determination about what the impact would be on that stream by the activity of the Transportation Department or whomever was going to build the road.

Mr. ROGERS. Well, assumedly if you have got this rule in place, you are going to be the one that decides whether or not we can build a road across that drybed, or not. Right?

Ms. DARCY. If it involves a 404 permit, yes sir.

Mr. ROGERS. And every county, city, state in the country, in order to build a street or extend a runway of an airport or build a road would have to travel 3000 miles to get here to plead with you to let them please build that road across that drybed. Is that right or wrong?

Ms. DARCY. The Corps District Commander would be the one who would have to make that decision.

Mr. ROGERS. Yes, well I would assume they would get kicked up the ladder eventually to you. You talk about a bureaucratic mess and a bureaucratic bungle, that rule would be absolutely incredible. Have you figured out what it will cost to map these so-called seasonal streams and wetlands and determine who owns what portion of those streams?

Ms. DARCY. I don't have a cost estimate for that Congressman.

Mr. ROGERS. I am sorry, I didn't hear you.

Ms. DARCY. I don't have a cost estimate for that particular instance.

Mr. ROGERS. You don't have any idea what it would cost?

Ms. DARCY. Not at this time.

Mr. ROGERS. Well, has that been a consideration in proposing such a rule—the cost of it?

Ms. DARCY. There have been some cost estimates done by the Environmental Protection Agency on the rule, but I am not sure if it was specific to your example.

Mr. ROGERS. Well this is an outstanding change. Would you not agree? This is a dramatic change in current law. And I would have thought if you are going to be administering that law and setting it up and getting the details lined up for maps and costs and the like, that you would have already said, wait a minute. I don't know what this is going to cost and I don't have the budget for that. Why have you not discussed that or thought about that?

Ms. DARCY. There have been general discussions on the cost overall but as I say in your example, I don't have a cost for that specific instance.

Mr. ROGERS. Well, you better come up with it pretty quick because this Committee has to work on facts. And there will be not a penny for that program unless we know in advance the cost of putting it in place and determine who owns what portion of those streams and a lot more details. I am absolutely amazed that this big a change would be proposed with hardly any consideration apparently on the Corps' part on all these things. Now in my district I know, we have got thousands of little creeks and streams and some of them only fill up when it rains, some of them never, some of them running streams, but they're rivulets and that is just in my district. Nationwide, they are in the tens of thousands and to have the Corps and the EPA assert control over two-thirds of the country probably, with no consideration of what it's going to cost is astounding to me. I would have thought when you were preparing to come before this Subcommittee with that kind of a rule being proposed, you would have been really well prepared. I was wrong. So, now what would the penalties be for the owners or communities that violate the rule, because they are not aware that you are regulating these new waterways? What would be the penalty for them?

Ms. DARCY. Sir, for our program, the applicant who wanted to do something in that water body would come to us to get a permit. There is no penalty for that. They would just have to get a permit from the Corps.

Mr. ROGERS. And suppose they don't get a permit and go ahead and build that bridge or road or whatever anyway? What are you going to do about it?

Ms. DARCY. I expect there might be an enforcement action, but also we usually negotiate with our permit applicants to try to come up with a permissible project.

Mr. ROGERS. Does the rule that you are proposing provide for penalties for not abiding by the rule?

Ms. DARCY. I don't believe so sir.

Mr. ROGERS. You don't know?

Ms. DARCY. I don't know for certain, no.

Mr. ROGERS. Strike two. So under this rule, before they could proceed, they would have to secure a permit or a license or whatever from whom—the Corps?

Ms. DARCY. If the project involved putting dredge or fill material in a water body of the United States, they would have to get a permit from the Army Corps of Engineers.

Mr. ROGERS. It is a dry bed, it looks like it once was a creek, but it is dry. It has been dry for a thousand years. And you are going to claim that that is a navigable stream, am I right about that?

Ms. DARCY. If it is determined that it has water body connections, it could be determined to be a navigable water and have to be permitted under 404 of the Clean Water Act.

Mr. ROGERS. Well, I hope you realize that that rule is going to have a tough time up here, and to get the money to enforce it is going to have an even tougher time, so thank you.

Mr. SIMPSON. Thank you Mr. Chairman. Mr. Nunnelee.

Mr. NUNNELEE. Thank you Mr. Chairman. Improving and promoting navigation has been one of the primary missions of the Tennessee Valley Authority. You and the TVA have a very close partnership. I understand the TVA has a Memorandum of Agreement with the Corps for construction operation and maintenance of the navigation facilities. I go through that detailed description of the relationship with the TVA to get to my question. Last year, the President's budget request ordered a strategic review of the TVA, which to my knowledge and from discussions as a Member of the Budget Committee with the Director of OMB, they've yet to complete. The President's 2015 budget request includes language about reforming TVA.

Considering the very active partnership between the Corps and TVA, specifically the work done with the Nashville Corps District, I am curious, has OMB consulted with you on who would take over their role of the TVA?

Ms. DARCY. No.

Mr. NUNNELEE. They have not talked with you at all?

Ms. DARCY. No.

Mr. NUNNELEE. No. That pretty well answers my next question. I will be submitting for the record. If we follow the Administration's recommendation and divest TVA of all of its non-power functions including flood management, navigation, recreational, I will need to know how much money will we have to increase your budget in order to accomplish that, and I will be submitting that for the record. Moving on to a different topic—last year I asked a similar line of questioning—Congress no longer has input on specific Corps projects so that leaves you with considerable discretion as to what projects to pursue and at what rate. Two questions—how do you prioritize those projects and how do you decide to pursue projects in relation to the economic development project versus our environmental projects?

Ms. DARCY. Our budget is a performance based budget and what each of those projects contributes to the value to the nation overall, across our business lines, whether it be navigation or flood control or aquatic ecosystem restoration. We look at them across the board as to what we consider to be the greatest value to the nation for that project.

Mr. NUNNELEE. And how do you balance economic development and environmental issues?

Ms. DARCY. All of those are considered in making the ultimate decision sir.

Mr. NUNNELEE. All right, thank you Mr. Chairman. I yield back.

Mr. SIMPSON. Thank you. Mr. Calvert.

Mr. CALVERT. Thank you. Thank you Mr. Chairman. I would like to carry on with the full Committee Chairman on this new rule. I have heard that the scientific study that the rule is based on is not yet finished. Can you explain how you and the EPA can justify publishing a rule when the report isn't even completed?

Ms. DARCY. The report to which you are referring to sir is being considered and evaluated by the Science Advisory Board for EPA.

Mr. CALVERT. But it is not completed. It has not been ratified.

Ms. DARCY. They will give their final determination before the end of the year and before the rule becomes final.

Mr. CALVERT. Well, isn't that getting the cart kind of front of the horse here? I mean until you know what the final study says or has been completed, should you be issuing a rule? The timing of this is questionable maybe because obviously you are—let us say that this is a 90 day review. This new rule would be in a legal effect you are saying by what—July 1st?

Ms. DARCY. There is the 90 day comment period and then we need to address the comments, so it is usually several months after that.

Mr. CALVERT. So you are trying to beat the Appropriations process here, is that what you are thinking?

Ms. DARCY. That wasn't my thought at all.

Mr. CALVERT. The proposed rules—I understand it, would define all tributaries as waters of the United States. As you know, federal, state governments operate water delivery systems, like my State of California. There is certainly the Central Arizona Project, the Central Utah Project, obviously the California Aqueduct Project, the Colorado River Aqueduct—clearly fit the rule's proposed definition as a tributary, since they have a bed, a bank, an ordinary high water mark, and they conduct flow to other waters of the United States. Have you considered what the impact of the proposed rule be on these delivery systems, these water delivery systems?

Ms. DARCY. Well, sir they are currently operating without a—

Mr. CALVERT. Is this going to change the rules of the game that we have been operating under for many many years?

Ms. DARCY. I don't believe so.

Mr. CALVERT. You don't think so?

Ms. DARCY. I don't believe so.

Mr. CALVERT. But it is not impossible?

Ms. DARCY. It is not impossible but—

Mr. CALVERT. We have 50 million in the west that are dependent on these water delivery systems. We don't know what the cost implication has been indicated to your agency? You indicated you don't know what the cost is going to be. Certainly other Federal agencies that must regulate these systems, these waters of the United States feel that this came out of the blue. I know it came out of the blue to many of us here on this Committee. But this is going to have profound, as the Chairman indicated, profound implications to this country. And I would hope that, Mr. Chairman, both Chairmen, that we actively figure out something to stop this because this is going to have a detrimental effect to the State of California, the State of Arizona, the State of New Mexico—all these States in the United States. I also wanted to ask some questions about our little problem with the droughts in California. It's not a little problem. But this is going to have effects on that. This is going to have effects on every square inch of the United States. So I'll submit the questions for the Aqueduct for the record.

Mr. SIMPSON. Would the gentleman yield to—for just a quick moment?

Mr. CALVERT. Certainly.

Mr. SIMPSON. Obviously, Chairman Calvert of the Interior Committee has a great deal of interest in this also as Chairman that oversees the EPA and I understand the EPA is going to be before us tomorrow. Just out of curiosity—

Mr. CALVERT. Looking forward to it.

Mr. SIMPSON. Did anybody in either the EPA or the Army Corps sit back and say, you know, we are testifying before Congress tomorrow and the next day. Do you really think this is the time we ought to be issuing this rule? Did anybody say, go?

Ms. DARCY. Well sir, this rule has been in the works for almost three years. We had issued a guidance and we were encouraged to withdraw the guidance and do formal rule making which is what we have been developing for as I say, nearly three years and we have put the rule out yesterday. We are going to have to deal with it so why not deal with it right now? Could have been three months earlier.

Mr. SIMPSON. Well I'll have some other questions about that in the next round. Thank you Mr. Calvert.

Mr. CALVERT. Thank you Mr. Chairman.

Mr. FORTENBERRY. Thank you, Mr. Chairman. And secretary, nice to see you. First, let me thank you for the effort on the Western Clear Creek Water Flood Control Project. You became intimately familiar with that, and helped provide the robust funding. Important project, very significant benefit. Cost analyses were done, and it's at a very high benefit to cost ratio. Project has been in the work for years, and so I appreciate the respect you accorded us, and the proper analysis that was done and the funding that was given, so thank you very much.

I want to talk about the Missouri River. As you're quite aware, several years ago, we had very significant flooding. The Corps came under great scrutiny for how it was managing the water flows. Can you give us an outlook on this year? There is some concern, although it's mitigated of late, that flow conditions could develop. Has the Corps re-evaluated its formula?

Ms. DARCY. Yes. I'm going to defer that question to General Peabody, who's our Deputy Commanding General for Civil Works and Emergency Response, and was in the Missouri River back then.

General PEABODY. Well, yes, ma'am. I was part of the Mississippi River commission in 2012, when I was the President of that commission. The commission went up and spent one week. Pretty much longer than the entire extent of the river saw the light of the damages. Talked to all the stakeholders, both in the upper and the lower reaches of the river.

So the Corps continually re-evaluates the way we execute our projects. However, in the case of the Missouri River, as I think you are well aware, the Master Manual has effectively the sanction of law through a court decision. And our professionals who operate that do so in accordance with that.

In the instance of 2011, we did have a high, although not a record, snow pack, but the key variable in that flood was an extremely extensive and unusually heavy rainfall over an extended period of time in the mid-spring period, which resulted in those record flows. It's impossible for us, with the current state of meteorology to predict that far in advance to predict, in March, going into the later spring period, what kind of rain flows we would get.

But I will tell you we are working very closely with NOAA, and with the National Weather Service as a start to looking at how the weather service might advance meteorology so that we can have

much longer range predictions, so that in fact, at some distant point in the future, we might be able to understand whether or not we have a high likelihood of heavy rain, and then we might be able to alter the way we manage our flows, whether we are holding storage or releasing storage, in anticipation of either drought or heavy rains.

Mr. FORTENBERRY. Explain your internal processes for re-evaluating your ongoing modeling, because I think, as you put it, your general guidance is given by the master manual, but obviously, you have certain flexibilities, or I assume you would, to make proper adjustments to balance the multiple constraints you're under in terms of outcomes.

General PEABODY. The professionals out of the Omaha district in this case manage that. Jodi Farhat, she's a wonderful water management professional. Based on the various purposes, which, primarily, in terms of the spring, have to do with flood storage and navigation, there's a band within which she operates for those multiple purposes.

There are also spring releases related to environmental purposes that have to be considered as well. And so, based on the amount of snow pack, based on the likelihood of rain, then she will make adjustments to how—and those are ultimately sanctioned by the leadership in the district and the northwestern division to do that.

Mr. FORTENBERRY. So the broad parameters are set, but there is flexibility within those parameters.

General PEABODY. There is some flexibility. I wouldn't say it's robust, but there is some flexibility, yes, sir.

Mr. FORTENBERRY. Should there be more?

General PEABODY. Sir, that's a policy issue. That's a legal issue. We're following the law, and we're executing the multiple purposes, the eight multiple purposes, which do come into play.

Mr. FORTENBERRY. Some competition—I understand.

General PEABODY. To the best of our intention.

Mr. FORTENBERRY. Meeting multiple objectives.

General PEABODY. Yes, sir. I will tell you that my observation from that extensive trip in the river is very simply that, the multiple purposes—there are more claims on those purposes than there is always water for the Corps to meet. And so, sometimes it's difficult for us to satisfy all the stakeholders who have various interest in the river.

Mr. FORTENBERRY. Thank you, Mr. Chairman. Thank you.

Mr. SIMPSON. Thank you. Mr. Kingston, welcome to the subcommittee.

Mr. KINGSTON. Thank you, Mr. Chairman. I don't want to jump in front of the scene with Mr. Bishop as a Committee member.

Mr. SIMPSON. That's right. I forgot, sorry.

Mr. KINGSTON. I'm trying to save good graces with the chairman and Mr. Bishop, so.

Ms. DARCY. I want to thank Mr. Kingston for his bi-partisan spirit. Thank you for that.

Mr. SIMPSON. Mr. Bishop.

Mr. BISHOP. I thank you, Mr. Chairman, and I thank Ms. Darcy for allowing me to come before the subcommittee. I do have another subcommittees meeting right now. And I want to than Secretary

Darcy and General Bostick for their testimony. But I just wanted to come and express my enthusiastic support of the Savannah Harbor Expansion Project.

There are not many issues that unite the Georgia delegation like this one. In fact, if the project can bring together my colleagues, as far apart on the political spectrum as Congressman John Lewis and Congressman Paul Brown, there has to be something really positive about it.

This project was started under a democratic governor and continued under two republican governors, and of course, over the last 15 years, the state of Georgia has put over 256 million dollars into allocations for it, which is ready to go once we can get the green light from the federal government. It's been submitted for public comment, and I don't think there's been any project in court history that's been more analyzed than this one.

Of course, I don't need to talk about the 174 million dollars in economic benefit that we'll accrue to our country, but I'm very, very concerned that with the continuous mention of it and inclusion of it for several years on our appropriation bills, and with the support expressed by the president and the vice president, putting it on their 2012, we can't wait initiative, I just don't quite understand how, at this point, the conclusion has been reached without, as I understand, a legal opinion—that it's outside the scope of authorization.

And I understood from Ms. Darcy that the mitigation was outside the scope. When would the mitigation come into play, such that it would be outside the scope of authorization? Would that be sooner or would that be later, at the beginning of the project, or well along in the project?

Ms. DARCY. Congressman, the initial authorization for this project didn't include this mitigation provision, which is why a new authorization is needed; because that was not part of the initial scope of the initially authorized project. And the mitigation usually, it depends on the project, but it usually is either done before or during the actual project construction.

Mr. KINGSTON. Will the gentleman yield? Because I'm confused on that, because I'm looking at the original authorization here, and it says subject to the paragraph B, project navigation, including the mitigation plan in such modifications as the secretary considers appropriate. And then the next part of it says, mitigation requirements, the mitigation plan shall be implemented before or concurrently with the construction. So—as the author of this, it was very clear to us that mitigation was absolutely, positively included in the scope. But I'm reading right off here, and I don't see how—I don't see how we're saying now that mitigation is beyond this 1999 language. And I yield back to my friend, but I wanted to follow up on that comment.

Mr. BISHOP. I appreciate that follow up. The gentleman knows of what he speaks and I'm just still perplexed as to why, without a legal opinion, all of a sudden someone comes up with the wisdom that it's beyond the scope, when it seems to be clear on its face that it's within the scope with original authorization.

Ms. DARCY. In the original authorization, as in reference to the statute saying that mitigation is there, however in the development

of the ultimate project, that scope of the mitigation had to be developed. So because of the mitigation that is considered to be part of the increased scope that needs to be authorized. I think that's the best way I can explain it for you.

Mr. BISHOP. But the language was broad enough, as I just heard it read, and I'm sure that you have read it, to be inclusive. I mean, it seems like an after the fact conclusion that now, it needs to be more specifically authorized when the language was intentionally written broadly enough to include that.

We've been waiting for this project for a decade, and it's putting the United States and the Savannah Harbor at a great disadvantage when we are competing with the Panama Canal, and it seems for no legal reason. It seems more arbitrary than anything that I'm able to ascertain, and I really would appreciate some enlightenment on that. Are there any other ongoing projects where you know that the project will exceed the 902 limit that are being continued, that have not been shut down?

Ms. DARCY. We are not funding to initiate construction for any projects that we believe have a 902.

Mr. BISHOP. Well, I understand that there are three or four projects in the 2015 request that would reach the 902 limit at some point.

Ms. DARCY. Not ones that we would be initiating construction on, sir. The Savannah Project would be an initiation of construction.

Mr. KINGSTON. Mr. Bishop.

Mr. BISHOP. I'd be happy to yield.

Mr. KINGSTON. I believe we have had construction money in the budget since 2009. Is that not correct?

Ms. DARCY. There has been money directed by the Congress in the construction account for this project. That's correct.

Mr. KINGSTON. Well, therefore, money has been in the budget for construction account, and when you say that it's been in the budget by Congress, is Congress not the lawmaking body?

Ms. DARCY. Yes, sir.

Mr. KINGSTON. So therefore, there's money in the account for construction. And it would fall within the parameters that Mr. Bishop suggested. And let us say this—you've been a very helpful, very patient advocate, and we know where you are on this, and you have been very professional on it. But the frustration with the bureaucracy, and it might be with OMB, far more than the Corps, but there's some glitch here that we're trying to put our finger on.

Ms. DARCY. This project, in the view of the Administration, needs to be authorized before we can put any construction dollars on it.

Mr. BISHOP. But you know, we are—reclaiming my time, we are fairly well satisfied, and we have no legal opinion on either side of this issue to the contrary that it has been authorized. And construction money has been placed in the budget. It appears to all of us who are supporting this project—it just needs a sign off by the Corps.

And I'm not sure that OMB really has the authority really to—it's my understanding the Corps is the designated signature that's required.

Ms. DARCY. In order for us to move forward on the construction on this project, it is viewed from the Administration that this is a

fiscal concern, a fiscal responsibility that in order to move forward with construction dollars, we have to have the entire project authorized.

Mr. BISHOP. Well I thank you for your patience. But I just have to underscore the extent of our frustration on a bipartisan basis, that is just seems to nor be consistent with the law. It does not seem to be—it doesn't appear to be consistent with the will of the Congress, and we're facing what appears to be a challenge of the separation of powers. It's as if the executive branch is unwilling to execute the will of the legislative branch, which has clearly expressed that will over a period of years and over a period of legislative actions. And I'm just completely frustrated.

Mr. KINGSTON. If the gentleman will yield. I wanted to ask General Bostick a question about this, because it—Mr. Bishop alluded to other projects that have been able to clear the hurdle. Five, specifically, as I understand it, in the past two budget requests.

And so, what I don't understand is why is it that the Savannah Harbor Expansion Project hasn't been able to do that, and yet the Vice President, in a very, very high profile way, in September, came to Savannah, said he's all, you know, for it. In fact, you know, one of the things, he says, it's time to get moving, I'm sick of this. Very specifically. And then the President said it publicly on the Jay Leno show, and so if we need authorization, why hasn't that been requested, if we need further authorization?

General BOSTICK. I think everybody wants to see this project move forward. It was one of the first places I visited. It as an example of the type of project that just takes too long to get going. And from the President on down, I think everyone has been pushing to try to get this moving forward. And all of us worked together to try to figure out how we can do this, and in the final analysis, the determination was made that because of the scope changes—

Mr. KINGSTON. Well, General, I have to say the scope has not changed. I'm looking at the language. The scope hasn't changed. When we wrote this in 1999, should it be determined there would need to be a fish ladder in Augusta, three hours upstream, that was contemplated. And should the Department of Commerce say you need to do something about the oxygen in the water, that was contemplated. And should the EPA say you have to do this, that was contemplated.

So we keep hearing, and I say this with great respect, because we're—if we're all for this, there's got to be somebody that's not for it. Or it would have happened. And so what I don't understand is—this was in the scope of the mitigation. The mitigation is—Mr. Bishop says, you know, back in the days when we all had honest jobs, he was a very distinguished attorney, so he knows mitigation, it's a broad term. Mitigate could mean a lot of things.

General BOSTICK. I think this is the interpretation. I can't speak to it specifically, but I think some of this has to do with the magnitude of the scope changes, as opposed to the specific areas. But when you look at the magnitude of what changed in the environmental mitigation, it was significant compared to what the project was, when it was passed by Congress.

Mr. KINGSTON. Now sir, I will say this very respectfully. As the prime author of this language, we had the entire environmental

community involved. We had the historic community in. We had everybody at the table, which is why, as you know, we had to have the sign off of four federal agencies in order to move forward.

And then, looking at mitigation, our litigation was South Carolina, but we knew it was going to be a huge, tremendous lift to get this done. And so, the fact that the scope—the scope is about where we thought it would be, but what we did not contemplate was a 48 million dollar study over a 14 year period of time, that would drive the cost of this project so far beyond the 902, because as you know, it was originally a 270 million dollar project.

Now we're looking at 650 million—14 years later, down the road, and so I would say respectfully, there's not new and surprising mitigation. I'm not aware of one single thing where we found an endangered species, or there's a historic village underneath the river or something that we didn't contemplate. Everything that is in this mitigation plan was basically contemplated. Maybe not enumerated, but it was generally the duration that we thought it would go in.

General BOSTICK. When I talked about scope, I was talking from a value, a dollar value threshold. The mitigation was considered. In terms of the magnitude of that mitigation I think some folks who feel that there was much more than it was intended by the initial authorization.

Mr. KINGSTON. But it doesn't matter what they think. It matters what the law is, and the law was about mitigation. And then I'll ask you, because Secretary Darcy has asked this. Did you get a legal opinion from your council, saying that you can't sign the PPA?

General BOSTICK. I did not have a legal opinion from my Counsel.

Mr. KINGSTON. So, are you legally able to sign the PPA?

General BOSTICK. I would have to seek a legal opinion.

Mr. KINGSTON. Do you think you have the legal authority to sign the PPA?

General BOSTICK. There was a legal opinion done at the district level.

Mr. KINGSTON. And what did that say—and I probably should know about that, where they felt that they—that we could sign the PPA.

General BOSTICK. So the Corps District that has the jurisdiction and the authority over it has rendered a legal opinion that says, you can sign the PPA. That's my understanding.

Mr. KINGSTON. Is it normal that the local Corps kind of take the lead on this? Is that standard practice?

General BOSTICK. Yes. Normally, we try to power down and allow the districts, they're all very different and unique to do the work that they need to do. On something of this magnitude, it's what we call a mega project, it would come up to the headquarters, and we would then do the work that we need to do.

And we try to do this on three levels, which is really what started the $3 \times 3 \times 3$. Doing the feasibility study for less than three million dollars, less than three years and at all three levels of command. So this was an example. We would be working in concert with the district in this case.

Mr. BISHOP. Will the gentlemen yield?

Mr. KINGSTON. Actually, it's your time.

Mr. BISHOP. Thank you. So I understand that you—the district—at the district level, the court did have a legal opinion from its attorneys that the core had the authority to sign off. Had that legal opinion been contradicted by any other legal authority?

General BOSTICK. We didn't reach the point where we made a legal opinion at the headquarters. And before we made any legal opinion at the headquarters, we worked it as a team with the Administration, looked at everything, at all facets of this project and the final determination was at—and I know you don't want to hear this, but because of the scope changes, that it really needed to be, authorized by Congress.

Mr. BISHOP. That's not a legal opinion. That's a political opinion, would you say?

General BOSTICK. It's not a legal opinion.

Ms. DARCY. I believe that the administration made a policy decision that this project needs to be authorized before it can get construction dollars. And I know that you see it as, it has been authorized because of the 99 WRDA, but because of the expansion of the project and the increased cost, the administration believes that it needs to be authorized before construction dollars can be appropriated.

Mr. BISHOP. It does not appear to be a legal opinion. I go back to my political science 101 at Morehouse College, where we were told that politics was nothing more, nothing less than who gets what, when and how. And this just seems to be squarely within that definition. Not based upon a legal interpretation of what's legally authorized, but on just a raw determination of who's going to get it and who's not.

Mr. KINGSTON. And, if the gentlemen would yield. If the local division has made a legal opinion that you can sign the PPA, I don't understand why, without another legal opinion that overrides that, we haven't moved forward with that signature.

General BOSTICK. We had not gone through the process of making a legal opinion at the headquarters level, which we would normally do on a project of this magnitude.

Mr. KINGSTON. Well, General, when we passed the legislation in January, you know, in the wake of the President saying he's for it. The Vice President coming to Savannah and saying he's for it, and then Congress passing a 902 waiver in January and recognizing that as a construction account, and since 2009, having money in the construction account, I don't quite understand it, unless there's an intentional reason for somebody to say no, let's don't do that.

And Mr. Chairman, 902 is the force of law with Congress, saying that we waive the law about the dollar. Is that not correct?

Mr. SIMPSON. Correct.

Mr. KINGSTON. I don't understand at all, when you have all that going that I just enumerated, why the PPA would not have already been signed. Especially without a legal decision. You know, I could see if somebody says oh wait, you know, the folks down there in Savannah don't know what the heck they're doing. And is there a reason to believe that the lawyer who made that decision is incompetent, or, I mean. And I'm not trying to get a food fight on that.

I'm just saying, you know, what casts doubt on somebody that you pay to render a decision?

General BOSTICK. There is no doubt, our lawyers are highly competent and I respect and value his legal opinion. And, you know, I think there are differences of opinion on all issues that we wrestle with, whether it is SHEP or anything else and what we have to do is come to an agreement at the senior levels on the appropriate way to go. I think there were some that clearly saw that we had the authority and could move forward and some of those were from a legal standpoint. And then there were some that saw and viewed that there were enough changes that in order to move forward that Congress really needed to authorize this is in WRDA and that was an interpretation of the law and the scope of the project. And I think at the end of the day the Administration position was as Ms. Darcy stated.

Mr. SIMPSON. We have probably pursued this about as far as we are going to get. It was actually Mr. Bishop's time but who knows that because Mr. Kingston and Mr. Bishop have been pursuing this. I think we've probably got the same answer several times.

Mr. KINGSTON. Could—

Mr. SIMPSON. Do you have a—

Mr. KINGSTON. Yes. I have a—

Mr. SIMPSON [continuing]. Closing statement?

Mr. KINGSTON. I actually do, I actually do. Madam Secretary, after WRDA has passed would you sign a PPA immediately? There would not be more mysterious legal opinions floating around out there or something.

Ms. DARCY. I would do everything in my power to sign a PPA if WRDA is passed.

Mr. KINGSTON. What would keep you from signing a PPA after WRDA is passed?

Ms. DARCY. I don't know that there would be anything to stop me but I want to commit to you that I will do everything I possibly can to get a PPA signed for this project if WRDA passed.

Mr. KINGSTON. Okay. And we appreciate your position and you have been very good with your time and very helpful to the Georgia delegation. Well, thank you.

General Bostick, you know our shipping friends, you and I were meeting with them a couple of months ago down at the Georgia Trade Conference. You know how they have a gun to our head to get this thing done and, Mr. Chairman, I'd appreciate the time. What I would like to do though is I'd love to have that legal opinion from the Savannah District maybe submitted for the record and I would like to have another legal opinion overriding so that we could all know why that legal opinion by the people on the ground paid to do that isn't sufficient. And hopefully the lawyers that you seek will find out, no, those guys are right.

Mr. SIMPSON. Appreciate it. And thank you all for your bringing this question up. Mr. Hobson and I visited this project back when I was just a small child so it's been going on for—

Mr. KINGSTON. We all were, Mr. Chairman.

Mr. SIMPSON. Everybody says we need to do this, everybody says we want to do this. And you wonder why people are frustrated with government? Everybody agrees that we want to do this, et cetera,

et cetera. There is a little disagreement about whether the scope of it is expanded beyond and would require reauthorization. That seems like something that adults would sit down and work out. I am tempted to ask what the name of the person in the administration or OMB or whoever it is that has a problem with this or says that it needs to have a reauthorization but I don't want to put anybody on that kind of spot, so I won't ask that question and I'll get onto something very important. And that is the Ririe project in Idaho. We will work with the Georgia delegation and with the Army Corps and whoever is down there in those office buildings that is trying to—I don't—it just seems to me, and I'm not a conspiracy theorist but it just seems like there is more going on here than just, does this have to be reauthorized or not reauthorized. Because that is something adults could sit down and work out.

The Ririe Reservoir in Bonneville County was built by the Corps of Engineers, now a Bureau of Reclamation owned and operated reservoir with flood control authority administered by the Corps. The water users there are very interested in the possibility of additional water being carried over from one water year to the next which would require a change in the flood control rule curve. The water users have been working with Reclamation on a study and possible changes. General Bostick, has the Corps been involved in any of this and what would the activities need to be if they propose a change in the water rule or flood control rule?

General BOSTICK. The Corps has been a partner with the Bureau and that study is being finalized now, Mr. Chairman. The draft evaluation study and the environmental study do not include a comprehensive winter flood risk analysis and the Corps' role would be to conduct that winter flood risk analysis.

Mr. SIMPSON. Okay. But you are planning on doing that?

General BOSTICK. Correct.

Mr. SIMPSON. Okay. Now I have got to go back to something that is not as controversial as the Savannah Project—and that is this clean water jurisdiction rule making. Chairman Calvert brought it up a little bit and it is rather stunning to me that they propose this rule and they say it's supported by science but that's a little hard to believe when you look at the sequence of events as Mr. Calvert noted. The scientific assessment which is part of the science section, otherwise why would you do it, but the scientific assessment is not finished yet the EPA has said the scientific assessment will be the foundation of the rule, sometimes called the synthesis report, which is still in draft form. So it hasn't been finished yet. And then we're asking citizens, giving them 90 days to comment on this rule, when the scientific assessment hasn't been done yet. Is that a little bit bizarre? And I know you have been working on it for three years because we have been trying to block it for three years. And I will guarantee—well, I won't guarantee anything, but I will strongly suggest there won't be an appropriation bill that passes that doesn't have a restriction on funding of this rule in it for both the Army Corps of Engineers and the EPA.

It has not been a critical priority of the past, it has been a concern. And so we've had legislation preventing implementation of the rule, funding for the rules in different appropriation bills, and

we've always dropped them in conference. I will guarantee you that the Western part of the country is not going to drop this.

And the perception out there in the public is this has to be done for good reasons as if none of those waters are regulated today. And somehow they have got to be regulated by the EPA and the Army Corps under the Clean Water Act. They are regulated waters, they are regulated by the states and the states do a good job of it in most cases I would suggest. So we have a great system already in place—this is the lifeblood in the West as you all know. And so this rule is kind of stunning to me that they came out. And I understand that the Courts have said well, we need to clear up this language of what navigable means. We need some certainty. And I will tell you the Farm Bureau, the forest owners, all of these different people say yeah, we need to clear it up, we need some certainty. But as I said before, you know, hanging is a certainty; I'm not sure it's the result you want. So just having certainty of what we are going to regulate: everything from every mud puddle or a pond in the country, that is the kind of certainty that we need. And I have also got some question about the limitations on the whole decision that you have got now in the, what is it, the Swan CC, the—

Ms. DARCY. SWANCC.

Mr. SIMPSON. SWANCC. And the Rapanos decision clearly stated that the Corps and the EPA had gone too far and that the Federal jurisdiction under the Clean Water Act is not as broad as they had claimed. To be consistent with those Supreme Court decisions then any new rule would necessarily have to leave to the states regulation of some waters previously regulated by the states. So this rule seems to be contrary to what the decisions of the Supreme Court are. If it's saying that you are interpreting this far too broadly under this rule what waters that are currently regulated by the Federal Government will no longer be regulated by the Federal Government under this rule? Are there any?

Ms. DARCY. I don't believe the rule expands the scope of what is currently a jurisdictional determination by the Corps. It makes more clear what's in and what's out. We have also accompanied this proposed rule with an interpretive rule that interprets the agricultural exemptions in the Clean Water Act and makes it clear what's exempted which included agriculture, silviculture and ranching activities, including those activities that had been undertaken since the passage of the original Clean Water Act that the National Resource Conservation Service has deemed to be conservation practices that will help improve water quality. All of those activities, those farming, ranching and silviculture activities would be exempt under the Clean Water Act for those ongoing activities.

Mr. SIMPSON. I will tell you that there's a great deal of concern that that is not going to be the case. This is seen as a huge overreach by the Federal Government.

The proposed rule, while claiming to bring certainty contains some concerning ambiguity as to the true scope of the jurisdiction being claimed by the Federal Government. For instance one section indicates that all waters within the flood plain would be jurisdictional but it does not specify the scope of the flood plain. Are we

talking the 100 year flood plain, the 200 year flood plain, the 500 year flood plain? Similarly the proposal discusses aggregating impacts from similar waters within a watershed but does not adequately define the extent of the watershed to be reviewed. The Mississippi River watershed includes all or parts of 31 states covering over 40 percent of the lower 48 states. I certainly hope that is not the watershed that we are talking about envisioning in this rule.

Ms. DARCY. The scope of each watershed will be determined by its connectivity was One of the biggest outcomes from the Rapanos and SWANCC decisions. The connectivity of waters to another water body as to what they are—and how that would be viewed as jurisdiction.

Mr. SIMPSON. Connectivity? Trying to define connectivity is a lot like trying to define navigable. Basically everything is connected. Water is evaporated, it goes into the sky, it falls as rain on lands and then runs into—I mean that's the cycle that happens. So where is the connection there? Now we're going to control rain. That term is about as imprecise as navigable.

Ms. DARCY. One of the provisions in the rule for which we are asking for public input on what those other waters and that connectivity, should be defined.

Mr. SIMPSON. There is going to be some big, big kickbacks on this; I got a feeling. As I tried to say earlier I was shocked when it was proposed yesterday, the day before this hearing and two days before the EPA's hearing because it's, you know, it created a target rich environment.

Ms. DARCY. We need to defend it.

Mr. SIMPSON. But thank you. We will have more discussions on this I am certain.

Ms. DARCY. I am sure we will.

Mr. SIMPSON. Miss Kaptur.

Ms. KAPTUR. Well, this has proven to be an exciting hearing this morning. Maybe you don't feel that way but, you know, I keep thinking, we have an open society and, the Executive Branch meets the Legislative Branch and the American people are listening out there in some way. So the system is working though sometimes it feels like you are on the hot seat. And I guess that is the way it should be. We often feel like we are on the hot seat, right?

And so let me move to a request first. General Bostick, I'm wondering if before the end of April you would agree to come here with the best expertise you have within the Corps and anywhere else in the administration, perhaps it is CEQ, as Secretary Darcy mentioned, and give us an update on the Asian Carp threat to the Great Lakes and specifically what has been done and what is being done to prevent its entry. Is that possible for you to do that?

General BOSTICK. Yes, ma'am, we can do that.

Ms. KAPTUR. All right. Thank you very much. I wanted to now switch quickly to a question related to exports. The administration has a goal to increase exports and there are different ways of measuring activity across our country but in terms of the Great Lakes ports it has been brought to my attention that the latest addition of the Corps Waterborne Commerce Report appears to have missed about 18,000,000 tons of cargo exported to Canada. For instance from the Port of Toledo they have shipped over 3,500,00 tons of

coal to Canada for example in 2011, yet the Waterborne Commerce Report credits it only with 1,300,000 tons, a difference of 2,200,000 tons. Another port, Sandusky, was credited with a 1,400,000 tons of coal exported to Canada in 2011 when in fact the number was 2,600,00, nearly double that. The question is will you work with stakeholders and other governmental agencies to ensure that Waterborne Commerce more accurately reflects the cargo shipped, particularly cargo exported from the Great Lakes ports? Who is best to answer that question?

General BOSTICK. Yes, we would work with stakeholders on that. One of the things goes back to what you were saying earlier about the Great Lakes being seen as a collection of projects. When you take a look at the entire Great Lakes and its capability, it would rival just about any watershed. We don't budget that way as you know, but I think what we are trying to do is take a look at the way that we budget now and in a parallel process try to think about entire systems. We've got a long way to go but I think in doing that we would pick up on some of the points that you and stakeholders are making.

Ms. KAPTUR. Thank you, General Bostick. The fine work of Congresswoman Candice Miller of Michigan in the WRDA Bill to look at the Great Lakes as a system is something that many of us, I mean we share. And we really need your help and we need the administrative structure of your Corps to recognize our existence as a system and help us feel that you do by the way that you structure various activities. And we'd like to talk with you further about that so that our watershed gets the kind of attention that we feel that is deserved.

I have a question for the record in fact on the Saint Clair River which directly impacts Congresswoman Miller's district and I will submit that.

But I wanted to turn quickly to the Soo Locks. Peter Kakela of Michigan State University estimates that four percent of U.S. gross domestic product depends on proper operation of a single lock located in Sault Ste. Marie. The Corps recently hosted an expert elicitation in Detroit, thank you for coming to our watershed, to look at some of the assumptions that went into that replacement lock study and based on the elicitation it appears prior to a contrary study that rail, the substitute shipping mode if something happens to the waterborne opportunity, rail lacks both the connectivity and capacity to respond to a lock failure. I want to commend the Corps for incorporating stakeholders knowledge into the process, but my question really is what are the next steps with regard to the expert elicitation and how will the group's conclusions be incorporated into the Soo Lock replacement study and how much is the current need at the Soo Locks and when do you anticipate the elimination of the backlog?

General PEABODY. Ma'am, thanks for that. As you may recall I commanded the Great Lakes and the Ohio River Division for three years three years back. I'm not familiar with this expert elicitation. I'm assuming that the Detroit district was involved with it.

Ms. KAPTUR. Yes.

General PEABODY. So my first action is to look into exactly what you are talking about and understand it. However I would advise

that we'll take that information into consideration and if there is any technical data that would change the Corps' analysis of the viability of that project then we would initiate some kind of reevaluation report and we would send it forward to Miss Darcy for her review.

Ms. KAPTUR. All right. I thank you for your response to that. And, General Peabody, based on your experience on the Mississippi River I have to ask you this, give me some assurance on the Carp, where are they? Where are they in the Mississippi? I'll tell you former Congressman Costello was here from Illinois and his river down near Southern Illinois, completely infested, all the native species eaten up. It's just like a giant vacuum. This does not give members a great deal of confidence in what we are doing as a country. So to your best knowledge along the Mississippi and all of the potential waterway entry points what's happening?

General PEABODY. Ma'am, in my view the Federal Government has responded. There's a lot of frustration in the Great Lakes, and by the way I'm from Norwalk, Ohio, so I'm from this region. In my view the Federal Government has responded with great energy and determination. It has been a remarkably well coordinated response not just amongst the interagencies of the Federal Government but also, as Miss Darcy mentioned, with the states effected. As I understand it, the Province of Ontario is now joining the Asian Carp Regional Coordinating Committee. So we're reaching out across international boundaries as well.

Ms. KAPTUR. We have to.

General PEABODY. Yes, ma'am. The area that you're talking about in the lower Illinois River appears to be uniquely well suited to supporting populations of Asian Carp, however we have not seen any evidence of the further migration of Asian Carp up the Illinois River in about a decade. That's not to say we are not concerned, we are. As you are well aware, we continue to work with our partner agencies to search for potential evidence of Asian Carp using the environmental DNA that the University of Notre Dame and Dr. Lodge developed. We have further advanced the ability to have confidence in this methodology but we've also found that just because you have evidence that DNA of Asian Carp is in a particular area, without evidence of physical presence of fish, there are other pathways for that evidence to get to where it may be to include bird dropping. We found physical Asian Carp decaying off of barges north of the fish barriers and so forth. General Burcham and her staff are energetically improving the suite of the complex of electric fish barriers in the Chicago Sanitary Ship Canal. We are continuing our research and development studies to determine the effectiveness of that. As we do that we are finding some areas of potential concern. For example it is possible that some fish may be entrained in the wake of barges that transit through that area. So we are now researching exactly what parameters of fish might be involved and what action we maybe take to increase the surety and reduce the risk that fish may migrate.

At the end of the day, ma'am, in my view though, what we're fighting is a biological entity that migrates by multiple means, not just by swimming and therefore it requires a multifaceted biologically oriented response that is not necessarily the exclusive do-

main or expertise of the Corps of Engineers. That is why we are partnering with so many other agencies. I'm personally very confident that in the near term we can keep Asian Carp from establishing a population in the Great Lakes. In the longer term I agree with you that we need to continue to look at all possible avenues going forward and I think we are doing that through the Asian Carp Regional Coordinating Committee.

Ms. KAPTUR. Were you aware that in Southern Illinois the Carp had infested rivers and has completely destroyed the fish populations there?

General PEABODY. I'm well aware of that, yes, ma'am.

Ms. KAPTUR. All right. And who really follows that? One of the questions I have, we can try to build this wall to prevent passage but what's being done to drive them back down the Mississippi and to get rid of them?

General PEABODY. To my knowledge, ma'am, we don't have any authorities to do that. That expertise to address that issue would rely outside of the Corps of Engineers primarily, although I think the Corps could probably be a supporting agency in that regard and again this would become a policy issue that would be more in Miss Darcy's domain.

Ms. DARCY. There are some ongoing efforts including netting in the Mississippi to try to not only identify but capture Asian Carp in the River. There have been some programs to establish incentives for people to fish Asian Carp and find markets for them in places not only in this country but around the world. You know, to eradicate them I think is a lofty goal but some efforts are being undertaken to reduce the population in the Mississippi.

Ms. KAPTUR. Well, you know, I have not seen a map that shows density of that fish population or location. If you don't have it does our government have it?

Ms. DARCY. I would expect the Fish and Wildlife Service might but we can find out.

Ms. KAPTUR. I think we really need a plan here. I was reading in the Everglades they're trying to capture those pythons and they only captured, what was it, 80 of them or something out of—

Mr. SIMPSON. Not enough.

Ms. KAPTUR. They don't even know.

General PEABODY. Yeah.

Ms. KAPTUR. I think this is not that challenge, this is a different challenge. But I really think we need the ichthyologists in on this and we need to know fish densities, where they are, at what rate they travel. I have been in Congress a long time, I have not had one good briefing and I have not read one report that really gives me any confidence we know what we're doing in terms of the movement of these live creatures. And so I find out by anecdotal evidence from colleagues who represent these areas in trying to figure out what is happening, how fast are these things traveling, how many of them are there, where are they spawning. You know, this far along in the process we should have this down as if it were a foreign army invading and we don't.

General BOSTICK. We've got a number of those details I think we can bring and talk to you about. For example we know that the largest adult Asian Carp are about 55 miles from Lake Michigan

and they haven't moved, as John Peabody said, in years. And the small Asian Carp are about 140 miles away from Lake Michigan. We can show you where we believe they are and, how much they've moved on the rivers. I'm not sure if we can show you density type things but we can give you the kind of information that will help show you what we are looking at now.

Ms. KAPTUR. Does it look like a pyramid, General, where most of them are still down South and we just got this beachhead coming North, or is it the other way? Have we actually got an upside down pyramid? What's going on?

General BOSTICK. You mean in terms of a smaller amount that's coming—I really don't know; you are getting to the density piece. I just know the closest sighting that they've seen on the Illinois is about 55 miles away from Lake Michigan. Now whether that's an up or down pyramid I don't have the answer to that.

Ms. KAPTUR. All right. And perhaps within the administration there's someone—

Ms. DARCY. I was going to say that, with what information we have, I would offer that we would consult with the Fish and Wildlife Service and offer them to join us on any briefing we have for you on density and doing the mapping because they have the expertise for the mapping. They and the U.S. Geological Service have done a great deal of work in this area.

Ms. KAPTUR. And we have to task fishermen, there has to be a plan for this country that no matter where you are along the Mississippi or if you're on some river in Illinois or wherever you are, we need an aggressive approach to this and we have to figure out what that is. And the Corps is in a major position to bring people on board that have other talents to add to this. But we just simply need a more aggressive approach and to fish these things out to involve local stakeholders and to mobilize the public. Our job is mobilization, right? We do it in our own elections. And believe me there is enormous interest in this in our region as you well know. So we will appreciate your gathering the best experts. And if there are from the outside, I mean if National Geographic or Fish and Wildlife Magazine or whoever is out there in the general public that has knowledge, please seek to engage them because we obviously don't have a perfect solution here and we need everyone's help.

General BOSTICK. We will do that.

Ms. KAPTUR. Thank you. Let me ask a question about the Chicago Sanitary and Ship Canal. What is the current status of that ship canal dispersal barrier project and when is the anticipated completion date? The Fish and Wildlife Service, by the way, recently released a video of schools of fish swimming through the barrier and are you doing anything to determine what is happening there, what kind of fish they are? So can you give us an update on that barrier?

General PEABODY. Is this the one you just talked about?

Ms. KAPTUR. Yes.

General PEABODY. Ma'am, in terms of the fish barrier, there are two barriers that are in operation now and there is a third barrier that is under construction. I'd have to verify it but I believe that it will be complete in 2016. So this gives us double redundancy. Now we have single redundancy which is very important because

if for some reason we need to do maintenance, which we do need to do periodically. We have to shut one down, make sure the other is operating and this enables us to do that.

With regard to the evidence of fish that are swimming through, the evidence that we have is somewhat new. It's only in the last few months that we have this and we're working very closely with the Fish and Wildlife Service to understand (a) the size of the fish, and (b) the species of the fish. As I recall they are chad.

Ms. KAPTUR. There are at least four. They're not—

General PEABODY. I would have to verify—

Ms. KAPTUR. Oh, you mean the ones that are swimming through the barrier?

General PEABODY. Yes, ma'am, that is what I am talking about. Now what is of concern is that they are swimming through. That is of concern. It appears to be they are only very small and that makes sense because the smaller in size, because of the smaller body area, the less they are susceptible to the electrical currents. Why is that good news? Because as General Bostick indicated the populations that are actually spawning are 140 miles or so from Lake Michigan, about I think 100 miles or so from the barriers themselves. And when they spawn they float and they float downstream. So as long as we can continue to keep the spawning populations a fair distance—and these are several locks away; locks and dams are physical structures and obstacles. As long as we can keep these several locks and dams, several dozens of miles away from the fish barrier then we are in much better shape. If we were to have a spawning population in that pool, the Brandon Road Lock and Pool just below the fish barrier, then I would be extremely concerned. But we are not at that point.

So basically we're continuing to research what this information tells us and to research how we might modulate the operating parameters of the fish barrier in order to counteract that possibility of any size of fish schooling through the barrier.

Ms. KAPTUR. All right. Please bring that information with you when you brief a larger membership. Thank you.

And finally on Cleveland Harbor Dredge Material Disposal I mentioned in my earlier remarks what the Corps officer in Buffalo had said. Secretary Darcy, the Corps recently requested from Ohio EPA to dump 180,000 cubic yards of sediment dredged from the Cuyahoga River and Cleveland Harbor Navigation Channel into Lake Erie rather than using the confined disposal facility. Can you explain to us why this approach is necessary and what the environmental impacts would be and if you would reconsider that decision?

Ms. DARCY. Yes. As you mentioned we are currently awaiting a 401 water quality certification from the Ohio EPA for this plan. We analyzed where we could put the dredge spoils for the entire river. What we determined according to our standards and EPA standards is that 80 percent of the dredge material from the Cuyahoga River is suitable for lake placement. The other 20 percent of the river which is the closest to the lake, this 80 percent is closer to the steel mill, the upper reach of the river, and that other 20 percent is not suitable for lake disposal so we would continue to put that 20 percent of the dredge materials into the confined disposal facility that we currently have. However that confined disposal fa-

cility is filling up quickly and so we looked at options. The option for placing the 80 percent in the lake will give us extended life to that facility in Cleveland. That would give us 10 more years of capacity as opposed to the 2 years that we have now. We were looking at ways to extend the disposal life as well as what is most cost efficient and cost effective. However for that plan to go forward we need the 401 certification from Ohio EPA and I'm told that we are expecting to get a decision from them one way or the other within the next two weeks.

Ms. KAPTUR. I would urge you to consider because of the nature of Lake Erie being the shallowest of the lakes with all of the challenges that it has with algal blooms which is a whole other issue but extraordinarily important to the health of that lake, and the microcystis and some of the toxic algal blooms that have plagued us over the last several years, to consider something creative with those dredge materials. There are lots of places on Lake Erie for example where shorelines have eroded or where beach fronts have to be restored. And if the material is tested at Vicksburg and it proves to be clean I would ask you to look at some other alternatives beside open lake disposal. Is that possible? Is it possible to work with the Corps on that?

Ms. DARCY. Sure. For looking at other alternatives, what I would like to do is check with the district to see whether we did look at other alternatives other than open lake disposal as an alternative. I'm going to say I hope that we did because usually when we get to this point we've looked at all alternatives and found which is the least cost alternative and that is what the open lake disposal would be for that 80 percent.

Ms. KAPTUR. Well, is that true?

General BOSTICK. That's true. We have been looking for years, looking at different options.

General PEABODY. We have even looked at hauling some of the material to, I'm trying to remember which island it is that has a quarry in Lake Erie to place the material there.

Ms. KAPTUR. Yes.

General PEABODY. The bottom line, ma'am, is we're running out of options and the alternative options are getting increasingly expensive, far above the current cost to place in the CDF which is already very expensive at I believe around \$15.00 a yard.

Ms. KAPTUR. Yes. And you know we have a number of companies like Scott's and others that look for inputs and the commercial value of some of this is something that we need to really pay a little bit more attention to. And so I would love to—we have sent former samplings from the Toledo Harbor area and from dredging that's been done in the Western basin to Vicksburg. This was a number of years and it was suitable for soil compliments. And so the question is can we work with certain instrumentalities that exist privately and maybe even publicly to restore sites as opposed to just open lake dump. And we would love to work with you on that.

So I know Mr. Graves has a question here. I appreciate his waiting and I would love to have you agree to work with us on this dredge material from Lake Erie. Because essentially just for the record, so you know, part of that material comes from the largest

watershed in the Great Lakes which is the Western basin and it gets thrust out into the Lakes through the largest river that drains into the Great Lakes, the Maumee, and it eventually ends up in all kinds of places and has to be taken up so we can maintain our shipping channel. But there simply has to be a better way of handling this vast amount of organic material and of silt that has come from this watershed that is actually a tri-state watershed along with what drains in through the Cuyahoga River and is less toxic actually than some of the other material that comes in to Lake Erie. So we would like to work with you on beneficial reuse if possible.

General BOSTICK. There are some creative innovative ways to look at this that are within our authority and we are happy to work with the local stakeholders and the local district and be happy to talk to you further.

Ms. KAPTUR. All right. Thank you so very much.

Mr. SIMPSON. Mr. Graves.

Mr. GRAVES. Thank you, Mr. Chairman, and I appreciate the indulgence today for our delegation by yourself and the ranking member for allowing this debate and dialogue from multiple members of the Georgia delegation. And not to rehash anything, but in the spirit of this discussion I was looking at the coffee mug here, it is from the Corps. It says "Communication Reminders" on this side and it is, "Listen to All, Communicate Early and Often, Be Accessible and Do What We Say We Will Do." And sort of in the spirit of that I was listening, General, to your comments earlier and you referenced a meeting that had taken place in which decisions are being made, and it is new to me; I haven't really heard about that. Could you share with us—does that happen on a regular basis? Is this how projects move forward and is it a stakeholder meeting, public, private, open, closed? At what level does that occur? Because that sounded like that is maybe where a decision was made. Maybe give us a little insight into—

General BOSTICK. No, there wasn't a group of folks that met to make a decision one way or the other. The Corps process is that once the district is prepared then they would bring the report up to a Civil Works Review Board—

Mr. GRAVES. Okay.

General BOSTICK [continuing]. Which is chaired by John Peabody and other teammates and then others, local stakeholders, sometimes the Congressmen from the Hill will come to those meetings and it is an open dialogue about the merits of the project. And then we move from there to a Chief's Report which I would sign and then send to Miss Darcy. This is a little different, because we felt there was a need to get an authorization so this is slightly different than that process. But, there was no meeting where we sat around a table and decided that we needed this authorization.

Mr. GRAVES. But you reference that on the local level there was a legal opinion that you could sign the PPA and then went to another level where that same discussion took place and there were some who felt similarly that legally, yes, you can move forward and there were others for other reasons that felt like it was outside of the scope, the scope had changed. Was that one of the regular meetings you are discussing or is that just something different?

General BOSTICK. I probably should not have said meeting. I am just saying that there was a letter that came out of OMB that stated the reasons why we believe that this project needed an authorization. I am presuming there was a meeting and a discussion that I wasn't involved in and I am sure Miss Darcy wasn't involved in where the Administration felt like, based on the scope of the project, in order to meet what they felt the intent of Congress was that it had to go through an authorization.

Mr. GRAVES. Okay. So it really wasn't a meeting that took place that you were involved in?

General BOSTICK. Right. It wasn't a meeting I was involved in.

Mr. GRAVES. But it sounds as if there was a meeting that took place and I think Ranking Member Bishop referenced that as well and based on some of your comments, someone somewhere just felt like the scope had changed. But you weren't a part of those discussions?

General BOSTICK. At the staff level I think there is a lot of discussion back and forth between my office, Miss Darcy's and OMB. We're all working back and forth giving our thoughts, our views on which way things can go.

Mr. GRAVES. Did that happen—I mean did you get that instruction after the Consolidated Appropriations Bill had passed and been signed or before?

Ms. DARCY. You mean the decision about how to budget for it in 2015?

Mr. GRAVES. Right, Yes.

Ms. DARCY. Well, we formulate our 2015 budget in the fall and give it to OMB and then there is what is called Passback and renegotiate that and ultimately the decision for what is in the President's budget is OMB's.

Mr. GRAVES. The only reason I ask is going back to the items here on the mug, we had a budget that the House and Senate agreed to that addressed this issue, we had the omnibus that addressed this issue, and I don't recall anyone communicating with us saying "the scope changed, you need to address it differently than that." Was there ever any communication to any members of the House or the Senate on that?

Ms. DARCY. Well, sir, this project is in both WRDA Bills and we supported it being authorized in both WRDA Bills and that's stated I think in our Statement of Administration Policy on both of those Bills so that would indicate that we felt it needed an authorization.

Mr. GRAVES. Okay. And then I guess lastly we've sort of established today, and General I thank you for your candid remarks, that legally you have the authority to sign the PPA to move forward. The question for you is, have you made the decision not to sign it or have you been instructed not to sign it?

General BOSTICK. I wouldn't sign the PPA.

Mr. GRAVES. Okay.

General BOSTICK. The PPA would come up through my office, then to Miss Darcy.

Mr. GRAVES. So then I'll direct the question to you, Secretary. So have you made the decision and chosen not to sign it given that it's been established that you have the legal authority to sign it or have you been instructed not to sign it?

Ms. DARCY. I cannot sign a PPA until the project is authorized because a PPA indicates that construction funding would be forthcoming.

Mr. GRAVES. Thank you.

Mr. SIMPSON. Which leads us back to the beginning. Thank you all for being here today. There are four message takeaways from this. We don't like the fact that there is a 17 percent cut in the budget, take care of Asian Carp, nav waters and Savannah Harbor, and you are set to go.

Ms. DARCY. Okay. Easy.

Mr. SIMPSON. I appreciate you all being here. I thank you for the work that you do. We look forward to working with you as we try to address not only these issues that have been brought up here today but others as we move forward for the important work that you do both for our country and for the world actually. So thank you.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT
HOUSE COMMITTEE ON APPROPRIATIONS

U.S. ARMY CORPS OF ENGINEERS – CIVIL WORKS
FISCAL YEAR 2014 BUDGET HEARING

MARCH 26, 2014

CORPS PLANNING FOR THE NATION'S DETERIORATING INFRASTRUCTURE

TREATMENT OF FY 2014 UNALLOCATED FUNDS

Subcommittee. The work plan recently submitted to the Committee showed that not all of the additional funding provided in fiscal year 2014 for the Investigations and Construction accounts was allocated to specific projects.

How do you plan to treat this unallocated funding? Do you intend to allocate this funding during this fiscal year or carry it over into next year?

Assistant Secretary Darcy. In some cases, the work plan did not allocate some of the funding provided to the purposes specified in the "remaining items" sections of the tables in the report accompanying the Energy and Water Development and Related Agencies Appropriations Act, 2014. The Army will periodically re-examine the capabilities and schedules of all studies and projects that meet these purposes. Based on the rating system that we used to develop the original work plan, studies and projects that meet these purposes could receive this unallocated funding later in the fiscal year. Funds that remain unallocated by the end of the fiscal year could be carried over for use in the next fiscal year.

Subcommittee. Is there any reason to worry that this funding will be used in any way other than as originally intended and expressed by Congress? In other words, do you intend to keep this funding within the appropriated funding lines?

Assistant Secretary Darcy. Our intent is to achieve the purpose or purposes specified for each of the funding lines in the Statement of Managers. However, we may also seek to reprogram some of this funding to another purpose, or to use it to respond to a flood emergency. In those cases, the Corps would act consistent with the applicable authorities for such actions.

Subcommittee. Will you inform the Committee of any further allocation of these funds, regardless of specific amount?

Assistant Secretary Darcy. Yes.

REASON FOR FY 2014 UNALLOCATED FUNDS

Subcommittee. The Committee did not intend to appropriate fiscal year 2014 funding beyond the Corps' capability in any project category. And, in fact, several estimates provided during conference on the bill were far in excess of the amount allocated in the work plan.

What was the reason then for not allocating all funding? Were there major changes in capability? If so, why? Or did you choose not to allocate funds to every project that could have used funding?

Assistant Secretary Darcy. The reason results from a combination of factors. There were schedule slippages and other changes affecting the estimates that occurred after the point that the Corps prepared the estimates that it provided to the Committees prior to the conference. Also, the amount provided for the Shore Protection line item in the Committee report for the Construction account exceeded the estimate that the Corps provided to the Committees. Finally, there were studies and projects for which the estimate provided to the Committees included funds that could be used, but not in FY 2014. Per the rating system, the work plan allocations were limited to the amounts that the Corps could effectively and efficiently use in FY 2014.

Subcommittee. What can be done to improve the capability estimates provided to the Committee?

Assistant Secretary Darcy. Until now, capability estimates were not coordinated with business line managers. Future capability estimates could be coordinated with the same business line managers who are responsible for shaping each program both for the budget and subsequent work plans. Because prior capability estimates were developed at the project level, they were not necessarily consistent with criteria or appropriate management controls. The business line managers are positioned to reduce the risk that the funds being requested cannot actually be used in the year they are being requested.

CONSTRUCTION ACCOUNT REDUCTION

Subcommittee. This year's budget request reduces construction funding by more than a half-billion dollars from the fiscal year 2014 enacted level – that's more than 30 percent of the entire account.

How many projects could use funding in fiscal year 2015 but are not included in the budget request?

Assistant Secretary Darcy. A total of 161 projects were either budgeted or received an allocation of funding in the construction account in the past 3 years (i.e., FY 2012, FY 2013, and/or FY 2014), but are not recommended for funding in the FY 2015 Budget. Many of these projects are not funded because they have already been funded to completion, are constrained by 902 limits, are being funded instead under the Supplemental Appropriations Act, 2013, or are environmental infrastructure projects, which the Budget does not fund.

Subcommittee. How many of these projects will be shut down or have progress slowed due to lack of continued funding? Will any of these projects incur contractor demobilization costs or other costs associated with being halted mid-construction?

Assistant Secretary Darcy. There are no projects that will incur contractor demobilization costs or other costs associated with being halted mid-construction. While additional work might be accomplished at a given project, the Corps, in general, allocates funds to fully fund and complete useful increments of work.

Subcommittee. What amount of funding could be used on these unbudgeted projects in fiscal year 2015 (or what is the unbudgeted capability in Construction)?

Assistant Secretary Darcy. The Civil Works Budget allocates funding among studies and projects on a performance basis in a manner that will enable the Corps to use that funding effectively and efficiently. The capability estimate for each study or project is the Army Corps of Engineers estimate for the most that it could efficiently and effectively use during the fiscal year for that study or project. However, each capability estimate is made without reference to the availability of manpower, equipment, and

other resources across the Army Civil Works program, so the sum of the individual capability estimates exceeds the amount that the Corps actually could spend in a single fiscal year. Also, while the Corps could obligate additional funds for some studies and projects beyond the amounts proposed, offsetting reductions within the Army Civil Works program would be required to maintain overall budgetary objectives.

The additional capability for FY 2015 for projects that were not included in the FY 2015 Budget, but either budgeted or received an allocation of funding in the construction account in the last three years is \$652 million.

DEFERRED MAINTENANCE

Subcommittee. We were told previously that deferred maintenance on existing Federal projects had increased from \$884 million in 2003 to nearly \$3.0 billion in 2012. That increase occurred even as the Operation and Maintenance budget was increasing each year and after taking into account the \$4.6 billion provided in the Recovery Act in 2009.

What is the updated estimate of deferred maintenance? Does that take into account the additional funding provided in the fiscal year 2014 Act?

Assistant Secretary Darcy. The Corps does not keep track of deferred maintenance as such on an ongoing basis. Instead, it compiles a new estimate each year of the sum of all amounts not funded that the individual project managers say they could efficiently and effectively use by the end of the fiscal year. All of the maintenance work funded in the Budget is of higher priority than the unfunded work.

Also, the two figures cited are not comparable. The estimates of unfunded O&M work that the Corps provided 10 years ago only covered the portion of such work that the Corps viewed as its next highest priority, after the work funded in the Budget. More recently, the estimates provided have covered all identified unfunded maintenance work.

The Energy and Water Development and Related Agencies Appropriations Act, 2014, provided \$3.184 billion for the operation and maintenance program, consisting of \$2.861 billion in the operation and maintenance account and \$0.168 billion in the Mississippi River and Tributaries account. This is \$0.44 billion more than requested in the Budget for that fiscal year, or 16 percent. The Corps sought to make the best use of the additional funds consistent with the allocations in the report accompanying the Act, which divided and sub-divided these funds into multiple specified purposes. Therefore, it was not able to apply this funding to the highest priority maintenance work of the Civil Works program as a whole.

The Corps also used funds provided in the American Recovery and Reinvestment Act of 2009 to reduce O&M costs in the long-term or produce a sustained improvement in the conditions of Corps projects.

Subcommittee. What would be the impact on the maintenance backlog of the fiscal year 2015 budget request? Would the backlog continue to grow, would it stay steady, or would it start to decrease?

Assistant Secretary Darcy. The mix of both funded and unfunded maintenance work in the Civil Works program, and the priority of each item of such work, changes from year to year.

Maintaining the key features of our infrastructure is becoming more costly over time. Generally, this is because of the condition of some of the components, as well as cost increases in the broader economy, not because of the age of our projects. Operational demands nationwide have also grown and changed, particularly over the past 30 years, creating additional stresses on this infrastructure.

Subcommittee. If the backlog would continue to grow, how much additional funding in fiscal year 2015 would be necessary just to keep the backlog where it is right now?

Assistant Secretary Darcy. The Corps does not keep track of a backlog of maintenance work as such on an ongoing basis, and does not develop the Budget for the operation and maintenance program on that basis. The mix of both funded and unfunded maintenance work in the Civil Works program, and the priority of each item of such work, changes from year to year.

INNOVATIVE FINANCING

Subcommittee. We've heard about the Civil Works Transformation initiative for a few years now, including the intent to evaluate existing assets to see if any changes should be made or the possibility of public-private partnerships or other innovative financing mechanisms.

Can you please discuss any action you've taken on this aspect of the initiative?

What have you learned about the types of innovative financing that might work with the unique characteristics of water resources investments?

Assistant Secretary Darcy. The Corps has initiated several actions to begin evaluating its current water resources portfolio to determine opportunities for divestiture of assets no longer providing significant value to the Nation, the potential for repurposing of existing projects where mission needs have changed, and innovative financing and delivery mechanisms that would leverage Federal investments.

1. Divestiture Initiative: The Fiscal Year 2014 work plan funded the Green and Barren Rivers, Kentucky Disposition Study to completion and the Fiscal Year 2015 Budget included funds for two additional disposition studies – one focused on Kentucky River Locks 1-4 and one focused on Allegheny River Locks 5-8. The Corps is developing a screening tool that will be used to identify other existing projects and assets that are possible candidates for divestiture through deauthorization, transfer, or other mechanisms, which would enable reduced Federal expenditures for operation, maintenance and rehabilitation.

2. Innovative Financing and delivery mechanisms. The Corps continues to meet with representatives within the private sector to discuss potential ideas.

NAVIGATION

FY 2014 ADDITIONAL FUNDING – HMTF

Subcommittee. The fiscal year 2014 Act provided significant funding above the budget request for Harbor Maintenance Trust Fund-eligible work.

How much of a dent in the maintenance dredging backlog will be made with this funding?

Assistant Secretary Darcy. The Corps does not keep track of a backlog of maintenance work as such on an ongoing basis. The FY 2014 work plan allocated \$186 million more for Harbor Maintenance Trust Fund eligible work than proposed in the FY 2014 Budget. Of this amount, \$134 million was for maintenance dredging and related work on approximately 112 projects.

Subcommittee. How much additional funding would be needed to get to the point of having our ports at authorized depths and widths? Or thinking of it another way, how many years at this level of additional funding would it take to eliminate our maintenance dredging backlog?

Assistant Secretary Darcy. The Corps does not keep track of a backlog of maintenance work as such on an ongoing basis. Instead, it compiles a new estimate each year of the sum of all amounts not funded that the individual project managers say they could efficiently and effectively use by the end of the fiscal year. All of the maintenance work funded in the Budget is of higher priority than the unfunded work.

The Corps periodically monitors conditions at its navigation projects across the Nation to determine where sediment has settled and to understand roughly how much has settled there. However, it has not evaluated the benefits and costs of options for removing some or all of that material from its navigation projects nationwide, beyond the amounts that the Corps now removes each year.

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, as well as a comparison with other potential uses of the available funds. The sufficiency of a 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, the condition of the channel, and other factors.

INLAND WATERWAYS TRUST FUND PROJECTED REVENUES

Subcommittee. For the past several years, projected revenues into the Inland Waterways Trust Fund from the existing diesel tax have been in the range of \$90-100 million. Are there any indications that this amount will change – up or down – over the next several years? If so, what are the reasons for any change?

Assistant Secretary Darcy. Revenues from the fuel tax (excluding interest) were \$84 million in FY 2011, \$89 million in FY 2012, and \$75 million in FY 2013. Based on an estimate by the U.S. Department of the Treasury, the FY 2015 Budget projects revenue of \$88 million in FY 2014, \$91 million in FY 2015 and \$94 million in FY 2016. However, it is difficult to predict changes in these revenues from one year to the next. For example, changes in the general economy, climatic conditions, and closures (their duration, location, and time of year) on the waterways can have a significant impact.

SMALL, REMOTE OR SUBSISTENCE NAVIGATION

Subcommittee. Does the Corps have estimates of the maintenance backlog for of the category of small, remote, or subsistence projects?

Assistant Secretary Darcy. The Corps does not keep track of a backlog of maintenance work as such on an ongoing basis. Instead, it compiles a new estimate each year of the sum of all amounts not funded that the individual project managers say they could efficiently and effectively use by the end of the fiscal year. All of the maintenance work funded in the Budget is of higher priority than the unfunded work.

The Civil Works Budget allocates funding among studies and projects on a performance basis in a manner that will enable the Corps to use that funding effectively and efficiently. The capability estimate for each study or project is the Army Corps of Engineers estimate for the most that it could efficiently and effectively spend during the fiscal year for that study or project. However, each capability estimate is made without reference to the availability of manpower, equipment, and other resources across the Army Civil Works program, so the sum of the individual capability estimates exceeds the amount that the Corps actually could spend in a single fiscal year. Also, while the Corps could obligate additional funds for some studies and projects beyond the amounts proposed, offsetting reductions within the Army Civil Works program would be required to maintain overall budgetary objectives.

For the operation and maintenance of small, remote, or subsistence harbors, the sum of all amounts not funded in the FY 2014 work plan that the individual project managers say they could efficiently and effectively use by the end of that fiscal year is \$980 million for coastal navigation and \$192 million for the inland waterways.

Subcommittee. Will that backlog increase, decrease, or stay steady under the budget request for fiscal year 2015?

Assistant Secretary Darcy. The Corps does not keep track of a backlog of maintenance work as such on an ongoing basis. The mix of both funded and unfunded maintenance work in the Civil Works program, and the priority of each item of such work, changes from year to year.

Subcommittee. If the backlog will increase, what level of additional funding would be necessary to keep the it from increasing?

Assistant Secretary Darcy. The Corps does not keep track of a backlog of maintenance work as such on an ongoing basis.

PLANNING CAPACITY

Subcommittee. The fiscal year 2015 budget request would reduce the Investigations account to \$80 million with a little less than half of that going to specific projects for reconnaissance and feasibility studies as well as preconstruction, engineering and design activities. That funding level supports only a relatively small number of projects.

Do you envision a planning program at this funding level in future years? Is that view influenced at all by the so-called 3x3x3 process?

Assistant Secretary Darcy. The funding level for the planning program is consistent with the Budget requests for many years, over several Administrations. The Corps' 3x3x3 process is designed to focus the available resources on identifying and developing solutions to water resource problems in as an efficient manner as possible. All studies will not fit neatly into 3x3x3 and the Corps has an exemption process to address this issue.

Subcommittee. Is a planning program at that funding level sufficient to maintain planning capacity within each district office?

Assistant Secretary Darcy. At the current enacted funding levels, the Corps continues to maintain some planning capability at each district. However, our approach to this issue is evolving. The Corps already utilizes a regional business center concept within the Divisions and will continue to do so, assuring that it brings all the appropriate expertise to the ongoing and future portfolio of active studies. The Corps also continues to use its experts virtually across the Corps to fully utilize their talents.

Subcommittee. Would there be a point at which you would consider consolidation of planning efforts within just a few districts? How would you involve Congress in any such deliberations?

Assistant Secretary Darcy. The Corps is always looking to balance efficiency and capability to effectively fulfill its mission. Consolidation of planning capability has been considered in the past and could be considered in the future. Any proposed major structural adjustment to the Corps planning program would be coordinated both with the affected staff and the Congress.

Subcommittee. Why bother with planning at all with a 32% reduction to the Construction account?

Assistant Secretary Darcy. The Corps is completing nine ongoing projects at the level of funding for the construction program proposed in the FY 2015 Budget. It has been completing projects each year. This frees up resources for other work to address the water resources challenges of the future. The amount of funding proposed in the Budget for construction also changes from year to year. We assess needs and priorities periodically during the year, and use that process to inform Budget funding decisions.

OFFICE CONSOLIDATION PROPOSALS

Subcommittee. Within the past year, multiple Division Offices have initiated efforts to restructure or consolidate civil works functions within certain District Offices. These efforts began with no prior notification to or consultation with this Subcommittee, nor could the Corps provide an adequate business case or any type of analysis to support the efforts.

Wouldn't you agree that the Subcommittee should be involved in – or at the very least made aware of – discussions on this type of organizational change?

Assistant Secretary Darcy. The Corps is always looking at options to improve efficiency. There are a many ways to achieve that objective including organizational changes that involve restructuring or consolidating functions. The Corps would be happy to work with the Committee on such proposals.

Subcommittee. Will you commit to discussing these issues with the Subcommittee, if any organizational changes are considered in the future?

Assistant Secretary Darcy. Yes, where the changes have a basis for becoming an official proposal and are brought to my attention by the Corps.

Subcommittee. Are any other efforts to restructure or consolidate civil works functions being considered right now?

Assistant Secretary Darcy. Not at this time.

Subcommittee. What kind of analysis both to cost and service do you believe should be done to support restructuring efforts?

Assistant Secretary Darcy. Were such an organizational change to be considered, the Corps would want to consider factors such as the effects of the options on the services that the Corps provides (including the potential for improvements in our ability to provide those services), the short-term transition costs, and the long-term cost savings. We would also need to consider the effects of the options on our employees, who do the work of the Corps. The Corps always strives to ensure that each of its employees is treated fairly.

TRACKING PROJECT STATUS AND OTHER INFORMATION

Subcommittee. Familiarity with the details of individual projects has always resided mainly at the district office level, and that makes sense for many reasons. Committee requests and oversight activities, however, continue to suggest that this information is not easily or consistently tracked nationally.

Do you believe this lack of consistency or lack of easy access to information affects your ability to look at things from a comprehensive, national perspective?

Assistant Secretary Darcy. The Corps recognizes that management improvements, including project tracking, are needed. For example, in FY 2011, the Corps began monthly reviews of project execution with an emphasis on schedules and costs to better manage the Civil Works program at the national level.

Subcommittee. Has there been any consideration of making improvements – not to changing the decentralized structure of the civil works program, but perhaps to exploring standardized systems for tracking basic project information such as project names and funding history?

Assistant Secretary Darcy. The Corps has such a database already. However, we are developing a new, improved database that will enable us to track the status of each project more easily, and manage the overall civil works program more effectively. The new database will include information on authorized projects and separable elements, dam safety and related work, rehabilitations, and deficiency corrections. The database will be linked to information on project authorization, project cost, and project funding history to help improve management of the project portfolio and to support budgeting and proposed de-authorization activities.

NEW YORK DISTRICT OFFICE RELOCATION

Subcommittee. The Committee has heard that the General Services Administration would like to move the Corps' New York District office from its current location to the World Trade Center. What is the status of that discussion?

Assistant Secretary Darcy. The Corps and GSA are currently discussing such a move.

Subcommittee. When does the Corps' current lease expire? Is there reason to believe it couldn't be renewed at that time?

Assistant Secretary Darcy. The New York District has three occupancy agreements with GSA at the federally owned 26 Federal Plaza (Jacob K. Javits Federal Building) location:

1. ANY02136: 120,349 rentable square feet; expires: June 30, 2017
2. ANY02694: 2,510 rentable square feet; expires: April 30, 2021.
3. ANY08649: 10,831 rentable square feet; expires: August 31, 2020.

Total: 133,690 rentable square feet.

Subcommittee. Would there be any benefits to such a move?

Assistant Secretary Darcy. The Corps and GSA are working to ensure an agreement that is both cost-effective and meets mission requirements.

Subcommittee. What would be the costs associated with such a move? Would these costs end up affecting individual project costs?

Assistant Secretary Darcy. GSA has indicated to the Corps that any move would be cost neutral to the Corps. The Corps and GSA are continuing to discuss the details of accost analysis in support of any relocation.

Subcommittee. I understand the current location is just one floor away from FEMA. Will FEMA be moving also or will FEMA remain in the current location? Are there any concerns that separating the two agencies would add unnecessary challenges to emergency response activities?

Assistant Secretary Darcy. FEMA currently is located on floor 13 of 26 Federal Plaza. New York District currently is located on floors 18-21. Being located near FEMA is considered beneficial and practical, but not essential.

FY 2014 NEW CONSTRUCTION STARTS

Subcommittee. The fiscal year 2014 Act allowed the Corps to select up to four new construction starts, but required project partnership agreements with the local sponsors to be signed no later than August 29, 2014. Will the Corps meet that deadline for all four projects selected?

If so, when will the requests for proposals for construction contracts be released?

Assistant Secretary Darcy. The Corps is on schedule to execute project partnership agreements for three of the four new starts—Valdez Harbor, Alaska; Hamilton City, California; and Lower Colorado River Basin (Onion Creek), Texas—before August 29, 2014. The fourth new start—Columbia River at the Mouth, Oregon and Washington project—does not require a Project Partnership Agreement as there is no non-Federal sponsor; the project will be conducted at 100 percent Federal expense.

Schedules for the construction contracts for each project vary. For the Valdez Harbor project, Alaska, requests for construction proposals are scheduled for early August 2014. For the Hamilton City project, the current schedule to begin advertisement for service contracts is the fall of 2014. For the Lower Colorado River Basin (Onion Creek) project, the acquisition of real estate is scheduled to commence in September 2014, with the demolition of structures starting in the fall of 2014. On the Columbia River at the Mouth project, construction work is scheduled to begin in Fiscal Year 2016.

PLANNING MODERNIZATION

Subcommittee. The 3x3x3 planning initiative requires approval of a waiver for any study expected to take longer than 3 years or more than \$3 million to complete. At least one waiver request has been pending for more than six months.

Please explain the waiver process and how it will be managed to ensure it doesn't cause further delays under the guise of expediting studies through an arbitrary time or cost limit.

Assistant Secretary Darcy. The Corps Planning process is designed to involve three levels of the vertical team in determining the scale and schedule for each study. On some occasions, when a study's scope is determined to need more than three years or it requires a cost of more than \$3 million to complete, an exemption will be granted. The goal is to identify the need for a waiver early in the study process, allowing Corps Headquarters to act quickly to review and provide a decision.

An exemption request describes the reasons that a study should not be required comply with 3x3x3. The attached planning guidance addresses the waiver process including roles and responsibilities.

To date, the Corps has received four waiver requests and has approved waivers for three of them: Louisiana Coastal Area Ecosystem Restoration - Mississippi River Hydro/Delta Management Study; Sabine Pass to Galveston Bay, Texas; and Charleston Harbor, South Carolina. The fourth waiver request is for Passaic Mainstem, New Jersey, which is taking longer to review due to the need to resolve issues on the study direction and sponsor support.

CONSISTENCY ACROSS DISTRICT OFFICES

Subcommittee. The Subcommittee has heard concerns that procedures and requirements can vary widely across district offices. Recognizing that one-size-fits-all policies don't always work when it comes to water resources issues, have you taken any steps to limit inconsistencies to only those times that truly must be treated differently?

As you are moving forward with the SMART planning initiative what steps are you taking to ensure it is implemented in a consistent manner across all Corps districts?

Assistant Secretary Darcy. The Corps has introduced the "SMART Planning" process for feasibility studies, which is risk-informed, decision focused planning that utilizes the six-step planning process (identify problems and opportunities, inventory and forecast conditions, formulate alternatives, evaluate alternatives, compare alternatives, select the recommended plan) while deliberately scoping analyses to what is necessary for decisions. The process is flexible and tailored to the specific needs of each study. In its implementation of SMART planning, the Corps uses a rigorous nationwide planner training and development program. SMART planning is not a one-size-fits-all solution, but the goal is to provide a framework to allow for the identification of a recommended plan through more direct collaboration between the Corps District, Division, and Headquarters and the non-federal sponsor, and eliminates extraneous analysis while improving the quality of the decision. For example, to better address water resources issues, the Corps is also working to improve the quality of its decision-making by using the extent of uncertainty, complexity, and controversy as indicators of, and a guide to, the issues that require focused attention.

LEVELS OF SERVICE

Subcommittee. Secretary Darcy, your written testimony states that the Corps decision to modify levels of service for certain inland waterways locks “has resulted in reduced operating costs and the Corps is using these savings for work on these waterways or other inland waterways.” Please provide any and all analysis performed that supports this statement.

Assistant Secretary Darcy. Based on preliminary estimates, there was approximately \$3.6 million in reduced operating costs in 2013 from projects with modified levels of service (see list below), mainly due to reduced manning hours for lock operation. In some instances the savings were reinvested in the source projects to address maintenance and repair of the locks. In other instances, the savings were allocated to other, higher priority projects within the program. Lock usage data is analyzed annually, to determine the appropriate levels of service.

Lock	Estimated Reduction in Operations
Guntersville	\$102,000
Nickajack	\$102,000
Barkley	\$102,000
Morgantown	\$120,000
Hildebrand	\$120,000
Opekiska	\$120,000
Upper St. Anthony Falls	\$140,000
Lower St. Anthony Falls	\$250,000
Lock & Dam No. 1	\$92,000
Kaskaskia Lock	\$55,000
Jonesville Lock	\$100,000
Columbia Lock	\$100,000
Felsenthal Lock	\$100,000
H. K. Thatcher Lock	\$100,000
Berwick Lock	\$45,026
Calcasieu Saltwater Barrier	\$50,000
Apalachicola, Chattahoochee and Flint Rivers	\$220,000

Walter F. George Lock & Dam	\$220,000
Jim Woodruff Lock & Dam	\$215,000
Alabama River Lakes	\$850,000
James W. Trimble Lock & Dam	\$79,000
Ozark-Jetta Taylor Lock & Dam	\$79,000
Chouteau Lock & Dam	\$88,000
Newt Graham Lock & Dam	\$88,000
Webbers Falls Lock & Dam	\$88,000
TOTAL	\$3,625,026

NON-FEDERAL SPONSOR RESPONSIBILITIES

Subcommittee. There have been a number of situations where non-federal sponsors, at the end of construction, have seemed surprised by the cost of required operation and maintenance activities, with some then arguing they are unable to afford these costs. In some situations, adequate operation and maintenance has not been performed, leaving the federal investment less beneficial than designed.

Can you please describe how the Corps works with non-federal sponsors throughout the study and construction phases to ensure non-federal sponsors are financially capable of meeting any operation and maintenance requirements?

Are there any additional steps that could be taken?

Assistant Secretary Darcy. During and after the development of a project, the Corps periodically identifies, evaluates, and considers the requirements of the project for operation, maintenance, repair, rehabilitation, and replacement (OMRR&R). Where a non-federal sponsor is responsible for meeting these requirements or assuming some or all of their costs, the Corps coordinates this information with them.

For example, all costs are considered during the feasibility process, including OMRR&R, in identifying the National Economic Development (NED) Plan. After the NED Plan is identified, the costs, including OMRR&R, are further refined. Later, a non-Federal Sponsor's signed letter indicating support for the recommended plan and the non-Federal Sponsor's Self Certification of financial capability (also signed by the non-Federal sponsor), are included in the MSC's final report submittal package to Corps Headquarters, prior to issuance of the Chief's Report. These documents are intended to demonstrate the non-federal sponsor's willingness and ability to implement the project - including OMRR&R.

After the feasibility phase is the Preconstruction, Engineering, and Design (PED) phase. This phase is executed under a design agreement and cost shared at the construction cost share. During the PED phase, project features, requirements, and costs are further refined to a level sufficient to go to bid. Coordination with the non-federal sponsor is ongoing throughout the PED phase. Following the PED phase and before construction, a project

partnership agreement (PPA) must be executed. Prior to that execution, the non-federal sponsor's Chief Financial Officer (or equivalent) must review and sign the Non-Federal Sponsor's Self-Certification of Financial Capability For Agreements form. By signature of this form, the sponsor is certifying that it is aware of the financial obligations for the project and is financially capable to satisfy the sponsor's obligations under the PPA, including OMRR&R.

After the PPA is executed, construction of the project commences. During construction, the non-federal sponsor and the Corps are required to formally meet on an interval identified in the PPA to discuss progress, issues, etc. In addition to the formal meetings, the Corps' project manager coordinates throughout the construction phase. Prior to completion of construction and notification to the non-federal sponsor, an Operation and Maintenance Manual is developed by the Corps and provided to the sponsor. The O&M Manual identifies the requirements of how the project OMRR&R should be executed.

The Corps relies on the self-certification provided by the non-Federal sponsor to ensure that the non-federal sponsor is both committed and financially able to carry out future operation and maintenance requirements. The Corps established this process of non-Federal self-certification in June 2007 (attached).

INTERIM MEASURES

Subcommittee. The budget request once again includes a legislative provision to authorize interim measures to prevent the spread of aquatic nuisance species into the Great Lakes.

Have you identified any specific activities to be implemented in fiscal year 2015 or is that provision intended more as a safeguard just in case something comes up? If there are planned activities, how much funding is requested and in which line item is it included?

Assistant Secretary Darcy. At this time, there are no specific activities to be implemented in Fiscal Year 2015. However, continuation of this emergency provision will enable the Army to react swiftly to implement measures to prevent aquatic nuisance species dispersal between the basins if a threat is identified and immediate action is required.

Subcommittee. Have you or do you plan to take any actions under this authority in fiscal year 2014?

Assistant Secretary Darcy. There are no planned actions under this authority for FY14.

ENVIRONMENTAL RESTORATION AND COMPLIANCE

ENDANGERED SPECIES ACT COMPLIANCE

Subcommittee. The budget request for activities related to Endangered Species Act compliance has varied rather significantly over the past several years. Has the Corps done any work to look at these requirements comprehensively? Are there estimates of funding levels necessary in the next five or ten years to comply with ESA across all Corps facilities?

If so, will funding levels continue to see-saw or will they reach a steady level at some point in time?

If there aren't comprehensive estimates, what about plans for some of the larger compliance programs, such as the Columbia River Fish Mitigation program or the Missouri River Fish and Wildlife Recovery program? Or do you just focus on one-year requirements for those programs?

Assistant Secretary Darcy. The Corps is in the process of developing a more comprehensive accounting of ESA requirements associated with Corps' projects and activities.

Significant costs are included within multiple projects throughout the Civil Works program in the Operation and Maintenance account. However, the largest, most visible costs are associated with the Columbia River Fish Mitigation (CRFM) and Missouri River Fish and Wildlife Recovery (MRRP) construction programs. The Army is committed to better understanding and more clearly articulating the Biological Opinion requirements and the costs associated with satisfactorily meeting those requirements. The requirements do continue to evolve over time with issuance of new biological opinions and identification of new requirements for the Army Civil Works program.

CENTRAL EVERGLADES PLANNING PROJECT

Subcommittee. During the course of this Committee's ongoing oversight, we were told that construction of the Central Everglades Planning Project is not expected to begin until 2030. Yet this study was one of the pilots selected to exemplify the new expedited planning process.

Why was it so important to expedite this study if construction is not expected for another 15 years?

Assistant Secretary Darcy. One of the benefits of SMART planning is for studies to be completed in a timelier manner. The Everglades is a system in a state of decline, and there is a need to address factors contributing to its decline as quickly as possible. The 15-year time frame reflects the current proposed phasing of the project as described in the draft Project Implementation Report completed in August 2013. That phasing is based upon the construction schedules for other related projects, both non-Corps and Corps, as of August 2013. Some of these project schedules are changing, with some progressing more rapidly than expected. As a result, certain features of the Central Everglades Project may be ready for implementation sooner than the dates presented in the PIR. The Corps and the project's non-Federal sponsor are committed to implementing the project, and realizing its benefits, as soon as possible.

Subcommittee. Will this study even be useful 15 years from now? Or will we have to restudy everything to take into account all of the changed conditions?

Assistant Secretary Darcy. In the event that no action is taken on this project for 15 years, a reevaluation may be necessary. However, the study takes a very comprehensive look at likely future conditions, including other planned projects that will affect those conditions. The proposed plan provides a flexible path forward, employing adaptive management principles that would allow for adjustments to feature capacity and location and help address the full range of potential changes that may occur within the ecosystem. Preconstruction, engineering and design activities will bring additional certainty about the needs of the system and unless significant, unanticipated changes to the system occur, it is highly unlikely that future studies or more specifically, project reformulation will be needed to provide the expected benefits.

MISCELLANEOUS**GREAT LAKES – ST. CLAIR RIVER**

Subcommittee. Water levels on the Great Lakes are a continuing challenge. The fiscal year 2014 work plan included \$50,000 to review a plan to install water-slowng structures on the St. Clair River, which is the primary outflow for Lakes Michigan and Huron. That original St. Clair riverbed restoration plan was designed to compensate the lakes for water lost due to a 1960s dredging of the St. Clair to enable freighters to sail into the upper Great Lakes. However, we never got around to actually doing the work.

Not to give offense, but \$50,000 seems like a paltry sum for such a large problem. Can you please describe what you hope to accomplish with this funding and what you think the next steps would be, since the project is not in your fiscal year 2015 request?

Assistant Secretary Darcy. The \$50,000 will be used to develop a schedule, scope, and cost estimate for the general reevaluation report. Additional funding would be needed thereafter to perform the study.

RESEARCH AND DEVELOPMENT FUNDING

Subcommittee. The budget request for research and development activities within the Investigations account is reduced by about 50 percent from the allocations in the previous two fiscal years. Why?

Assistant Secretary Darcy. The FY 2013 work plan provided \$10.6 million and the FY 2014 work plan provided \$8 million above the budgeted levels for those years for the research and development remaining item, which is funded in the Investigations account. (The Budget also funds other work that is related to research and development.)

Subcommittee. The Administration emphasizes its priority on research and development in many other areas of the federal budget, so why was it seen as such a low priority within the Corps' budget?

Assistant Secretary Darcy. The Administration and the Corps have been and remain highly committed to the water resources research and development activities of the Corps.

Subcommittee. Will any of the current activities need to be discontinued or slowed under this request?

Assistant Secretary Darcy. The FY 2014 work plan enabled the acceleration of research and development by funding additional useful increments of work on a number of R&D activities. Under the FY 2015 Budget, research and development will continue, but at a lower overall funding level than in the FY 2014 work plan. R&D on six specific activities would proceed at a slower pace in FY 2015 than in FY 2014 – involving the corrosion of lock structures, monitoring lock gates for catastrophic failure, characterization of extreme hydrology, and levee internal erosion, breaching and seepage mechanics.

Subcommittee. What would be the next highest priorities in this program if funding were to be provided at a level comparable to fiscal year 2014, or even to the fiscal year 2014 budget request?

Assistant Secretary Darcy. The next highest priority work would include six infrastructure research topics addressing corrosion of lock structures, monitoring lock gates for catastrophic failure, characterization of

extreme hydrology, and levee internal erosion, breaching and seepage mechanics.

IMPACTS OF DROUGHT CONDITIONS

Subcommittee. Much of the West and Southwest currently are experiencing drought conditions, with California seeing the most extreme conditions. What kind of impacts to Corps facilities or operations are you seeing as a result of this drought?

Assistant Secretary Darcy. Due to drought conditions, Corps dams and reservoirs are experiencing lower water stages and storages during wet season as well as at the end of the season. In some case, these stages and storages are at or very close to historical recorded drought conditions.

Subcommittee. Will funding requirements in fiscal year 2014 or 2015 be affected? If so, when will we have a better sense of any updated funding needs for fiscal year 2015?

Assistant Secretary Darcy. Yes. Every Corps reservoir has a Water Control Manual that provides information on releases for downstream communities and includes a Drought Contingency Plan. Due to changed conditions, the drought contingency plans for eight projects are outdated. The cost to update these plans would be approximately \$1.2 million, but are not included in either the 2014 work plan or the 2015 Budget.

Subcommittee. How is the Corps handling local interest requests to modify the operating procedures of projects with water storage?

Assistant Secretary Darcy. The Corps has a support role during drought. During the drought, the Corps cooperates with the local and State agencies that are responsible for directing non-flood operations at Corps operated dams in an attempt to find innovative solutions that may increase water storage. The Corps processes temporary deviations from authorized flood operations in response to drought conditions. These processes incorporate environmental compliance, ensure that dam safety guidelines are met, and evaluate associated flood risk management issues. Generally, the Corps manages flood flows only and non-flood flow management including water supply is a responsibility of the local and or State sponsor(s). All flow releases are coordinated among some combination of State-led drought coordination team along with other Federal agencies. Most of these coordination are at staff level with National Resource Conservation Service, National Marine Fisheries Service and National Integrated Drought

Information System, Bureau of Reclamation and Fish & Wildlife Service during long-term drought.

QUESTIONS FROM MR. NUNNELEE OF MISSISSIPPI

WATERS OF THE UNITED STATES PROPOSED RULE

Mr. Nunnelee. In regards to the recent announcement of the new “Waters of the United States Proposed Rule”, are there ditches that the Corps is claiming jurisdiction over? I’m having a hard time reconciling the statement that is made by your agency that this rule provides clarity when there are certain categories of ditches that qualify as a “tributary” and there are some that are excluded from the definition, still others that I don’t need a 404 permit for but technically are still a WOTUS. I am just curious as to if you really expect that a farmer who is busy doing the things he needs to do on his farm has the time to read through this 371 page “definition” and then evaluate each and every ditch on his property to determine if the next time he sprays pesticides on his field he needs to go ask the federal government for a permit?

Assistant Secretary Darcy. The agencies have long distinguished between ditches that are “waters of the United States” and ditches that are not “waters of the United States.” In the preamble to the Corps 1986 regulations, it states that generally, non-tidal drainage and irrigation ditches excavated on dry land are not considered to be “waters of the United States.” 51 FR 41217, November 13, 1986. The Corps’ 2008 guidance states that generally the agencies would not assert jurisdiction over “Ditches (including roadside ditches) excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water.” (2008 Rapanos guidance).

This proposed rule language is designed to inform what are and what are not jurisdictional waters and wetlands under the Clean Water Act. Paragraph (b) of the proposed rule specifically excludes certain ditches that were not constructed in waters of the U.S. The proposed rule solicits comment on the following exclusion language:

1. Ditches that are excavated wholly in uplands, drain only uplands, and have less than perennial flow.
2. Ditches that do not contribute flow, either directly or through another water, to a water identified in paragraphs (a)(1) through (a)(4) of the Rule.

This exclusion will allow landowners to quickly identify these types of ditches. Furthermore, the proposed rule states that if a ditch is excluded under paragraph (b) the agencies cannot recapture that feature under any of the categories or provisions of paragraph (a), which identify jurisdictional waters of the United States. The proposed rule provides greater clarity and in fact may result in fewer ditches being regulated than is occurring under existing practices.

For ditches that are not excluded from Clean Water Act jurisdiction under the exclusions just discussed, in the agencies' proposal, only those remaining ditches that have a bed and banks, an ordinary high water mark, and contribute flow directly or indirectly through another water to (a)(1) through (a)(4) waters would meet the definition of tributary and therefore be jurisdictional under the proposed rule language. Such jurisdictional ditches may include, but are not limited to, the following:

- natural streams that have been altered (e.g., channelized, straightened or relocated);
- ditches that have been excavated in "waters of the United States," including jurisdictional wetlands;
- ditches that have perennial flow; and
- ditches that connect two or more "waters of the United States."

Once published in the Federal Register, the public will have 90 days to comment on this proposal. In the proposal, the agencies' specifically requested comments on the ditch exclusion language and on the definition of tributary. The agencies look forward to public comment on this topic and others to ensure that the final rule provides the clarity consistent with the intent of the Clean Water Act and the Supreme Court decisions.

The proposed rule does not affect existing Section 404(f) exemptions for discharges of dredged and/or fill material. However, the Army, U.S. EPA, and USDA/NRCS also issued a new interpretive rule effective immediately, which provides a clarification that discharges of dredged and/or fill material associated with normal ongoing established farming, ranching, and silviculture practices and based on specific NRCS conservation practice standards to protect and enhance water quality, are exempt. Under the

interpretive rule, there is no need for a determination of whether the discharges associated with the activities are in “waters of the U.S.” nor is site-specific pre-approval from the Corps or EPA necessary before implementation.

Also, the spraying of pesticides on an upland field would not require a Clean Water Act Section 404 permit from the Corps of Engineers.

NATIONAL OCEAN POLICY

Mr. Nunnelee. Can you discuss any USACE resources or personnel that have been or will be directed toward activities in support of the National Ocean Policy? What about any Corps-planned and completed activities with regard to National Ocean Policy implementation? Could you note what line items within the FY15 request would support the Corps' continued participation in National Ocean Policy activities?

Assistant Secretary Darcy. The Corps' approach is to continue to accomplish the work that supports Corps missions, and to share the results of its work broadly within the government, including working groups or committees within the National Oceans Policy structure. The focus of the Corps effort in this area is on work that pertains to its missions. This approach is aligned with that of the leadership of the Interagency Policy Committees for Ocean Science and Technology and for Ocean Resource Management. While the 2015 budget does not include funds specifically directed to accomplish any of the actions identified by the National Ocean Policy Implementation Plan, the Budget does provide funding for a number of ongoing Corps projects and programs that support National Ocean Policy objectives related to data collection, research, and modeling. There are numerous line items that contribute to the objectives of the National Ocean Policy including the following remaining items: Coastal Field Data Collection, National Shoreline Management study, Floodplain Management Services (Systems Approach to Geomorphic Engineering), National Coastal Mapping Program, Coastal Ocean Data System, Regional Sediment Management Program, Coastal Inlets Research, Response to Climate Change, IPET/HPDC Lesson Learned Implementation, Dredging Operations and Environmental Research Program, and Research and Development Program. For example, the IPET/HPDC Lesson Learned Implementation program has developed policy and guidance on how to account for changing sea levels, along with publicly available supporting tools. These products directly supporting the action "Provide coastal inundation and sea-level change decision-support tools to local, state, tribal, and federal managers." The FY 2015 Budget also includes funding for the Water Resources Priorities Study and, more generally, both coastal navigation and aquatic ecosystem restoration studies and projects as well as the regulatory program; each of these contribute in some way to the overall objectives of the National Ocean Policy.

NATIONAL OCEAN POLICY REPORTS

Mr. Nunnelee. Section 6(b) of Executive Order 13547 that established the National Ocean Policy in July 2010 requires “[e]ach executive department, agency, and office that is required to take actions under this order shall prepare and make publicly available an annual report including a concise description of actions taken by the agency in the previous calendar year to implement the order, a description of written comments by persons or organizations regarding the agency’s compliance with this order, and the agency’s response to such comments.”

Have any such annual reports covering USACE activities for calendar years 2010, 2011, 2012, or 2013 been prepared and made publicly available? If so, please describe the findings and contents of such reports, and if not, why not?

Assistant Secretary Darcy. No, not at this time. It was a decision by the National Oceans Council to write a single, consolidated report for all agencies instead of having each agency write their own report. The first report is being prepared at this time.

QUESTIONS FROM MR. FLEISCHMANN OF TENNESSEE**WRRDA PPPS**

Mr. Fleischmann. There is language in both the House and Senate versions for WRRDA that would create a pilot program for the US Army Corps to examine innovative financing and green light 15 “public-private partnerships” or PPPs. It’s my understanding that the Corps is now interested in pursuing these PPPs on their own. Whether Congressional action drove you forward or not, many of us are pleased to see this step forward.

Does the Corps have concerns about the PPP language in WRRDA?

Assistant Secretary Darcy. At this time, the Corps does not have specific concerns about the PPP language. However, the Army will evaluate what ultimately becomes law with the goal of allowing the Corps to leverage its resources to deliver greater returns on investment for taxpayer dollars.

Mr. Fleischmann. What types of projects appeal to the Corps as PPPs (navigation, flood control, etc)?

Assistant Secretary Darcy. The Corps has evaluated its portfolio and believes there may be a role for PPP in numerous program areas, including commercial navigation, flood risk reduction, and aquatic ecosystem restoration.

Mr. Fleischmann. Does the Corps have a PPP model in mind for these projects?

Assistant Secretary Darcy. The specifics of each PPP will differ based on project need, private-sector interest, and level of complexity.

Mr. Fleischmann. Is there anything Congress can do to expedite the Corps moving ahead?

Assistant Secretary Darcy. The Administration welcomes and supports efforts to explore innovative water infrastructure financing tools, and has previously proposed ways to do so through an independent financing entity such as a National Infrastructure Bank. The Administration looks

forward to working with Congress as we jointly look for opportunities to leverage resources to address the Nation's water resources challenges into the future.

LOCK 52 ON THE OHIO RIVER

Mr. Fleischmann. There is serious concern about the dam at Lock 52 on the Ohio River. Four wickets have been lost that hold back water when the dam is raised to maintain navigation during low flow periods. The Corps is mobilizing to make repairs, but the timing depends on river flows because it is unsafe to place divers into the river during high water.

What is the plan to maintain navigation at the lower end of the Ohio while repairs are made? This potentially impacts traffic on the Ohio, the Cumberland, the Tennessee and the Mississippi.

When will the repairs be undertaken, does the Corps have funds to deal with this unscheduled outage and what will be the impacts on the Nation's commerce?

Assistant Secretary Darcy. Navigation will be stopped at Locks & Dam 52 during the period when the repairs are performed. The repair work will be performed in three phases – near the end of March, near the end of April, and work would be completed at the end of May/beginning of June. The repairs are estimated to take 3-5 days for each phase, but could take longer, since the work is highly dependent upon river conditions, which can vary greatly at this location, and the Corps will also need to address any unforeseen problems that might arise. Advance notice of 4-5 days will be provided to river users of each closure based upon river forecasts.

The current plan is to perform these repairs in stages in open river conditions prior to raising the dam. This approach would reduce impacts to navigation, since barges will be able to pass through more quickly in open river conditions, once the Corps completes its work.

The Corps has the necessary funds to cover the cost of this work.

Locks & Dam 52 transits 22 tows per day on average. River closures of 3-5 days could result in queues of up to 67-112 tows, which could take up to several days to dissipate. The queues would begin to dissipate as soon as the locks or navigable pass reopens, so this range is a temporary maximum. The advanced notice, which we plan to provide, will likely reduce those impacts to some extent.

WEDNESDAY, MARCH 26, 2014.

DEPARTMENT OF ENERGY—BUREAU OF RECLAMATION

WITNESS

LOWELL PIMLEY, ACTION COMMISSIONER OF RECLAMATION

Mr. SIMPSON. I would like to call the hearing to order. Good afternoon, everyone. We are about 15 minutes late because of votes, but other members will be dragging in. And then, as I have told everybody, there are a bunch of different hearings that are going on, because we have a reduced hearing schedule, and Chairman Calvert has to go to a defense hearing. So, I am going to actually turn to him first after the opening statements to ask him questions.

Our hearing today is on the fiscal year 2015 budget request for the Bureau of Reclamation. I would like to welcome our witness, Lowell Pimley, Acting Commissioner of Reclamation. I have every confidence that Mr. Pimley's many years of experience with Reclamation will serve him well as he guides the agency's activities during the transition to a new Commissioner.

Make no mistake, though—it is a challenging time for Reclamation. We all know that our infrastructure is aging, some of it getting quite old and beyond its design life, which means increasing maintenance and rehabilitation needs.

Funding necessary to meet our commitments under existing Indian Water Rights Settlements will continue to increase, and you might say it is in our best interests to hope for future settlements requiring funding, as well, since the potential alternatives could pose serious consequences.

Funding levels devoted to large-scale ecosystem restoration often associated with Endangered Species Act compliance also seems to be increasingly significant. The current drought across much of the West—but most severe in California—has put even stronger pressure on the many challenges inherent in trying to balance the water needs.

It has also highlighted both the general and the great importance of our economy, and the fundamental physical limits of our water resources infrastructure.

All of these important considerations, and yet Reclamation's budget has remained relatively flat for a number of years now. In fact, the fiscal year 2015 budget request before us today is actually a six-percent reduction from fiscal year 2014 enacted level, after accounting for the proposed shift of the Central Utah Project.

The agency continues to be expected to do more and more, but without more funding. At some point, improving efficiency just is not enough. It would seem we, the Executive Branch and Legislative Branch together, have some tough decisions to make. Either

we reevaluate the number and breadth of the actions we promised to deliver, or if these really are strong national priorities compared to national priorities in other policy areas, we figure out a way to better reflect that in Reclamation's budget.

I look forward to discussing Mr. Pimley's agency's view on how best to meet these many challenges.

Again, I would like to welcome our witnesses to the Subcommittee. Mr. Pimley, please ensure that the hearing record, questions for the record, and any supporting information requested by the Subcommittee are delivered in final form to us no later than four weeks from the time you receive them. Members who have additional questions for the record will have until close of business tomorrow to provide them to the Subcommittee's office.

With that, I will turn to Ms. Kaptur for opening comments.

Ms. KAPTUR. Thank you, Mr. Chairman. Commissioner Pimley, welcome. Mr. Wolf, welcome today. This is your first hearing before our Subcommittee, and we very much look forward to your testimony. And we thank you both for the fine work you do for our country.

The Bureau of Reclamation is responsible for providing the agriculture, municipal, and industrial water supply in a 17-state region of the West. Economies, ecosystems, and communities all rely on the availability of clean water—something we cannot take for granted. And the existence of such an instrumentality is of great value to our Western states and to the nation. We would be a very different nation without you.

You have created a resource that is now available to all regions and a national benefit and endowment to one third of our states. It is an investment by America, intergenerationally, that simply cannot be taken for granted.

At a time when water demand is increasing and many regions have been hit by extended drought of historic proportion, the Bureau's being asked more and more to provide solutions to the West's water needs, all while being good stewards of our natural resources.

I hope to hear today how the Fiscal Year 2015 budget request reflects this responsibility with a reduced budget.

Reclamation's budget request for water and related resources represents a six-percent reduction from that of 2014. And while we are all interested in finding appropriate places to cut, I do have some concerns that this reduced request continues the disinvestment in our nation's water resource infrastructure.

Therefore, it will be especially important that our Subcommittee understand the specific methodology used to arrive at this particular set of projects and activities.

Additionally, much of the Bureau's infrastructure was built nearly a century ago. In fact, over half of the Bureau's dams are more than 60 years old. It is critical that Reclamation maintain this aging infrastructure.

Let us explore today how the budget request provides funding levels that meet the Bureau's responsibility to keep Americans safe while maintaining its dams in proper working order.

Reclamation plays a vital role in delivering water to tribes in rural communities that would not otherwise have access to clean water.

I do appreciate that the administration's budget request continues to meet the nation's obligation under the Indian water rights settlements. We are all interested in ensuring that every dollar is spent effectively and efficiently, and I look forward to your testimony today on how Reclamation plans to accomplish your task.

I want to thank you personally, Bureau of Reclamation, for your efforts and attention to briefing me on many installations across our nation, and serving our nation so ably for over a century. Truly, you have made life in our desert West possible.

Thank you, Mr. Chairman. I look forward to the testimony.

Mr. SIMPSON. Thank you. Mr. Pimley, I look forward to your testimony.

Mr. PIMLEY. Thank you, Mr. Chairman, Ranking Member Kaptur, and Members of the Subcommittee, for the opportunity to discuss the President's Fiscal Year 2015 budget for the Bureau of Reclamation. The budget reflects a comprehensive set of actions and initiatives supporting administration, Department of Interior priorities, and Reclamation's water and power mission.

The overall request for Reclamation is about \$1 billion, and I have submitted detailed written testimony for the record. The 2015 budget request prioritizes the use of resources in six areas, and I will discuss those with the remainder of my time.

First, Reclamation's budget focuses on resources necessary to operate and maintain its infrastructure. In 2015, 55 percent of all water and related resources account—or about \$417 million is dedicated to the operation's maintenance and rehabilitation activities.

The Dam Safety Program remains one of Reclamation's top priorities, and it is proposed for \$83 million. Other OM&R activities include the Site Security Program, at \$26 million, and our Replacements, Additions, and Extraordinary Maintenance Program, funded at \$63 million.

The second priority area is WaterSMART. WaterSMART concentrates on expanding and stretching limited water supplies with an established priority goal to facilitate an increase in available water supply of 840,000-acre feet, cumulative, by the end of 2015.

From 2010 to 2013, Reclamation has helped free up an additional 734,000-acre feet of water supply in the West, as well as conserving approximately 45 million kilowatt hours of electricity.

In 2015, Reclamation proposes to fund WaterSMART at \$52.1 million.

The third priority area is to support the Department's Powering Our Future Initiative. We are taking advantage of the hydropower legislation passed last year to help develop more power across the West.

The 2015 budget also allocates \$1.2 million to optimize its hydropower projects to produce more clean, renewable energy with the same amount of water, investigate Reclamation's capability to help integrate non-hydro renewable energy sources into the nation's electric power grid, and work with tribes to assist them in developing renewable energy sources.

Strengthening Tribal Nations is a fourth priority area. The 2015 budget supports the strengthening tribal nations initiatives through a \$90-million request for planning and construction of five recently-enacted Indian Water Rights Settlements in a new separate account.

The budget also includes \$8.1 million in support of Reclamation's activities with tribes and \$14.1 million to continue operation and maintenance associated with water delivered to the Ak Chin Indian community in Arizona.

The fifth priority is Ecosystem Restoration. In order to meet Reclamation's mission goals of managing water and energy resources in a sustainable manner for the 21st century, one focus of its programs must be the protection and restoration of the aquatic and rearing environments influenced by its operations.

Ecosystem restoration involves a number of activities, including Reclamation's Endangered Species Act recovery programs. Examples include the Platte River Recovery Implementation in Wyoming, Colorado, and Nebraska, and river restorations on the Trinity River in Northern California and the Columbia Snake River salmon recovery in Idaho, Washington, and Oregon, which collectively are funded at \$44 million in FY 2015.

The sixth priority is Climate Change Adaption. Reclamation is actively engaged in developing and implementing approaches to understand and effectively adapt to the risks and impacts of a changing environment on Western water management.

For example, our Basin Study Program, as part of our WaterSMART Initiative, is funded at \$3.9 million, and represents a coordinated approach to assess these risks and work with our stakeholders to develop adaptation strategies to cope with future water supply demand in balances.

In conclusion, Reclamation is very aware of the role our projects play in helping Western states suffer through the drought. We understand the value of adding new water supplies through a variety of methods including surface storage in appropriate situations, and we continue to work with our customers to assess their needs.

Mr. Chairman, we appreciate the continued support of this Subcommittee for Reclamation.

And this completes my statement. I would be glad to answer questions at the appropriate time.

[The information follows:]

**Statement of
Lowell Pimley
Acting Commissioner
U.S. Bureau of Reclamation
Before the
House Energy and Water Subcommittee Hearing
On the President's Fiscal Year 2015 Budget
March 26, 2014**

Thank you Mr. Chairman, Ranking Member Kaptur and members of this Subcommittee for the opportunity to discuss with you the President's Fiscal Year 2015 budget for the Bureau of Reclamation and the Central Utah Project Completion Act, also known as CUPCA.

I appreciate the time and consideration this Subcommittee gives to reviewing and understanding Reclamation's budget, projects, and programs. Reclamation is committed to prioritizing and defining our overall program in a manner that serves the best interest of the American public.

Our 2015 budget continues to support activities that will deliver water and generate power, consistent with applicable State and Federal law, in an environmentally responsible and cost-effective manner both now and for future generations. Overall, our goal is to promote sustainability, resiliency, and certainty for those who use and rely on water resources in the West. Success in this approach will help ensure that Reclamation is doing its part to support the basic needs of growing communities, and provide support for economic growth in the agricultural, industrial, energy and recreational sectors of the economy. The 2015 budget is consistent with the President's pledge to reduce spending and focus on deficit reduction. It allows Reclamation to fulfill its core mission and implements cost savings, whenever possible.

The budget also supports the Administration's and Department of the Interior's (Department) priorities to address America's water challenges, and major trends including the likelihood of continued constrained funding resources, population growth and new domestic needs, including energy development, increased demand and competition for supplies. Water availability and quality are a constant and increasing challenge across the Country as intensifying droughts and changing climate and hydrology exacerbate water shortages, deplete groundwater resources, and contribute to impaired water quality that all impact land, water, wildlife and tribal communities. Reclamation tackles water challenges across the American West in concert with the Department's priorities by: ensuring healthy watersheds and sustainable, secure water supplies; promoting the America's Great Outdoors initiative; supporting an all-of-the-above energy strategy; strengthening tribal nations; and engaging the next generation. The Department will continue to ensure healthy watersheds and sustainable, secure water supplies primarily through the WaterSMART — Sustain and Manage America's Resources for Tomorrow — Program with participation from both Reclamation and the U.S. Geological Survey. The WaterSMART Program provides incentives and cost-share funding for water conservation projects and facilities and collaborative mechanisms for water users and policy makers to identify pathways that contribute to water sustainability. Reclamation's budget reflects those priorities.

Reclamation's 2015 budget, including the Central Utah Project Completion Act, is \$1.0 billion. These expenditures are offset by current receipts in the Central Valley Project Restoration Fund, estimated to be \$57.0 million. The budget proposal for permanent appropriations in 2015 totals \$122.8 million. The budget also proposes the establishment of a new Indian Water Rights Settlement account and a current appropriation within the San Joaquin River Restoration Fund.

Water and Related Resources

The 2015 budget for Water and Related Resources, Reclamation's principal operating account, is \$760.7 million, a decrease of \$193.4 million from 2014 Enacted levels. This decrease is due, in part, to shifting \$90.0 million to establish a separate Indian Water Rights Settlement Account, a shift of \$32.0 million to establish a separate current appropriation within the San Joaquin River Restoration Fund, and various program and project decreases including a reduction in the Central Valley Project.

The 2015 budget includes a total of \$343.5 million at the project and program level for water, energy, land, and fish and wildlife resource management and development activities. Funding in these activities provides for planning, construction, water sustainability activities, management of Reclamation lands, including recreation areas, and actions to address the impacts of Reclamation projects on fish and wildlife.

The budget also provides a total of \$417.2 million at the project level for water and power facility operations, maintenance, and rehabilitation activities. Reclamation emphasizes safe, efficient, economic, and reliable operation of facilities, ensuring systems and safety measures are in place to protect the facilities and the public. Providing adequate funding for these activities continues to be one of Reclamation's highest priorities.

Highlights of the 2015 Budget for Water and Related Resources

I would like to share with the Committee several highlights of the Reclamation budget. Even in this tight fiscal climate, Reclamation's budget continues to promote and support efficient water management; increased renewable energy production; the construction of new infrastructure and sound maintenance of existing facilities; restoration of aquatic environments; and the continued use of applied science and new technologies to help ensure sustainable water deliveries and energy production. As a result, Reclamation continues to play an important role in providing a strong foundation for economic activity across the American West.

WaterSMART Program – One method Reclamation employs to stretch water supplies in the West and prepare for these ongoing challenges is the WaterSMART Program. The programs included in WaterSMART are collaborative in nature and work to effectively achieve sustainable water management. WaterSMART Grants, Title XVI Water Reclamation and Reuse, and the Water Conservation Field Services Program, along with other Reclamation activities, support the Department's Priority Goal for Water Conservation. The Basin Studies component of WaterSMART supports the Department's priority for Ensuring Healthy Watersheds and Sustainable, Secure Supplies.

In the 2015 budget, Reclamation proposes to fund WaterSMART at \$52.1 million. The WaterSMART components include: WaterSMART Grants funded at \$19.0 million; the Basin Study Program funded at \$3.9 million; the Title XVI Water Reclamation and Reuse Program funded at \$21.5 million; Water Conservation Field Services Program, funded at \$4.5 million; the Cooperative Watershed Management Program, funded at \$250,000; new Drought Response activities, funded at \$1.5 million, and new Resilient Infrastructure activities, funded at \$1.5 million.

Rural Water Projects – Congress has specifically authorized Reclamation to undertake the design and construction of six projects intended to deliver potable water supplies to specific rural communities and Tribes located in the 17 western States — primarily in Montana, New Mexico, North Dakota, and South Dakota. The 2015 Reclamation budget includes \$34.1 million for rural water projects, \$17.8 million of that total is for operation and maintenance of completed tribal systems and the remaining \$16.3 million is for continued construction for authorized projects.

Dam Safety Program - A total of \$82.9 million is provided for Reclamation’s Safety of Dams Program, which includes \$62.0 million to correct identified safety issues. Of that amount, \$21.4 million is for work at Folsom Dam. Funding also includes \$19.8 million for safety evaluations of existing dams and \$1.1 million to oversee the Interior Department’s Safety of Dams Program.

Site Security - A total of \$26.2 million is provided for Site Security to ensure the safety and security of the public, Reclamation’s employees, and key facilities. This funding includes \$4.1 million for physical security upgrades at high risk critical assets and \$22.1 million to continue all aspects of Bureau-wide security efforts including law enforcement, risk and threat analysis, personnel security, information security, risk assessments and security-related studies, and guards and patrols.

Powering Our Future – To support the Powering Our Future initiative, the 2015 Reclamation budget includes \$1.2 million to optimize its hydropower projects to produce more clean, renewable energy with the same amount of water; investigate Reclamation’s capability to help integrate large amounts of renewable resources such as wind and solar into the electric grid; and work with Tribes to assist them in developing renewable energy sources. These important projects will assist in the production of cleaner, more efficient renewable energy.

Strengthening Tribal Nations – The 2015 Reclamation budget supports the Strengthening Tribal Nations initiative through a number of activities and projects. For example, the budget includes \$8.1 million in support of Reclamation’s activities with Tribes, including technical assistance, Indian Water Rights Settlement negotiations, implementation of enacted settlements, and outreach to Tribes; and \$14.1 million to continue the operation and maintenance associated with the delivery up to 85,000 acre-feet of water to the Ak-Chin Indian Community. Ongoing authorized rural water projects also benefit both tribal and non-tribal communities. Projects in the 2015 budget benefiting Tribes include the rural water component of the Pick-Sloan Missouri Basin Program, Garrison Diversion Unit; Fort Peck Reservation/Dry Prairie; and Rocky Boy’s/North Central Montana; and operation and maintenance funding only for tribal features of the Mni Wiconi Project following completion of construction. Numerous other projects and programs, such as the Columbia/Snake River Salmon Recovery Program, Klamath Project, and

the Yakima River Basin Water Enhancement Project also benefit Tribes. In 2015, \$90 million for planning and construction of five recent Indian Water Rights Settlements is being proposed in a new separate account.

Ecosystem Restoration – In order to meet Reclamation’s mission goals of securing America’s energy resources and managing water in a sustainable manner for the 21st century, one focus of its programs must be the protection and restoration of the aquatic and riparian environments influenced by its operations. Ecosystem restoration involves a large number of activities, including Reclamation’s Endangered Species Act recovery programs, which directly address the environmental aspects of the Reclamation mission.

America’s Great Outdoors (AGO) fosters the intrinsic link between healthy economies and healthy landscapes to increase tourism and outdoor recreation in balance with preservation and conservation. Reclamation’s 2015 budget includes \$116.0 million within numerous project and program line items that directly supports the goals of AGO.

The 2015 budget provides \$150.6 million to operate, manage, and improve California’s Central Valley Project, including a \$32.0 million current appropriation within the San Joaquin River Restoration Fund. Overall, funding is \$28.0 million below 2014 levels. The primary factor for the decrease is a six month delay in the schedule for drainage services for the San Luis Unit as approved by the U.S. District Court. Within the CVP total, is \$16.7 million for the Trinity River Division, of which \$11.9 million and an additional \$2.0 million in the Central Valley Project Restoration Fund are for the Trinity River Restoration Program.

Many other projects and programs also contribute to ecosystem restoration including the Lower Colorado River Multi-species Conservation Program, Middle Rio Grande Endangered Species Act Collaborative Program, the Endangered Species Act Recovery Implementation Program, the Columbia/Snake River Salmon Recovery Program, Klamath Project, and the Yakima River Basin Water Enhancement Project.

Engaging the Next Generation – Funds proposed in the FY 2015 President’s Budget Request will expand Reclamation youth programs and partnerships to accomplish high priority projects, and promote quality participant experiences and pathways to careers. The funding for youth programs and partnerships, including the proposed 21st Century Conservation Service Corps, is included within Reclamation’s project and program line items within the various accounts.

Climate Change Adaptation – Consistent with the direction in the President’s 2013 Climate Action Plan, in 2015 Reclamation is developing and implementing approaches to understand, and effectively adapt to, the risks and impacts of a changing environment on western water management. Some examples include:

- The Basin Study Program takes a coordinated approach to assess risks and impacts, develop landscape-level science; communicates information and science to other entities and agencies; and works closely with stakeholders to develop adaptation strategies to cope with water supply and demand imbalances in a collaborative manner.

- The Drought Response Program will implement, under existing authorities, a comprehensive new approach to drought planning and will implement actions to help communities manage drought and develop long-term resilience strategies.
- Through the Resilient Infrastructure Program, Reclamation will proactively maintain and improve existing infrastructure for system reliability, safety, and efficiency for water conservation to prepare for extremes and to support healthy and resilient watersheds. Reclamation will develop and implement an enhanced decisionmaking criteria framework for selecting resilient infrastructure investments and will identify opportunities to integrate operational efficiencies more compatible with climate change adaptation goals, as part of the Bureau's ongoing infrastructure investments.
- Within Reclamation's Science and Technology Program is water resources research to improve capability for managing water resources under multiple drivers, including a changing climate. This research agenda will be collaborated and leveraged with capabilities of the Interior Climate Science Centers.
- Additionally, Reclamation's WaterSMART Grants, Water Conservation Field Services, and Title XVI Programs are enabling the West to better adapt to the impacts of a changing environment by helping to conserve tens of thousands of acre-feet of water each year in urban and rural settings, and on both large and small scales.

Central Utah Project Completion Act

Interior's 2015 budget proposes to consolidate the CUPCA project within Reclamation while maintaining a separate account for CUPCA. This consolidation is part of broader Administration efforts to implement good government solutions, to consolidate activities when possible, and reduce duplication and overlap. The 2015 CUPCA budget is \$7.3 million of which \$1.0 million will be transferred to the Utah Reclamation Mitigation and Conservation Account for use by the Mitigation Commission. The 2015 funding will be used to provide for construction, program oversight, the Ute Tribal settlement, fish and wildlife development, and Endangered Species Act recovery.

Central Valley Project Restoration Fund

The 2015 budget includes a total of \$57.0 million for the Central Valley Project Restoration Fund (CVPRF). This amount is determined on the basis of a three-year rolling average not to exceed \$50.0 million per year and indexed to 1992 price levels. These expenditures are offset by collections estimated at \$57.0 million from mitigation and restoration charges authorized by the Central Valley Project Improvement Act.

California Bay-Delta Restoration

The 2015 budget provides \$37.0 million for California Bay-Delta Restoration, equal to the 2014 budget. The account focuses on the health of the Bay-Delta ecosystem and improving water management and supplies. The budget will support the coequal goals of environmental

restoration and improved water supply reliability, under the following program activities: \$1.7 million for a Renewed Federal State Partnership, \$8.0 million for Smarter Water Supply and Use, and \$27.4 million for Habitat Restoration. These program activities are based on the Interim Federal Action Plan for the California Bay-Delta issued December 22, 2009.

San Joaquin River Restoration Fund

The 2015 budget funds activities consistent with the settlement of *Natural Resources Defense Council v. Rodgers* as authorized by the San Joaquin River Restoration Settlement Act. The Act includes a provision to establish the San Joaquin River Restoration Fund to implement the provisions of the Settlement. The Settlement's two primary goals are to restore and maintain fish populations, and restore and avoid adverse water impacts. Under the Settlement, the legislation provides for nearly \$2.0 million in annual appropriations from the Central Valley Project Restoration Fund for this purpose. Reclamation proposes \$32.0 million of current funds for the San Joaquin River Restoration Fund account in 2015.

Indian Water Rights Settlements

In 2015, Reclamation will enhance support of tribal nations, most notably through the establishment of an Indian Water Rights Settlement account. The 2015 Budget proposes \$90.0 million for Indian Water Rights Settlements (IWRS), in a new account of the same name. Reclamation is proposing establishment of an Indian Water Rights Settlements account to assure continuity in the construction of the authorized projects, and to highlight and enhance transparency in handling these funds. This account is proposed to cover expenses associated with the four Indian water rights settlements contained in the Claims Resolution Act of 2010 (Public Law 111-291) and the Navajo-Gallup Water Supply Project within Title X of the Omnibus Public Land Management Act of 2009 (Public Law 111-11).

Of this amount, \$9.0 million is for implementation of three water rights settlements contained in the Claims Resolution Act of 2010. These settlements will deliver clean water to the Taos Pueblo of New Mexico, the Pueblos of New Mexico named in the Aamodt case, and the Crow Tribe of Montana. The budget also includes \$81.0 million for the ongoing Navajo-Gallup Water Supply project. In 2015, funding priority was given to those settlements whose mandated completion dates would be most in jeopardy without it.

In addition, the 2015 budget for the Water and Related Resources Account contains \$22.0 million for on-going settlement operation and maintenance functions including the Ak Chin Indian Water Rights Settlement Act, San Carlos Apache Tribe Water Settlement Act, Colorado Ute Settlement Act Animas-La Plata Project, and Nez Perce/Snake River Water Rights Act which is part of the Columbia/Snake River Salmon Recovery Program.

Policy and Administration

The 2015 budget for Policy and Administration, the account that finances Reclamation's central and regional management functions is \$59.5 million.

Permanent Appropriations

The total permanent appropriation of \$122.8 million in 2015 primarily includes \$110.7 million for the Colorado River Dam Fund, and reflects a \$51.7 million decrease for permanent funding. 2014 is the last year for the \$60.0 million permanent appropriation for each of 3 years to Reclamation's Water Settlements Fund provided in P.L. 111-291. In 2015, the Central Utah Project Completion Act accounts are consolidated within Reclamation.

2015 through 2018 Priority Goal for Water Conservation

Priority goals are a key element of the President's agenda for building a high-performing government. The priority goals demonstrate that they are a high value to the public or that they reflect achievement of key Departmental milestones. These goals focus attention on initiatives for change that have significant performance outcomes, which can be clearly evaluated, and are quantifiable and measurable in a timely manner. Reclamation's participation in the Water Conservation priority goal helps to achieve these objectives.

Reclamation will enable conservation capability for agricultural, municipal, industrial, and environmental uses in the western United States by at least 840,000 acre-feet (from 2010) through 2015, and 1,000,000 acre-feet through 2018 with the use of the WaterSMART Program to assist communities in stretching water supplies while improving water management and increasing the efficient use of water.

Moreover, Reclamation's water conservation activities address a range of other water supply needs in the West. It plays a significant role in restoring and protecting freshwater ecosystems consistent with applicable State and Federal law, enhancing management of our water infrastructure while mitigating for any harmful environmental effects, and understanding and responding to the changing nature of the West's limited water resources.

Finally, the 2015 budget demonstrates Reclamation's commitment to meeting the water and power needs of the West in a fiscally responsible manner. This budget continues Reclamation's emphasis on managing those valuable public resources. Reclamation is committed to working with its customers, States, Tribes, and other stakeholders to find ways to balance and support the mix of water resource needs in 2015 and beyond.

Conclusion

This completes my statement. I would be happy to answer any questions that you may have at this time.

Mr. SIMPSON. Thank you. I appreciate your statement.

Mr. Calvert.

Mr. CALVERT. Thank you, Mr. Chairman. And thank you both for your attendance today.

I am glad, Mr. Pimley, toward the end of your testimony, you brought up surface storage under appropriate circumstances. I may get into that, but—your agency has a target of expanding water supply—and in your testimony, by conserving 840,000-acre feet of water by September 2015. What is your acre foot for new water storage in that same time period?

Mr. PIMLEY. As far as any new water storage that we are bringing onboard, we have got some work in Wyoming on a dam safety project, where we are actually raising the spillway crest elevation. And that will recover about 53,000-acre feet of storage that has been lost to sedimentation over the years. It is not new storage, per se, but it allows us to store additional—

Mr. CALVERT. Do you have a target for new water storage in the next 10 years, as far as what we are going to do for new water storage, surface storage?

Mr. PIMLEY. So, we do not have a numerical target like we have for the WaterSMART. What we do have is a series of studies, I am sure you are aware, within California.

Mr. CALVERT. We are studying everything, but, as far as we know, we have zero plans for surface storage at the Department of Reclamation?

Mr. PIMLEY. We will be bringing those studies to fruition within the next 18 months on several projects in California, on storage, that would potentially add up to—I am not sure all of them will be done in the next 18 months, but add up to about 400,000-acre feet.

Mr. CALVERT. How many years have we been working on those various studies in California?

Mr. PIMLEY. Quite a few, granted—more than what we would have expected.

Mr. CALVERT. I was Chairman of the Water and Power Committee back when we passed the CALFED legislation 12 years ago. And the studies began then, and they are still not complete. How many more years do you think is left?

Mr. PIMLEY. Right now, our target is to finish the Shasta study at the end of this calendar year. And then I believe the Temperance Flat is in 2015, and the San Luis Reservoir shortly thereafter. That would be completing our feasibility studies and our environmental impact statements.

Mr. CALVERT. So, we are saying to do these studies on new storage nowadays is 12 to 15 years. Is that pretty much what you are saying on these projects?

Mr. PIMLEY. I cannot argue that that is what it is taken on these projects.

Mr. CALVERT. And the next step is to design the projects, and to build them. So, see what kind of progress we make.

The general statement of Reclamation's budget request for this year mentions the term "climate change" numerous times, but only mentions the term "storage" one time. If Reclamation is truly concerned about changing climate and drought, why is not a larger

emphasis put on expanding water supply through storage to prepare for drought?

Some studies indicate if, in fact, climate change is occurring, that there will be less snowpack, and we have to prepare ourselves by having more surface storage.

Do you agree with that statement?

Mr. PIMLEY. Depending on which basin we are talking about. We are trying to do basin studies across the West, to do precisely what you just mentioned—to look out 50 years, to see what that is going to do to our system. We may not be able to rely on storage in the form of snowpack. We may have to store that earlier in the year, and have more severe inflows at various times for flood control.

So, it is certainly a tool in the toolbox, and I believe it is more likely to be a viable alternative as we look down the road. As someone said on the panel, there is a limit to how much you can conserve. It is a good drought-proof way to free up water supply through our WaterSMART conservation and the reuse initiatives. But there is a limit to what you can do.

So, with population—

Mr. CALVERT. Well, I would agree with that. I think there is a common theme here—that we have been studying these problems for some time. We knew that there was a need for storage a long, long time ago. And we know that there is a need for storage now. Shasta, Temperance Flat, Sites Reservoir, some other opportunities out there in California.

But I would like to, Mr. Chairman, add up how much money we have spent on studies for the last number of years, and see if it may equal what it would cost to actually build the storage—and whether the basic design of the storage has actually changed in any meaningful way, from the time we started to the time we start moving on these projects.

But it seems to me that by the time we get these things done, there is not going to be any farmers left in the Central Valley.

With that, Mr. Chairman, thank you for letting me have my time. Thank you.

Mr. SIMPSON. Yeah, thank you.

Ms. Kaptur.

Ms. KAPTUR. Thank you, Mr. Chairman.

Mr. Pimley, as you know, I do not come from a Reclamation state nor region, but I am very interested in the historical funding for the Bureau of Reclamation, and very curious whether your agency maintains an account of the net present value of federally-supported capital infrastructure under the Bureau's purview since inception.

Do you go back to the early part of the 20th century and actually calculate what the full value of that investment is?

Mr. PIMLEY. I have seen the number. I will be honest with you: I do not know it off the top of my head, but, yes, we can provide that for the record.

Ms. KAPTUR. Can you provide that for the record?

Mr. PIMLEY. Yes.

Ms. KAPTUR. If you were—did you recall any number?

Mr. PIMLEY. I would not want to speculate.

Ms. KAPTUR. All right. As I understand it, the 1902 Reclamation Act required the full repayment of irrigation project costs by beneficiaries. Initial funding for reclamation projects was to come from the sale of federal land in Western states, and as projects were completed and revenues were raised from water users, the government could then fund new projects.

Can you take a few minutes to explain how the repayment agreements work? Who pays, over what time, and is interest applied to the principal or not?

Also, I see in your budget request, there is a recision of \$500,000 from a loan program which has not been funded in a decade or so. Do you have any active loan programs that have either received funding in the past or are funded by anything other than direct appropriation?

So, first, could you take a few moments to explain how the repayment agreements work—

Mr. PIMLEY. Sure.

Ms. KAPTUR. Who pays them, over what time, and is interest applied to the principal or not?

Mr. PIMLEY. I will try to remember all of those, and I will start with the last one first, which is the interest issue. Typically, we do collect interest on municipal and industrial repayment, but not on agricultural water users.

And then the traditional repayment period has been 40 years. So, over a 40-year period, the concept is, the project is paid back into the Reclamation Fund, to recover the initial capital investment.

Now there are multipurpose projects, where—let us say that we have irrigation, flood control, power, and, say, environmental or public benefit. When we have multipurpose projects like that, we assign the responsibility to repay various percentages of the initial capital investment to those different beneficiaries.

So, if it is, for instance, a public benefit—flood control or, say, environmental mitigation—those would be considered non-reimbursable, and would not be repaid back to the Federal Treasury or to the Reclamation Fund.

But all the other uses—the consumptive uses for M&I and agriculture—would, within the confines of the interest arrangement that I mentioned earlier.

Ms. KAPTUR. Right, but you are saying an agricultural interest would not pay interest over time, compared to your commercial and municipal users.

Mr. PIMLEY. Correct; yes.

Ms. KAPTUR. That is correct. And so would that provide any kind of financial benefit to an agricultural user, compared to an agricultural operation in another part of the country?

Mr. PIMLEY. I think there is a financial benefit to having an interest-free loan. In that sense, yes.

Ms. KAPTUR. Okay. And that loan is for the water?

Mr. PIMLEY. To recover the capital costs of the initial project.

Ms. KAPTUR. Water project?

Mr. PIMLEY. Yes.

Ms. KAPTUR. Of the initial water project—okay. And as I understand it, the vast majority of the water you supply is to agricultural use.

Mr. PIMLEY. Yes.

Ms. KAPTUR. Yes. So, that is an inherent subsidy. And it is of interest to me because when I look at the climate change maps and so forth—and speaking with representatives from California—the availability of fresh water is becoming more dear. And as you look at the changing nature of the West, one Senator has said to me California's becoming a desert. I do not know if others would say that.

But how do you describe what is happening in the 17 Western state area? You really are a very experienced American at what you do. There are very few people that have had your experience. How would you describe to the American people what is happening in the states under your purview?

Mr. PIMLEY. We are in the middle of a long-term drought in much of the 17 Western states, particularly on the Colorado River. That has been going on since 2001. It has been the driest 14 years on record. We started that timeframe with our reservoirs completely full. We have about four years of storage on the Colorado system.

We started in 2001 with those reservoirs full, and in the last 14 years, we have been able to deliver project benefits, but we have drawn those reservoirs down to a little bit under 50-percent capacity.

Ms. KAPTUR. Has that ever happened before?

Mr. PIMLEY. I could not tell you, but I would be surprised if it did. We have never experienced this sort of extended drought within the Colorado Basin.

Mr. Calvert mentioned that California has been experiencing extreme drought this year. The last time we had a water year close to this was 1977. And the difference then was, we actually started the year off with pretty decent storage in our facilities. We did not start the year off this year with much storage. So, it is a very dire situation.

The Rio Grande Basin, the Pecos Basin in New Mexico is extremely dry. We have pockets of dry areas of Eastern Oregon. But for the most part, the drought has been more towards the Southern portion of the area. It is a very significant situation, and we are paying a lot of attention to it.

Ms. KAPTUR. Tell me this: As you look to the future, since the majority of water users are agricultural—or at least the majority of draw is agricultural—are you or is someone from USDA able to provide for the record the types of crops, and the acreage devoted to certain crops, and the water drawn?

And I am sure our Western Members are very familiar with this, but the majority of Members here would not be. And I think it would be very interesting to look at what is being farmed with very dear water. And that is not D-E-E-R; that is D-E-A-R—very dear water.

And to take a look at that crop mix and that product mix—are you able to do that, systemwide?

Mr. PIMLEY. I do not know that Reclamation has that data. We typically are in the business of delivering water to the farm, and then the Department of Agriculture, National Resource Conservation Service, and others really have the on-farm efficiencies.

So, we can provide for the record information on how much water we deliver to the various recipients of our water, but as far as the exact utilization of that water, what crops are grown—if we have it, we will provide it. I honestly do not know that we do.

Ms. KAPTUR. All right. I see that you have announced last month a \$14 million partnership with U.S. Department of Agriculture Natural Resource Conservation Service. And perhaps as a part of that, you could provide the information I am requesting.

Apparently, you and the NRCS are going to select and fund certain water conservation and water management projects or programs. So, would not this be a natural area in which to kind of assemble that data, and make it available so we could make intelligent choices as a country?

Mr. PIMLEY. I believe that particular joint effort is focused in California, because of the drought.

Ms. KAPTUR. Oh, it is just California—oh.

Mr. PIMLEY. But, like I say, we can work with the information that we have, and we can certainly pass along your request to NRCS.

Ms. KAPTUR. All right. I thank you very much.

I will have a second round, Mr. Chairman, but I will give the other Members a chance.

Mr. SIMPSON. Mr. Fleischmann.

Mr. FLEISCHMANN. Thank you, Mr. Chairman. Gentlemen, it is good to see you all today.

Dam safety and the condition of our water infrastructure is an important issue—and one that was a key topic earlier today. Many of the Bureau of Reclamation dams are over 60 years old. And between wear and tear, seismic issues, hydrologic concerns, dam safety is a challenge that needs to be addressed. I have a few questions, Mr. Commissioner, in regard to that.

How often do you perform risk assessment of dams?

Mr. PIMLEY. We have a systematic process by which about every eight years, we go through our entire inventory of dams. So, on an eight-year cycle, we do what we call a comprehensive facility review, with an issue evaluation on any issues that we have uncovered.

In between those eight-year cycles, we have what we call periodic facilities reviews, where we go and look for precisely what you mentioned. If there has been any significant change, that raises a concern, we can move that to the front of the line.

Mr. FLEISCHMANN. Okay. You may have answered, then, with your answer, but just to be specific, how does the Bureau prioritize future safety and security work on the dams?

Mr. PIMLEY. Once we go through that process, we do a risk analysis where we look at the probability of failure of the facility, for whatever cause, and put that in terms of the annualized probability of failure. We overlay that with the consequences of a failure, as far as population at risk and potential risk to the public.

When we have that, we break that down into, in essence, what level of risk the dam poses with this particular loading condition or, perhaps, weakness. And then we prioritize all of our dam safety projects based on that criteria.

Mr. FLEISCHMANN. Okay, sir. What is your plan, then, to deal with the increasing amount of dams that will require infrastructure, maintenance, and safety activities in the coming years, sir?

Mr. PIMLEY. Much of the activity—well, let me back up. The Dam Safety Program is specifically aimed at ensuring that the facilities either—if they are subjected to new loading conditions, perhaps the new hydrological loadings that are coming in—have different weather patterns or advances in the state of the art with an understanding of seismic loadings—that is what the Dam Safety Program is focused on.

We have an operation maintenance and rehabilitation program, where, if we have wear and tear on the facilities, that is funded in another manner.

But they are both funded in this broad category, what we call operation, maintenance, and rehabilitation. It is just that the legislative authority for dam safety is a little more narrowly defined.

Mr. FLEISCHMANN. Is there currently a maintenance backlog? And if so, how large is that, sir?

Mr. PIMLEY. Part of the process I mentioned that does the evaluation of our dam safety assessments—those comprehensive facility reviews—we have similar evaluations on a periodic basis, as part of our asset management program, that look more at those maintenance issues.

And as we do that, we develop a list of current and projected needs on a periodic basis. That information is then rolled into a larger program that we look at. It is part of our asset management.

The last time we did a five-year projection, that was projected out at the potential needs of about \$2.6 billion over those five years. It is not necessarily a backlog; it is a look forward as to what we need to be prepared for.

It is a little complicated with Reclamation, because half of those facilities, roughly, are transferred works, where we have transferred the operation and maintenance to our operating partner. The other half, we have got reserved works. So, the obligation for those investments is shared between the federal government and our operating partner.

So, we work very closely with them to work out our plan on how we can get that funded.

And, candidly, we are relooking at that this year, because we do have some inconsistencies on how the data is reported across the five regions, and we are trying to make that more uniform, working with our operating partners to make a more transparent process so that we can do a better job demonstrating it is an apples-to-apples comparison.

Mr. WOLF. I would just add—one point is that not all of that dollar number of \$2.6 billion is subject to annual appropriations. So, we have facilities like hydropower facilities that are financed directly by the power customers. And that is a significant part of that.

Mr. PIMLEY. Point taken. Roughly, a little bit more than half of that \$2.6 billion I mentioned would be a federal obligation. We think a little bit less than half of that would be funded by others, as Mr. Wolf just mentioned.

Mr. FLEISCHMANN. Chairman, how is my time?

Mr. SIMPSON. Go ahead if you have another question.

Mr. FLEISCHMANN. Yes, thank you.

Gentlemen, as you know, this Committee deals very heavily with the Department of Energy—works very closely with the Department. The Department of Energy has done considerable research on hydropower. I am curious to know whether or not the Bureau of Reclamation has collaborated at all with DOE. How are you coordinating with DOE, and what do you view as the proper role of the Bureau, vis-a-vis DOE?

Mr. PIMLEY. We work very closely with DOE. We have had a memorandum of understanding for a number of years with them, under which we cooperate on exactly as you described—research into hydroelectric efficiencies, new programs. We work with the power marketing administrations: WAPA, and Southwest, and Bonneville Power Administration. WAPA transmits the bulk of our power. BPA transmits the power that we generate in the Northwest.

And as their affiliation with DOE, they are basically the recipients of the power that we produce.

So, the funding that Mr. Wolf mentioned, much of that comes from those organizations as they then turn and sell the power to others. So, we have a very close relationship with DOE.

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

Mr. SIMPSON. Mr. Nunnelee.

Mr. NUNNELEE. Thank you, Mr. Chairman.

Mr. Pimley, your budget narrative seems to place a pretty heavy emphasis on climate change issues. Can you tell me how much funding in your FY 2015 is directly related to climate change issues?

Mr. PIMLEY. We have about \$10 million in our budget specifically for what we call cooperative landscape conservation, which has a number of activities within it.

We have also added a couple of new programs this year—about \$1.5 million for what is called a drought program while we are going to set up some competitive grants for people that can come and take some actions to provide infrastructure upgrades that are drought-resistant. And we also have another \$1.5 million for resilient infrastructure to do pretty much the same thing—to try to integrate some climate change issues into decisions we make—just mentioning as far as our maintenance backlog or maintenance projection.

We view the WaterSMART grants and the Title XVI activities that we do—which is in the neighborhood of \$40 million or \$50 million—in that range somewhere—as a methodology that we use to adapt or work on potential climate change.

And I mentioned the basin studies. That is about \$4 million that we invest in those to try to look out into the future.

Mr. NUNNELEE. So, having spread the money over several different programs, what steps are you taking to make sure that they are not redundant or overlap with each other?

Mr. PIMLEY. Within Reclamation, one of our offices in Denver is really responsible for coordinating precisely what you said—that those programs are complementing one another, as opposed to duplicating one another. So, it is pretty well centrally managed out

of our Denver office, and that is our primary way of ensuring that we are being as efficient as we can with that funding.

Mr. NUNNELEE. All right. And then the opposite side of the same coin: How are you confident that it is not so spread out that it is ineffective at accomplishing any of your goals?

Mr. PIMLEY. I would say, again, we keep an eye on it very closely. A lot of those programs I mentioned—the WaterSMART, the Title XVI, the new efforts that we are having, as far as the basin studies—we really try to get fund matching from outside entities, and set things up as a competitive approach so that each proposal has to actually win on its merits to achieve the funding.

So, it does tend to give us a lot of bang for the buck.

Mr. NUNNELEE. Okay. If you would, just provide for the record a list of each funding line item and associated funding levels for Reclamation's climate change-rated activities for FY 2015.

Mr. PIMLEY. Certainly.

Mr. NUNNELEE. You also include \$1.2 million for energy-related activities, including allowing Reclamation to investigate their capability to help integrate large amounts of different renewable resources, such as wind and solar, into the electric grid.

What does that mean?

Mr. PIMLEY. Well, the \$1.2 million, that is not a great deal of money, but we have—

Mr. NUNNELEE. In Mississippi, \$1.2 million is still a lot of money.

Mr. PIMLEY. It is in Montana, as well—where I grew up, sir. What we use that money for, largely, is to fund our activities out of another one of our Denver offices, our power resource office. And that money is used to work with DOE, as I was mentioning earlier, to figure out if there is a way for Reclamation to help DOE and the power marketing administration, to integrate the non-hydro renewable into the grid—pump generation stations, those types of concepts, if that is feasible.

We have recently gone through and done—I believe it is published at this point; I would have to check for sure. But we have done an inventory of our facilities to see if there are opportunities for that type of installation.

We also have been very much focused on improving the efficiency of our operations for hydropower generation—whether that is through rewinds of generators or turbine-runner replacements—that allow us to operate over a wider range of reservoir levels, in order to get ready if we are going to have extended periods of drought, if the reservoirs are going to be drawn down more than originally envisioned, when they were originally built.

We have also initiated what we call a hydropower optimization program, where each facility will have software installed, which will optimize—well, typically, the order comes in for how many megawatts of energy is needed. And there is a blend of units within each facility that operate slightly differently—some of them sized differently.

But what this system allows us to do is to optimize the mix of those units, to get the most power out of the least water.

So, there are a lot of activities going on for—even though a lot of money in Mississippi and Montana—\$1.2 million. But, again, that is a lot of bang for the buck.

The last item that I mentioned, the optimization, we roughly figure that is about a 40:1 benefit/cost ratio for that investment. So, we are putting money into that as quickly as we can, candidly.

Mr. NUNNELEE. All right—if you would just provide for the record your statutory authority for undertaking that activity.

Mr. PIMLEY. Okay.

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

Mr. SIMPSON. Mr. Graves.

Mr. GRAVES. Thank you, Mr. Chairman. And Mr. Pimley, good to see you.

Mr. PIMLEY. Yes, sir.

Mr. GRAVES. I was going to follow on that same line of questioning. If I recall, the Chairman discussed how stretched your budget is in these difficult times, and we have had a lot of other hearings in which budget requests are challenging. And \$1.2 million can make a difference.

I think Mr. Nunnelee is right on target for asking, how does this fit into your scope of responsibility as an agency? And is it taking away from your core mission—and some other areas maybe where your focus should be? For instance, the other item I'll mention is the America's Great Outdoors Program, which is \$116 million. So, that is quite a bit beyond wind and solar adding back to the grid.

How do you justify those expenditures in these difficult days where budgets are stretched, and debt is so high?

Mr. PIMLEY. I will start with the hydropower activity. Like I said, from our perspective, that is a relatively modest investment for a lot of return on that investment, with regard to the optimization. And, frankly, as far as integrating the non-hydro renewables, it is an issue that the DOE, and Bonneville Power, in the Northwest has a real issue trying to integrate those.

And if we can play a role in that, we view that as in-line with our mission of delivering water and power for the Western part of the United States.

As far as the America's Great Outdoors, I believe you mentioned the river restoration—

Mr. GRAVES. But your statement says it is to add back to the grid, right?

Mr. PIMLEY. I am sorry—to integrate those non-hydro renewables into the grid.

Mr. GRAVES. Yeah, wind and solar into the electric grid—or were you sharing with Mr. Nunnelee that the purpose would be to assist with the hydropower that you mentioned, in generators or turbines and such. Are those—

Mr. PIMLEY. Okay, I am sorry.

Mr. GRAVES [continuing]. Two different things?

Mr. PIMLEY. Yes, I am sorry; very different. Yes, the improved efficiency is, every time we take—I mean, they are rotating units. They wear out at some point. Every time we take those out for routine maintenance, we are looking at opportunities to increase efficiency with either new designs of turbine runners or new technology with regard to generator windings.

So, that is more of our nuts-and-bolts sort of activity that we have been doing forever. We are just really focusing now on the efficiencies.

The integration of non-hydro renewables is more an issue of, if we have any opportunities to have facilities that could be constructed, or utilized, or re-tasked slightly to allow, in essence, a pump-generation configuration which would use electricity from other sources to lift water into a reservoir. And then when that power is either not available or the demand is higher, then to run turbines to generate power.

Mr. GRAVES. So, to create, in essence, reserve power.

Mr. PIMLEY. Correct; yes.

Mr. GRAVES. Okay, thank you. Mr Chairman? And a long way to that answer.

Mr. SIMPSON. Thank you. Appreciate your testimony; appreciate you being here.

Do you find—this is just off-the-cuff—do you find it strange, maybe even a little bizarre, that—you have mentioned non-hydro renewable energy, but Congress does not recognize hydropower as renewable energy?

Mr. PIMLEY. I honestly do not know if Congress does or does not recognize it. I know the Department of Energy recognizes it as such.

Mr. SIMPSON. When you have got a renewable energy standard—if you are a power company out here, and you have a renewable energy standard that you have to meet—if you were a company that, say, 20 years ago, had 100 percent of your power produced by hydropower, you have got zero percent renewable energy. I just find that really bizarre.

But if I go in, and I improve the efficiency of a dam and the hydropower generation, I get credit for the increased efficiency as being a renewable energy. This is really strange, but this is what Congress has done—not you guys. I just find it kind of strange.

Nevertheless, as I mentioned in my opening statement, we seem to be making commitments with significant costs, even as Reclamation's budget has remained basically flat—and, as I said, is down, six percent this year?

What kind of comprehensive analysis of out-year needs has Reclamation conducted? Have you at least completed a five-year plan, like the Committee has repeatedly directed the Department to do?

Mr. PIMLEY. Each of our individual projects that we put together definitely has plans out into the future, perhaps further than five years. I cannot testify to exactly what those are. But we try to capture that in our budget documents by demonstrating what we have spent, what our proposal is for the upcoming budget year, and then what is left in the program. That is in a very succinct way to demonstrate that this is basically where we are in the process, in the continuum of completing those activities.

A lot of our activities, with regard to the Indian water rights settlements that we have got coming online—each of those has a very succinct timeline. I mentioned, I believe, that we have pulled that funding into a separate account, out of our water-related resources into a separate account—this year, I believe for the first time, for Indian water rights settlements. And that is about \$90 million this year.

So, each of those has their own timeline. And so I would say that what we do is, we do it more in a program-by-program basis and

a project-by-project basis, and then use that plan to build our annual budget request.

Mr. SIMPSON. So, if I were to ask—and I would be able to ask this of probably any business in this country—give me your five-year plan. What do you expect to do over the next five years? What is it going to cost? If X number of dollars are available, or this level of funding, or this level of funding, or this level of funding—so its Committee would have some idea of, okay, what path are we on?

The Department would not be able to give me that? What do you hope to accomplish over the next five years? I mean, that is what most businesses operate on, is a five-year plan, so that they know where they are going for the future. And, of course, there are variabilities in that, depending on their income.

Mr. PIMLEY. Right.

Mr. SIMPSON. And I would hope that the Department's in on this—we have really asked all departments—the Department of Energy and others—to do five-year planning, which was never really done before. I guess Congressman Hobson was the first one, if I remember correctly, that started asking for five-year plans.

And, actually, after you went through the process of doing it, most agencies found it was actually kind of beneficial—which is why businesses do it.

Mr. PIMLEY. Yes. And we definitely have plans. Like I say, our agency is structured on a project basis. So, it is more natural at that level for us to build each of those.

But as far as the overall blend of all those—and then add all of them rolled up into a five-year plan for the entire agency—we have not done that.

Mr. SIMPSON. Well, I would advise you to do something like that, because it would be helpful to this Committee—because then we know—we are also looking at five years on, if we start this project—because a lot of the projects that you guys do are not one-year projects.

Mr. PIMLEY. Correct.

Mr. SIMPSON. They are multiyear projects. And a lot of the different departments within this Subcommittee, the Energy and Water Subcommittee, have multiyear projects. It would help us a lot if we could know or have some idea, when we approve to start something, what the long-range plan of this is. Are we approving something that is going to be in the next five years? And how does that fit in with everything else that we are approving?

Because a lot of times, it is easy to start—in fact, that is one of the problems, frankly, with—I do not mean this to sound partisan—but with some of the stimulus funding we did, several years ago—started things that cost us money in out-years to complete when the stimulus funding is gone.

That is just something that we need to know as a Committee, as we are planning our budgets.

Reclamation's budget justification states that the budget allocates funding based on objective and performance-based criteria, but it never details or even mentions what those criteria are, or how they are weighed or used in developing the budget request.

Can you please provide some detail on the specific criteria considered, and exactly how Reclamation uses them to prioritize the

many demands for funding? And to what extent does your budget request take into consideration the economic impacts of the activities to be funded?

Mr. PIMLEY. I think, as I mentioned, Reclamation tends to build our budget from the ground-up. We assemble a team, which is, in fact, underway at this point for our Fiscal Year 16 budget, to build those up from each region, and on a project-by-project and program-by-program basis.

So, each of those projects has its own unique authorizing legislation which has slightly different requirements, as far as duration and so forth.

So, as we build those budgets, then what we do is, we look at things such as our legal requirements or court-ordered mandates. And we do not have a lot of choice on those. We look at things like our public safety commitment. We prioritize those requirements, as I mentioned earlier. And then we look at our need to invest in a long-term infrastructure.

So, those types of risk-based analyses, as far as the consequences of not funding something, are just built into every process that we do. Of course, the legal and the court-ordered ones, we do not have as much flexibility there.

But based on that, then we do build our budget up. And I do not know that we specifically analyze the effect on the economy—I think was what you were trying to get at.

Mr. SIMPSON. Yep.

Mr. PIMLEY. And I do know—

Mr. SIMPSON. The economic impacts.

Mr. PIMLEY. Economic impacts—we certainly have that on a broader scale in Reclamations programs and projects, as Ms. Kaptur asked earlier, that we can provide for the record.

Mr. SIMPSON. Okay, I would appreciate that.

When you talk about increasing storage, are you talking about building new dams? Are you talking about increasing the height of current dams—or both?

Mr. PIMLEY. Both.

Mr. SIMPSON. Both?

Mr. PIMLEY. Both, yes.

Mr. SIMPSON. I know that the State of Idaho has proposed and actually funded in their own committee that—and I suspect they work with BOR—looked at raising the height of some dams in order for additional storage, because, you know, when you are at the top of the dam level, increasing the height a few feet, gets a lot more storage than if you are starting, obviously.

But I do not see us, frankly, building an awful lot of new dams in the West for increased storage. There might be some in some places, but trying to get them built today, with all of the environmental requirements and other things, is almost impossible, compared to what it was years and years ago, when the heyday of the Army Corps and the BOR used to fight each other for who was going to build which dam and so forth.

And that makes it very challenging. That is why they are looking at additional storage, and that always creates questions of dam safety and a few others, as you do that.

But increasing storage is going to be, I think, vital in trying to address some of these long-term droughts in the West.

In that regard, to some degree, the Ririe Reservoir in Bonneville County, in Idaho, is a Bureau of Reclamation reservoir, with flood control authority administered by the Army Corps of Engineers.

The water users there are very interested in the possibility of additional water being carried over from one water year to the next, which would require change in the flood control rule curve.

I understand Reclamation and the Corps have been working together on this issue. Can you please describe Reclamation's involvement to-date and the expected schedule for any continuing or future activities?

Mr. PIMLEY. We have been working with the local stakeholders and with Corps. Obviously, the Corps's mission here is flood control. Their focus is not to raise the risk of floods.

My understanding is that we are making progress on that. And, in fact, I believe, this spring, we have an environmental impact statement that will be issued.

Mr. SIMPSON. Okay. I know that their analysis, as you said, looks at flood control. You look at the benefits of the additional storage.

Mr. PIMLEY. Yes.

Mr. SIMPSON. And so, really, the difference between the Army Corps and you—is that you are looking at two different things. And the water users out there sometimes wonder why two agencies of the federal government are coming up with two different numbers. But they are actually looking at two different things.

Mr. PIMLEY. Yes.

Mr. SIMPSON. And we need to work with the water users there to make sure that they understand what is going on here between the two federal agencies, and, hopefully, we will get coordinated, and make sure we are working together on that.

One other question: Some nonfederal interests have described an inability to get project or program information from Reclamation. This Subcommittee has also had challenges in getting information necessary for proper oversight, such as detailed funding history for the San Joaquin River Restoration Program.

It is not clear whether this is a problem for Reclamation not wanting to provide the information, or a problem of Reclamation not having adequate systems in place for tracking project and program information.

Can you please explain or describe how Reclamation keeps track of project and program details, including funding history? And is each regional office the only place this information can be found? How does headquarters ensure the regional offices are operating in a standard—or at least consistent—manner in this regard?

It is one of the problems that we have had in trying to work with different interests on the San Joaquin River Restoration Project who have different points of view. If you are not working with the same information, and you cannot get that information, it is hard to try to find a common solution.

Mr. PIMLEY. Right. I will try to answer that in a couple different parts.

One of the questions you asked—does each region maintain this information? That is typically how we are structured, is from an

area office, which there are several within each region. They are tasked as the program or project office, so they are responsible for administering the project or the program.

In this case, San Joaquin River Restoration—there is an office in our Mid Pacific regional office. That is where the focus is, the coordination is.

I know that we have had issues with bringing that project along on the pace that was originally envisioned, the river restoration. My understanding is that this spring or summer, there is going to be—I think it is this summer—our Project Manager out there is working on an updated schedule and a realistic funding stream requirement with the stakeholders that are involved—those folks that you mentioned—and to try to get us a more realistic look from the standpoint of what we can accomplish when, and get the most bang for the buck.

So, from that standpoint, that particular project—I believe we are rolling up our sleeves with our stakeholders to find a way to move that project forward quickly.

Mr. SIMPSON. Okay. Well, I appreciate that. And remember, information that we request is always valuable to us in oversight, and being able to get that information, either from the regional offices or from headquarters, is vitally important to this Subcommittee. So, we appreciate that.

Mr. PIMLEY. Okay.

Mr. SIMPSON. Ms. Kaptur.

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

I continue to be inspired by the work of the Bureau, and wanted to ask, do you think you are named properly? “Reclamation” is an interesting word. When the Bureau was founded, what is it you were reclaiming?

Mr. PIMLEY. The arid West. I actually came to work for the Water and Power Resource Service. We were renamed, actually, under the Carter Administration for a short period of time. So, I did not start with the Bureau of Reclamation; I started with Water and Power Resource Service.

Ms. KAPTUR. Water—see, that is—I am thinking to myself, was it ever claimed? Why were we reclaiming? I was just thinking about the thinking that went into—you hear me?

Mr. PIMLEY. Yes. We were claiming it back.

Ms. KAPTUR. So, we were reclaiming it from the desert.

Mr. PIMLEY. We were claiming it back.

Ms. KAPTUR. Oh, I see. All right.

Mr. PIMLEY. Yes.

Ms. KAPTUR. I wanted to ask that question.

Thinking back to the value of what the country has done over a century, how one would calculate that in an intelligent way—the present value of that.

And then if you were McDonald’s Corporation, you would look back to the year of your founding. You would see what it was you wanted to make—or build, in your case—and to borrow against that hope.

And then you would have a product line where you would earn income, and you would pay off whatever you might have borrowed.

I am very interested in that history of the Bureau.

Mr. PIMLEY. Sure.

Ms. KAPTUR. And looking back over time, within each decade, to power—was power there at the beginning? Did you have the thought back in 1902 that, you know, you were going to have Bonneville? You know, if you look back, at some point, the power equation plugged in, and there was an investment made, and there were loans made over a period of time. And there was a way of repayment.

I am very interested in looking at the financial history of the Bureau. It is very instructive when you look back at what was done. My heavens. Mike, I do not know where you would be living right now. You might be east of the Mississippi.

Mr. SIMPSON. Probably not in the West. Not in the West—none of us would be there.

Ms. KAPTUR. And so, you know, we need to think about that. The reason I am asking about the word is because in the part of the country that I come from, we have a need for reclamation right now—from Duluth all the way across—so Wisconsin, and Michigan, Ohio, all the way out to Buffalo—huge swaths of land that are now brown fields, one-third of the manufacturing jobs gone; communities struggling to rebuild themselves and to replace industry that is gone. Cities struggling to build water systems, and the largest number of combined sewer overflows—if you were to look at a map of the country, just tips to the Midwest and Northeast heavily. The scales are very out of balance.

Communities cannot afford to do this. And so one of the reasons I am asking you these questions relating to financing over a period of time, and looking at the interest rates, and the method of—granted, you created power systems that then generated revenue. But I think it could be very instructive to parts of America that are struggling with their futures.

This morning, we had our full Committee Chairman in here, Congressman Rogers. And Kentucky has real challenges—and economic challenges. All of coal country has real challenges.

And we have to find a mechanism to help these parts of America. We are not just going to float them out to sea. We have to find a mechanism—in my opinion, anyway; that is what I am fighting for. But I believe that we need an umbrella for development. And I think you have something to teach the country. Back in 1900, we needed to do certain things in the West. Now we might need to do something in coal country. We need to do something in the Great Lakes region. I think you have something to offer us here, beyond the mandate of your agency.

So, that is one of the reasons I am so interested in the modeling, going back from an accounting side, Mr. Wolf—to kind of step back, and look at the whole of it, and offer suggestions for, structurally, how you have accomplished what you have to-date.

So, I wanted to just say that you have provided water to agriculture. You have provided potable water to people. These are not unlike what happens in other parts of the country. They simply do not have the mechanism for financing. And maybe we could learn something through what you have done.

So, if there is any way in which you could better explain to us how your financing worked over the years—how funds were repaid

to the Bureau, what terms they had for the loans, how interest was applied or extended, just as you would do in accounting every year as a business would—if you could do the same for us, that would be, I think, extraordinarily valuable to the country.

I actually do not know if your Bureau has that kind of information in a way that would be useful—if it is been gathered in a way that is useful.

Mr. PIMLEY. I honestly have not seen the information myself. We will look to see what we could provide you for the record that would be responsive. I do know that Secretary Salazar asked for that same kind of fundamental benefit to the nation for each of the organizations within the Department of Interior. And Reclamation provided that four, five years ago. I just do not recall what the numbers are.

Ms. KAPTUR. Okay. Mr. Wolf, I do not want you to retire early, but, you know, do you think you have it? Does the data exist in a way that is easily assembled?

Mr. WOLF. Like Mr. Pimley, I am not certain. We have extensive recorded history of the agency. We have actually published several volumes that talk in very general terms about the history and how the agency involved. And it includes things such as how the capital was investment, and what the payment requirements were.

But when you get into specific numbers by project in different eras, I would have to check further on that. Certainly, the volumes would be quite extensive, but I am sure we have some shorter versions of that that we could provide that would be instructive.

Ms. KAPTUR. Would OMB be a better place to ask?

Mr. WOLF. I think we would probably have the best data within our agency, and we can check for that, and get back with the Committee.

Ms. KAPTUR. Okay. Is it my understanding that, as different projects—well, as the need for water was met, power facilities were then built to produce the power, and then additional income was derived from that?

I mean, am I understanding correctly that, without the power facilities, you would never have been able to pay off the other investments in water? Is that correct?

Mr. PIMLEY. It is a definite revenue stream—significant revenue stream. Most of the projects—I mentioned earlier different beneficiaries or project authorization. The nature of each project is slightly different. So, some projects were authorized for hydropower flood control and irrigation. Some of our projects did not have power authorized.

We have subsequently gone back in, under the Federal Energy Regulatory Committee, and added those power facilities—or others have, actually—at some of those dams that did not have power authorized.

A large percentage of our projects that involved a dam did, in fact, have power as part of the authorization. And that was considered as part of that repayment plan over those 40 years.

Ms. KAPTUR. All right. And, you know, as I think about some of our mayors in my part of the country, there is no way they are being given 40 years to pay anything back. In fact, some of our

matching requirements have caused huge increases in utility bills, in a part of the country that, frankly, cannot afford it right now.

And so, you know, we look for a solution to spread out the pain, to extend it longer, to do anything not to increase those costs. So, I am very interested in seeing if your experience at Reclamation can guide us in constructing some alternatives that might work in other regions.

So, I thank you for walking through this with us a little bit today, and appreciate your testimony.

And Mr. Chairman, I will yield back my remaining time.

Mr. SIMPSON. Thank you. I appreciate your comments. If you want kind of an interesting history—and you do not take everything for granted that is in the book—in fact, he later wrote another book where he kind of backtracked on some of his comments—but Cadillac Desert was written, what, 20 years ago probably.

Ms. KAPTUR. Mr. Chairman, he does not have an accounting ledger in there.

Mr. SIMPSON. Well, but he does talk about how some of this stuff was created, and financed, and those types of things. And I think what you are looking at is something that I have been looking at for the last seven, eight years.

The infrastructure in this country is—I would say besides our debt and deficit, and trying to get that under control—the infrastructure needs in this country are the biggest problems that we face. And I am not just talking roads and bridges; I am talking roads and bridges, water and sewer systems, electrical grid, dams, harbors, inland waterways, all of those things are a big problem, and how we are going to fund them.

Yesterday, we had the Department of Energy in here talking about how they are making cars more fuel-efficient with new requirements and how more electric cars are going to get on the road and so forth.

I told them, “Do not screw up my financing system for the highways,” because that is what is happening. My wife gets a new car. She gives me her old one that got 18 miles to the gallon. She buys a new Prius and gets 53 miles to the gallon. She is paying 40 percent of the gas tax she used to pay driving the same miles. And I am happy for her—or happy for me. But I am happy for her.

But how are we going to fund these roads and bridges? We have a \$700 billion backlog in water and sewer projects in this country. If you added all the money that the federal government puts in our Interior bill, we put in about \$2, \$2.5 billion into the STAG grants—State and Travel Assistance Grants. Matched by local communities—so what? Maybe \$5, \$6 billion a year we spend on a \$700 billion backlog? That means in 150 years, we can address the backlog that exists today.

We have got a real problem and a real challenge. And I do not mean to put words in Representative Kaptur’s mouth; I think what she is looking at, if there can be some examples on how we did things in times gone by, maybe, with the Bureau of Reclamation or other agencies—or if there are ideas out there about how we can address the long-term financing of this infrastructure, it is vitally important to the future of this country.

We are the beneficiaries of forefathers who thought ahead. I always use the example—I know I do not look this old, but when the interstate highway system was built right next to the town I lived in—and went up to Idaho Falls, the bigger town, I can remember taking my wife on a date and going to Idaho Falls—the theater, 26 miles. I could drive back at night after the movie and never pass another car on the interstate when it was first opened.

And your thought was, man, they overbuilt this baby. Had they not thought ahead that far, it would be a total mess today. We are the beneficiaries of our forefathers investing in things for the future. We are not doing the same. And I think that is what the gentle lady is saying.

Ms. KAPTUR. I am definitely saying that. And I think, obviously, Americans have a great sense of fairness to all regions of the country, and they want this country to grow, and they want it to be prosperous. And they know that we are at a speed bump right now. We have got some issues that we have to deal with.

Infrastructure, as the Chairman says, is absolutely critical. And you have some really unique experience that goes beyond your Bureau, that is really important to the country.

One of the disadvantages in my part of the country, for example—and, boy, am I going to get in trouble by saying this—but in the way that we produce energy, it is quite patchwork. It is probably not the most efficient system, but it is the one we have.

But it has a lot of unintended consequences because of the piecemeal nature of it. You have a much different way, through the Bureau, of delivering energy.

And, you know, maybe our system is the most efficient. But it was developed earlier. The grid is older. There are a lot of issues in our region of the country.

We had a brownout a few years ago. I never thought I would see that. And it had to do with the way that the grid is built and so forth.

But I wanted to pivot to agriculture. So, it is not just power, and it is not just water systems that are antiquated and leaking in every city, from Buffalo, to Cleveland, to Toledo, to Detroit—I mean, Chicago—you name it. We have huge infrastructure needs.

But in agriculture, which is an arena that, in the state that I represent, it is our lead industry. But over the years, it has had the traditional row crop subsidies. But, for instance, in the vegetable arena and fruits, where we get no subsidies—I wish we had had some of the loan programs and repayment terms so that our tomato industry, our strawberries, our raspberries, a lot of our flower production and so forth, our landscape production—that we could find ways to be more competitive in today's marketplace, so that agriculture would not be moving to other countries, would not be displacing U.S.-based production.

The key there for us is technology. And the kind of long-term investment that the West, in its own way, has experienced—and we need to learn from that. Maybe there are mechanisms we could develop to restore some of the production, and to add to what remains now, and create the kind of jobs for the future, and income, and wealth creation that we really need in our part of the country.

I think, in some ways, you have plowed a path beyond even what you realize you have done, with all the challenges you face. I was thinking about, again, Chairman Rogers, because of coal country, and with what is happening to EPA with the closure of all these coal-fired utilities around the nation. And our State of Ohio has as many closures as any other state—probably more. And I am thinking, wow, what do we do? Just walk away from those communities? We cannot do that. People do not want to leave. They do not want to walk. They want to live there, and they want us to help them transition.

But we do not have a reclamation mechanism to do that, so every community suffers alone. They do not build forward together.

And so I am looking for those mechanisms, and you provide us a little bit of a window on a path forward.

So, I thank the Chairman very much.

Mr. SIMPSON. I thank you for being here today, and listening to our dissertation on the problems that we are trying to solve and the challenges that this country faces. We look forward to working with you as we put this budget together, and we will be seeking, as we do that, to get information from you, and your agency.

So, make sure you give us the information in a timely fashion so that we can answer the challenges that we face.

Thank you.

Mr. PIMLEY. Okay, thank you.

Mr. SIMPSON. Meeting is adjourned.

QUESTIONS FOR THE RECORD
SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT
HOUSE COMMITTEE ON APPROPRIATIONS

BUREAU OF RECLAMATION
FISCAL YEAR 2015 BUDGET HEARING

MARCH 26, 2014

BUDGET DEVELOPMENT

ADDITIONAL CAPABILITY

Subcommittee. The Administration obviously believes that the budget request is the optimal use of funds within the Bureau of Reclamation as well as government-wide. In the past, Congress has sometimes disagreed with that assessment and increased funding for Reclamation in order to help address the water resource needs of the Western states.

If this subcommittee is able to find funds in addition to the budget request level for Reclamation this year, are there other projects or activities that would benefit our economy that are ready to go and just waiting for federal funding?

Mr. Pimley. As you cited in your question, given the constrained budget climate, and the many competing priorities and challenges facing Reclamation, the Department of the Interior, and the Nation as a whole, the Administration does believe that the President's Budget represents the best use of funds within the Bureau of Reclamation as well as Government-wide. If additional funds were to be made available, there are activities that would benefit our economy that could be funded within the Bureau of Reclamation. These items are identified in the President's Opportunity, Growth and Security Initiative, which includes significant resources for Reclamation to capitalize technology challenges to incentivize breakthrough technologies in advanced water treatment, and other activities that would help Western communities plan and prepare for the effects of a changing climate.

Subcommittee. Please provide any available estimates of capability for each additional funds category included in the fiscal year 2014 Act.

Mr. Pimley. For those projects that have received funds from Congress' 'Additional Funding for Ongoing Work,' Reclamation has both successfully identified projects and obligated the additional funds. Reclamation based its decisions on a thorough Reclamation-wide review to ensure a balanced approach that considered projects and programs on the basis of mission priorities, relevance to strategic goals, program objectives, scope and degree of benefit to water users and affected interests, and the directions contained in the Congressional language. In addition, Reclamation gathers additional information to be certain that current

circumstances are incorporated into the selection process. The review of activities is expeditious, thorough, and meets the reporting requirements of Congress.

On previous occasions, Reclamation has been able to address water resource needs when Congress has made available funds in the areas: 1) Rural water, 2) Facilities, operation, maintenance, and rehabilitation-aging infrastructure, 3) Fish passage and fish screens, 4) Water conservation and delivery, and 5) Environmental restoration and compliance. Additionally, beginning in FY 2015 6) Indian Water Rights Settlements (IWRS) would be an area for consideration of increased funding.

- Indian Water Rights Settlements are one set of projects which will have significant capability beyond that which was requested in the President's Budget. For example, the Navajo-Gallup Water Supply Project has been using a balanced mix of mandatory and discretionary dollars in its construction. Between FY 2012-14, P.L. 111-291 made available \$180.0 million in mandatory funding to the Navajo-Gallup Water Supply Project. Beginning in FY 2015, until the mandatory funding available in P.L. 111-11 becomes available in FY 2020, construction costs averaging around \$100.0 million per year will be required to remain on schedule and the project will primarily be dependent on discretionary funding.
- Within the environmental restoration and compliance category over \$50 million could be obligated for projects such as San Joaquin River Restoration, Platte River Recovery Implementation, and Milk River-St. Mary's Storage Division.
- Within the water conservation and delivery category, Reclamation has a number of programs with ability to obligate more than the amount requested in the President's Budget. For example, Reclamation is currently reviewing the FY 2014 WaterSMART Water and Energy Efficiency applications for funding. Out of the 130 applications which were received, it is expected that approximately 35 applications will be funded within the available \$19.0 million, leaving a great many qualified and worthy projects unfunded. With \$19.0 million requested for FY 2015, Reclamation expects the same pattern to emerge.

- Within the Fish Passage and Fish Screen category, additional funds could be expended to screen several intakes and diversions to continue progress in protecting endangered species and restoring imperiled ecosystems.
- Some of Reclamation's facilities are over 100 years old and require significant funding commitments in order to properly maintain them, however, the majority of facilities operations and maintenance is funded by project beneficiaries, either directly, or through short-term reimbursement agreements.
- Reclamation's rural water projects also have some ability to obligate more than the amounts that have been requested in the President's Budget. Of the additional funding of \$27.1 million that was made available by Congress in FY 2014 a total of \$2.5 million has been obligated to-date. Of the \$30 million of additional funds for rural water that were provided in FY 2012, all of it was obligated in FY 2012.

FACILITIES OPERATION, MAINTENANCE AND REHABILITATION

INDIAN WATER RIGHTS SETTLEMENTS

ESTIMATED COMPLETION DATES

Subcommittee. The budget request continues funding for several Indian Water Rights Settlements. This funding is certainly an important component to meeting the federal government's responsibilities to Tribes. The budget justification provides some, although not complete, information on remaining funding costs. For example, the justification shows total estimated cost and balance to complete for each settlement, but does not indicate anticipated years until completion or whether funding requirements will be steady each year or vary between highs and lows.

Do you anticipate funding to remain relatively steady or will there be years of significantly increased funding needs?

Mr. Pimley. Major construction activity on several IWRS projects will likely increase over the next several years. The Navajo-Gallup Water Supply Project is already at a steady, high level of construction. In FY 2014, the Crow Tribe will continue to work on limited projects, such as canal roads and canal reconstruction as part of the rehabilitation of the Crow Irrigation Project. The design and construction of the Municipal, Rural, & Industrial System water treatment plant is expected to begin in late FY 2015 or early FY 2016. Construction of the Pojoaque Regional Water System pursuant to the Aamodt Litigation Settlement Act is expected to begin in FY 2017. The funding required for the Taos Pueblo Indian Water Rights Settlement is expected to be met in FY 2016.

Reclamation has received a significant amount of mandatory funding from the Claims Resolution Act (P.L. 111-291) in order to fulfill its responsibilities under each of the settlements. We expect to balance the use of the available mandatory funding with our annual discretionary requests. In addition, \$120.0 million per year for ten years of mandatory funding as part of the Reclamation Water Settlement Fund becomes available to Reclamation for use in funding water right settlements under P.L. 111-11 in FY 2020.

Subcommittee. How long will it take for Reclamation to complete its responsibilities under these Settlements at this level of annual funding?

Mr. Pimley. Reclamation plans to complete all of the requirements specified in P.L. 111-11 for the Navajo-Gallup Water Supply Project and the four settlements under P.L. 111-291 within the timeframes specified within each of their authorizations. Navajo-Gallup is required to be completed by December 31, 2024 and the Aamodt settlement's Regional Water System is required to be substantially completed by June 30, 2024. Before the Taos Pueblo's settlement's Mutual Benefit Projects are developed, the settlement's requirements for funding need to be met by March 31, 2017. The last settlement that will be completed among these five water rights settlements is the Crow Tribe Water Rights Settlement Act of 2010. Completion of that settlement requires meeting an Enforceability Date of June 30, 2030.

Subcommittee. Will you commit to working with the Subcommittee to ensure we receive updates on this more detailed information in a useful format?

Mr. Pimley. Reclamation is committed to providing the Subcommittee with requested updates of information.

FUTURE SETTLEMENTS

Subcommittee. There are numerous other Indian Water Rights Settlements currently in negotiations or waiting to begin negotiations. Do you have any estimates of potential federal costs for future Settlements? While it might be difficult to estimate the entire universe of potential settlements, what about at least those that are close to reaching agreements?

Is the Administration putting any thought into how to fund these new commitments?

Mr. Pimley. At this time, proposed legislation to settle the claims of three tribes has been introduced for Congressional approval (Blackfeet, Pechanga, and Fort Belknap). The total potential Federal cost for settlement of these claims in pending legislation is estimated to be several hundred million dollars. As for future settlements, there is a very high level of uncertainty in both the time frames and the amount of the Federal share of the claims. Tribes may request negotiation teams or submit proposed settlement legislation at any time. Reclamation continues to support the Secretary of the Interior as requested for settlement of reserved Indian water rights in order to bring certainty and finality to these important issues for the benefit of Indian as well as non-Indian water users.

The Administration is considering options to address currently enacted and future settlements.

RURAL WATER PROJECTS

ADDITIONAL CAPABILITY

Subcommittee. Rural water was one of the activities in the budget request that was reduced significantly below the current level. How much funding in excess of the budget request could be obligated in fiscal year 2015 for work on rural water projects?

Mr. Pimley. Given the constrained budget climate, and the many competing priorities and challenges facing Reclamation, the Department of the Interior, and the Nation as a whole, we believe that the amounts included in the President's Budget for Reclamation rural water projects are appropriate, and would not be the highest priority for additional funding should such funding become available. If additional funding for the Bureau of Reclamation were available, the highest priority would be the items identified in the President's Opportunity, Growth and Security Initiative, which includes significant resources for Reclamation to capitalize technology challenges to incentivize breakthrough technologies in advanced water treatment, and other activities that would help Western communities plan and prepare for the effects of a changing climate. However, to answer your question specifically, Reclamation's rural water projects do have some the ability to obligate more than the amounts that have been requested in the President's Budget. We do not have a specific excess capability number for FY 2015, but we can report that of the additional funding of \$27.1 million that was made available by Congress in FY 2014 a total of \$2.5 million has been obligated by the individual projects to-date and the remainder should be obligated by the end of the fiscal year. Of the \$30 million of additional funds for rural water that were provided in FY 2012, all of it was obligated in FY 2012. The funding requested in FY 2015 is intended to continue progress on the authorized rural water projects to the extent possible, given the economic conditions facing the Nation and competing budget priorities.

The Administration recognizes the importance of these projects to the communities which they benefit. However, Federal investments in local drinking water supply projects must be weighed carefully against the many other priorities facing Reclamation, the Department of the Interior, and the Nation as a whole. Across the United States, State, local, and tribal governments are taking a greater leadership role in water resources investments, including financing projects the Federal Government would

have financed in the past. Constrained Federal budgets do not preclude the ability of non-Federal parties to move forward with important investments in water resources infrastructure and the Administration stands ready to support that effort. Over \$1.5 billion in Federal funds have already been appropriated to support these projects since 1999 and the amount requested in the FY 2015 Budget would continue that Federal support, at an amount appropriate in the context of the constrained fiscal environment.

PRIORITIZATION CRITERIA

Subcommittee. One of the new prioritization criteria for rural water projects is “financial resources committed.” Please explain exactly what that means. Does it mean Reclamation is giving preference to projects for which the non-federal interests can afford to provide more than their statutory cost-share?

If yes, how is that priority consistent with congressional direction included in the report accompanying the fiscal year 2014 Act?

Mr. Pimley. A primary objective of Reclamation’s funding strategy is the completion of rural water projects authorized by Congress to meet urgent water supply needs. The “financial resources committed” measure helps Reclamation achieve this objective. The measure gauges construction progress by comparing the combined amount of Federal and non-Federal costs incurred relative to the total authorized project cost. Projects that are close to completion receive a higher priority than projects in the initial phases of construction. By including non-Federal contributions in the evaluation of “financial resources committed,” Reclamation also acknowledges the importance of non-Federal funding to expediting project completion and reducing the effects of inflation over the construction period.

In some cases, non-Federal partners have contributed more than the cost share required by Congress. However, Reclamation’s use of the “financial resources committed” criterion is consistent with congressional direction provided in the report accompanying the fiscal year 2014 Act. Reclamation does not consider any amount over 100 percent of the required amount, even if the non-Federal contributions toward a project exceeded the required non-Federal share of the total project cost.

WATERSMART PROGRAM

WATERSMART GRANTS

Subcommittee. The WaterSMART grants program gives priority to project proposals that include the use of renewable energy in water management. How does that relate to Reclamation's statutory role as a supplier and manager of water and producer of hydropower?

Mr. Pimley. Through WaterSMART Grants, Reclamation implements Section 9504 of the Secure Water Act (Subtitle F of Title IX of Public Law 111-11), which authorizes Reclamation to provide financial assistance for water management improvements, specifically including improvements that increase the use of renewable energy in the management and delivery of water. Section 9504 acknowledges the link between energy and water management, which is reflected in WaterSMART Grants funding criteria that give additional consideration to projects that include the use of renewable energy and other energy efficiency improvements in addition to water efficiency. Through WaterSMART Grants, Reclamation assists its partners as they consider the relationship between energy and water in planning and implementing improvements to their delivery systems – activities that complement Reclamation's role in developing and managing hydropower at its own facilities.

Subcommittee. Why does Reclamation consider promotion of non-hydro renewable energy to be one of its priorities?

Mr. Pimley. Consistent with the Administration's "all of the above" energy strategy that seeks to reduce dependence on foreign oil, Reclamation seeks through the WaterSMART program to promote a sustainable water strategy, including the use of renewable energy in water management and recognition of the relationship between water efficiency and energy use. Reclamation gives additional consideration to proposed WaterSMART Grant projects that not only increase water efficiency, but also include renewable energy components. Criteria do not place a priority on any specific type of renewable energy, but most WaterSMART Grants that involve renewable energy include the installation of small hydropower turbines in existing irrigation canals. For example, as part of a WaterSMART Grant, the Consolidated Irrigation Company in the Bear River Basin in southern Idaho is converting an unlined earthen canal to high-

pressure pipe and installing advanced measuring devices, improvements expected to result in significant water savings once the project has been completed. To take advantage of an elevation change as the new pipeline drops into a reservoir, the project also includes the installation of a 500-kilowatt hydropower facility to generate renewable energy.

TITLE XVI WATER RECLAMATION AND REUSE PROGRAM

Subcommittee. This Subcommittee is often asked to increase funding for the Title XVI program, regardless of the funding level included in the budget request. Do you have an estimate of how much funding above the budget request could be awarded to and used on Title XVI projects in fiscal year 2015?

Mr. Pimley. Given the constrained budget climate, and the many competing priorities and challenges facing Reclamation, the Department of the Interior, and the Nation as a whole, we believe that the amount included in the President's Budget for Reclamation's Title XVI program is appropriate, and would not be the highest priority for additional funding should such funding become available. If additional funding for the Bureau of Reclamation were available, the highest priority would be the items identified in the President's Opportunity, Growth and Security Initiative, which includes significant resources for Reclamation to capitalize technology challenges to incentivize breakthrough technologies in advanced water treatment, and other activities that would help Western communities plan and prepare for the effects of a changing climate. However, to answer your question specifically, each year Reclamation issues a funding opportunity announcement inviting sponsors of authorized projects to submit requests for funding. In response to the FY 2014 funding opportunity, Reclamation received applications that together represent a request for approximately \$39 million, though not all of these requests represented projects that would be deemed appropriate for award of Federal funds. Competition between the various sponsors helps to improve all of the funding proposals, results in better projects, and helps to ensure that taxpayer funds are used on only the most meritorious projects. Requests are highly dependent on project sponsors plans, and it is impossible to know what the FY 2015 requests will be, but FY 2015 requests could be very similar to FY 2014.

Subcommittee. Do you have an estimate of how much remaining funding is authorized for existing Title XVI projects?

Mr. Pimley. The remaining authorized Federal cost share for all Title XVI projects after FY 2013 is approximately \$550 million. Of this total, projects considered active have a remaining authorized Federal cost share for construction of approximately \$350 million.

Subcommittee. Has Reclamation been making grants for studies for new Title XVI projects that would require new authorizing legislation?

Mr. Pimley. Each year, Title XVI Program funding is used primarily to invite sponsors of authorized projects to request funding for continuing work on those projects. This year, about \$1.5 million has been made available for development of feasibility studies for potential new water reuse projects. Similar funding opportunity announcements were issued as part of the program in FY 2011 and FY 2012. Studies funded through the program may relate to previously authorized Title XVI projects, reuse projects that sponsors intend to construct without Federal funding, or projects for which sponsors intend to seek new authorizing legislation.

Subcommittee. If yes, has the Administration worked with the authorizing committees to make sure these authorizations can be handled in compliance with the ban on congressional earmarks? If not, what is the usefulness of funding studies?

Mr. Pimley. Many project sponsors have communicated to Reclamation that development of feasibility studies that meet Title XVI program requirements is an effective way for them to investigate water reuse opportunities. For some project sponsors, funding for feasibility studies offers valuable planning support for reuse projects even if they intend to proceed to construction without seeking new authorizing legislation or Federal funding.

TITLE XVI – REGIONAL-SCALE PROJECTS

Subcommittee. The Subcommittee continues to hear from other Members of Congress and from non-federal partners about interest in creating within the Title XVI grant program a set-aside or other priority for regional-scale efforts, particularly those that include multiple jurisdictions and generate environmental as well as water supply benefits.

Can you please describe the existing evaluation process, including how regional-scale efforts are or are not considered?

Mr. Pimley. The funding criteria Reclamation developed in 2010 for the Title XVI Program are intended to identify the Title XVI projects that most effectively stretch water supplies and contribute to water supply sustainability; that will bring a project to completion; that are ready to proceed; that address water quality concerns or benefit endangered species; that incorporate the use of renewable energy or address energy efficiency; that deliver water at a reasonable cost relative to other water supply options; that fulfill Reclamation's obligations and benefit rural or economically disadvantaged communities; and that apply a watershed perspective by implementing an integrated resources management approach, implementing a regional planning effort, or forming a collaborative partnership with other entities. Reclamation has incorporated these criteria into funding opportunity announcements used each year to invite sponsors of authorized projects to apply for funding. Proposals are evaluated against these criteria to identify projects for funding. We believe this process has been successful at allowing Reclamation to prioritize the projects that most closely match all program goals – including consideration of regional-scale efforts that involve multiple entities – through a process that is transparent to all potential applicants and the public.

Subcommittee. When developing the current evaluation process, did Reclamation consider a set-aside for this or any other type of Title XVI project? If you did consider it, what made you decide not to do it?

Mr. Pimley. Reclamation believes that the current procedure used to identify funding for authorized projects provides a reliable funding stream for projects that closely match program goals and specifically provides additional consideration for regional-scale projects that apply a watershed perspective and that have other related benefits. In 2012, Reclamation made

significant revisions to its funding opportunity announcements for the Title XVI Program to address feedback and to ensure that the program works as well as possible and in a way that minimizes the burden on project sponsors, including specifically sponsors of large or regional projects that may have longer construction timeframes. Sponsors may request up to \$4 million each year – which is a larger amount per project than was made available before 2012 – as planning, design, and construction activities continue, without being asked to divide those large projects into smaller phases. Regional-scale projects compete well under the process.

For those reasons, Reclamation has not considered a set-aside for regional-scale efforts. However, this year Reclamation did make a significant revision to its funding opportunity announcement for development of potential new water reuse projects. This year, applicants may submit requests in one of two funding groups, including one category that allows for larger funding amounts than under previous opportunities and a significant increase in the amount of time available to complete the study. The funding opportunity announcement acknowledges that the revision is intended to allow sponsors of potential new regional-scale or large projects additional flexibility without a significant effect on other important program goals.

SECURE WATER ACT AUTHORIZATION INCREASE

Subcommittee. Most components of the WaterSMART program are implemented under the Secure Water Act of 2009. The budget request proposes to increase this authorization from \$200,000,000 to \$400,000,000. Are any other Reclamation activities implemented under this authority?

Mr. Pimley. WaterSMART Grants, the Water Conservation Field Services Program, and water conservation projects within California Bay-Delta Restoration Program all rely on Section 9504 of the Secure Water Act. In addition, in FY 2015, Reclamation will begin implementing the new Drought Response Program. While the program is still under development, Reclamation intends to use existing authorities, including section 9504 of Secure Water Act of 2009, to implement the program. This authority will allow Reclamation to quickly complete projects and will provide flexibility in terms of the types of response projects that may be considered under the new program.

Subcommittee. What portion of the existing authorization will have been used through the end of fiscal year 2014?

Mr. Pimley. Reclamation estimates that at the end of FY 2013, about \$30 million remained under the authorized appropriation ceiling. While there is sufficient room under the ceiling to support FY 2014 appropriations, Reclamation estimates that the authorized appropriations ceiling will be reached during FY 2015.

Subcommittee. Why is the Administration proposing to double the authorization, particularly since the proposal last year was only a 25 percent increase? Is there significance to the \$400,000,000 number?

Mr. Pimley. Without action, the Secure Water Act ceiling will be reached and Reclamation will not be able to continue the programs that rely on this authority, including WaterSMART Grants, the Water Conservation Field Services Program, and water conservation projects within California Bay-Delta Restoration, through FY 2015. This statutory authority is a critical tool for engaging stakeholders so that Reclamation and non-Federal entities can work together to implement additional water management improvements, increasing water management flexibility and making the water supply more resilient. The 25 percent increase in the ceiling proposed

last year would support funding for only one additional year at current funding levels. A larger increase will eliminate the need for repeated requests to increase the ceiling and will ensure that this highly valuable tool can continue to be available for current programs and to address drought resiliency across the West beyond FY 2015.

DROUGHT RESPONSE AND COMPREHENSIVE DROUGHT PLANS (NEW)

Subcommittee. The budget request proposes a new WaterSMART program component called Drought Response and Comprehensive Drought Plans funded at \$1.5 million. The explanation of this new program refers to implementing a comprehensive new approach to drought planning.

Please explain what this new approach is and how it is different from existing approaches to drought planning.

Mr. Pimley. In FY 2015, Reclamation will use the \$1.5 million request to implement Drought Response and Comprehensive Drought Plans (Drought Response Program), based on a reformulation of the existing Drought Program.

Historically, most program funding, under the existing Drought Program, has been used to provide assistance to States, Tribes, and local governments for on-the-ground improvements (e.g., wells, temporary pipes and pumps) to minimize losses and damages resulting from drought conditions, while very little program funding has been used for drought contingency planning. Additionally, earmarks and limitations in the program authority have created an incentive to use the program funding primarily for drilling wells. The new Drought Response Program will do more to incentivize drought contingency planning, and funding for the program will be allocated through a competitive process using an empirical approach that emphasizes involvement from multiple stakeholders and the incorporation of climate change information.

Reclamation is in the early phase of developing the new Drought Response Program. The planning component of the new program will be more comprehensive than prior efforts by including a broader range of stakeholders and ensuring consideration of multiple issues associated with drought, including climate change. Prioritizing collaboration with multiple stakeholders will help ensure that implementation actions identified in drought plans are more holistic, cutting across multiple sectors to mitigate risks to municipalities and agriculture, risks of increased fires, and risks to ecosystems. Including readily available climate change data from the WaterSMART Basin Study Program will support the development of drought actions that result in long-term resilience, rather than short-term

fixes that can ultimately be counter-productive to climate adaptation. The new efforts described for the Drought Response Program will also directly support the National Drought Resilience Partnership, identified in the President's 2013 Climate Action Plan—helping communities manage drought and develop long-term resilience strategies, by providing key climate change and drought information.

Subcommittee. Will this funding be used for planning by Reclamation employees? Will it be given out as grants to other entities, and if so, what kinds of entities will be eligible or given priority and will there be a non-federal cost-share required?

Mr. Pimley. We are currently identifying a Reclamation-wide team to develop the new Drought Response Program, which will be implemented in FY 2015. We anticipate that some portion of the funding will be provided as grants to other entities and some portion will be used to fund Reclamation drought activities, coordinated with State and local partners. The optimal cost-share requirements are under consideration by the development team. Eligible entities under the program will include States, Tribes and local government entities as authorized under the Reclamation States Emergency Drought Relief Act of 1991, Public Law 102-250 (Drought Act).

Reclamation is currently evaluating the use of several existing authorities to implement this program, including the Drought Act, the 1902 Reclamation Act, and Section 9504 of Public Law 111-11, the SECURE Water Act. The program is currently in the early stages of development and will be fully implemented in FY 2015.

Subcommittee. Under what specific authorities will this program be implemented?

Mr. Pimley. Reclamation is exploring whether Public Law 111-11, Title IX, Subtitle F, Section 9504 of the SECURE Water Act can be used, in addition to the Drought Act, to implement the new program. Section 9504, which requires a 50% non-Federal cost-share, provides more flexibility in terms of the types of drought response actions that can be funded under the program. For example, projects awarded under this authority would include on-the-ground projects to install water measurement devices to improve efficiency and measure drought impacts, installation of fish ladders to address endangered species requirements, or projects that implement water

marketing solutions to address municipal water shortages. The use of Section 9504 for implementation of the new Drought Response Program would be subject to the existing appropriations cap applicable to Section 9504. The FY 2015 President's budget request proposes to increase the original cap of \$200 million by an additional \$200 million.

HYDROPOWER AND ENERGY-RELATED ACTIVITIES

INTEGRATING RENEWABLES INTO THE GRID

Subcommittee. Reclamation's budget request includes \$1.2 million for energy-related activities, including allowing Reclamation to "investigate Reclamation's capability to help integrate large amounts of different renewable resources such as wind and solar into the electric grid."

What exactly does this mean?

Mr. Pimley. Reclamation is currently working with 2010 Hydropower MOU partners (Department of Energy (DOE) and the Army Corps of Engineers), customers, industry, and stakeholders to investigate Reclamation's ability to integrate renewables into the electrical grid.

For context, Reclamation operates its hydropower facilities subject to the terms and conditions of water and power service contracts, and at most of these facilities, hydropower generation occurs in a water management context that involves operating reservoir systems to satisfy multiple objectives including delivering water and generating power, flood risk reduction, and satisfaction of environmental requirements. In this investigation, Reclamation will ensure that the integration of different renewable resources such as wind and solar will not negatively impact existing operations, the safety of our facilities, and other commitments (e.g. water and power contracts).

The Power Marketing Agencies (PMAs) are responsible for marketing and delivering hydropower and providing electric power, transmission, and energy-related products and services. As additional renewable resources are brought online, Reclamation may be called upon to provide ancillary services and other generation/transmission balancing products to maintain electric grid reliability and stability. This investigation will allow Reclamation to better understand our capability to provide these services to help integrate renewables as well as respond to operational changes resulting from integration.

Subcommittee. What specifically will Reclamation be doing in this area, and why is it not more appropriately done by the Department of

Energy's Office of Electricity Delivery & Energy Reliability, the Western Area Power Administration, or the Bonneville Power Administration?

Mr. Pimley. Reclamation is partnering with the MOU agencies to develop a monitoring framework and analysis tools for characterizing the positive and negative reliability and cost impacts of significant changes in hydropower dispatch – to, in part, integrate renewables. The framework and tools will allow Reclamation to better understand and respond to operational changes resulting from renewable integration.

Reclamation is partnering with the MOU agencies to evaluate the capacity of Federal hydropower assets to provide ancillary services to the bulk electric system. Ancillary services, such as up regulation, down regulation, pumping, spinning reserve, and non-spinning reserve are necessary to maintain the stability and reliability of electric transmission systems. The goal of this effort is to quantify the capacity of Reclamation and Corps hydropower to provide ancillary services to support the integration of additional intermittent resources.

Currently there are no adjustable-speed, pumped storage systems in the United States. Adjustable speed systems can greatly increase the flexibility of these resources and provide balancing products to the grid. Reclamation is working to identify where these research opportunities exist within its existing fleet.

Planned activities build on completed and on-going activities, including pumped-storage screening studies, hydropower modeling, and a hydro-generator start/stop cost study. Additional studies have been planned that provide a tangential benefit to this cause, including a pumping demand response study and more robust data collection systems.

As indicated, Reclamation is partnering with DOE (including the Office of Electricity Delivery & Energy Reliability, the Office of Energy Efficiency & Renewable Energy and the PMAs) to conduct these analyses. Increased levels of renewable generation have a direct impact on Reclamation hydropower operations and infrastructure, and Reclamation needs to be aware of these potential impacts (e.g. water and power delivery).

Reclamation has a great deal of expertise to help inform how hydropower can help integrate these resources.

Subcommittee. How much of the \$1.2 million will be dedicated to this activity?

Mr. Pimley. Approximately \$675,000 will be dedicated to this activity. The figures provided are approximate and subject to change.

- Ancillary Services Costing Study: \$25,000
- Quantifying the Flexibility of Hydro to Provide Ancillary Services: \$150,000
- Adjustable Speed Pumped Storage Investigation: \$500,000

Subcommittee. What is the specific statutory authority for this activity?

Mr. Pimley. The Reclamation Act of 1902, and the Second Deficiency Appropriations Act of 1924 (Fact Finders' Act), Subsection O (59 Stat. 54, as amended), authorizes the Bureau of Reclamation to conduct general investigations into matters that relate to the Reclamation program as a whole. Here, the investigation will address how recent increases in renewable energy use may affect existing hydropower resources at Reclamation projects. By way of example, Reclamation projects are often called upon to provide ancillary power services to maintain the stability and reliability of electric transmission systems. As additional renewable power resources are brought online, additional ancillary services will be required to maintain system reliability and stability. The investigations addressed in this budget request will cover, among other things, the capability of Reclamation projects to respond to this emerging need and better understand potential cost and reliability impacts.

Subcommittee. What surplus and unallocated generating resource is currently available to perform this function?

Mr. Pimley. Reclamation is currently investigating what flexibility and capacity may exist within its existing fleet to perform this function through the aforementioned planned activities.

Subcommittee. Has Reclamation discussed this proposal with the Power Marketing Administrations and their customers?

Mr. Pimley. Reclamation has discussed this proposal with the PMAs and has presented material outlining this proposal to various water and power customer groups. It is important to understand that the aforementioned planned activities are non-reimbursable (i.e. no costs will be incurred by PMA customers).

Subcommittee. Please explain how the costs will be allocated. Will the costs be reimbursed, and, if so, by whom?

Mr. Pimley. Costs associated with the aforementioned planned activities are non-reimbursable.

SCIENCE AND TECHNOLOGY PROGRAM

Subcommittee. The Science and Technology program lists five goals, one of which is “advancing renewable energy generation by Reclamation.” Does the term renewable energy generation in this instance mean just hydropower?

If it does include other types of renewable energy, why would Reclamation believe this is an appropriate area to study? Is Reclamation authorized to do work with other forms of energy?

Mr. Pimley. In FY 2014, roughly 95 percent of Science and Technology Program research funded under “advancing renewable energy generation by Reclamation” is focused on the agency’s hydroelectric power generation assets, including such topics as improving machine condition monitoring, optimizing power generation, extending the useful life of hydropower assets, reducing operation and maintenance costs, and improving safety.

Reclamation regularly receives inquiries from private wind or solar energy developers interested in access to Reclamation lands, either for a stand-alone project or as part of a larger development on adjacent – often Bureau of Land Management – lands. Over the past three years, Reclamation has had an agreement with the National Renewable Energy Lab to examine the potential on Reclamation lands and at Reclamation facilities to generate or utilize non-hydroelectric renewable energy. A principal goal of this effort has been to develop data and case-analyses that help Reclamation managers understand the factors that determine, in a given location, whether development of facility- or utility-scale wind or solar generation is economical or practical, either for Federal or private-party developers.

While the Science and Technology Program does not fund design or construction of non-hydropower generation facilities, the Reclamation Act of 1902 provides general authority to conduct research on any issues involved with management of water, power, and associated lands.

CALIFORNIA DROUGHT

IMPACTS TO RECLAMATION PROJECTS

Subcommittee. Please describe the impacts of the drought on Reclamation facilities and projects.

To what extent have operational changes been necessary due to the drought?

Mr. Pimley. The accumulated inflow to the Central Valley Project (CVP) reservoirs for Water Year 2014 to date is about 40% to 50% of the average. The forecasted inflow for Trinity Reservoir, Shasta Reservoir, and Folsom Reservoir for the April to July period is only 23%, 48%, and 31% of average, respectively. When combined with the low reservoir storage (only 60% to 70% of average) there is little CVP water left to release for Delta export purposes.

Since December 2013, the State and Federal agencies that supply water, regulate water quality, and protect fish and wildlife have worked together daily to develop strategies to cope with the drought, including maximizing regulatory flexibility to adjust quickly to changes in the weather and environment and bolster water supplies when possible while minimizing impacts to fish and wildlife. For example, Reclamation has been engaging with both the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) to exercise flexibility to operate while maintaining compliance with the Biological Opinions. The agencies will continue to work together to operate in a manner that protects species while meeting the needs of our customers.

Subcommittee. What contingency planning, if any, are you doing to mitigate the impacts?

Mr. Pimley. The Bureau of Reclamation and the California Department of Water Resources, in collaboration with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the California Department of Fish and Wildlife, and the State Water Resources Control Board, have developed a Drought Operations Plan and Operational Forecast that outline proposed actions and a likely range of coordinated operations of the Central Valley Project and State Water Project from April 1 through November 15, 2014. The plan and forecast are based on the conservative

but prudent assumption that conditions will remain dry and that the drought may persist into 2015. This information may be viewed on Reclamation's Mid-Pacific Region website at www.usbr.gov/mp/drought/.

In addition, in collaboration with contractors and stakeholders, Reclamation has developed a 2014 Water Plan designed to address a variety of operational circumstances. Reclamation has worked with other Federal and State agencies in addressing unique hydrologic conditions which have evolved since the 2014 Water Plan was envisioned. We are particularly focused on optimizing 2014 water supplies while preserving some water supplies in reservoirs for 2015 should drought conditions continue.

Subcommittee. Has the drought affected any funding needs for fiscal year 2014 or any anticipated needs for fiscal year 2015?

Mr. Pimley. We believe funding for 2014 will allow us to address critical drought conditions although we may have to forego certain program initiatives in order to redirect funding priorities. We do not anticipate any compromise to critical mission activities.

Subcommittee. If there is the possibility of changing funding needs for fiscal year 2015, at what point might we have updated information?

Mr. Pimley. We will have a better idea of program impacts following the end of the water year, September 30, 2014.

CENTRAL VALLEY PROJECT WATER SUPPLY ALLOCATION

Subcommittee. Last month, the Bureau announced the initial 2014 water supply allocations for Central Valley Project users and the allocations certainly reflect the dire conditions of the California drought. In the news release that provided the allocation figures, you stated that the determination of the allocation is “based upon many factors.”

What are these factors?

Mr. Pimley. Factors include mountain snowpack and anticipated spring and summer runoff; water temperatures needed to sustain fisheries; flows required for water quality under State permits to Reclamation; and anticipated system demands.

Subcommittee. How does the Bureau rank these priorities in a normal year and how does this change during a drought year?

Mr. Pimley. Reclamation is committed to meeting legal and regulatory obligations, followed by contractual obligations.

PARTNERSHIP WITH USDA

Subcommittee. Last month the Bureau announced a \$14 million partnership with USDA's Natural Resources Conservation Service to fund water conservation and improve water management. Can you briefly update the Committee on those efforts and the shared criteria you and the NRCS are using to select and fund the projects?

This partnership is said to build upon a \$20 million effort from USDA for agricultural water conservation efforts throughout California. Could you please explain the interactions and the distinctions between these two efforts?

Mr. Pimley. Under the partnership with NRCS, Reclamation will provide up to \$7 million for water conservation and efficiency initiatives to water districts and agencies. NRCS will provide monies on-farm to landowners to match those provided by Reclamation to water districts and agencies. Reclamation and NRCS have worked together to assure grants go to those entities which embody the combined water conservation and water use efficiency objectives of the two agency programs. This ability to leverage Federal resources has been increasingly significant during the current period of intense drought.

The evaluation criteria used to score each proposal was developed by Reclamation with guidance from NRCS. The criteria includes: 1) project benefits categorized in water conservation and efficiency, reasonableness of cost, and other ancillary benefits; 2) on-farm efficiencies; 3) supplemental water supply need; 4) implementation and results; 5) innovation; and 6) cooperation with NRCS in past projects.

CALFED**WATER STORAGE STUDIES**

Subcommittee. The request for the California Bay-Delta Restoration account includes funding for several water storage feasibility studies. If additional funding above the budget request were to be available, would Reclamation be able to use any of it on these studies in fiscal year 2015?

Mr. Pimley. Reclamation has sufficient funding in the FY 2015 President's budget for the water storage feasibility studies.

Subcommittee. Based on information previously provided to the Subcommittee by Reclamation, the authority for these studies existed prior to and is separate from enactment of Public Law 108-361, the CALFED Bay-Delta Authorization Act. In other words, continued funding and implementation does not depend on extension of the CALFED Bay-Delta Authorization Act. Can you please confirm that this is Reclamation's legal interpretation?

Mr. Pimley. Correct, that is Reclamation's interpretation.

BAY-DELTA CONSERVATION PLAN

Subcommittee. Please provide a brief update on the status of efforts on the Bay-Delta Conservation Plan. What has been the federal role to date?

Mr. Pimley. Reclamation's role to date in the BDCP planning process includes work and activities to support the development of the BDCP, including requirements for the Endangered Species Act (ESA), National Environmental Policy Act (NEPA), Clean Water Act (CWA), and the National Historic Preservation Act. The efforts have also included technical input and review of plan elements; coordination with local, Federal, and State agencies; modeling efforts; and public outreach.

Subcommittee. What is the purpose of the funding included in Reclamation's fiscal year 2015 budget request?

Mr. Pimley. The purpose of the funding is to continue activities associated with BDCP planning efforts as well as legal and permitting requirements. The requirements include analysis and compliance with the ESA, NEPA, CWA, and National Historic Preservation Act. Other activities include development of value engineering studies, Fish Facility Technical Team studies, modeling, and potentially a Design, Estimating and Construction (DEC) review of the proposed pumping and conveyance facilities.

Subcommittee. What federal role is envisioned under the current Plan? What would be the federal costs? Are those costs related to Reclamation activities or would other federal agencies be involved as well?

Mr. Pimley. The State of California released the Draft BDCP and Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for public comment on December 13, 2013. The State's Draft BDCP envisions that the Federal government would be involved in some capacity in the administration and governance of the BDCP. Reclamation and other Federal agencies are conducting analyses and continuing discussions with the State of California, State and Federal water contractors, and lead Federal agencies on the appropriate Federal role in implementation of the BDCP.

CENTRAL VALLEY PROJECT RESTORATION FUND**REVENUES AND EXPENDITURES REPORT**

Subcommittee. Through 2008, Reclamation published a report showing the financial status of Central Valley Project Restoration Fund revenues and expenditures. Has the report been published since 2008? If not, why not?

Even if you no longer publish the report, do you track this information? For the record, please provide the annual information since 2008.

Mr. Pimley. The Central Valley Project Restoration Fund was authorized in the Reclamation Projects Authorization and Adjustments Act of 1992 (Act), Title XXXIV of P.L. 102-575, October 30, 1992. The Central Valley Project Improvement Act requires an annual financial report per Section 3407(f). The report describes all receipts to and uses made of monies in the Central Valley Project Restoration Fund. This report has been prepared each fiscal year and the annual information since 2008 is submitted with this response.

COST ALLOCATIONS

Subcommittee. The Subcommittee has heard concerns about Reclamation's decisions on how to allocate costs for activities funded under the Central Valley Project Restoration Fund.

Does Reclamation assign costs for all activities funded under the Restoration Fund based on the Central Valley Improvement Act? Or are some activities considered Central Valley Project activities and, thus, subject to Central Valley Project cost allocation?

Mr. Pimley. The Central Valley Project Restoration Fund was authorized in the Central Valley Project Improvement Act (Act), Title XXXIV of the Reclamation Projects Authorization and Adjustments Act of 1992, P.L. 102-575, October 30, 1992. Reclamation assigns the costs for activities under Section 3406 of the CVPIA according to the reimbursement and cost share criteria identified in the CVPIA. The CVPIA describes the cost reimbursement using the following descriptions:

- (1) "...reimbursable as a main project feature..."
- (2) "...reimbursable according to existing law..."
- (3) "...reimbursable pursuant to existing statutory and regulatory procedures..."
- (4) "...reimbursable as an operation and maintenance expenditure pursuant to existing law."
- (5) "...reimbursed in accordance with the following formula..."
- (6) "...shall be allocated 50 percent to the United States and 50 percent to the State of California..."
- (7) "...seventy-five percent shall be considered as a non-reimbursable Federal expenditure, and 25 percent shall be paid by the State of California..."
- (8) "...The Secretary's share of the costs associated with the activities authorized under this paragraph shall not exceed 50 percent of the total costs of any such activity..."

Subcommittee. While some of the items in section 3406 of the Central Valley Project Improvement Act specify how expenditures are to be allocated, others do not. How does Reclamation allocate costs for the items with no specifics in statute?

Mr. Pimley. Some of the CVPIA Section 3406 activities do not specifically address the reimbursement criteria for costs associated with planning, construction, implementation, and operation and maintenance of the facilities or activities. Therefore, the regional practice is that if CVPIA Section 3406 does not address the reimbursement of these costs, and no percentage for reimbursement is specified, then the costs are treated as reimbursable by water and power customers in accordance with existing project cost allocation procedures.

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