

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT OF

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and

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U.S. ARMY CORPS OF ENGINEERS

BEFORE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

UNITED STATES HOUSE OF REPRESENTATIVES

ON

America's Water Resources Infrastructure: Projects and Policies

March 15, 2018

Mr. Chairman and Members of the Subcommittee:

I am honored to testify before your committee today, along with Lieutenant General Todd Semonite, Chief of Engineers, on the subject of America's water resources infrastructure. I was recently sworn in as the Assistant Secretary of the Army for Civil Works and I very much look forward to working with this Subcommittee and the Congress to address the Nation's water resources infrastructure.

The Corps is responsible for managing and overseeing a large water resources program, which has three main missions – commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration.

The FY 2019 Budget and the Administration's infrastructure proposal recognize that the current paradigm for investing in water resources development is not sustainable and can deter rather than enable local communities, states, and the private sector from making important investments on their own, even when they are the primary beneficiaries. The Administration's infrastructure proposal and other reforms in the Budget, such as reducing the Harbor Maintenance Tax, would facilitate local decision-making by those who know best what investments are needed and improve how we as a Nation invest in water resources.

The President's infrastructure legislative principles were publicly released on February 12, 2018. The legislative principles directly applicable to the Corps' Civil Works responsibilities fall within six general areas:

- (1) Water Resources Infrastructure.** These principles would remove barriers and provide new authorities to expedite the delivery of infrastructure projects through a variety of mechanisms focused on revenue generation, streamlining project delivery, and innovative acquisition approaches.
- (2) Inland Waterways.** The combination of new and existing revenue streams combined with non-federal partnerships would enable greater efficiencies and innovations for our nation's inland waterways.
- (3) Incentives.** Incentives in the form of grants to non-federal entities are intended to encourage innovation, accelerate project delivery, and increase State, local, and private participation.
- (4) Water Infrastructure Finance and Innovation Act (WIFIA).** Incentives in the form of low-cost loans are also intended to encourage innovation, accelerate project delivery, and increase state, local, and private participation. The legislative principles would expand the U.S. Environmental Protection Agency (EPA) authorization and budget authority to include non-Federal flood mitigation, navigation, and water supply projects.

(5) Environmental Reviews and Permitting. In addition to broad environmental and permitting reforms, the legislative principles would further streamline the Corps' Section 404/10 and Section 408 programs to support timely decisions while maintaining environmental protections provided by law.

(6) Divestiture. The infrastructure legislative principles authorize Federal divestiture of assets that would be better managed by State, local, or private entities. One of these assets is the Washington Aqueduct, which the Corps currently owns and operates.

IMPLEMENTATION OF WRRDA 2014 AND WRDA 2016

The Water Resources Reform and Development Act of 2014 (WRRDA 2014) and the Water Resources Development Act of 2016 (WRDA 2016), authorized 64 Chief's Reports involving an estimated cost of \$40 billion for water resources infrastructure.

The Army continues to maintain a strong focus on developing the implementation guidance for the Water Resources Reform and Development Act (WRRDA 2014) and WRDA 2016. To date, the Corps has addressed 201 provisions for WRRDA 2014, representing 99% of the 203 provisions that required guidance. The Corps also continues to make significant progress in completing guidance for WRDA 2016. The Corps has completed guidance for 192 provisions, representing 93% of the 207 provisions that require implementing guidance. Draft implementation guidance for each of the remaining provisions has been prepared, and is currently under review. Since the enactment of WRDA 2016, the Chief of Engineers has signed and transmitted six proposed water resources projects. These are now under review.

- St. Johns County, Florida
- Sabine Pass to Galveston Bay, Texas
- St. Lucie County, Florida
- Houston-Galveston Navigation Channel, Galveston Channel Extension
- Mamaroneck-Sheldrake Rivers, New York
- Ala Wai Canal, Oahu, Hawaii

In addition, Section 7001 of WRRDA 2014 requires the Secretary of the Army to submit an annual report to the Congress that identifies completed feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources projects or feasibility studies. Section 7001 also requires a notice annually in the Federal Register inviting proposals from non-federal interests. The annual report reflects the information that these non-federal interests provide in response to that notice. The criteria used to solicit proposals is listed in the register notice and on the Corps' webpage. To be included in the main report, a proposed study or project must:

- Be related to the missions and authorities of the Corps of Engineers;
- require specific congressional authorization;
- Not have been previously congressionally authorized;
- Not have been included in any previous section 7001 annual report; and
- Be able to be carried out by the Corps if authorized.

Since 2015, the Corps has annually submitted the 7001 report as required under WRRDA 2014. For the 2018 Annual Report, non-Federal interests submitted 34 proposals in response to the Federal Register notice. The report was submitted to Congress on February 5, 2018. It included the six Chief's Reports listed above. Seven of the 34 proposals submitted met the criteria. We therefore included them in the main report table. We listed the other 27 proposals in the Appendix table.

The Corps will publish a Federal Register notice by May 1, 2018 announcing the open period for the next round of proposals from non-federal interests. The period for submitting proposals will remain open for 120 days. The next report is scheduled to be submitted to Congress by February 1, 2019.

EXPEDITING THE REVIEW AND PERMITTING PROCESSING

The Corps continues to look at organizational efficiency opportunities, authorities, policies, regulations and procedures in order to reinforce and increase efficiency and effectiveness.

WRRDA 2014 and WRDA 2016 included provisions for a more streamlined delivery process. Examples include:

Section 1002 of WRRDA 2014 repeals the requirement that the Corps conduct a reconnaissance study prior to initiating a feasibility study. The preliminary analyses that were previously conducted during the reconnaissance phase of a study are now done in the early stages of the feasibility study including the establishment of a detailed project schedule.

Section 1007 of WRRDA 2014 requires the Secretary to establish a process for reviewing requests submitted under Section 14 of the Rivers and Harbors Appropriation Act of 1899, as amended, in a timely and consistent manner. These requests (commonly referred to as Section 408 requests because the provision from the 1899 Act is codified at 33 USC 408) involve proposals for the permanent or temporary alteration by others of any completed Civil Works project. The Budget includes significant funding to support Section 408 reviews. Beginning in 2017, the majority of all Section 408 decisions can be rendered at the district level. Further efforts to eliminate duplication of public interest and environmental reviews and establish timelines for decisions are ongoing. The Corps has also clarified when Section 408 permission is required, not

required, and when the requirements of Section 408 may be met by another Corps process and/or authority, thus resulting in the elimination of redundancies.

Section 1134 of WRDA 2016 provides for the Corps to research, develop, and implement an electronic system to allow for the electronic preparation and submission of applications for permits, and requests for jurisdictional determinations via email or other means through the Internet. The Corps has accepted electronic submissions for both permit applications and requests for jurisdictional determinations via email for several years. The Corps continues to explore additional automation advances to make the process more efficient for the public and cost effective for the government.

The Corps and other Federal agencies are working to streamline the federal permitting and oversight of infrastructure projects, through implementation of the Fixing America's Surface Transportation Act (FAST 41), Executive Order 13807 on "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," Executive Order 13783 on "Promoting Energy Independence and Economic Growth," and Executive Order 13777 on "Enforcing the Regulatory Reform Agenda."

For example, under Executive Order 13807, the Corps is pursuing the concept of environmental impact statement schedules for major infrastructure projects that will achieve the 21-month federal decision-making goal. Additionally, the Corps released a report under Executive Order 13783 that recommended changes to nine of the 2017 nationwide permits to reduce the regulatory burden on energy producers.

The Corps is considering changes to compensatory mitigation policies to clarify types of creditable projects and to facilitate timely decisions, and remains committed to working with federal, state, and local agencies to identify efficiencies in existing permitting and environmental review processes.

CONCLUSION

The time has come for us to focus on outcomes as we rebuild America. I look forward to working with this Committee and the Corps to improve the ways that we manage and invest in our water resources, and ensure the Corps remains an elite engineering organization dedicated to collaborating with non-federal partners by implementing the President's infrastructure plan.

This concludes the formal testimony and we would be happy to answer any questions you or other members of the Committee may have. Thank you.