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# A REVIEW OF RECENTLY COMPLETED UNITED STATES ARMY CORPS OF ENGINEERS CHIEF'S REPORTS, PART 3

**(114–52)**

## HEARING

BEFORE THE

SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

SEPTEMBER 15, 2016

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Committee on Transportation and Infrastructure
U.S. House of Representatives

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Washington, DC 20515

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September 12, 2016

**SUMMARY OF SUBJECT MATTER**

| | |
|---|---|
| **TO**: | Members, Subcommittee on Water Resources and Environment |
| **FROM**: | Staff, Subcommittee on Water Resources and Environment |
| **RE**: | Water Resources and Environment Subcommittee Hearing on "A Review of Recently Completed United States Army Corps of Engineers Chief's Reports" |

## PURPOSE

The Subcommittee on Water Resources and Environment will meet on Thursday, September 15, 2016, at 9:30 a.m. in 2167 Rayburn House Office Building to receive testimony from the United States Army Corps of Engineers (Corps) on recently completed Chief's Reports.

This hearing will provide Members with an opportunity to review the two Chief's Report and two Post-Authorization Change Reports that have been submitted to Congress since the Subcommittee's May 17, 2016 hearing also entitled "A Review of Recently Completed United States Army Corps of Engineers Chief's Reports."

## BACKGROUND

The Corps is the federal government's largest water resources development and management agency. The Corps began its water resources program in 1824 when Congress, for the first time, appropriated funds for improving river navigation. Since then, the Corps' primary missions have expanded to address river and coastal navigation, reducing flood damage risks along rivers, lakes, and the coastline, and projects to restore and protect the environment. Along with these missions, the Corps generates hydropower, provides water storage opportunities to cities and industry, regulates development in navigable waters, assists in national emergencies, and manages a recreation program. Today, the Corps is comprised of 38 District offices within eight Divisions and manages nearly 1,500 water resources projects.

The Corps plans, designs, and constructs projects for the purposes of navigation, flood control, beach erosion control and shoreline protection, hydroelectric power, recreation, water supply, environmental protection, restoration and enhancement, and to mitigate for fish and wildlife impacts. The Corps planning process seeks to balance economic development and

environmental considerations as it addresses water resources challenges. This process is intended to approach the Nation's water resources needs from a systems perspective and evaluate a full range of alternatives in developing solutions.

The first step in the Corps water resources development process is a study of a potential project. If the Corps has previously conducted an evaluation in the geographic area, the new study can be authorized by a resolution of either the House Committee on Transportation and Infrastructure or the Senate Committee on Environment and Public Works. Generally, studies are authorized by Committee resolution, although the Committee on Transportation and Infrastructure has not approved a new study by resolution since 2010. The Committee authority to carry out study resolutions is vested in Section 4 of the Rivers and Harbors Act of 1913. If the area has not been previously studied by the Corps, then an Act of Congress is necessary to authorize the study.

Typically, the Corps enters into a cost-sharing agreement with the non-federal project sponsor to initiate the feasibility study process. The cost of a feasibility study is shared 50 percent by the federal government, subject to appropriations, and 50 percent by the non-federal project sponsor.

During the feasibility study phase, the appropriate Corps District Office prepares a draft study report containing a detailed analysis on the economic costs and benefits of carrying out the project and identifies any associated environmental, social, or cultural impacts. In some cases, dozens of project alternatives are identified and reviewed. The feasibility study typically describes with reasonable certainty the economic, social, and environmental benefits and detriments of each of the alternatives, and identifies the engineering features, public acceptability, and the purposes, scope, and scale of each. The feasibility study includes any associated environmental impact statement and a mitigation plan.

The feasibility study also contains the views of other federal and non-federal agencies on the project alternatives, a description of non-structural alternatives to the recommended plans, and a description of the anticipated federal and non-federal participation in the project.

Following completion of the feasibility study phase, the document is transmitted to the appropriate Corps Division for review, and, if approved, is then transmitted to the headquarters of the Corps for final policy and technical review. After a full feasibility study is completed, the results and recommendations of the study are submitted to Congress, usually in the form of a report approved by the Chief of Engineers (commonly referred to as a "Chief's Report.") If the results and recommendations are favorable, the final step is Congressional authorization of the project. Project authorizations are contained in Water Resources Development Acts (WRDA's), the most recent of which was enacted in 2014.

The Corps is subject to all federal statutes, including the National Environmental Policy Act (NEPA), the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, previous Water Resources Development Acts, Flood Control Acts, and Rivers and Harbors Acts. These laws and associated regulations and guidance provide the legal basis for the Corps of Engineers planning process.

For instance, when carrying out a feasibility study, NEPA requires the Corps to include: identification of significant environmental resources likely to be impacted by the proposed project; an assessment of the project impacts; a full disclosure of likely impacts; and a consideration of a full range of alternatives, including a No Action Alternative. Importantly, NEPA also requires a 30-day public review of any draft document and a 30-day public review of any final document produced by the Corps.

Additionally, when carrying out a feasibility study, the Clean Water Act requires an evaluation of the potential impacts of a proposed project or action and requires a letter from a state agency certifying the proposed project or action complies with state water quality standards.

The Corps also has to adhere to the "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies" (P&G) developed in 1983 by the United States Water Resources Council. The Principles and Guidelines were updated in 2013, with the intention that water resources projects reflect national priorities, encourage economic development, and protect the environment. No funds have been provided through the appropriations process for the Corps to carry out the updated P&G. The P&G is intended to ensure proper and consistent planning by all federal agencies engaged in the formulation and evaluation of federal water resources development projects and activities, and has defined federal objectives for pursuing water resources development projects, including contributions to national economic development consistent with protection of the environment. Typically, the plan recommended by the Corps is the plan with the greatest net economic benefit consistent with protecting the Nation's environment. For projects that have multiple purposes, the P&G recommends that such projects maximize, to the greatest extent practicable, economic development and ecosystem restoration outputs. Additionally, the Secretary of the Army has the discretion to recommend an alternative if there are overriding reasons based on other federal, state, or local concerns.

Consistent with NEPA requirements, the P&G requires the formulation of alternative plans to ensure all reasonable alternatives are evaluated, including plans that maximize net national economic development benefits, and incorporate federal, state, and local concerns. Mitigation for adverse project impacts is to be included in each of the alternative plans reviewed in the study. The Corps is responsible for identifying areas of risk and uncertainty in the study, with the goal that decisions can be made with a degree of reliability on the estimated costs and benefits of each alternative plan.

On February 24, 2016, the Subcommittee held a hearing on 24 Chief's Reports that had been submitted to Congress since enactment of WRRDA 2014. On May 17, 2016 the Subcommittee held a hearing on four additional Chief's Reports. Since the date of that hearing, Congress has received two additional Chief's Reports; a storm damage reduction project in Southwest Coastal Louisiana and a navigation improvements project in the Upper Ohio River. The Committee has also received two Post-Authorization Change Reports since the May 17, 2016 hearing, a flood damage reduction project for Swope Park, Missouri, and an ecosystem restoration project for Picayune Strand, Florida. All Chief's Reports and Post-Authorization Change Reports that have been submitted to Congress may be reviewed at the link below:

http://transportation.house.gov/UploadedFiles/Chief_Reports-9.9.16.pdf
http://transportation.house.gov/uploadedfiles/pacrs.pdf

## CONCLUSION

As the Committee on Transportation and Infrastructure moves ahead with WRDA legislation, this hearing is intended to provide Members with an opportunity to review the recently completed Chief's Reports that were not included in the Subcommittee's previous hearings.

## Witness

Major General Donald "Ed" Jackson
Deputy Commanding General – Civil and Emergency Operations
United States Army Corps of Engineers

# A REVIEW OF RECENTLY COMPLETED UNITED STATES ARMY CORPS OF ENGINEERS CHIEF'S REPORTS, PART 3

**THURSDAY, SEPTEMBER 15, 2016**

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

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2167, Rayburn House Office Building, Hon. Bob Gibbs (Chairman of the subcommittee) presiding.

Mr. GIBBS. We will call the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure to order.

Today we are having a hearing to review the recently completed United States Army Corps of Engineers Chief's Reports.

I would like to welcome everybody to the hearing.

This past May, the Committee on Transportation and Infrastructure unanimously passed H.R. 5303, the Water Resources Development Act of 2016. This legislation builds upon the success of WRRDA 2014, one of the most policy- and reform-focused pieces of legislation related to the U.S. Army Corps of Engineers.

H.R. 5303 is a bipartisan bill that was developed by working across the aisle to achieve a common goal of investing in America's future. H.R. 5303 contains no earmarks, as WRRDA 2014 did, and strengthens our water transportation networks to promote competitiveness, prosperity, and economic growth.

This committee held numerous public roundtables and official hearings in developing this legislation. We have heard from the public, industry, stakeholders, and from our colleagues in Congress while developing this legislation and have incorporated their ideas into H.R. 5303.

I appreciate Chairman Shuster, Ranking Member DeFazio, and Mrs. Napolitano's bipartisan work to address the vital need for America.

Today we are holding a hearing to review two Army Corps of Engineers reports that have been delivered to Congress since this subcommittee met last in May of this year. We intend to review these proposed projects to ensure they meet our criteria for authorization.

Additionally, the Corps of Engineers has delivered to Congress two Post-Authorization Change Reports recommending modifica-

tions to ongoing construction projects at Swope Park, Missouri, and Picayune Strand, Florida.

These Chief's Reports and Post-Authorization Change Reports address the missions of the Corps and balance economic development and environmental considerations equally.

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

The Corps of Engineers planning process considers economic development and environmental needs as it addresses water resource challenges. This rigorous planning process addresses the Nation's water resources needs by exploring a full range of alternatives in developing solutions that meet both national and local needs.

The two Chief's Reports and two Post-Authorization Change Reports we are discussing today are the result of this rigorous planning process. These projects are proposed by the non-Federal interests in cooperation and consultation with the Corps. All of these Chief's Reports and Post-Authorization Change Reports, while tailored to meet locally developed needs, have national economic and environmental benefits.

I would like to welcome General Jackson for being here today. It is an important hearing today, and thank you for your hard work on both the Upper Ohio River and southwest coastal Louisiana's Chief's Reports.

And before I move on, I do want to ask unanimous consent that Representative Rick Larsen be permitted to join this subcommittee for today's hearing, if there is no objection.

Without objection, so ordered.

At this time I recognize my colleague from California, Mrs. Napolitano, for any comments she may have.

Mrs. NAPOLITANO. Yes, thank you, Mr. Chairman.

Today's hearing will review the Chief's Reports and Post-Authorization Change Reports that have been completed and submitted to Congress since our hearing in May of this year. We applaud the chairman's willingness to make sure that all of the pending Chief's Reports are eligible for inclusion in the new Water Resources Reform and Development Act and for the decision to hold this hearing today.

Since February, the committee has received completed Corps feasibility studies on the southwest coastal Louisiana project. In addition to the project, it brings the total to 29 pending Chief's Reports by the upcoming Water Resources Reform and Development Act. These important projects representing a diversity of projects' purposes and geographic regions are the next general of water infrastructure investment for our Nation. They all help to maintain and it helps national, regional and local economies in a variety of ways.

As noted in our last hearing, the range of pending projects include ecosystem restoration projects ranging from Los Angeles River, California, to the Central Everglades in Florida; navigation projects, such as the project for the Port of Brownsville, Texas; and flood control projects, such as the American River common features project, also in California.

Again, Mr. Chairman, I am pleased that we are discussing the pending Chief's Reports, and I would remind the chairman of the constraints we continue to face in utilizing Corps expertise on a host of other issues within the Corps authorities.

While Chairman Shuster has been accommodating to many Members on both sides of the aisle, including new Corps projects and studies in the pending water resources bill, I also recognize the constraints placed on him and this committee by the ill-conceived moratorium on infrastructure investment of the Republican Conference.

To that end, I want to call to this committee's attention a bipartisan House resolution, H.R. 813, introduced by a gentleman from Florida, Mr. Rooney, that would exclude water resources development projects of the Corps from the definition of a congressional earmark. This is a first good step to what I hope is a refocus of Congress on this wise infrastructure investment throughout the Nation. Regardless of the party, we should all support robust investment in our water resources and our water infrastructure.

For too long we have been simply closing our eyes to the condition of our Nation's infrastructure as it crumbles around us. Now in places like Flint, MI, Toledo, OH, and in my home State in California, we face what decades ago should have been unthinkable: questions about the continued reliability and safety of our water systems and water-related infrastructure.

Mr. Chairman, this bill is now past due. This is a serious issue for our States and our local communities for the safety and well-being of our families and for our overall quality of life. Yet day after day no action is taken in this Congress to address these issues. Mr. Chairman, we need to change that.

Thank you, Mr. Chairman, for today's hearing, and I welcome General Jackson for his testimony.

Mr. GIBBS. Thank you.

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

So ordered.

At this time I want to recognize Chairman Shuster of the full committee for any comments he may have.

Mr. SHUSTER. Thank you, Chairman Gibbs, and thank you Ranking Member Napolitano for holding this hearing today.

This is a critical part of getting back to a 2-year, every Congress process where we conduct oversight of WRDA and authorize these projects.

So today, looking at these two Chief's Reports and these Post-Authorization Change Reports, it's critical we do this to make sure that it is in the next WRDA bill as we move forward hopefully here in the coming days and weeks or at least months.

I really want to especially thank General Jackson and General Semonite for your swift action on the Upper Ohio River, the Emsworth, Dashields, and Montgomery Locks Facilities, which is critical to the Port of Pittsburgh, one of the Nation's busiest inland ports.

I cannot thank you enough for that speed. We hope and I understand talking to General Semonite that you are doing some stand-

ardization, and you want to do that to make sure we save dollars and, again, be able to use the taxpayers' dollars wisely. And as Representative Napolitano said, and I echo her words, we are not investing the way we should in these locks and dams. It is a critical part of our infrastructure, and it is one of the reasons this country is a great economic power, going back 200 years, because of the rivers and the ports and the harbors we have in this country.

So, again, thanks for being here today, and I yield back.

Mr. GIBBS. Thank you.

At this time I want to welcome General Ed Jackson. He is the Deputy Commander General for Civil Emergency Operations in the United States Army Corps of Engineers. He is here to talk about the two Chief's Reports and the Change Reports, and anything else.

So welcome, General. The floor is yours.

**TESTIMONY OF MAJOR GENERAL DONALD JACKSON, DEPUTY COMMANDING GENERAL FOR CIVIL AND EMERGENCY OPERATIONS, U.S. ARMY CORPS OF ENGINEERS**

General JACKSON. Chairman Gibbs, Chairman Shuster, Ranking Member Napolitano, and distinguished members of the subcommittee, as the chairman said, I am Major General Ed Jackson with a long title, Deputy Commanding General for Civil and Emergency Operations for the U.S. Army Corps of Engineers.

I sincerely thank you for the opportunity to be here today to discuss the Chief's Reports that have been completed since I last testified for you on May 17th of this year. My written testimony includes detailed descriptions of the six Chief's Reports and two project Post-Authorization Change Reports that have completed executive branch review since May 17 of 2016.

I will cover these projects briefly in my remarks today. My written testimony also identifies Corps decision documents that are still under review by the administration, including eight potential projects that have Chief's Reports and two projects with Post-Authorization Change Reports.

On the first, the Upper Turkey Creek Chief's Report was transmitted to Congress on June the 30 of 2016. The recommended plan reduces flood risk along the Turkey Creek, a tributary to the Kansas River in Merriam, Kansas, which is a part of the Kansas City metropolitan area. Based upon October 2015 price levels, the total initial cost for this project is estimated at $37.8 million.

The West Sacramento Chief's Report was transmitted to Congress on August 22, 2016. The report recommends flood risk management improvements along the Sacramento River, Yolo Bypass and Sacramento River Deep Water Ship Channel within the metropolitan area of West Sacramento, California.

Based on October 2015 price levels, the total initial cost for this project is estimated at $1.2 billion.

The American River Watershed, Common Features Chief's Report was transmitted to Congress on August 29, 2016. The report recommends flood risk management improvements along the American and Sacramento Rivers and Eastside tributaries in the Sacramento, California, area.

Based upon October 2015 price levels, the total initial cost for this project is estimated at $1.6 billion.

The South San Francisco Bay Shoreline Chief's Report was transmitted to Congress on 28 July of 2016. The report details plans to reduce flood risks for the community of Alviso, California, as well as ecosystem restoration measures in the Alviso pond complex.

Based on October 2015 price levels, the total initial cost for this project is estimated at $173.9 million.

The Craig Harbor Chief's Report was transmitted to Congress on August 22 of 2016. The report outlines navigation improvements to Craig Harbor, Alaska, including the construction of an L-shaped breakwater and provision of additional moorage for approximately 145 vessels.

Based on October 2015 price levels, the total initial costs for this project is estimated at $32.3 million.

The Corps has also completed a Chief's Report on the disposition of Green River Locks and Dams Nos. 3, 4 and 5, and Barren River Lock and Dam No. 1. This report was submitted to Congress on June 30 of 2016.

The locks and dams identified in this report have not hosted commercial navigation for several decades and no longer support the congressionally authorized project purpose. Following deauthorization of commercial navigation at these facilities, the Corps will dispose of these properties and facilities through existing Army regulations and General Services Administration procedures unless Congress provides specific disposal authority.

Yesterday the Assistant Secretary of the Army for Civil Works signed the Record of Decision for the West Shore Lake Pontchartrain project. The Chief's Report for this project has already been submitted to the Congress, and we just received confirmation this morning that the administration transmitted the report to Congress today.

An additional Chief's Report recommending restoration of the Puget Sound Nearshore Ecosystem has completed the necessary policy and statutory reviews and has been provided to the Chief of Engineers for consideration and signature. This report is expected to be signed by the Chief within the next several days.

Section 902 of the Water Resources Development Act of 1986 sets a maximum percentage cost increase for Civil Works projects. A further authorization is required to use Federal funds beyond this maximum authorized project cost. In these cases, the Corps completes a Post-Authorization Change Report, which is then provided to Congress if there is a recommendation for a further authorization.

There are two of these projects or reports that have been completed since our last testimony in May. The Swope Park industrial area project, which is located along the Blue River, reduces flood risk in the Kansas City, Missouri, metropolitan area, and the Picayune Strand Restoration Component of the Comprehensive Everglades Restoration Plan, which provides for ecosystem restoration benefits.

I would also like to take this opportunity to provide a brief update on the 2017 report to Congress on future water resources de-

velopment as required by section 7001 of the Water Resources Reform and Development Act of 2014. The open season for submission of proposals by non-Federal interests closes on Monday, September 19. The Corps has proactively engaged with potential non-Federal sponsors to generate interest in submission of proposed water resources projects through various solicitations, informational sessions, and outreach opportunities.

Notifications have been placed in the Federal Register, Corps Web sites, and on several social media platforms, and agency leadership has endeavored to promote this initiative at conferences and applicable information meetings.

The Corps has also advertised and hosted a public Web-based information session to explain the 7001 criteria and how to submit proposals. We look forward to reviewing the proposals that we have received.

Mr. Chairman, this concludes my statement. I appreciate the opportunity to testify today, and I look forward to answering any questions that you may have.

Mr. GIBBS. Thank you.

Just for clarity, in your testimony you talk about these that OMB sent in in June and stuff. Those were already in the bill. We had Chief's Reports. It is just how OMB functions. So I am really focusing on the two new Chief's Reports and the two new Change Reports that we just received and maybe the ones that we are going to receive before the deadline Monday, I believe, September 19.

My first question is a question I always need to ask to hold everybody accountable. Between these two Chief's Reports and the two Post-Authorization Change Reports that came in since our previous hearing, did the Corps encounter any significant opposition to these reports?

And if they did, can you kind of generalize what that opposition was and the concerns?

General JACKSON. No, Mr. Chairman, we did not encounter any significant opposition. We have been able to work through all of the issues with our resource agency partners and stakeholders to deliver these reports.

Mr. GIBBS. That is great. That is good to hear.

And on this hearing the two Post-Authorization Change Reports that we are looking at, can you give us several reasons why these projects cannot be completed within the budget that Congress has already provided?

General JACKSON. Generally speaking, as we work through the completion of these reports, over time we found in some cases differing site conditions that we had to address. In other cases we had cost increases that were not foreseen at the time when these reports were initiated. As always it is to make sure that the report that we deliver and have to update from time to time is technically and policy compliant. That is what we have attempted to do with these particular reports.

Mr. GIBBS. OK. Now, the deadline to submit to get into this bill hopefully is Monday, September 19, and I know that the annual report process is in February. Your testimony was that the Corps posted on their Web site a Webinar on August 17 to inform the non-Federal sponsors of submission requirements.

How else has the Corps provided assistance to non-Federal project sponsors prior to submission, knowing about the deadline coming up?

General JACKSON. Sir, we have done a number of things. We have, again, used social media to the extent that was can to get the word out about what this process is and how sponsors or potential project sponsors can take advantage of this.

We have certainly blanketed and done extensive training within our own organization to make sure that at the district level where we have the greatest outreach, they are able to have that face-to-face contact through townhall meetings and other relational opportunities to get the word out on what we are trying to accomplish.

And I will go so far as to say I even did a personal YouTube video to encourage folks to take advantage of this opportunity, which I hope you will never look at, but we went to that extent to try to get the word out so we could get as many opportunities as we could as a result of this process.

Mr. GIBBS. That is great to hear because for our process that we set up in WRRDA 2014, for it to work, to function right, the non-Federal project sponsors need to know how the mechanism works. So I am glad to hear that we moved forward on that.

On the Houston Ship Channel that addressed navigation safety and what we call the Bayport Flare, which I know you are aware of, why does the Corps no longer use the bend easing authority contained in U.S. Code 562 for carrying out that type of activity?

General JACKSON. Sir, I am going to have to ask if I can get back to you on that.

Mr. GIBBS. OK.

General JACKSON. That is a technical question I am not prepared to answer.

Mr. GIBBS. OK.

General JACKSON. I will say this though, that we are working very hard with the administration to get this report cleared. I was personally at the Port of Houston 2 weeks ago to make sure that I understood the significance. The Port of Houston Authority was very kind in laying all of this out, not only the Post-Authorization Change Report that we are trying to get to address this one issue, but also the channel extension project that we are in the midst of working through right now where we are trying to schedule Civil Works Review Board by the end of the calendar year.

Mr. GIBBS. Can you give us any more details on the Puget Sound Chief's Report that we expect is probably coming in the next couple of days for what this project would do?

General JACKSON. Yes, sir, I am glad to do that.

This particular project is an aquatic ecosystem restoration project. It is a part of the EPA's Ecosystems of National Significance. So it is a very significant effort on a national basis.

We have had significant participation at the Federal and State level. We started out with about 35 different potential project features, and we have worked that down to the four that we have in the report, which will be the Duckabush River Estuary, the Nooksack River Delta, and two parts of the North Fork Skagit River.

The cost information that we are looking at right now is about a $450 million project that is 65 percent Federal, 35 percent non-Federal. We have had wholesale support by about 15 different Federal agencies in developing this, so I am very excited about the way it was formulated and looking forward to getting this signed by the Chief.

Mr. GIBBS. And back to my first question. Was there any significant opposition or concerns about this project?

General JACKSON. No, sir, none that I am aware of.

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

Mrs. Napolitano.

Mrs. NAPOLITANO. Well, thank you very much, Mr. Chairman.

I was starting to say that we have been working with you for a short-term deviation for the current water control plan for a specific area, Whittier Narrows, in my area, augmenting the critical water shortage. I thank the Corps for their efforts in that regard, but we are still in a drought. According to the latest map, we are heavily in drought and must continue to address it.

Thank you to Chairman Shuster there is language in the committee approved Water Resources Development Act to benefit L.A. County drainage area, and I encourage the Corps to make more frequent and timely reviews and revisions of existing water control manuals in drought prone areas. We certainly are and most of California is in that same position.

I look forward to the enactment of the language before the end of this session. However, I expect that Los Angeles will need to make another attempt for a short deviation during the 2016–2017 winter storm to capture as much water as we can.

And I would like to know if you can commit towards working to approving a second season deviation for that area, especially Whittier Narrows, to help prepare for what looks like another seasonal crippling drought for the Southwest. It would help tremendously, and of course, we are still looking at dredging to be able to prepare the dams for capturing more water.

General JACKSON. We will certainly commit to doing that. We are certainly committed to addressing the drought through whatever means that we have, and working the short-term deviations and the long-term reservoir fixes that we are in the process of working through across southern California.

Mrs. NAPOLITANO. Well, I thank you very much, sir.

And, Mr. Chairman, I am certain that Mr. Larsen's request for the Puget Sound is going to be well received since it has already received quite a bit of support from his area.

And I yield back.

Mr. GIBBS. Just for a point of clarification, I think I misspoke when I talked about the September 19 Monday deadline. That is for going into the February 2017 annual report, not WRDA. I just wanted to clarify that when I spoke.

Mr. Webster.

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

And I want to take my time just to thank General Jackson for presenting the Post-Authorization Change Report for the Picayune Strand restoration project authorized in 2007 and redesigned post

Hurricane Katrina. The project will restore 55,000 acres of former residential unit in southwest Florida.

The completed project will deliver restoration benefits to 170,000 acres in Western Everglades, including downstream the Ten Thousand Islands Estuary and neighboring preserves, which will reap the benefits of the restoration with natural sheet flow.

In addition, the project will enhance the protection recovery of the iconic, though sometimes imperiled, Florida species, including the Florida panther, the wood stork and the Florida manatee. Inclusion in this change report and WRDA 2016 will be a significant milestone for the Western Everglades.

I am grateful for Army Corps and for the South Florida Water Management District for their substantial investment in resources to date and ongoing commitment to completing this component of the comprehensive Everglades restoration plan.

Thank you very much. I yield back.

Mr. GIBBS. Thank you.

Mr. Larsen.

Mr. LARSEN. Thank you, Mr. Chairman, and I thank you and the subcommittee for allowing me to sit in since I am on the full committee but not on the subcommittee. I want to say thanks.

I want to thank General Jackson and the Army Corps team for your work as well, the local folks on the Puget Sound Nearshore Ecosystem Restoration Project, and our Washington Department of Fish and Wildlife, as well those who worked with you on this, for their work on the study.

This is going to be one of the largest habitat restoration efforts in the U.S. It is integral to our own State's Puget Sound Action Agenda, which includes recovery and protection of several fish and mammal species and the fulfillment of tribal treaty rights.

As Congress continues to work towards WRDA, I am encouraged by the progress being made on this particular report and pleased to see the report recommends construction authorization for the three tier 1 projects. You mentioned four, but you split the North Fork Skagit into two: so the Duckabush River Estuary, the Nooksack River Delta, and North Fork Skagit River Delta.

Together these projects improve title exchanges, restore freshwater tidelands, improve sound restoration activities, among other things.

I just would ask that given the importance as well of tier 2 projects at the overall restoration, I strongly support the inclusion of the tier 2 projects as well in the final Chief's Report, along with these tier 1 projects.

But I do want to, if I could, ask unanimous consent to include my full statement for the record, which also includes, Mr. Chairman, a letter I signed along with the Members of the Washington State Delegation who have districts abutting the Puget Sound, representing our complete support for this Chief's Report.

Mr. GIBBS. So ordered.

Mr. LARSEN. And in closing, I would like to reiterate the importance of this restoration project to the entire Puget Sound region and look forward to the Army Corps.

So with that, before I yield back, I have a couple more minutes and I will not take long. I have just one question for General Jackson.

Could you clarify the timeline for the Chief's signature on this?

General JACKSON. Yes, Congressman. We have provided the Chief the report for him to review. He is out of the country. He is on his way back. He will be back late tonight. We are going to sit down and review it with him tomorrow and make sure he does not have any questions. He could sign it as early as sometime tomorrow.

Depending on how he wants to synthesize the information, it may take a few days, but we are going to press him to get it done as soon as possible. He is committed to doing that.

Mr. LARSEN. Where is he? And does he have Skype?

General JACKSON. I think he is over the Atlantic right now, sir. So unless he is logged into the Gogo in flight, I am not sure if I can get him.

Mr. LARSEN. All right.

General JACKSON. But we will hit him as soon as he lands.

Mr. LARSEN. Well, you understand my urgency. I appreciate it. Thank you so much.

And I yield back.

Mr. GIBBS. Dr. Babin.

Dr. BABIN. Yes, sir. Thank you, Mr. Chairman, and thank you for being here, General Jackson.

I offer my thanks to the Corps for completing the section 902 report for the Houston Ship Channel project, which I represent there at Houston Ship Channel. I understand that the purpose is essentially to update the calculated cost of the project, which was completed in 2005, and that this report reflects a project cost at the same level as the Corps reported in its original Chief's Report from 1996, which was $508 million; is this correct?

General JACKSON. Yes, sir. The cost that I am showing is a total cost of $508 million.

Dr. BABIN. OK. Thank you.

Can you provide assurances that the Corps will do everything possible to assure the report is released by this administration for full consideration by the Congress?

General JACKSON. Congressman, I commit to that. I do.

Dr. BABIN. All right. Thank you.

Then I know you just mentioned in the hearing today that you had recently visited the Port of Houston to see firsthand all of the exciting navigation work that is going on there and being accomplished by the Corps and the Port Authority. I understand that there is some confusion regarding Corps policies and appropriate sites for oyster mitigation, which is a very important issue for Galveston Bay and the people of Texas.

Can you assure me that the Corps will fully communicate with the sponsor about the basis for its draft decision to abandon the State and Federal preferred oyster reef location and resolve this issue so that the pending environmental restoration contracts will be as successful as the original mitigation projects?

General JACKSON. Sir, I commit to that. That was an issue that was raised when I was at the port. We committed to work with the

sponsor to try to work through the confusion and the concern so that we can get a project that meets all of the NEPA compliance requirements in the best interest of all parties. So we will continue to work that.

Dr. BABIN. Well, that is a very important industry for us there in the seafood and oysters. So we certainly hope it is as successful as the last one.

And finally, as you may know, the Limited Reevaluation Report, LRR, for the Sabine-Neches Waterway is due at the end of this month, and I am hopeful and confident that this report will reflect the military and economic importance of this waterway.

I grew up on this waterway as a matter of fact, which has a direct link to two strategic seaports, Beaumont and Port Arthur, Texas. Can you speak briefly to the importance of strategic seaports not only in my area, but across the country and how you weigh their importance when performing evaluations, such as an LRR?

General JACKSON. Well, certainly, sir. When we take a look at all of the economic and environmental work that we do to evaluate the importance of every project, we factor in national security, force projection, and all the things that the ports do to provide for the national defense.

That is all part of the calculus that goes into assessing what the benefit-cost ratios are for projects of this type. Then, as you take a look at those benefit-cost ratios, that pretty much lays out the strategic importance of any particular project across the Nation.

That is how we evaluate it in our reports, and then the administration prioritizes them for their funding purposes once we get these projects authorized. So we are working hard to do that.

Dr. BABIN. Excellent. Thank you very much, General.

And I yield back the balance of my time, Mr. Chairman.

Mr. GIBBS. Mr. Garamendi.

Mr. GARAMENDI. Thank you, Mr. Chairman.

And, General, thank you so much for your work and the Corps' work both in terms of the ongoing projects as well as the emergency situations that all of us face and you handle so very well.

A couple of things. Mr. Chairman, there is a longstanding project that has been underway. It is authorized. It is the Hamilton City project in California. It is really the first of its kind in which the environmental organizations and the Nature Conservancy are working with the Corps and the local community to establish both habitat restoration as well as flood control.

Construction is ongoing. It is an authorized project. Construction is going on as we speak. However, a couple of bumps, well, let's say pipelines and property have perhaps put this project in jeopardy, and what I would like to do is set up a situation here where if and when the Corps presents its Post-Authorization Cost Report, it can be included in the WRDA bill, which may pass the House next week and get out of Congress in the lame duck session.

So I am trying to set things up here so that we can do not an air drop, but a modification. So, General, is it the case that the Sacramento District is actually in the process now of looking at the 209 limits as it pertains to the cost of land that was actually donated, but has significantly increased because of the inflation in

the area and also the discovery of the gas pipeline and how to deal with it?

General JACKSON. Yes, sir, I think you are absolutely right. When we did our last certified cost estimate on this particular project in 2014, it revealed some cost growth along the lines of what you described. Unforeseen site conditions which had an impact on the current contract that required modification, and then also the increase in the real estate cost.

So what we are doing now is doing the 902 revision. The calculations and the certified cost is due in December of 2016. What the staff is telling me is that once we get that, if the costs that have been estimated are going to exceed the 902 limit, then we are going to work with the sponsor to try to descope so they can stay below the 902 and continue to move forward.

If it does not, then they will just continue to move forward. It is more of a precautionary measure to make sure we do not run out of authorization limit on this project so we can continue to move forward, given some of the bumps that we have encountered.

Mr. GARAMENDI. Just a couple of things here that I think we need to understand. The land cost is actually land that was purchased some 10 years ago by the Nature Conservancy. It is donated.

The cost issue is a result of the inflation that has occurred in that intervening time. There is no additional cost to the Federal Government here. It is already land that has been donated for the purposes of habitat restoration.

But the rules are the rules, and I guess the new cost, inflated cost, is included, and that may drive up over the authorized cost. The pipeline, as I said earlier, was recently discovered. It may be that it will have to be relocated, or it may be able to stay in place and protected in place. We will see what happens.

You did say something a moment ago that is troublesome, and you said December 1. That does not or may not coincide with the work that needs to be done in a conference report to WRDA, and so I am asking if you might be able to get it done quicker, like maybe early October. Is that possible?

General JACKSON. Congressman, I will have to get back to you on that because I cannot commit to that without knowing what is left to be done on that particular report. But if you would allow me to do two things, one is to come back to you with a detailed accounting of how we got to where we are and to clarify what we are actually verifying, and then, two, give you some options on what we think the future holds.

And we will try to get that done really quickly so we can make some good, informed decisions on how to go forward.

Mr. GARAMENDI. I think I heard you say you are going to ask the Sacramento District Office how quickly they can get it done. Is that what I heard you say?

General JACKSON. Congressman, what I said was I need to understand what they have left to do on it.

Mr. GARAMENDI. Well, then let me ask you to ask them how quickly they can get it done. If we can meet our own deadline here, I think we can drop this in, and I will let it go at that.

But I am looking for a placeholder here, Mr. Chairman.

Mr. GIBBS. Mr. Bost.

Mr. BOST. Thank you, Mr. Chairman.

General, the last time the Corps testified before this committee, I requested the Corps respond to a request for them to examine the deep flaws in the agency's environmental impact statement whenever they put it together for the next NGA West Campus, and I still have not received that and any information on that inquiry.

Let me kind of explain what all was involved with that and why that is important.

The Corps EIS was used by the agency to determine where to locate the NGA West. The EIS misidentified in that report St. Clair County, Illinois, by going with St. Clair County, Missouri, along with St. Clair County, Michigan.

In that study they wanted to bring up the environmental impact for the Osage River, which is in Missouri, not in Illinois. That was then used in making the determination. Now, let me tell you that the Secretary said that it was not the only thing used in making the determination, but in the St. Clair County, Illinois, the county owned and controlled the land that they were offering and were going to give it to the Federal Government for free.

The St. Louis site that they did look over is an already developed urban area, and it required imminent domain of 42 properties, land acquisition movements, and also the removing of historical structures. It also has some environmental impacts that we know exist from the Cold War days, and that is not even digging into the ground yet to figure that out.

This site, then the Corps EIS claimed it would be cheaper on the St. Louis site than the St. Clair County site. This makes no sense to me whatsoever, and that is why I asked for the report, and it has been quite some time to try to figure out exactly what was done here and why.

Everything I have done with the Corps since being elected has been fairly good. I mean, it really has, and believe me, I deal with you a lot because, lucky me, I have three navigable waterways in the Illinois 12 and so from that side and other projects.

But this one has really got me concerned because for a professional agency to come forward with a report like that, and of all things, the agency that they were getting the study for is geo mapping, but they cannot figure out what county or where their county is located that they need to be looking at.

So that is why I really need if you could to get that report to me and find out why.

General JACKSON. Well, Congressman, thank you very much for that, and I remember very well the conversation we had when I testified last to the committee on the 17th. We received a letter from your staff shortly thereafter, maybe within a couple of days, asking for an engineering inspector general investigation into that. I am told as of yesterday it is done and they are working to schedule an out-brief to you that will lay out all of the details of the investigation and answer the questions that you posed.

So I want to let you know that that is coming to you shortly.

Mr. BOST. Thank you.

General JACKSON. If it can be scheduled, that will probably answer all of the questions.

As an agency leader, we are always looking to do the right thing. We are always looking to be technically proficient in everything that we do. I do acknowledge that as we have done our own investigative work, there were errors made in the draft EIS that we put together, and we acknowledge also that the EIS was a part of the decision calculus that NGA has used to make final decisions.

But I will leave the details that you have asked for to the EIG update, and I will be glad to follow up with you on any questions that you might have that the update does not answer, sir.

Mr. BOST. OK. I look forward to that meeting. Thank you very much.

Mr. GIBBS. They called votes. We have 11 minutes to go yet. We are going to go to Ms. Frankel, and when she finishes her questions the hearing is adjourned.

Go ahead.

Ms. FRANKEL. OK. Thank you, Mr. Chair.

I thank you to the Army Corps, General Jackson, for your work.

Just three quick things. I want to echo Mr. Webster and say thank you, thank you so much on the course modification on the Picayune Strand, the Central Everglades restoration projects. All of those restoration projects are very, very important to Florida. So thank you for that.

I wanted to remind everybody that we have this archaic law that does not allow us to buy sand from the Bahamas, and we are running out of sand in Florida, and I do not understand why we have that in the law. So I persist in saying that we have really got to do something about that.

And the third thing, which is very serious, and I brought this up with you last time, General Jackson, and, Mr. Chair, I really hope that maybe this committee could work with some of the other pertinent committees on this issue, which is the cost analysis that is used in evaluating these projects.

And I want to use an example, Port Everglades, which after 18 years finally we got the Chief's Report. Thank you for that. It was a lot of hard work, and I sat in the final review and I saw how many different people and committees, whatever, had to go through, and in that review I sat in there for hours and hours, and now I understand why almost it takes so long. Eighteen years was a little long.

Now we are learning that the Office of Management and Budget uses a completely different formula in terms of evaluating the benefit-cost analysis, and that could actually prevent the project from going forward. I would guess, although I have not looked at every single project, that this might be something that is a problem with other projects, too.

So my concern is not only that we might get our project stalled again, but my concern is this. Army Corps working on getting a Chief's Report for many, many years, with a lot of people, and it is costing millions of dollars, and you are using a different cost analysis than the Office of Management and Budget, and that just does not make any sense to me.

Because in a sense, they can say, "All right. All of your 18 years of work," and now it is going to be three under the new law, "is for naught."

Have you given any thought to how we can try to resolve that situation?

General JACKSON. Ma'am, I will tell you that we struggle with this. What is authorized in law for addressing a problem is a 1.0 BCR based on the current discount rate, and that changes very slightly over time. The budget-ability rate is different, as you described. It is based upon a 7-percent discount rate, which has a serious impact on BCR.

We have had discussions with OMB leadership about what other ways could we calculate investment decisions outside of the BCR, and so we are working with the administration to try to figure out what that might be.

And certainly this current administration and senior leadership is open to that if we can come up with something we can all live with.

If there are any good ideas that Congress has that can help us, we are all ears. We would like to be able to make it make more sense, but we also realize that the administration has tough budget decisions to make, as you do, and has to set some type of criteria to separate projects into what can and cannot be budgeted. I cannot speak for them, but we will certainly say we are working on this to the extent that we can at the levels that we are.

Ms. FRANKEL. All right. If I can make an analogy, it is almost like sending someone out to run the marathon, and then all of a sudden somebody hides the finish line from them. And they have done all of this running and now somebody else moves the finish line.

Mr. Chair, I really again would just like to request that this committee take a look at this issue and maybe reach out to I do not know whether it would be the Budget Committee or what committee in the Congress that would also have jurisdiction. Do we know what it would be? Probably the Budget Committee, because this just does not make any sense to put the Army Corps and the communities through all of this work and effort and then all of a sudden have a whole different analysis of the cost.

And with that, I yield back. Thank you.

Mr. GIBBS. I think the administration has some input in that, too.

We have 6 minutes to go over and vote, and thank you, General Jackson for being here today, and this adjourns our hearing.

General JACKSON. Thank you, Mr. Chairman.

[Whereupon, at 10:17 a.m., the subcommittee was adjourned.]

**Statement for the Record**
**Congressman Rick Larsen**

**Transportation & Infrastructure Committee**
**Water Resources and Environment Subcommittee Hearing**
**September 15, 2016**

- I would like to begin by thanking Chairman Gibbs and Ranking Member Napolitano for allowing me to be here today.

- I would next like to thank Major General Jackson, and the entire Army Corps for your hard work on the Puget Sound Nearshore Ecosystem Restoration Project (PSNERP).

- And finally, I would like to thank the Washington Department of Fish and Wildlife (WDFW) for their hard work and partnership with the Army Corps on the Puget Sound Nearshore Ecosystem Restoration General Investigation study.

- PSNERP is one of the largest habitat restoration efforts in the United States.

- This wide-reaching restoration project is integral to the Puget Sound Action Agenda, the recovery and protection of several fish and mammal species, and the fulfillment of tribal treaty rights.

- As Congress continues to work towards another Water Resources Development Act (WRDA), I am encouraged by the progress being made towards a final Chief's Report.

- Specifically, I am pleased to see that the draft Chief's Report recommends construction authorization for the three Tier 1 Projects, the Duckabush River Estuary, the Nooksack River Delta, and the North Fork Skagit River Delta.

- Taken together, these three projects will improve tidal exchanges, restore scarce freshwater tidelands, and improve salmon restoration activities, among other things.

- However, I do have some concerns about the status of the nine Tier 2 Projects as proposed by PSNERP.

- Last year, the Army Corps and Washington Department of Fish and Wildlife (WDFW) reached agreement on "Completion Strategy Guidance" which was a jointly developed implementation strategy for the 36 PSNERP projects.

- Within that agreement was a commitment, on behalf of the Corps, to not only authorize construction for the three Tier 1 Projects, but also a commitment to include the nine Tier 2 Projects in the Chief's Report.

- Unfortunately, an interim draft report by the Army Corps only recommended construction authorization for the Tier 1 Projects and contained no mention of the Tier 2 Projects.

- Given the importance of these Tier 2 Projects to the overall PSNERP, I strongly support the inclusion of the Tier 2 Projects in the final Chief's Report and believe the inclusion of both the Tier 1 and Tier 2 Projects will pave the way for a more robust ecosystem restoration project throughout the Puget Sound.

- I would also like to include in the record a letter I signed, along with several other members of the Washington delegation, supporting the Puget Sound Nearshore Ecosystem General Investigation (GI) study and the implementation strategy for the twelve Tier 1 and Tier 2 Projects and their inclusion in the final PSNERP Chief's Report.

- In closing, I would like to reiterate the importance of PSNERP to the entire Puget Sound region and I look forward to working with the Army Corps, as well as the Chairman and Ranking Member to ensure that this critical Chief's Report be included in any water resources legislation we move in the future.

- With that, thank you again for allowing to participate today, and I yield back.

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DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

MAJOR GENERAL DONALD JACKSON
DEPUTY COMMANDING GENERAL FOR
CIVIL AND EMERGENCY OPERATIONS

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

UNITED STATES HOUSE OF REPRESENTATIVES

ON

A REVIEW OF RECENTLY COMPLETED UNITED STATES ARMY
CORPS OF ENGINEERS CHIEF'S REPORTS

September 15, 2016

Mr. Chairman and distinguished members of the Subcommittee, I am honored to be testifying before you today to discuss Reports of the Chief of Engineers (Chief's Reports) and Post Authorization Change Reports (PACRs). My testimony will briefly describe the six Chief's Reports and two PACR's that have completed Executive Branch review since the previous testimony on this subject before this Committee, at a hearing held on May 17, 2016. These proposed projects fall within the main mission areas of the Corps (commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration). There are eight other projects that have reports by the Chief of Engineers but are still under Executive Branch review. Also, there are two pending PACRs under Executive Branch review.

I first would like to provide a brief update on the 2017 Report to Congress on Future Water Resources development as required by Section 7001 of WRRDA 2014. The notice requesting proposals by non-federal interests for proposed feasibility studies and proposed modifications to authorized water resources development projects was published in the Federal Register on May 19, 2016. The Federal Register Notice is posted on the Corps Headquarters website and the Corps has utilized social media throughout the open season to inform the public of the opportunity to submit proposals. The Corps hosted a public webinar on August 17, 2016 that explained the criteria that proposals must meet, the process to submit proposals and the timeline to be considered for the 2017 Report. Notification to the public regarding this webinar was provided through social media on August 9, 2016. The deadline for non-federal interests to submit proposals to the Corps is September 19, 2016.

I will now provide a brief overview of the six proposed projects that have completed Executive Branch review since the previous testimony. The Army has previously provided the results of those reviews along with the following project information to the Congress.

**Flood and Storm Damage Reduction**

Upper Turkey Creek, Merriam, Kansas

On June 30, 2016, a report was transmitted to Congress on flood risk management improvements for Turkey Creek in the city of Merriam, Kansas. The recommended plan includes a levee and floodwall system to reduce risks to life and property located between Antioch Avenue and Shawnee Mission Parkway in Merriam, Kansas. The primary plan features are 3,380 feet of levee up to approximately six feet in height and 6,820 feet of floodwall up to approximately 6.5 feet in height.

Based on October 2015 price levels, the total initial project cost for this project is $37.8 million with the federal share totaling $24.6 million and the non-federal share totaling $13.2 million.

West Sacramento, CA

On August 22, 2016, a report was transmitted to Congress on flood risk management improvements along the Sacramento River, Yolo Bypass, and Sacramento River Deep Water Ship Channel within the metropolitan area of West Sacramento, California. The recommended plan includes a combination of cutoff walls, seepage berms, relief wells, and setback levees to address seepage concerns; bank protection to address erosion concerns; and a sheet pile wall with embankment fill to plug gaps in the Sacramento River levee.

Based on October 2015 price levels, the total initial project cost for this project is about $1.2 billion with the federal share totaling $776.5 million and the non-federal share totaling $414.0 million.

American River Watershed, Common Features, CA

On August 29, 2016, a report was transmitted to Congress on flood risk management improvements along the American and Sacramento Rivers and Eastside Tributaries in the Sacramento, California area. The recommended plan is a locally preferred plan that will modify the authorized project features by raising levees and adding slurry cutoff walls to address levee seepage and stability problems. The plan also includes widening of the Sacramento Weir and Bypass to reduce the water surface elevation in the Sacramento River and allow more water to flow into the Bypass system, and construction of 2 miles of setback levee to accommodate the weir widening.

Based on October 2015 price levels, the total initial project cost for this project is about $1.6 billion with the federal share totaling $876.5 million and the non-federal share totaling $689.3 million.

**Flood and Storm Damage Reduction and Ecosystem Restoration**

South San Francisco Bay Shoreline, Santa Clara County, California

On July 28, 2016, a report was transmitted to Congress on flood risk management for the community of Alviso, California and ecosystem restoration in the Alviso Pond Complex. The recommended plan is a locally preferred plan that will reduce tidal flood risk by construction of a new levee along the South San Francisco Bay Shoreline and restore approximately 2,900 acres of former salt production ponds to tidal marsh habitat in the Alviso Pond Complex.

Based on October 2015 price levels, the total initial project cost for this project is $173.9 million, including $91.9 million for flood risk management, $75.7 million for ecosystem restoration, and $6.3 million for recreation. The federal share totals $69.5 million and the non-federal share totaling $104.4 million.

**Commercial Navigation**

Craig Harbor, AK

On August 22, 2016, a report was transmitted to Congress on navigation improvements for Craig Harbor, Alaska. The recommended plan includes construction of 1,900 feet of "L"-shaped breakwater and installation of floats sufficient to provide moorage of 145 vessels ranging from 20 feet to 140 feet in length. The recommended configuration will provide 3 feet of water for fish passage for essential fish habitat, in accordance with National Marine Fisheries Service recommendations.

Based on October 2015 price levels, the total initial project cost for this project is $32.3 million with the federal share totaling $29.1 million and the non-federal share totaling $3.2 million.

**Navigation Disposition**

Green River Locks and Dams 3, 4, 5 and 6 and Barren River Lock and Dam 1, Kentucky

On June 30, 2016, a report was transmitted to Congress on the deauthorization of the Green River Locks and Dams 3, 4, 5, and 6 and Barren River Lock and Dam 1 in west-central Kentucky. The locks and dams have not hosted commercial navigation for several decades and no longer support the congressionally-authorized project purpose. Following deauthorization of commercial navigation at these facilities, the Corps of Engineers will dispose of these properties and facilities through existing Army regulations and General Services Administration procedures, unless Congress provides specific disposal authority.

There are also eight other proposed projects with reports by the Chief of Engineers, which the Executive Branch is in the process of reviewing. These are:

- Lower Willamette River, Oregon;
- Little Diomede, Alaska;
- West Shore Lake Pontchartrain, Louisiana;
- Los Angeles River, California;
- Princeville, North Carolina;
- Encinitas-Solana Beach Shoreline, California;
- Southwest Coastal Louisiana; and
- Upper Ohio Navigation Study, Pennsylvania;

An additional Chief's Report recommending restoration of the Puget Sound Nearshore Ecosystem has completed the State and Agency review required by the 1944 Flood Control Act, as amended, the Washington level review by the Corps of Engineers Headquarters, and has been provided to the Chief of Engineers for consideration and signature, which is expected to be imminent.

Mr. Chairman, I would now like to discuss PACRs. Section 902 of WRDA 1986 sets a maximum percentage cost increase for Civil Works projects. A further authorization is required to use Federal funds beyond this maximum authorized project cost. In these cases, the Corps of Engineers generally completes a PACR, which is provided to Congress if there is a recommendation for such a further authorization. There are two PACRs that have completed Executive Branch review. The Army has previously provided the results of those reviews along with the following project information to the Congress.

A brief description of each report follows.

1. Swope Park Industrial Area, Blue River, Missouri. On July 15, 2016, a report was transmitted to Congress on this flood damage reduction project. The project was originally authorized in Section 1001(29) of the Water Resources Development Act of 2007 at an estimated cost of $16,980,000. The revised estimated first cost (October 2015 price levels) is $31,085,000 with a Federal cost of $20.2 million and a non-federal cost of $10.9 million.

2. Comprehensive Everglades Restoration Plan: Picayune Strand Restoration, Florida. On July 15, 2016, a report was transmitted to Congress on this ecosystem restoration project. The project was originally authorized in Section 1001(15) of the Water Resources Development Act of 2007 at an estimated cost of $375,330,000. The revised estimated first cost (October 2015 price levels) is $617,967,000, with equal Federal and non-federal shares of $309 million.

There are two PACRs that are under Executive Branch review. These reports are:

- Houston-Galveston Navigation Channels, Texas; and
- Rio de Flag, Arizona

Mr. Chairman, this concludes my statement. I appreciate the opportunity to testify today and look forward to answering any questions you may have.

**"A Review of Recently Completed United States Army Corps of Engineers Chief's Reports"**
**Subcommittee on Water Resources and Environment**
**Thursday, September 15, 2016 at 9:30 a.m.**
**2167 Rayburn House Office Building**
**Washington, D.C.**

**Questions for the Record (QFR)**

*Submitted on behalf of Chairman Bob Gibbs:*

1. It has recently come to my attention that the U.S. Army Corps of Engineers (Corps) has been evaluating for several years a permit application from Dominion Virginia Power to construct a new high voltage aerial electrical transmission line, known as the Surry-Skiffes Creek - Whealton project, across the James River in Virginia. This project is needed to replace electric service due to the retirement of Yorktown Units 1 and 2 to maintain compliance with EPA's Mercury and Air Toxics rule. This project will be needed by 2019 to meet growing electric demands within the North Hampton Roads Load Area (NHRLA). The NHRLA has a diverse mix of customers from government defense facilities, such as Joint Base Langley-Eustis and Newport News Ship Building, to commercial and industrial sites such as the Wal-Mart and Food Lion Distribution Centers and the College of William and Mary, to tourism sites in the Historic Jamestown-Colonial Williamsburg Complex. With continued delay in permitting and construction of the project comes the very real possibility of unpredictable electricity outages to meet federal standards to protect against cascading outages far beyond this area. Can you advise the Committee the actions the Corps is taking to conclude review of this permit so that critical missions at these federal installations are not disrupted, as well as the expected public safety challenges that are caused by any electricity outages? Additionally, can you provide the Committee a schedule on the review of this permit application?

Answer: For this proposal, a permit is required from the U.S. Army Corps of Engineers, Norfolk District under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 because of impacts to the James River, adjacent wetlands and other waters. The Corps permit decision is a Federal action that is subject to a number of federal laws including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act.

To make a permit decision, the Norfolk District Commander is responsible for considering all inputs and balancing the benefits of this proposal against any foreseen detrimental impacts. The commander must carefully weigh nationally and regionally important social, cultural and economic factors to inform his permit decision. A number of procedural and substantive requirements associated with the permit evaluation have been completed, and at this time, the critical requirements that must be addressed before a permit decision is made are completion of the Section 106 process and completion of the NEPA process.

Regarding compliance with Section 106, a number of historic properties would be adversely affected by this proposal, so the Corps has been working closely with Virginia Department of Historic Resources (VDHR), the Advisory Council on Historic Preservation (ACHP), and many other consulting parties to evaluate these effects. A number of agencies, including the National Park Service (NPS) and the ACHP, are very concerned about effects of this proposal on historic properties.

The next step in the process to evaluate effects on historic properties involves approval of Dominion's final Memorandum of Agreement and mitigation plan. These documents were received by the district on October 14, 2016 and include details on how the adverse effects to historic properties are proposed to be addressed through the completion of mitigation projects. The district is reviewing the documents and will coordinate with the ACHP, VDHR, and other consulting parties. There is no specific timeline for completion of the Section 106 process, but the Corps is committed to working expeditiously with the involved parties to ensure that effects to historic properties are appropriately taken into account and the required procedures are satisfactorily completed.

As part of the permit process, the Corps has been completing an environmental assessment (EA) consistent with the Corps NEPA implementing regulations found in 33 CFR Appendix B. To support this EA, the district has been gathering and evaluating relevant information about effects of the project in order to determine whether an Environmental Impact Statement is warranted, or whether a finding of no significant impact is appropriate. A great deal of information has been supplied by the applicant, agencies, and others to inform this analysis. Further, the NPS is compiling information on the potential socioeconomic impacts of the proposal that is expected to be completed soon. A permit decision will be rendered as soon as possible following completion of all required documentation and analysis.

2. The Corps and the Office of Management and Budget are currently working on a Post-Authorization Change Report for the Houston Ship Channel. Is this is to address the issue of navigation safety at the "Bayport Flare"? Why does the Corps no longer use the bend-easing authority contained in 33 U.S. Code 562 for carrying out this type of activity?

Answer: The Corps prepared a Project Deficiency Report to document the navigation safety concerns on the Houston Ship Channel (HSC) in the vicinity of the Bayport Ship Channel (BSC) with a plan to alleviate the existing safety issues. This design deficiency encompasses hazards encountered by vessels navigating the turn from the HSC into the BSC, as well as transiting and/or meeting of vessels in the HSC, near the intersection of the HSC and BSC. The proposed safety fix would require changes to the HSC on the east side, and modifications to the entrance of the BSC.

In parallel, a Post Authorization Change Report was developed to recommend an increase to the Section 902 limit under the original 1996 Houston Galveston Navigation Channel (HGNC) project authorization. This post-authorization change would cover additional costs incurred on the project, allowing for additional construction associated with correction of the design deficiency. The correction of a design deficiency falls within the purview of the original project

authority. However, an increase in the authorized project cost for the HGNC, which is subject to Section 902, is required before the design deficiency correction can be implemented.

In addition, the Corps investigated the authority to implement the safety fix pursuant to 33 U.S.C. 562. This authority allows for certain minimal increases in channel dimensions at entrances, bends, sidings, and turning places from those dimensions specified in the project authorization documents that form the basis for the Congressional authorization. It was determined that 33 U.S.C. 562 could be used for the widening on the east side of the HSC, but the extent of work on the west side of the HSC is beyond what can be considered as minimal changes to channel dimensions.

Further, 33 U.S.C. 562 does not authorize modifications to the BSC. The BSC was not constructed pursuant to Congressional authorization based on a project authorization document, but was constructed by the Port, with Federal assumption of maintenance. 33 U.S.C. 562 applies only to projects that were Congressionally authorized for construction.

3. What is the current condition of the Corps fleet of nearly 100 hydrographic survey vessels?

Answer: Approximately 30 percent of the Corps hydrographic survey vessels are in very good to excellent condition; approximately 53 percent of the Corps hydrographic survey vessels are in good condition; and approximately 17 percent of the Corps hydrographic survey vessels are in fair to poor condition.

# Congress of the United States

Washington, DC 20510

June 27, 2016

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
U.S. Department of the Army
108 Army Pentagon
Washington, D.C. 20310-0108

Dear Assistant Secretary Darcy:

We write in support of the Puget Sound Nearshore Ecosystem Restoration General Investigation (GI) study and the implementation strategy the U.S. Army Corps of Engineers (Army Corps) and Washington Department of Fish and Wildlife (WDFW) jointly developed and agreed to in June 2015. We urge you to complete work on the Chief's Report as soon as possible in order to inform the Water Resources Development Act of 2016 (S. 2848/H.R. 5303) currently under consideration by the U.S. Senate and U.S. House of Representatives.

The Puget Sound Nearshore Ecosystem Restoration GI study was authorized under Section 209 of the Rivers and Harbors Act of 1962 (P.L. 87-874) to restore critical nearshore habitat within the Puget Sound Basin in our home state of Washington. It is one of the largest habitat restoration efforts ever undertaken by the United States; however, this is fitting given that Puget Sound is the nation's second largest estuary and was designated an "Estuary of National Significance" by the U.S. Environmental Protection Agency in 1988. These restoration activities are integral to the Puget Sound Action Agenda, the federal and state roadmap to restore the health of Puget Sound by 2020, as well as the recovery and protection of fish and wildlife under the Endangered Species Act and the fulfillment of tribal treaty rights.

The GI began in 2001 by identifying nearshore ecosystem conditions and degradation throughout Puget Sound and evaluating potential solutions to address identified restoration needs along 2,500 marine nearshore miles. Starting with a comprehensive list of 543 projects, the Army Corps worked in partnership with WDFW to advance ecosystem restoration science and recommend projects with a federal interest, support from local entities, and the highest benefit. As a result, conceptual designs were developed for 36 projects.

In June 2015, the Army Corps and WDFW agreed to a jointly developed implementation strategy for the 36 projects which is outlined in a Completion Strategy Guidance Memorandum signed by Director of Civil Works Steven Stockton. Under this plan, 12 projects would be advanced through state, local, and non-profit means and 24 projects through multiple Army Corps study and construction authorities. Four projects would be completed using authorities under Section 544 of the Water Resources Development Act of 2000 (P.L. 106-541) and an additional eight projects would be completed using Section 206 of the Continuing Authorities Program. Finally, two tiers of projects would be advanced through a Chief's Report. This Chief's Report would recommend construction authorization for Tier 1 projects, including three large-scale projects – the Duckabush River Estuary, the Nooksack River Delta, and the North Fork Skagit River Delta. The Tier 2 projects, which encompass the final nine projects, would be developed to conceptual design and require additional data collection and feasibility analysis.

Completing all of these projects is critical to restoring the natural processes in the nearshore zone that sustain the biological, economic, and aesthetic resources important to the Puget Sound region and to the nation as a whole. Furthermore, moving the three large-scale projects into construction is vital to improving the health of Puget Sound and advancing recovery efforts for 13 Endangered Species Act-listed species. Several federally recognized tribal nations support these restoration projects as an important tool in the recovery and protection of reserved treaty right resources.

We appreciate the Army Corps' commitment to the Puget Sound Nearshore Ecosystem Restoration GI and ask for your continued support to complete the Chief's Report to allow Congress to consider authorizing the project for construction this year as we work to complete a Water Resources Development Act. Further, we encourage the Army Corps to secure the necessary funding and appropriately prioritize completing the 12 additional projects using your Section 544 and Section 206 authorities.

Thank you for your consideration of our requests.

Sincerely,

Patty Murray
United States Senator

Maria Cantwell
United States Senator

Jim McDermott
Member of Congress

Adam Smith
Member of Congress

Rick Larsen
Member of Congress

Denny Heck
Member of Congress

Derek Kilmer
Member of Congress

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