



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

Washington, DC 20515

Bill Shuster
Chairman

Nick J. Rahall, III
Ranking Member

May 31, 2013

Christopher P. Bertram, Staff Director

James H. Zoia, Democrat Staff Director

SUMMARY OF SUBJECT MATTER

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

PURPOSE

The Subcommittee on Water Resources and Environment will meet on Wednesday, June 5, 2013, at 10:00 a.m. in 2167 Rayburn House Office Building, to receive testimony from the Army Corps of Engineers (Corps) on pending Chief's Reports. This hearing is intended to provide Members with an opportunity to review the 25 Chief's Reports submitted to Congress since the last Water Resources Development Act (WRDA) was enacted in 2007, and the process the Corps of Engineers undertakes when developing its projects and activities that benefit the Nation.

BACKGROUND

General

The U. S. Army Corps of Engineers 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 money for improving river navigation. Since the 1920's, the Corps has been reducing flood damage along rivers, lakes, and the coast. Along with these missions, the Corps generates hydropower, supplies water to cities and industry, regulates development in navigable waters, restores aquatic ecosystems, assists in national emergencies, and manages a recreation program. Today, the Corps manages nearly 1,500 water resources projects.

The Corps of Engineers 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 fish and wildlife mitigation. The Corps of Engineers planning process considers economic development and environmental needs as it addresses water resources problems. The planning process addresses the Nation's water

resources needs in a systems context and explores a full range of alternatives in developing solutions.

Studies

The first step in a Corps water resources development project is a study of the project. If the Corps has done a study in the area before, 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. If the area has not been studied previously by the Corps, then an Act of Congress is necessary to authorize the study. Generally, studies are authorized by Committee resolution. The Committee authority to carry out these resolutions is vested in section 4 of the Rivers and Harbors Act of 1913.

The Corps performs a reconnaissance study at federal expense, subject to appropriations, typically taking about one year to complete and costing between \$100,000 and \$300,000. This is a preliminary analysis of the costs, benefits, and environmental impacts of the project and contains an estimate of the costs of preparing a feasibility study. According to the Congressional Research Service, around one-third of reconnaissance studies eventually lead to feasibility studies; only 16 of every 100 reconnaissance studies lead to constructed projects.

If the reconnaissance study indicates that there may be a viable federal project and that a more detailed study should be undertaken, the Corps enters into a cost-sharing agreement with the non-federal project sponsor that was identified during the reconnaissance study process. The cost of the feasibility study is shared 50 percent by the federal government, subject to appropriations, and 50 percent by the non-federal interest.

During the feasibility study phase, the Corps of Engineers District Office, (the Corps is comprised of 38 District offices within 8 Divisions), prepares detailed analyses on the economic costs and benefits of carrying out the project and any associated environmental, social, and cultural impacts. In some cases, dozens of project alternatives are identified and reviewed. The study typically describes with reasonable certainty the economic, social, and environmental benefits and detriments of the each of the alternatives and the engineering features, public acceptability, and the purposes, scope, and scale of each of the alternatives. The feasibility study also includes any associated environmental impact statement and a mitigation plan for environmental damages that cannot be reasonably avoided.

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

Following completion of the feasibility study phase, the study is transmitted to Division for review and, if approved, then sent to the headquarters level of the U.S. Army Corps of Engineers for final policy and technical review. After a full study is completed, the results and recommendations of the study are submitted to Congress, usually in the form of a report of the Chief of Engineers, commonly referred to as a Chief's Report. If such results and recommendations are favorable, the next step would be authorization by Congress. Project

authorizations are contained in Water Resources Development Acts, the last of which was enacted in 2007.

Requirements

The U.S Army Corps of Engineers 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, and 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 of Engineers include an identification of significant environmental resources likely to be impacted by the proposed project, an assessment of the impacts, a full disclosure of likely impacts, and a consideration of a full range of alternatives, including a No Action Alternative and Action by Others alternatives. 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 of Engineers.

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 ensuring the proposed project or action complies with state water quality standards.

The Army Corps of Engineers 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, an Executive Branch document that guides formulation and evaluation of study objectives. The P&G is intended to ensure proper and consistent planning by federal agencies engaged in the formulation and evaluation of federal water resources development projects and activities. The P&G also established federal objectives in pursuing water resources development projects, including defining contributions to national economic development consistent with protecting the environment.

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 other plans that incorporate other federal, state, and local concerns. Mitigation of adverse impacts is to be included in each of the alternative plans reviewed in the study. The Corps of Engineers is also responsible for identifying areas of risk and uncertainty in the study, so decisions can be made with some degree of reliability on the estimated costs and benefits of each alternative plan.

Typically, the plan recommended by the Corps of Engineers is the plan with the greatest net economic benefit consistent with protection of the Nation's environment. However, the Secretary of the Army has the discretion to recommend another alternative if there are overriding reasons for recommending another plan, based on other federal, state, or local concerns.

Agency Actions

The Nation's aging infrastructure, increased demands of the Corps of Engineers, and limited funding require the agency to focus resources on the highest performing programs and projects within the main missions of the Corps of Engineers. In January 2011, the Corps of Engineers undertook an initiative to modernize its planning activities to better align its project development process with national priorities.

Commonly referred to as the "3X3X3" approach, this planning modernization limits studies to 3 years, \$3 million, and ensures that all 3 levels of District, Division, and Headquarters personnel are vertically integrated throughout the process and reviews are held concurrently, rather than in a step-by-step method. The target length of the main report for feasibility studies should be 100 pages or less and not larger than one three-inch binder.

This planning modernization initiative is focused on risk-based scoping to more quickly define water resources needs and opportunities with a target goal of completing typical feasibility studies within 18 to 36 months. While not every study will meet this goal, the new process could shorten the amount of time and decrease the typical cost of carrying out studies. All Corps of Engineers studies are intended to be "3X3X3" compliant by fiscal year (FY) 2014.

When the "3X3X3" initiative was begun in January 2011, the Corps had more than 650 active studies. Since beginning the implementation of this new planning modernization initiative, the Corps has reduced this to fewer than 200 studies by either completing ongoing studies or terminating those studies that have received little funding or provide questionable benefits to the Nation. The belief is that by focusing resources on fewer studies, the better studies will be completed sooner.

Funding

The President's budget requests \$90 million for the Investigations account for FY 2014. This is \$28 million less than the FY 2013 appropriations of \$118 million. These funds are used for the study of potential projects related to river and harbor navigation, flood damage reduction, shore protection, environmental restoration, and related purposes. They also cover the restudy of authorized projects, miscellaneous investigations, and plans and specifications of projects prior to construction. Under this proposed budget, while ten new studies are funded, the focus is on completing existing studies. Of the more than 100 studies authorized in WRDA 2007, only 21 have been initiated.

Since the last Water Resources Development Act was enacted in 2007, 25 Chief's Reports have been delivered to Congress.

WITNESS

Major General Michael J. Walsh
Deputy Commanding General, Civil and Emergency Operations
United States Army Corps of Engineers

Accompanied by:
Theodore A. "Tab" Brown,
Chief, Planning and Policy
United States Army Corps of Engineers