

Statement of Representative Bill Posey
Member Hearing Day: May 1, 2019
Transportation and Infrastructure Committee

Thank you, Chairman DeFazio and Ranking Member Graves, for the opportunity to provide testimony about important transportation and infrastructure priorities. I am pleased to submit a statement for the record of my priorities in support of improving water resources project delivery, estuary restoration, maritime affairs, and rail safety.

Improving Water Resources Project Delivery

I was pleased to work with the Committee and the Florida delegation last year to enact enhancements to Army Corps of Engineers authorities to permit sponsors to construct water resources projects under Section 204 of the Water Resources Development Act of 1986 and be eligible to receive reimbursement of the federal share of their expenditures. I would like to offer another enhancement to this infrastructure delivery mechanism.

Most federal programs are delivered through non-federal partners who receive grants and execute projects. The Corps Civil Works program is not a grant program but rather has historically engaged Congress to plan and develop water projects in the national interest for navigation, flood risk management, and ecosystem restoration. In 1986, Congress enacted Section 204 to modernize the delivery of Corps navigation projects by giving project sponsors a role to design and construct projects and become eligible for reimbursement of the federal share of their costs for the project.

Over subsequent years, Congress strengthened Section 204 and removed obstacles to its implementation. The concept was expanded to project purposes other than navigation in separate provisions. In the Water Resources Reform and Development Act of 2014, Congress merged authority for sponsor construction of projects for all water resources purposes into a single, uniform authority under Section 204. In WRDA 2018, Congress made it easier (under my legislation) for sponsors to obtain technical assistance from the Corps and to obviate duplicative permitting requirements. Section 204 is becoming friendlier as an alternative for project sponsors to pursue their needs under the Corps program. Sponsor leadership can accelerate projects. Local leadership better integrates projects into the community making them more sensitive to the diversity of interests associated with such complex projects. Project sponsors know the environment and physical setting that projects must fit into. A major plus of Section 204 is that it applies to authorized projects and thus maintains Committee and Congressional prerogatives to authorize Corps water resources projects.

Currently, sponsors who want to lead project design and construction must provide the financing and hope to receive reimbursement of the federal share. Reimbursement can be uncertain and slow. The Administration sometimes has been reluctant to budget for reimbursement. For example, during the tenure of Florida Governor, now U.S. Senator, Rick Scott, the State laid out \$1.4 billion for port improvements and the federal government has not reimbursed the State for \$140 million on these projects. While not all these funds were for Corps related water resources,

some were. In my district, Port Canaveral awaits reimbursement of the federal share of the \$7,856,000 West Turning Basin. Slow reimbursement contributes to mistrust of federal partners and denies ports and other entities funds they could use in advancing other infrastructure needs.

Sponsors also face a high carrying cost of frontloading their own funds. By contrast, water resources projects designed and constructed by the Corps are funded from annual federal budgets, appropriations, and work plans. In other words, sponsor leadership of design and construction faces significant burdens that traditional projects do not. Relieving this asymmetric treatment of Section 204 projects can help make them more attractive, increase sponsor participation, and expand the benefits of this delivery alternative.

Mr. Chairman, I propose that Congress amend Section 204 to empower sponsors designing and constructing projects under this authority to participate in the annual Civil Works budget cycle – to request funds in the President’s budget for reimbursement – past, as well as prospective. For sponsors who have already constructed project elements under Section 204, a formal, transparent process would be available to request reimbursement in budget cycles. For those Section 204 sponsors who would benefit from up-front budgeting of reimbursement for identifiable annual project segments, the Secretary would be directed to accept sponsor requests for budget resources and submit approved requests to Congress with the Army’s annual Civil Works budget. In the annual Corps work plan development, projects that had been the subject of sponsor budget requests would also be available to receive work plan funds. In this manner, authorized projects that are designed and constructed by the local sponsor would be placed on par with the authorized projects that the Corps designs and constructs. The Army Civil Works program would be brought closer to the delivery model that is characteristic of almost all federal programs where the non-federal entity leads program implementation. At the same time, it preserves Congressional and Committee prerogatives in approving projects for authorization in biennial WRDAs.

Mr. Chairman, this is an innovative proposal that will save us money and bring projects on-line faster. This proposal contributes to our national infrastructure objectives, promotes trade, and creates jobs. I urge you to adopt this provision in the upcoming WRDA.

Estuary Protection and Restoration in the Comprehensive Everglades Restoration Plan

Mr. Chairman and Ranking Member, I am co-chair of the Congressional Estuary Caucus that I co-founded with Congresswoman Suzanne Bonamici. I work with the Caucus to protect and restore estuaries throughout our coastal states. Today, I bring you a proposal to strengthen our ongoing efforts to restore the estuaries of the South Florida ecosystem.

My district is bounded on the East by the Indian River Lagoon, the most biodiverse estuary in North America. People in my district depend on this Lagoon for their economic well-being, recreation, and tourism. On the opposite shore of Florida is another significant estuary, the Caloosahatchee River Estuary.

The Indian River Lagoon and the Caloosahatchee River estuaries share a common fate in that they currently receive excess water from Lake Okeechobee as part of the operation of the Central and South Florida Project. When flood waters stored in the Lake exceed a safe level, the Corps

of Engineers must release that water into the estuaries to protect people south of the Lake from the dangers of a failure or overtopping of the Herbert Hoover Dike that makes Lake Okeechobee a multiple purpose reservoir. Large volumes of phosphorus laden water end up in these sensitive estuaries. The results are often disastrous as when conditions induce harmful algal blooms in the brackish water estuaries. News accounts have made all of America aware of the havoc these algal blooms wreak in the Indian River Lagoon and the Caloosahatchee River Estuary – waters putrefy, the ecosystem is robbed of oxygen, foul odors and even dangerous fumes are emitted, fish and wildlife die, tourism evaporates, people and businesses suffer, and a way of life is profoundly disrupted.

In Title VI of Water Resources Development Act of 2000, Congress approved the Comprehensive Everglades Restoration Plan (CERP), a blueprint for modifying the Central and South Florida Project to restore the Florida Everglades. From its inception, the CERP aimed to restore the entire South Florida ecosystem, and Congress included the two estuaries as part of that ecosystem in the approval of CERP. The Indian River Lagoon and the Caloosahatchee estuaries are integral to the CERP. Projects were included in the CERP to restore and improve the environment of the estuaries. The Indian River Lagoon South (IRL-S) is part of the CERP as approved in WRDA 2000. Construction is underway on first component of the IRL-S project, C-44 reservoir and storm water treatment area (STA). The reservoir and STA will serve a vital role in storing and treating local basin run-off that now threaten the Lagoon. To the West of Lake Okeechobee, the C-43 reservoir has been authorized to improve the timing, quantity, and quality of freshwater flows to the Caloosahatchee River and estuary.

Given the recent dramatic algal blooms and devastation that has been visited on the estuaries in the South Florida ecosystem, I ask the Chairman and Ranking Member to enact a study to review the CERP to identify such further modification of the Central and South Florida Project as may be advisable to protect and restore the coastal estuaries that are included in the estuaries of the South Florida ecosystem. This review should be coordinated with Governor of Florida, the South Florida Ecosystem Restoration Task Force, the South Florida Water Management District, the residents of communities surrounding the affected estuaries, and the public. The Secretary of the Army should submit a report that includes a description of projects or other measures that the Chief of Engineers recommends be included in the CERP, through the Adaptive Assessment provisions of Title VI of Water Resources Development Act of 2000, to restore and protect the estuaries within the South Florida ecosystem. The Secretary should include a description of any projects or measures to restore and protect estuaries in the South Florida ecosystem that the Chief of Engineers recommends for authorization in future water resources development or other appropriate legislation, and a proposed schedule for the submission of any project information reports (PIRs) required to authorize such projects.

Mr. Chairman and Ranking Member, restoration of the Everglades is ongoing and has mobilized a team that can tackle the challenges to the estuaries. Congress intended for the estuaries to be addressed as part of the CERP. Wherever possible, we ought to emphasize projects that both advance the restoration of the River of Grass and contribute to restoring the estuaries. That is my intent, and I urge you to authorize putting the team to work on the estuaries of the South Florida ecosystem and update the plan to integrate the problems and the disastrous ecological crises that have emerged in recent years.

Maritime and Consumer Services Protection

Mr. Chairman and Ranking Member, international trade accounts for as much as one-quarter of our economy. The readiness of consumers and shippers to fully engage in these markets determines the success of our local economies and how well we will compete in world trade. Our nation's international traders face the daunting task of understanding a complex array of international shipping firms, policies, laws, and regulations.

Our government can provide a vital function in assisting consumers and shippers with the information and knowledge to negotiate these institutions to avoid snags whenever possible and to resolve issues that inevitably arise. Fortunately, the Federal Maritime Commission (FMC) has the Office of Consumer Affairs and Dispute Resolution Services (CADRS) ready to assist and educate consumers and shippers with issues that arise in commerce and international trade.

In January, Representative Garamendi and I introduced bipartisan legislation (*the Common Sense Maritime and Consumer Services Protection Act* – H.R. 709) to formally recognize CADRS's critical role, encourage its activities in resolving disputes and securing services without costly litigation by our American traders, promote public understanding of the assistance available, and educate the public about the various components of international shipping such as the role of carriers, intermediaries, and our ports.

The Common Sense Maritime and Consumer Services Protection Act will help reduce transaction costs to our exporters and importers and eliminate costly delays in completing international exchanges. Our bill will help small businesses and individuals that cannot afford large legal and technical staffs to unravel complex trade and shipping problems while educating consumers and the public at large about the system.

Railroad Safety

On a different note, in my district, private interests are developing a high-speed rail project supported by the federal government through private activity bonds. This high-speed passenger service runs trains through communities and downtown areas. The project has raised serious concerns from residents who live along the current train line and proposed extensions because of the lack of pedestrian safety regulations near the tracks.

When completed, the Virgin/Brightline train will carry passengers from Miami to Orlando through my district along an existing freight corridor. Their plan calls for running as many as 32 high speed (120 mph) passenger trains a day on the track that serves increasing numbers of freight trains. Most of that track is wide open, close to homes, schools and business, and many – if not most – of the crossings are at grade.

Residents are used to the occasional low speed freight train, but our communities are ill-equipped to deal with the safety risks posed by high speed rail. Over the last year and a half, 18 people have died in connection with this train and only the first phase has been constructed. I'm concerned because pedestrians routinely cross these tracks by foot throughout the corridor in my district – many of which are children going to school. The burdens of making the new rail service safe for pedestrians and school children should not fall on the local communities along

the tracks or upon those who need protection. The costs and burdens should be borne by the company developing the new service.

In the interest of protecting our communities and our children, I ask the committee to task the Federal Railroad Administration with writing regulations to protect pedestrians, including mandating fencing where appropriate, along high-speed train lines.

In closing, I again thank Chairman DeFazio and Ranking Member Graves for the opportunity to provide testimony about important transportation and infrastructure matters that are both very close to home and national priorities.