

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FOR FISCAL YEAR 2024

WEDNESDAY, APRIL 26, 2023

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2 p.m., in room SD-138, Dirksen Senate Office Building, Hon. Patty Murray, (chair) presiding.

Present: Senators Murray, Heinrich, Kennedy, Hoeven, Hyde-Smith, and Britt.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

STATEMENT OF THE HON. MICHAEL L. CONNOR, ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. The hearing of the Senate Appropriations Subcommittee on Energy and Water Development will please come to order.

We are here today to discuss President Biden's fiscal year 2024 budget request for the U.S. Army Corps of Engineers and the Bureau of Reclamation.

I know we are all thinking of Senator Feinstein and wishing her a speedy recovery and return and I want to thank Ranking Member Kennedy for being flexible and working with me to make this hearing happen today, I really appreciate it, so that we can keep our appropriations process on track.

Today's hearing marks another important step as we work to return to regular order and pass in a timely bipartisan way our funding bills to keep our families safe, our economy strong, and our Nation competitive with adversaries like China.

Defense spending tends to get a lot of attention, but we cannot forget that our rivers and our waterways are some of the most critical resources we have. Effective water management is essential to keeping our families healthy, our environment thriving and our economy competitive.

We use our water resources managed by the Bureau and Corps to irrigate crops that feed families across the country, to transport those crops and other foods along our rivers and out of our ports to consumers around the world, and to provide habitat for keystone

species that are essential to local economies and ecosystems alike, like salmon in my home State of Washington.

We even count on water and hydroelectric power to literally keep the lights on in cities across the country. So when it comes to our Nation's competitiveness, this is something we can't take for granted. We have to keep our rivers and our waterways clean for wildlife and clear for transportation.

We have to keep our faucets running, we have to keep our ports bustling, our farms irrigated, and our electric grid reliable, and we have to keep our communities safe and prepared for extreme weather events amid the worsening climate crisis with levies and seawalls and nature-based infrastructure to prevent flooding.

The President's budget works to do that with key investments to strengthen our Nation's port and waterway infrastructure, water conservation, and climate change resiliency.

But the President's request is less than we provided last year for the Army Corps of Engineers and the Bureau of Reclamation. I think it's clear we have to build on the progress we are making and not slow down.

So I want to see us grow even bolder to make sure we are making the necessary investments to give these critical projects their due.

I'm glad to see this budget does include much-needed resources for projects to improve navigation through dredging our ports and maintaining waterways, support ecosystem restoration, like in the Columbia River System in Washington, and protecting dangerous species, like the Fish Passage at the Howard Hanson Dam, which will open up a hundred miles of new habitat for our salmon.

The Howard Hanson Project is critical in my State and I'm going to be watching the progress of that very closely because we have to see this work through and there's a lot left to do.

But, in addition to what is outlined in the President's budget, there are other critical projects Congress has already said should be a priority, as well.

So I want to make sure we get funding, like this committee appropriated in fiscal year 2023, for water infrastructure improvements for the Nation Act Programs focused on water storage desalination, water recycling, and environmental restoration projects.

I also want to hear how the Bureau is using and building on drought mitigation funding we provided in the Inflation Reduction Act. This is an issue that is only growing more urgent each year.

We have experienced historic drought conditions recently, which our farmers who are struggling to grow crops, threatens families and wildlife who are left at greater risk of wildfires, and undermines our economy.

We need to tackle this crisis now before there is more lasting damage.

Water is just too important to our families, our economy, and our Nation to take for granted. We cannot afford to shortchange these projects. So I'm glad to have this opportunity to hear from our witnesses today, assess our needs so that we can work in a bipartisan way to pass the funding bill that meets them.

With that, I will turn it over to our Ranking Member Kennedy.

STATEMENT OF SENATOR JOHN KENNEDY

Senator KENNEDY. Thank you, Madam Chair.

First, before I turn to our witnesses, I want to tell Senator Feinstein, if she's listening, I hope you're feeling better today and come back soon. We miss you.

Thank you for being here today. America has been blessed in many ways and sometimes I don't know if it's a blessing or a curse, maybe a little bit of both. In some parts of our country we have too much water and in other parts we don't have enough, and in some parts of our country it's a little bit of both, and we depend on you and your team to manage that and I know that's difficult and I know every member of Congress is an expert on how you ought to do your job. I appreciate that, as well. So let me begin by thanking you.

One of the things I hope to achieve today is getting your thoughts on how we can fine-tune the process that we use to allocate scarce resources to do our cost-benefit analysis.

Sometimes I think we don't spend enough time, our shortcoming, not yours, analyzing the benefit, that we focus too much on the cost. I'll give you an example and I know the Secretary and the General won't recognize this.

We have a levy project in Louisiana called the Morganza to the Gulf Project. Now it's not complete. It's a work in progress, but that's been done, completed rather thus far through a combination of State, Federal, and local money. My people tax themselves to build this levy system.

In 2005 Hurricane Rita came through, terrible, terrible storm, nine-foot storm surge, 11 to 12,000 homes of my people were damaged. That's a lot of people and a lot of homes and a lot of human misery.

In 2019, after we had made progress on the Morganza to the Gulf levy system, another storm, this one Barry, came through, just as bad, same level of storm surge, same level, nine feet, 11 homes were damaged.

So we went from 12,000 homes damaged to 11 as a result of your good work, and I want to talk today about how we factor into our cost-benefit analysis that kind of good work that you have done. So thank you for being here.

Senator MURRAY. Thank you, Ranking Member Kennedy.

And I will now introduce our panel. We have Mr. Michael Connor, who is the Assistant Secretary of the Army for Civil Works; Lieutenant General Scott Spellmon, the Chief of Engineers for the U.S. Army Corps of Engineers; and finally we have Ms. Camille Touton, who is Commissioner of the Bureau of Reclamation.

I want to thank all of you and the public servants in your agencies for their dedication to our Nation's leadership in water infrastructure, water conservation, and commitment to climate change resiliency.

With that, we will proceed with our witness testimonies, starting with Assistant Secretary Connor.

SUMMARY STATEMENT OF HON. MICHAEL L. CONNOR

Mr. CONNOR. Thank you, Madam Chair, Ranking Member Kennedy, distinguished members of the subcommittee. I appreciate the opportunity to be here to discuss the President's request for the Army Civil Works Program. I'll quickly summarize my written statement.

The fiscal year 2024 budget request includes over \$7.4 billion for the Army's Civil Works Program, the largest budget request in history, complemented by an additional \$1.05 billion allocated from the bipartisan Infrastructure Law.

These investments demonstrate President Biden's ongoing commitment to funding the construction of critical infrastructure projects that will strengthen our economy, protect people and property, and restore key ecosystems.

I appreciate just as a threshold matter the robust funding levels from this subcommittee and the bipartisan support that there is for the Army Civil Works Program.

It's important to note that the water resource challenges of today and tomorrow are not like yesterday's. Extreme weather events, whether precipitation, drought, or hurricane-driven storm surge, are increasingly the norm, creating risk to communities, the economy, and natural systems. As a result, understanding vulnerabilities and increasing our preparedness is paramount.

For that reason, the budget provides \$86 million, the largest request again in the Corps' history, for research and development, over \$100 million when accounting for applied R&D activities.

The focus of this work will be on innovative solutions that address the emerging water resource challenges of the 21st Century and achieve cost savings in the Civil Works Program.

The budget focuses on the highest-performing work within the three main missions of the Civil Works Program: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration.

In developing the budget, consideration was also given to advancing three key objectives that reflect Administration priorities. First, decreasing climate risk for communities and the environment; (2) promoting environmental justice in underserved communities and Tribal nations; and (3) strengthening the nation's supply chains.

With respect to climate, the Corps has always been in the resilience business and the budget's proposed investments include more than \$1.4 billion for construction of flood and storm damage reduction and aquatic ecosystem restoration projects.

For the second priority, the budget supports the Administration's Justice 40 Initiative through investments in 23 studies and in the construction of 33 projects to help disadvantaged and Tribal communities address their water resources challenges.

Supply chains remain a priority which Civil Works supports through its Commercial Navigation Program. The budget facilitates safe, reliable, and sustainable commercial navigation to support U.S. competitiveness and improve the resilience of our Nation's manufacturing supply chain.

Overall, the budget includes over \$3.4 billion for the study, design, construction, and operation and maintenance of inland and

coastal navigation projects. Of this amount, over \$1.7 billion is derived from the Harbor Maintenance Trust Fund.

As alluded to earlier, flood and storm damage reduction is at the center of the Army Corps' actions to support the Administration's goal of tackling the climate crisis.

Accordingly, the budget contains nearly \$2 billion for flood and storm damage reduction, including funding to provide technical and planning assistance to local communities to enable them to understand and better manage their flood risks.

Equally important to building community resilience is the work of the Aquatic Ecosystem Restoration Mission. The budget includes \$653 million for AER, including \$415 million to continue progress in restoring America's Everglades while building climate resilience in South Florida.

We've also included \$93 million to support salmon recovery efforts in the Columbia River Basin.

Other significant investments include \$655 million for the construction of a critical dam safety project at Prada Dam in California and \$350 million for replacement of the Cape Cod Canal Bridges. Importantly, the budget also includes \$235 million to continue construction of the Sioux Locks Project.

In total, the fiscal year 2024 Construction Program is funded at more than \$2 billion.

Of course, the budget also focuses on maintaining the key features of the vast water resources infrastructure that the Corps owns and manages. Specifically, the 2024 budget funds the O&M (operation and maintenance) Program at over \$4.4 billion. For the Investigations Program, the 2024 budget provides a \$139 million, including \$36 million for technical and planning assistance.

Wrapping up the budget summary, it's significant that the 2024 Regulatory Program is funded at \$221 million to protect the Nation's waters and wetlands and provide efficiency in permanent processing, a very high priority for the Administration.

The Recreation Program is funded at \$275 million to ensure the Corps, as one of the leading providers of the Nation's outdoor recreation, can continue to effectively serve the public's desire to experience the great outdoors.

In summary, the Civil Works budget makes critical investments in water resources that will benefit the American people and promote greater prosperity and economic growth for decades to come.

I look forward to your questions. Thank you.

[The statement follows:]

PREPARED STATEMENT OF MR. MICHAEL L. CONNOR

Chairman Feinstein, Ranking Member Kennedy, and distinguished members of the committee, thank you for the opportunity to be here today to discuss the President's Budget request for the Army Civil Works program.

The fiscal year 2024 Budget request includes over \$7.4 billion for the Army Civil Works program—which is the largest request in history—complemented by an additional \$1.05 billion from the Infrastructure Investment and Jobs Act—or IIJA. These investments demonstrate President Biden's ongoing commitment to funding the construction of critical infrastructure projects that will strengthen our economy, protect people and property, and restore key ecosystems. It will also create good paying jobs that provide the free and fair chance to join a union and collectively bargain. Overall, we believe in smart investments that yield high economic and environmental returns, while, also reducing deficits and improving our country's long-term fiscal outlook.

It's important to note that the water resources challenges of today and tomorrow are not like yesterday's. Weather extremes are increasingly the norm, creating risk to communities, the economy, and natural systems. As a result, understanding vulnerabilities and increasing our preparedness is of paramount importance. For that reason, the Budget provides \$86 million—the largest request in Corps' history—for research and development. The focus of this work will be on innovative solutions that would help achieve significant cost savings in the civil works program and address the emerging water resources challenges of the 21st Century, including climate change.

The Army Civil Works Budget focuses on the highest performing work within the three main missions of the Civil Works program:

- commercial navigation,
- flood and storm damage reduction, and
- aquatic ecosystem restoration.

In developing the Budget, consideration was also given to advancing three key objectives that reflect the Administration's priorities: (1) decreasing climate risk for communities and increasing ecosystem resilience to climate change based on the best available science; (2) promoting environmental justice in underserved and marginalized communities and Tribal Nations in line with the Justice40 Initiative; and (3) strengthening the supply chain.

With respect to the first Administration priority, climate-focused investments include more than \$1.4 billion for construction of flood and storm damage reduction and aquatic ecosystem restoration projects, over \$64 million to improve climate resiliency and/or sustainability at existing Corps-owned projects, and \$35.5 million for technical and planning assistance programs with an emphasis on actions to help local communities identify, understand, and address their flood risks including work that would directly benefit disadvantaged communities by improving their resilience to climate change. The Budget also funds the continuation of studies to investigate climate resilience along the Great Lakes coastlines as well as in Central and Southern Florida.

For priority two, the Budget supports the Administration's Justice40 Initiative through investments in 23 studies, and in the construction of 33 projects to help disadvantaged and tribal communities address their water resources challenges—including funding for the Tribal Partnership Program. The Army is committed to helping to achieve the broader goals of the Administration regarding equity and environmental justice and will continue to improve outreach and access to Civil Works information and resources, including technical and planning assistance programs; maximizing the reach of Civil Works projects to benefit disadvantaged communities; and, ensuring that updates to Civil Works policies and guidance will not result in a disproportionate negative impact on disadvantaged communities.

Supply chains remain a priority, which the Civil Works supports through its Commercial Navigation program. The Budget facilitates safe, reliable and sustainable commercial navigation to support U.S. competitiveness and improve the resilience of our nation's manufacturing supply chain to support American jobs and the economy. In support of the Administration's commitment to our nation's coastal ports and inland waterways, the fiscal year 2024 Budget includes over \$3.4 billion for the study, design, construction, operation and maintenance (O&M) of inland and coastal navigation projects. Of this amount, over \$1.7 billion is derived from the Harbor Maintenance Trust Fund for eligible projects with an emphasis on operation and maintenance, including dredging, of completed projects and over \$1 billion will be used to maintain and improve navigation on the inland waterways.

Flood and storm damage reduction is at the center of the Civil Works program's actions to support the Administration's goal of tackling the climate crisis. Accordingly, the Budget contains nearly \$2 billion for flood and storm damage reduction, including funding to provide technical and planning assistance to local communities to enable them to understand and better manage their flood risks. The Budget proposes to assist these local efforts, with emphasis on non-structural approaches.

Equally important to building community resilience is the work of the aquatic ecosystem restoration mission (AER). The Budget includes \$653 million for AER, including \$415 million for the South Florida Ecosystem Restoration (SFER) program, which will enable significant progress in restoring America's Everglades while building ecosystem resilience to climate change in South Florida. The Budget also includes \$93 million to support salmon recovery efforts in the Columbia River basin, another priority within the AER program.

Other significant initiatives include \$655 million for construction of a critical dam safety project at Prado Dam, and \$350 million for replacement of the Cape Cod Canal Bridges. Additionally, to facilitate action on Cape Cod, the Budget includes a legislative proposal that would allow the Corps to transfer funds to the Common-

wealth of Massachusetts to design and construct the replacement bridges. Ultimately, the ownership of these bridges will be conveyed to Massachusetts, which will be responsible for future operation and maintenance. Also, of significant note, the Budget includes \$235 million to continue construction of the Sault Ste. Marie (Replacement Lock) project in Michigan.

In total, the fiscal year 2024 Construction program is funded at more than \$2 billion. While most of this funding is in the Construction account, over \$37 million is in the Harbor Maintenance Trust Fund account, and nearly \$64 million is in the Mississippi River and Tributaries account. By significantly increasing funding of construction for crucial infrastructure projects, this budget will help us get things done and ensure momentum on much needed infrastructure improvements across the nation. The Army also has allocated the \$50 million provided for construction in 2024 in the IIJA for shore protection projects that will support coastal communities and improve their resilience to storm and climate change impacts.

As I wrap up the discussion on construction, I want to acknowledge that there is no funding proposed from the Inland Waterways Trust Fund (IWTF) in this year's budget in view of the \$2.5 billion made available in the IIJA for construction, replacement, rehabilitation, and expansion of inland waterways projects. The IWTF is a very valuable funding source and I anticipate there will be ongoing and significant use in the future beyond the investments provided by the IIJA.

Of course, in addition to new projects, the Budget focuses on maintaining the key features of the vast water resources infrastructure that the Corps owns and manages, and on finding innovative ways to rehabilitate it or divest it to others. The Budget invests in operating and maintaining the Corps' existing infrastructure and improving its reliability and performance. Specifically, the fiscal year 2024 Budget funds the Operation and Maintenance program at over \$4.4 billion, consisting of over \$2.6 billion in the Operation and Maintenance account, nearly \$1.7 billion in the Harbor Maintenance Trust Fund account, and nearly \$154 million in Mississippi River and Tributaries account. The allocation of funding among projects for maintenance reflects a risk-informed approach that considers both project and project component conditions and the potential consequences of a failure. The Budget also gives priority to the maintenance of coastal ports and inland waterways with the highest commercial traffic. Additionally, the Budget is complemented by \$1 billion for operation and maintenance in 2024 from the IIJA.

For the Investigations program, the fiscal year 2024 Budget provides \$139 million, consisting of nearly \$130 million from the Investigations account and over \$9 million in Mississippi River and Tributaries. Within those amounts, the Budget includes \$35.5 million for technical and planning assistance programs. These programs help local communities, including disadvantaged communities, identify and address their flood risks, including flood risks associated with climate change.

Continuing with the budget summary, it's significant that the fiscal year 2024 Regulatory Program is funded at \$221 million to protect the nation's waters and wetlands and provide efficiency in permit processing. And the Recreation program is funded at \$275 million to ensure the Corps—one of the nation's leading Federal providers of outdoor recreation—can continue to effectively serve the public's desire to experience the great outdoors.

To summarize, the Budget makes critical investments in water resources that will benefit the American people and promote greater prosperity and economic growth for decades to come. From solving water resources challenges facing communities, to nurturing sustainable aquatic ecosystems, the Corps is delivering on its mission to serve the public.

I am very honored to implement the President's priorities for the Army Civil Works program and excited to be a part of a great team—serving our Nation.

Thank you for inviting me here today. I look forward to your questions.

Senator MURRAY. Thank you.

General Scott.

**STATEMENT OF LIEUTENANT GENERAL SCOTT A. SPELLMON, CHIEF
OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS
OF ENGINEERS**

General SPELLMON. Good afternoon, everyone.

Chairwoman Murray and Ranking Member Kennedy and distinguished members of the subcommittee, I am honored to testify before you today and thank you for the opportunity to discuss the fis-

cal year 2024 budget of the U.S. Army Corps of Engineers, another record appropriation for our Nation's Civil Works Program.

So today I look forward to discussing the status of important Corps projects and programs as well as answer any questions the committee may have regarding our fiscal year 2024 budget.

Most importantly, I look forward to continuing to work with this committee, the Congress, and the Administration to address the Nation's critical water resource infrastructure needs.

We greatly appreciate the committee's continued support of the Corps program with recent record high appropriations, including the \$1.4 billion of additional funding provided late last year as part of the Disaster Relief Supplemental Appropriations Act of 2023.

The Corps Civil Works Program has experienced significant growth over the past several years. This substantial level of investment enables critical water resource projects to be studied and constructed and it allows us to further develop innovative approaches to address some of our most pressing challenges through focused research and development.

The fiscal year 2024 budget reflects a targeted approach to continued investing in our water resources programs, to promote climate resiliency which will benefit the Nation's economy, environment, and public safety now and well into the future.

The budget also supports the Assistant Secretary's priorities for the Corps by upgrading our Nation's waterways, protecting communities and ecosystems, better serving disadvantaged communities, investing in science and research and development, and, finally, sustaining and improving our communications and relationships with our many partners.

The 2024 budget, taken with other recent funding, provides the Corps with what the Secretary calls a transformational opportunity to deliver water resource infrastructure projects that will positively impact communities across our great Nation.

We are also taking advantage of this opportunity to do two things. First, transform our organization and our decisionmaking processes to safely deliver quality projects on time and within budget and, secondly, to identify risks to how we are delivering our program.

Our teams are hard at work seeking out new and better ways to mitigate or eliminate these risks so we can further strengthen the safety and security of communities across the country and territories.

By evolving our policies, programs, and operations and placing increased focus on research and development, we are working to overcome impacts of challenges, such as sea level rise, changes to precipitation patterns and hydrology, and other effects of climate change, including improvement to the resilience of Corps-owned and operated infrastructure.

I will conclude by saying the Corps does not accomplish anything on its own. Delivering successful Civil Works projects is a shared responsibility. It's a team sport. We draw from our engineering expertise and build upon our relationships with our non-Federal partners, our project stakeholders, and Congress to enable us to succeed.

I look forward to continuing our great collaboration as we continue to pursue our vision engineering solutions for our Nation's toughest challenges.

So thank you, Chairwoman Murray, Ranking Member Kennedy, and Members of the Committee. Again, I look forward to answering any questions you may have.

[The statement follows:]

PREPARED STATEMENT OF LIEUTENANT GENERAL SCOTT A. SPELLMON

Chair Feinstein, Ranking Member Kennedy, and Members of the Subcommittee, I am honored to testify before your committee today, along with the Honorable Michael Connor, Assistant Secretary of the Army for Civil Works, regarding the President's Fiscal Year 2024 (FY 2024) Budget (Budget) for the Army Civil Works Program.

Through the Civil Works program, the United States Army Corps of Engineers (Corps) works with other Federal agencies, and with state, tribal, and local agencies, as well as others, to develop, manage, restore, and protect water resources, primarily through the study, construction, and operation and maintenance of water-related infrastructure projects. The Corps focuses on work that provides the highest economic, environmental, and public safety returns to the Nation. The Corps also regulates development in waters of the United States and works with other Federal agencies to help communities respond to, and recover from, floods and other natural disasters.

The Corps uses its engineering expertise and its relationships with project sponsors and stakeholders to develop innovative approaches to address some of the most pressing water resources challenges facing the Nation. I am committed to the Secretary's priorities for the Army Civil Works program, including investing in the Nation's coastal ports and inland waterways to facilitate waterborne transportation and strengthen economic growth; helping communities to manage their flood risks and adapt to climate change; restoring aquatic ecosystems in ways that will make them more sustainable and more resilient to climate change; ensuring that the Civil Works program will better serve the needs of disadvantaged communities; investing in science, research, and development to deliver enduring water-resources solutions; and strengthening communications and relationships to solve water resources challenges. I am absolutely focused on ensuring that we deliver studies and finish quality projects safely, on time, and within budget. These priorities will ensure a better return on taxpayer investment and improve the lives of all Americans. Under my oversight and direction, and with the leadership of Assistant Secretary Connor and his team, the Corps is committed to efficiently and effectively executing the Civil Works program.

SUMMARY OF FISCAL YEAR 2024 BUDGET

The Civil Works program is performance-based and focuses on high-performing projects and programs within its three main water resources missions: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. It uses a targeted approach to invest in our water resources and promote climate resilience, which will benefit the Nation's economy, environment, and public safety—now and in the future. This Budget invests in Tribal Nations, as well in economically disadvantaged communities that are marginalized, underserved, or overburdened by pollution, including those in rural areas.

The Budget includes \$7.413 billion in discretionary funding for Civil Works activities throughout the Nation, the largest budget in history.

INVESTIGATIONS

For the Corps Investigations program, the FY 2024 Budget includes \$130 million in the Investigations account and \$9 million in the Mississippi River and Tributaries account. The Corps uses these funds to evaluate water resources problems and opportunities, design projects within the three main Civil Works mission areas, and support related work. The Budget includes \$35.5 million for planning and technical assistance programs, where the Corps shares its expertise with local communities including disadvantaged communities to help them identify and understand their water resources problems and increase their resilience to, and preparedness for, flood risks.

CONSTRUCTION

For the Corps Construction program, the Budget includes \$2.015 billion in the Construction account, \$37.152 million in the Harbor Maintenance Trust Fund account, and \$64 million in the Mississippi River and Tributaries account.

The goal of the Civil Works program is to produce as much value as possible for the Nation from the available funds. Projects are primarily funded based on their economic, environmental and safety returns. The selection process includes giving priority to investments, on a risk-informed basis, in dam safety assurance, seepage control, and static instability correction work at dams that the Corps owns and operates, and work to address significant risk to human safety, as well as construction of dredged material disposal facilities for high and moderate use segments of commercial deep-draft, shallow-draft, and inland waterways projects.

In developing the FY 2024 Budget, we also gave consideration to projects that provide climate change benefits to disadvantaged communities. To advance priorities in community resilience, environmental justice, and with Tribal Nations, FY 2024 is the first time construction funding for Environmental Infrastructure and the Tribal Partnership Program has been included in the Budget.

The Budget provides \$415 million for the South Florida Ecosystem Restoration (SFER) program, the Everglades, as well as \$93 million to support salmon recovery efforts in the Columbia River basin and \$235 million for the Sault Ste. Marie (Replacement Lock) project in Michigan. The largest request within the Construction Account is for \$655 million for the construction of a critical dam safety project at Prado Dam in California.

OPERATION AND MAINTENANCE (O&M)

All structures age and can deteriorate over time, causing a potential decline in reliability. As stewards of a large portfolio of water resources projects, the Corps is working to sustain the benefits that the key features of this infrastructure provide.

The Corps continues to improve the efficiency and effectiveness of the operation and maintenance of its large portfolio of water resources projects. The Corps does so by targeting its investments in infrastructure maintenance, repair, and rehabilitation on a risk-informed basis. It invests in the highest priority needs with emphasis on the key features of the infrastructure that the Corps owns and operates, and in work that will reduce long-term O&M costs in real terms.

Generally, the O&M program supports completed works owned or operated by the Corps, including operation and maintenance of locks and dams along the inland waterways; maintenance dredging of inland and coastal Federal channels; operation and maintenance of multi-purpose dams and reservoirs for flood risk reduction and related purposes such as hydropower; monitoring of completed navigation and flood damage reduction projects; and management of Corps facilities and associated lands, including serving as a responsible steward of the natural resources on Corps lands.

For the Corps O&M program, the Budget includes \$2.630 billion in the Operation and Maintenance account, \$1.688 billion in the Harbor Maintenance Trust Fund account, and \$154 million in the Mississippi River and Tributaries account. These funds will be used in conjunction with the \$1 billion provided in the Infrastructure Investment and Jobs Act for operation and maintenance work in FY 2024.

RESEARCH AND DEVELOPMENT

Through the research and development program, we are making investments to tackle future challenges and advance technological development in support of the Corps Civil Works mission. The Budget includes a historic \$86 million investment in research and development activities, or over \$100 million including technology transition and data collection. This investment demonstrates the Administration's commitment to engineering innovation to deliver enduring water resource solutions for the Nation. This investment will allow the Corps to continue addressing the most pressing knowledge gaps practitioners face while doing their jobs in the field, such as operational, data-driven methods to improve navigation channel maintenance, the beneficial use of dredged material, and flood and storm risk management modeling. This investment also includes funding to advance longer-term research and development needs including: \$10 million to accelerate the Forecast-Informed Reservoir Operations Assessment, which will further our understanding of atmospheric river impacts on flood risk management, water supply, and other water uses; and \$25.5 million to inform and improve our overall asset management strategy, with a focus on work that has the potential to achieve significant cost savings in the civil works program.

REGULATORY PROGRAM

Through the Regulatory program, the Corps protects the Nation's waters including wetlands, and regulates development that could impede navigation, while allowing reasonable development to proceed. The Budget proposes funding for the Regulatory program to enable the Corps to protect and preserve these water resources. The FY 2024 Budget provides \$221 million for this program.

EMERGENCY MANAGEMENT

The FY 2024 Budget includes \$40 million in funding for the Flood Control and Coastal Emergencies account to enable the Corps to prepare for emergency operations in response to natural disasters. The Budget for the emergency management program also includes \$5.5 million for the National Emergency Preparedness Program.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

The FY 2024 Budget provides \$200 million to clean up specific sites contaminated as a result of the Nation's early atomic weapons development program.

CONCLUSION

The FY 2024 President's Budget for the Army Civil Works Program represents a continuing, fiscally prudent investment in the Nation's water resources infrastructure and restoration of aquatic ecosystems. The Army is committed to a performance-based Civil Works program, based on innovative, resilient, and sustainable risk-informed solutions.

Thank you, Chair Feinstein and Members of Subcommittee. This concludes my statement. I look forward to answering any questions you and other Members of the Subcommittee may have.

Senator MURRAY. Thank you.
And Commissioner Touton.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

STATEMENT OF THE HON. CAMILLE CALIMLIM TOUTON, COMMISSIONER

Ms. TOUTON. Good afternoon. My name is Camille Calimlim Touton, and I'm the Commissioner of the Bureau of Reclamation.

Thank you, Chair Murray, Ranking Member Kennedy, and members of the subcommittee for the opportunity to discuss the President's budget for the Bureau of Reclamation, and thanks to, Chair Feinstein for her continued leadership on Western Water.

The Bureau of Reclamation is the largest supplier and manager of water in the Nation and the second largest producer of hydropower. Reclamation's mission is to support \$66.5 billion in economic activity and 472,000 jobs.

Meeting our mission means addressing drought resilience, water security, climate change adaptation, ecosystem health, and issues of equity.

The need to secure, maintain, and modernize our Nation's infrastructure is an Administration priority and we have a once-in-a-generation opportunity to utilize our fiscal year 2024 \$1.4 billion budget request with that of the Bipartisan Infrastructure Law (BIL) and the Inflation Reduction Act (IRA). The issues we face today are unprecedented, as we experience the worst drought in the 120-year history of this organization. Record snowfall and rain across parts of the West this year, and particularly in California, have brought some relief but are not a resolution to our years-long, if not decades-long drought.

Snowpack is at 164 percent of average in the Colorado River Basin, but the reservoirs are collectively at 30 percent. In California's Central Valley we experienced the 3 driest consecutive years on record, only to be followed with 9 atmospheric rivers in late December and January.

The cyclical nature of Western hydrology highlights the need for immediate actions as well as thoughtful planning and on-the-ground work to make both our infrastructure and our operational decisions more resilient to withstand future water resource variability.

Reclamation's 2024 budget priorities reflect our commitment to drought planning and response activities to promote water security, and this budget acknowledges the need to continue to develop and deploy science-based drought and climate change adaptation strategies.

Reclamation's WaterSMART and Science Technology Programs directly contribute to these Administration priorities, including \$22.5 million for R&D (Research and Development) science and tech.

We must also plan for our infrastructure. Our dams and reservoirs, water conveyance systems, and power generation facilities serve as the water and power infrastructure backbone of the American West. However, as with all infrastructure, these features are aging and in need of critical maintenance.

Our 2024 budget includes \$105.3 million for extraordinary maintenance combined with our BIL investments of \$825 million in 2022 and 2023—and that includes our aging infrastructure announcement of \$585 million earlier this month.

We are constructing our largest dam safety modification project at BF Sisk Dam in California, supported by our 2024 budget request of \$210 million for dam safety, which includes \$182.6 million for the implementation of dam safety modification actions.

This funding not only addresses BF Sisk Dam but also El Vado in New Mexico and 10 additional projects in the West, in Washington, Oregon, Montana, and North Dakota.

We are able to leverage this funding to more effectively address West-wide needs in an accelerated manner due to the \$500 million in BIL funding.

We must also address our infrastructure needs and consider economic inequities and the needs of rural and underserved communities. Reclamation is establishing and rebuilding water infrastructure for underserved populations by ensuring that clean drinking water is provided to our communities through our rural water investments.

Our 2024 budget request includes \$57.8 million and as with our Dam Safety and Aging Infrastructure Programs, our Rural Water Program leverages the one billion in BIL funding to accelerate completion of these long-needed projects, of which we've allocated \$698 million.

Our budget also includes \$35.5 million for Reclamation's American Affairs Program to enhance our technical assistance to Tribes. And, lastly, Reclamation's budget request supports the Administration's legislative proposal for Indian Water Rights Settlement implementation efforts.

Reclamation will continue to manage the drought in real time and plan for the future with a focus on people, partnerships, and investments, and Reclamation is committed to working with Congress and our partners and stakeholders in carrying out our mission, and our fiscal year 2024 budget supports these actions.

I again thank the subcommittee. I'm happy to answer any questions.

[The statement follows:]

PREPARED STATEMENT OF CAMILLE CALIMLIM TOUTON

Thank you, Chair Feinstein, Ranking Member Kennedy, and members of the Subcommittee for the opportunity to discuss with you the President's Fiscal Year (FY) 2024 Budget for the Bureau of Reclamation. I am Camille Calimlim Touton, Commissioner for the Bureau of Reclamation.

The issues we face today are unprecedented as we experience the worst drought in the 120-year history of this organization. This challenges Reclamation's ability to deliver water and produce hydropower in the way we have in the past. Climate change has made it likely that we will continue to experience the same, or worse, hydrology in the future. Record snowfall and rain across parts of the West—and particularly California—have brought some relief. While we are thankful for the benefits, we must not forget the cyclical nature of western hydrology. Therefore, this is not a time for Reclamation, the States and Tribes to take our foot off the gas. It is an opportunity to get ahead of the planning. Reclamation will continue to manage the drought in real time, focusing on our enduring priorities of People, Partnerships, Investments—and Hydrology in the West.

Reclamation manages water for agriculture, municipal and industrial use, the environment, and provides flood control and recreation for millions of people. Reclamation's projects and programs serve as the water and power infrastructure backbone

of the American West, constituting an important driver of economic growth in hundreds of basins through the Western States. Reclamation's activities support economic activity valued at \$66.6 billion, and support approximately 472,000 jobs.¹ Reclamation delivers 10 trillion gallons of water to millions of people each year and provides water for irrigation of 10 million farmland acres, which yields approximately 25 percent of the Nation's fruit and nut crops, and 60 percent of the vegetable harvest.

Reclamation's fundamental mission and programs—modernizing and maintaining infrastructure, conserving natural resources, using science and research to inform decisionmaking, serving underserved populations, and staying as nimble as possible in response to the requirements of drought and a changing climate—position it as an exemplar for the Biden-Harris Administration's core tenets. The Bureau of Reclamation's Fiscal Year 2024 budget provides the foundation to meet our mission, and to manage, develop, and protect water resources, consistent with applicable State and Federal law, and in a cost-effective and environmentally responsible manner in the interest of the American public. Reclamation remains committed to working with a wide range of stakeholders, including water and power customers, Tribes, State and local officials, and non-governmental organizations, to meet its mission.

Reclamation is requesting a gross total of \$1,449,314,000 in Federal discretionary appropriations, which is anticipated to be augmented by over \$2.4 billion in other Federal and non-Federal funds for FY 2024. Of the total, \$1,301,012,000 is for the Water and Related Resources account, which is Reclamation's largest account, \$66,794,000 is for the Policy and Administration account, and \$33,000,000 is for the California Bay Delta account. A total of \$48,508,000 is budgeted for the Central Valley Project Restoration Fund.

Activities to Support Tribal Programs & Tribal Water Rights Settlements: Reclamation tackles the challenges of racial equity and underserved communities through investments in Tribal water rights settlements, continuation of the Native American Affairs technical assistance program, rural water projects, and investments in specific projects for underserved communities through programs such as WaterSMART. The Bipartisan Infrastructure Law PL 117–58 (BIL) and Inflation Reduction Act appropriations both invest substantial portions of its funding to underserved populations, and rural and Tribal communities.

The Fiscal Year 2024 discretionary request also includes \$35.5 million for the Native American Affairs program to improve capacity to work with and support Tribes in the resolution of their water rights claims and to develop sustainable water sharing agreements and management activities. This funding will also strengthen Department-wide capabilities to achieve an integrated and systematic approach to Indian water rights negotiations to consider the full range of economic, legal, and technical attributes of proposed settlements. Finally, funding also supports Reclamation efforts for Tribal nations by supporting many activities across the Bureau, including some rural water projects, the Yakima River Basin Water Enhancement Project, the Klamath Project, and the Lahontan Basin project, among others.

Conservation and Climate Resilience: Reclamation's projects are able to address the Administration's priorities to address conservation and climate resilience through funding requests for the WaterSMART program, funding to secure water supply to our refuges, and proactive efforts through providing sound climate science, research and development, and clean energy.

The WaterSMART Program serves as the primary contributor to Reclamation's and the Department of the Interior's Water Conservation Priority Goal. Since 2010, projects funded under contributing programs, including WaterSMART Grants, Title XVI (Water Recycling and Reuse Program), California Bay-Delta Program, Yakima River Basin Water Enhancement Project, and Desalination construction projects have achieved a total of 1,682,005 acre-feet water savings.

Through WaterSMART, Reclamation works cooperatively with States, Tribes, and local entities as they plan for and implement actions to address current and future water shortages, including drought; degraded water quality; increased demands for water and energy from growing populations; environmental water requirements; and the potential for decreased water supply availability due to climate change, drought, population growth, and increased water requirements for environmental purposes. This includes cost-shared grants for water management improvement projects; water reclamation and reuse projects; watershed resilience projects; the Basin Study Program; and drought planning and implementation actions to proactively address water shortages. The FY 2024 request includes \$62.9 million for the WaterSMART Program.

¹ U.S. Department of the Interior Economic Contributions Report—Fiscal Year 2019.

Climate Science: Reclamation's FY 2024 budget for Research and Development (R&D) programs includes \$22.5 million for the Science and Technology Program, and \$7.0 million for Desalination and Water Purification Research—both of which focus on Reclamation's mission of water and power deliveries. Climate change adaptation is a focus of Reclamation's R&D programs, which invests in the production of climate change science, information and tools that benefit adaptation, and by yielding climate-resilient solutions to benefit management of water infrastructure, hydropower, environmental compliance, and water management.

The Desalination and Water Purification Research program addresses drought and water scarcity impacts caused by climate change by investing in desalination and water treatment technology development and demonstrations for the purpose of more effectively converting unusable waters to useable water supplies. The Science and Technology program invests in innovation to address the full range of technical issues confronting Reclamation water and hydropower managers and includes the Snow Water Supply Forecasting Program that aims to improve water supply forecasts through enhanced snow monitoring and water management to address the impacts of drought and a changing climate.

Modernizing and Maintaining Infrastructure: Reclamation's water and power projects throughout the western United States provide water supplies for agricultural, municipal, and industrial purposes. Reclamation's projects also provide energy produced by hydropower facilities and maintain ecosystems that support fish and wildlife, hunting, fishing, and other recreation, as well as rural economies.

Dam Safety: Reclamation manages 489 dams throughout the 17 Western States. Reclamation's Dam Safety Program has identified 361 high and significant hazard dams at 241 facilities, which form the core of the program. Through constant monitoring and assessment, Reclamation strives to achieve the best use of its limited resources to ensure dam safety and maintain our ability to store and divert water and to generate hydropower.

The Dam Safety Program helps ensure the safety and reliability of Reclamation dams to protect the downstream public. Approximately 50 percent of Reclamation's dams were built between 1900 and 1950, and approximately 90 percent of the dams were built before adoption of currently used, state-of-the-art design and construction practices. Reclamation continuously evaluates dams and monitors performance to ensure that risks do not exceed the Federal Guidelines for Dam Safety Risk Management and the Public Protection Guidelines. The Dam Safety Program represents a major funding need over the next 10 years, driven largely by necessary repairs at B.F. Sisk Dam in California. The B.F. Sisk Dam is a key component of the Central Valley Project, providing 2 million acre-feet of water storage south of the California Sacramento-San Joaquin River Delta. Reclamation is modifying the dam to reduce the risk of potential failure resulting from potential overtopping in response to a seismic event, using the most current science and technology to develop an adaptive and resilient infrastructure. In addition to B.F. Sisk, Reclamation has identified 12 projects with anticipated modification needs through 2030, as well as 5 additional projects that will be assessed for potential risk reduction efforts prior to 2025.

The proposed budget also requests \$105.3 million for specific Extraordinary Maintenance (XM) activities across Reclamation in FY 2024. This request is central to mission objectives of operating and maintaining projects to ensure delivery of water and power benefits. Reclamation's XM request relies on condition assessments, condition/performance metrics, technological research and deployment, and strategic collaboration to better inform and improve the management of its assets and deal with its infrastructure maintenance challenges. Reclamation was also appropriated \$3.2 billion in the BIL, and the allocation plan for FY 2024 funding has been provided to Congress as mandated.

Renewable Energy: Reclamation owns 78 hydroelectric power plants. Reclamation operates 53 of those plants to generate approximately 15 percent of the hydroelectric power produced in the United States. Each year on average, Reclamation generates about 40 million megawatt hours of electricity and collects over \$1.0 billion in gross power revenues for the Federal Government.

Reclamation's FY 2024 budget request includes \$3.5 million to increase Reclamation hydropower capabilities and value, contributing to Administration clean energy and climate change initiatives and enhancing water conservation and climate resilience within the power program.

Section 70101 of the BIL established the Indian Water Rights Settlement Completion Fund (Completion Fund), making \$2.5 billion available to the Secretary of the Interior to satisfy Tribal settlement obligations as authorized by Congress prior to enactment of the BIL. In FY 2022 and FY 2023, the Department allocated \$2.26 billion of those funds, \$608.5 million of which supported Reclamation's Tribal settle-

ment implementation actions. Additional funding from the Completion Fund will be allocated in FY 2024. In addition to the Completion Fund, FY 2024 represents the fifth year of Reclamation Water Settlements Fund (RWSF) allocations, which provide \$120 million in annual mandatory authority for Reclamation Indian water rights settlements. Funding made available by previous mandatory authorities, such as that authorized in the Claims Resolution Act, remain available for settlement implementation, while the ongoing operations and maintenance requirements of the Arizona Water Settlement Act are expected to continue to be supported within the Lower Colorado River Basin Development Fund.

The investments described in Reclamation's FY 2024 budget, in combination with BIL and the Inflation Reduction Act implementation and prior year efforts will ensure that Reclamation can continue to provide reliable water and power to the American West. Water management, improving and modernizing infrastructure, using sound science to support critical decision-making, finding opportunities to expand capacity, reducing conflict, and meeting environmental responsibilities are all addressed in this FY 2024 budget request. Reclamation continues to look at ways to plan more efficiently for future challenges faced in water resources management and to improve the way it does business.

Thank you for the opportunity to summarize the President's Fiscal Year 2024 Budget Request for the Bureau of Reclamation.

Senator MURRAY. Thank you so much.

We will now begin our round of 5-minute questions and I ask my colleagues to keep track of the clock.

Commissioner Touton, I want to start with you. Last Congress, as you know, we passed the Inflation Reduction Act, which included \$4 billion in funding for Reclamation to address declining water levels because of the drought primarily, of course, in the Colorado River Basin.

We're all thankful, of course, this year for much-needed rain and snow and as you and I have talked about, one wet season does not counter the driest 23-year period ever recorded in that basin.

We do need long-term solutions to effectively manage that water and adjust for the impacts of climate change.

Can you explain how the supplemental environmental impact statement that was released earlier this month fits into those efforts and highlight other steps that you are taking to increase our water security and resilience?

Ms. TOUTON. Thank you for that question, Madam Chair.

With regard to the Colorado River Basin and the Inflation Reduction Act, within 60 days of the President signing the Inflation Reduction Act into law, we had a request for proposals for what we call short-term bridging water and we're happy to announce as part of that, earlier this month, we announced a 125,000 acre-feet commitment by the Gila River Indian Community which amounts to about \$50 million. What that means in Lake Mead is about two feet of elevation in the short term.

We've also committed \$250 million for the Salton Sea to mitigate impacts to the Sea as the result of conservation efforts and less water in the system, and we've also committed \$125 million for our System Conservation Program in the Upper Basin.

As it relates to the Supplemental EIS (Environmental Impact Statement) that we released earlier this month, the efforts that we have—whether in short-term bridging water or our long-term investments in sustainable infrastructure—help to keep water levels higher in Mead and our ability to keep levels high so that we can continue to operate, whether that's through voluntary measures or investments in infrastructure. Moreover, they help with the process

of coming to a consensus solution in the basin, to which we remain committed.

Thank you for your support.

Senator MURRAY. Thank you.

As you know, the Columbia River Basin provides significant habitat for salmon and other endangered species. It irrigates 600,000 acres of farmland. It serves as a water highway and provides electricity to the majority of the region.

I wanted to ask Commissioner Touton and Assistant Secretary Connor. I know your teams have been working diligently to reach a new agreement with Canada on the Columbia River Treaty. As those negotiations continue, would you commit to keeping me updated on the progress of that and let us know if there's anything we can do to assist your efforts?

Commissioner? Assistant Secretary?

Mr. CONNOR. Madam Chair, —

Senator MURRAY. Yes?

Mr. CONNOR [continuing]. Yes, absolutely, a modernized treaty is incredibly important. We will keep you informed. I'm committed to that.

Ms. TOUTON. Yes, as well, Madam Chair. Thank you.

Senator MURRAY. Thank you.

This is so important. We have to stay apprised of this progress and we need to keep moving on this. So I appreciate that.

Assistant Secretary Connor, I consistently hear from our ports and harbors across the country about the importance of the Harbor Maintenance Trust Fund. That is exactly why I reached across the aisle to unlock some additional Trust Fund dollars for some of our critical harbor work.

I worked with the donor ports, like Seattle and Tacoma, to find targets for distributing those Trust Fund dollars. That funding is really key to ensuring high-quality port infrastructure and maintaining our national competitiveness.

But the budget this year does not appear to meet all the Harbor Maintenance Trust Fund targets. What steps are you taking to make sure the targets are met?

Mr. CONNOR. Thank you, Madam Chair.

I will just say I appreciate our conversation on this very subject about a month ago. We did not include the 12 percent set-aside for energy and donor ports and I appreciate the sensitivity of the dialogue that you engaged in and the statutory provision that was included that reflects the balance that Congress feels is important.

So I'm committed now to ensuring as we move forward, you know. The threshold issue is our priority has always been to maintain authorized channels at their authorized depths and widths and that's going to be an ongoing effort as priority one, but understanding the balance that the Congress has sought through those provisions in WORDA I'm committed to ensuring that in the next budget cycle we are looking—and I think this will help in the next work plan cycle, that we identify the donor ports and the energy supporting ports, that we identify what are those expanded uses that they anticipate that they've identified as needs so that we have that roster, that inventory of needs, and I'm committed to

doing that and issuing guidance to ensure that we have that information available for the next decisionmaking process.

Senator MURRAY. Well, as you know, I'm going to be watching that very closely.

Mr. CONNOR. Yes.

Senator MURRAY. All right. Thank you.

Senator Kennedy.

Senator KENNEDY. Thank you, Madam Chair.

Could you put that up for me right quick? Thank you, ma'am.

General, I know you can't see that, but it's a page from your website and let me read you the relevant sentence. It says, "The Mississippi River and Tributaries Project," which, of course, is how we pay for flood control and levies, "The Mississippi River and Tributaries Project has prevented more than \$1.5 trillion," not billion, trillion, "in flood damages since 1928 or \$95 for every \$1 invested."

This is from your website. How was this compiled, that data compiled, General?

General SPELLMON. Yes, sir. So it's simply taking the cost of the project and comparing it to the benefits that you're describing, structures saved, acres preserved, recreation opportunities. So it's a comparison between the—simple math between the cost and benefits.

Senator KENNEDY. So you have the ability at the Corps, your economists and others, to calculate losses, potential losses?

General SPELLMON. Yes, sir, we do.

Senator KENNEDY. And what this is telling me is that without the Corps of Engineers work funded as I described with respect to levies and flood control, the American people would have sustained damages of \$1.5 trillion, is that right?

General SPELLMON. Yes, sir, I believe that's correct.

Senator KENNEDY. Okay. Here's what I'm getting at, General. If you have this ability and I believe you do, I'm not suggesting this isn't accurate, I'm very grateful that this is accurate, and I'm very grateful to the Corps, but if your folks have this ability to put a value on the potential losses that we are averting, why doesn't that play a bigger role in your cost-benefit analysis when you're looking at the feasibility of a project?

General SPELLMON. Yes, sir. So this is clearly—it's a great question. Clearly something the Corps has to get better on in comprehensive benefits.

So I'll just give you two areas, sir, where we are trying to improve. We have a number of fund risk management projects and navigation projects that have national security implications. We're working on one in North Dakota, in Minot. You could use this Sioux Locks as an example.

The Port of Nome in Alaska, it's a remote subsistence harbor, but the Coast Guard and Navy can use that. So we're challenged on those type of projects to quantify the national security benefit.

We have flood risk management projects today in Selma, Alabama, or in Princeville, North Carolina, that preserve cultural and historic properties, and we struggle to put a monetary value on that, but it's something with the Secretary's leadership, sir, we absolutely get—it's something we have to improve upon.

Senator KENNEDY. Well, General, I misspoke. I said \$1.53. The real figure is \$2.73, which your work has prevented, \$2.73 trillion in damages, and your economists—you stand by that number, I assume?

General SPELLMON. Yes, sir.

Senator KENNEDY. And your economists have a way to come up with that number.

General SPELLMON. That's correct.

Senator KENNEDY. It just makes no sense to me if we can quantify the losses that would be prevented by building a flood control project that we wouldn't make that one of the determining factors in the cost-benefit analysis. I mean, I gave you the statistic, the Morganza to the Gulf Levy System prevented damage, flooding, to 12,000 homes, and you can quantify that. Don't you think we ought to change the formula a little bit?

General SPELLMON. Well, sir, the way you're describing a loss prevented is a benefit of these projects. The Morganza example, I would argue, sir, we have many of those—we have many Morganzas across the country that we have to get better on in resourcing.

Senator KENNEDY. Let me ask you one quick question in the time I have left.

The price of the Comite River Diversion Canal has gone up \$500 million. How? I know inflation, but wow!

General SPELLMON. Yes, sir.

Senator KENNEDY. What are we going to do about that?

General SPELLMON. Sir, you've inflation down. The thing that we were taking on—this is a great example where we have to get better at communicating to the committees and to Congress and the Administration the cost estimates that we give you in the Chief's Report in Paragraph 11 and we give you a number with some decimal points on it for a project that may be constructed down the road, but what we don't give you is the percent design that that cost estimate is based on.

So in a 3-year study, a district might get to a 10 percent level design or a 4-year study, they might get to 25 percent, and then as that design is matured, like it is now today in Comite, you're finding that there are additional requirements that we get as we get deeper into the geotech, into the sizing of some of these structures. That's what we're experiencing here and it's something we've got to get better on in communicating to you.

Senator KENNEDY. How do we get that number? We got a hell of a mess here, General. Okay. My people expect this to be done. We brought it in on time. I mean, then all of a sudden, bam, \$500 million. How we going to get this price down?

General SPELLMON. Sir, you have our commitment that we're going to work through this. We're committed to finishing this. I don't have all the answers here today. I can share my commitment that we will get this done.

Senator KENNEDY. Thank you. Thank you, Madam Chair.

Senator MURRAY. Thank you.

Senator Heinrich.

Senator HEINRICH. Thank you, Madam Chair.

Commissioner Touton, I want to ask you about how you're balancing the drought relief efforts across the West and I think it's clear that as reservoir levels in the Colorado Basin have dropped, it's really captured the attention of the country, but for the Colorado Basin there are many other basins in the West that are experiencing the same dynamic, right?

We are just dealing with less precipitation, less snow pack, less water in these systems than we were 50 years ago.

Ms. TOUTON. Yes.

Senator HEINRICH. And that's not drought because it's not temporary. It is aridification. It is the result of climate change and it is going to be at that level or potentially worse for the foreseeable future.

So how are you making sure that you're addressing that issue across basins in places like the Rio Grande that have equally stressing situations in their systems right now?

Ms. TOUTON. Thank you for that question, Senator.

What you have outlined is exactly what we're—not only are we seeing in the Colorado River Basin but across the West. Our facilities were built in the notion that our largest reservoir would be snowpack, that it would fall, that it would stay there and not melt early and that when it would melt, it would end up in our rivers and therefore our reservoirs. That is not what we're seeing for the most part. It's drier, snow is falling at higher elevations, and when it does melt, it's sooner and the grounds are dry.

Taking into account what you saw in your home State last year with the Rio Grande, for the first time in 40 years, parts of the Rio Grande ran dry. So, what are we doing about it? First, we're maximizing the efforts that we have in the short- and long-term both in our budget request but also with investments from the Bipartisan Infrastructure Law, with WaterSMART efficiencies, and the lining of canals being more efficient for water usage.

But we're also looking at it from a long-term perspective. You and I have talked about how that's not necessarily the solution for every place and that our ability to recharge our aquifers also means that we have an ability to make sure our streams are available.

So, part of our announcements that we made, as well, is a NOFO (Notice of Funding Opportunity)—a Notice of Funding—for Aquatic Ecosystem Restoration.

So our ability to look at these holistically and these are short-term tools, but then we're investing in the infrastructure. We're really proud of our aging infrastructure investments. We had as part of that \$30 million for the Rio Grande for aging infrastructure and we are looking at the Inflation Reduction Act. It says \$4 billion for the Colorado River and basins at comparable levels of drought.

So, as we're working through the Colorado River, we're working on a lot of things, including that provision, on how we can utilize that for long-term projects.

Senator HEINRICH. Assistant Secretary Connor, I want to ask you. You're super-familiar with the infrastructure in the Rio Grande Basin, with your background, but when we authorized all of that infrastructure and I suspect this is true across many basins in the West, you kind of had a one-off approach.

You might have one reservoir that was for flood control, you had a different reservoir that was for storage, and as we come under more and more pressure and there's less and less water in the system as a whole, we really need to be able to manage the basin as a whole, coordinating all those pieces of infrastructure.

Last year the Corps was directed to work with the National Academies to study reservoir management and operational issues within the Rio Grande Basin so that we could come up potentially with a more comprehensive management strategy. How is that progressing?

Mr. CONNOR. It's progressing in pieces rather than that holistic approach that you've described, Senator, and I absolutely agree and I think this builds upon the Commissioner's point.

We don't have the luxury anymore of having single purpose projects doing individual things. So we've got to tie this together and that requires the Bureau working with the Corps of Engineers and vice-versa so that we can make our current infrastructure work harder, that we have better science and understanding of the system, that we ensure when we're doing flood control that we no longer just channel water away that can't be used, we need to incidentally restore our ground water for environmental benefits, and we have to look if we can't pick up water and specifically incorporate that in managed aquifer recharge.

So I get back to your fundamental question, we've got authorities for studies, the Upper Rio Grande Water Operations Manual. We're proceeding to continue to refine that based on new authorities. Now we can use Abiquiu for water storage as well as flood control purposes. We're storing water from El Vado under a deviation now because that's undergoing a safety of dam project.

We just need, I think, to think about an overarching study or approach that ensures we're integrating. In the meantime, we're going to cobble these things together and talk to each other and figure out these multi-benefit approaches we can move forward with the current infrastructure system.

Senator HEINRICH. Thank you, Madam Chair.

Senator MURRAY. Thank you.

Senator HYDE-SMITH.

Senator HYDE-SMITH. Thank you, Madam Chairman, and thank you for convening this meeting, and thank you guys for being here and your willingness to serve, as well.

I want to talk a bit about the Yazoo Backwater Levy Enlargement, specifically the need to enlarge the existing Yazoo Backwater Levy.

Often when people hear Yazoo Backwater Project, they immediately assume we're talking about the unconstructed pumping station which is a very important issue that must be resolved, but the pumps are just one part of the comprehensive Yazoo Backwater Area Project.

Authorized features include levies, floodgates, drainage channels, and the pumping stations, but the Yazoo Backwater Levy was completed in 1978. It is essentially an extension of the Mainline Mississippi River East Bank Levy and it runs along the West Bank of the Yazoo River.

This latest system, along with the Steele Bayou Floodgate, serves as the first line of defense of the nearly 2,000 square miles of the Yazoo Backwater Area when the Mississippi River is high and backs up into the Yazoo River.

When the river is high and the area receives above average rainfall, interior water is trapped inside the levy system almost like a bathtub and we have a destructive backwater flood. As we've seen time and time again, like the catastrophic flood of 2019 and many others since 2008, until a pumping station is constructed and operational in the Yazoo Backwater Area, we have to ensure the structures we have in place are as strong as possible and during that historic flood of the Mississippi River in 2011, the historic Backwater Levy came within inches of over topping.

If that happened, the area would have been inundated with more than 16 feet of water. Let me repeat that. The area would have had more than 16 feet of water.

From the beginning, the Corps has said the Yazoo Backwater Levy would need to be raised at some point during the 50-year project life in the recommended plan, but unfortunately the President's fiscal year budget in 2024 does not include any funding to enlarge the Yazoo Backwater Levy but two million could be used for that purpose according to the Corps' fiscal year 2024 Total Capability Estimate.

Secretary Connor or Lieutenant General Spellmon, either one, please explain to the subcommittee the magnitude of the flooding that would occur should the Yazoo Backwater Levy ever overtop.

Mr. CONNOR. Yes, ma'am, I'll start. So you're correct that we became within two inches of this occurring in the 2011 event. This would be major flooding. So you have to assume in these conditions that the Steele Bayou structure is closed and the Yazoo River is high and so we would have a condition where the precipitation is gathering behind the other structure in those communities in addition to water coming over top of the levy.

As you described in 2019, those conditions in the current arrangement could last for months.

Senator HYDE-SMITH. Okay. And I've submitted a fiscal year 2024 funding request to enlarge the Yazoo Backwater Levy.

Please explain to the subcommittee that the Yazoo Backwater Levy is a separate completed feature of the Yazoo Backwater Project and said funds would indeed be used to enlarge the levy, which has nothing to do with the construction of the pumps.

Mr. CONNOR. Yes, ma'am. The levy enlargement is a separate feature of the system and we would use the money provided to begin the design of that levy enlargement.

Senator HYDE-SMITH. Okay. In other words, comparing funding to enlarge the levy to funding to construct the pumps is like comparing apples and oranges. They are completely different project elements. Am I correct in saying that?

Mr. CONNOR. Yes, ma'am. They are different project features.

Senator HYDE-SMITH. And do you agree the Yazoo Backwater Levy needs to be enlarged?

Mr. CONNOR. Ma'am, today it's just under six feet below its designed height and so this next enlargement would take it up an-

other two feet, consistent with the MR&T System. That's the next planned levy raise for this system, but, yes, I agree.

Senator HYDE-SMITH. Great. Thank you so much. My time is almost up. I'll yield.

Senator MURRAY. Senator Hoeven.

Senator HOEVEN. Thanks, Madam Chairman.

Commissioner Touton, thanks for coming. We appreciate it very much. You've reviewed the issue in North Dakota, the water supply project. It's very important that Reclamation help us with funding that project.

Are you willing to continue to work to help us fund that project?

Ms. TOUTON. It was great to see you. North Dakota is beautiful in the summer and I look forward to working with you on that project.

Senator HOEVEN. Well, you're invited again. It was great to have you out there.

One more technical question is the funding to comply with the Boundary Waters Treaty for biota treatment is being taken out of Section 7 instead of out of Section 1, which is taking away some of the ongoing funding in Section 7.

Are you willing to work with us on that see if you can't get that addressed?

Ms. TOUTON. Our teams are already working on that, Senator, and I'm happy to report back and continue to work with you on that issue.

Senator HOEVEN. Thank you, and I want to note and thank your responsiveness. I appreciate it very much. Thank you.

Ms. TOUTON. Thank you.

Senator HOEVEN. Secretary Connor, Dakota Access Pipeline, with which you're very familiar, moving more than half a million barrels a day of energy, by the way, sweetest crude from North Dakota that our Nation badly needs right now.

Please, give a status update on getting the EIS process completed. As you know, it's been operating safely now for years, and what do you anticipate for completion of the EIS process?

Mr. CONNOR. Absolutely. I'll provide an update, Senator. So as a result, as you know, but just for the record, in 2000 the Corps was ordered to go back and do a full EIS. So right now we are at the stage where we have produced an administrative draft EIS, shared that with cooperating partners, such as the State of North Dakota, and also we went ahead and shared that with all the Tribes who have registered interest. So we've got about six cooperating agencies as well as 30 Tribes now who have reviewed it, provided us comments.

We are currently taking into account and incorporating those comments, having some additional technical discussions with the goal of coming out with a draft environmental statement for public review by the end of June. So it's a little shift from the schedule that you and I have previously talked about and it was because of the request for an additional review period of the administrative draft EIS.

So we will put it out for review, probably 45 or 60 days. I anticipate we'll get additional requests for time. We're prepared to go out a little longer than that but my conversations with you and the

Governor, I know we need to get our work done here and do the full analysis and we've tried to incorporate, you know, a better assessment of spill risks, spill response, Tribal trust interests, so that we can fully evaluate potential impacts as well as disclosing just the overall greenhouse gas emissions and social costs to carbon parties of the administration.

So we've now done that. We're taking comments. We'll get it out the end of June and hopefully move forward to get to a final EIS.

Senator HOEVEN. And you understand the importance of the project and getting the EIS completed?

Mr. CONNOR. Absolutely understand, Senator.

Senator HOEVEN. Thank you, Mr. Secretary.

General, I'm looking forward to your visit to the Fargo-Morehead region next month and your meeting out there, and I want to thank you for having your meeting, your Corps USACE meeting out there for three days next month.

This is an incredible project and frankly do you consider this, the Red River Valley Flood Protection Project, really a national model and are you committed to completing it and getting it done on time and as planned?

General SPELLMON. Yes, sir. We're absolutely committed to completing this project. I don't often get to report on schedule within budget, but this was our project delivery team of the year. So we're going to take all 42 district commanders and our 13 general officers out there to see how they did it but looking forward to this visit, sir.

Senator HOEVEN. Thank you. And in the case of Minot, you mentioned Minot earlier, your continued creativity is going to be needed in Minot. You've shown that in working with the Minot Air Force Base, the only dual nuclear base in the Nation, so it truly is a national security issue, but also for completing the flood protection particularly for the lower-income areas with some of those back channels and some of those kind of things, you have some programs that we're going to need to use, as well.

Your people in the region have identified them and so your strong support for some of the ideas the region's bringing forward from your office would be very helpful in completing that comprehensive flood control project.

General SPELLMON. Yes, sir. We certainly want to get after resourcing some of the innovation that the district has come up with in some of these communities that you're describing.

Senator HOEVEN. And you're committed to supporting that?

General SPELLMON. Yes, sir.

Senator HOEVEN. Thank you, appreciate it. Thank you, Madam Chair.

Senator MURRAY. Senator Britt.

Senator BRITT. Thank you, Madam Chairman.

Thank you all for being here today. We certainly appreciate your time and your willingness to be in front of this committee.

We know that the U.S. Army Corps of Engineers is responsible for the design, construction, and maintenance of both military construction and Civil Works projects across our great Nation.

I appreciate your consistent commitment to construction projects at military installations, including those at Fort Novosel outside my home town of Enterprise, Alabama.

Secretary Connor, thank you for visiting the Port of Mobile last week. I know that the Port and the Mobile District welcomed the opportunity to show you around.

In 2019 the U.S. Army Corps of Engineers approved what was called the General Re-Evaluation Report, examining the costs and benefits and the environmental impacts of deepening and widening the Mobile Bay Ship Channel to accommodate larger vessels and allow two-way traffic.

In June of 2020 the U.S. Army Corps and the Alabama State Port Authority signed a Project Partnership Agreement and the fiscal year 2020 U.S. Army Corps Work Plan fully funded the Channel Deepening and Widening Project.

In September of 2020 the Mobile District of the U.S. Army Corps of Engineers awarded the first of now seven phases of construction for this project. As of today, Phase 1 and Phase 3 of the project is complete. Phase 4 of the project is scheduled for completion in June of 2024, while the remaining four phases are scheduled to be done concurrently starting later this year.

The full project is scheduled to be completed by March 2025. The deepening and widening of the Mobile Ship Channel will bring unprecedented economic growth of the entire State of Alabama and to the communities surrounding the Mobile Bay.

Once deepened, the public and private terminals of the Port of Mobile will be able to accommodate larger ships and more frequent scheduling, handling a wide range of cargo, including mined materials, manufactured goods, bulk cargo, containerized cargo, and agro-business cargo.

Mr. Secretary, from your standpoint, is the project to deepen and widen the Mobile Ship Channel on schedule for completion by March of 2025?

Mr. CONNOR. Senator, yes, the project is still on schedule. Can I just say fantastic facility, fantastic tour last week, pretty impressive the capabilities there, and the diversification in the port as far as the cargo that it brings in and out.

I know there is an issue with utility easements that we're working through with Phase 4 and that's the other thing I just wanted to mention. I think it's great levels of communication with the port as well as State officials all helping to work through those utility issues.

So I think we need to keep up attention on that to be able to get to ensure that we get the construction activity done, but everything that I learned last week is we're still on progress.

Senator BRITT. Thank you so much and thank you for your compliments to the great work that's done there.

There have been many men and women who've been very intentional about how we can grow and how we can make sure that it was benefiting a multitude of people and places and servicing that community and the surrounding States. So thank you so much for saying that and I know that all parties are committed to working through any necessary paperwork, anything that needs to be done

to make sure that we stay on time and we meet that March 2025 deadline.

The Port of Mobile is expected to receive \$5.4 million in fiscal year 2023 in the work plan for the Port Energy Funds. Port Energy Funds are funds provided to ports across the Nation at which energy commodities comprise more than 25 percent of the tonnage moved through the port.

This year it is my understanding that the U.S. Army Corps has revised guidance for the use of Port Energy Funds, such that if a port is receiving these funds and it wishes to use them for dredging material and management activities, it is either not allowed or requires the U.S. Army Corps Headquarters to sign off.

This is different from past practices. In past MOUs (Memoranda of Understanding) the Port of Mobile has been able to use the Port Energy Funds for berth dredging and surveying, post-dredging, hauling, berth dredge materials, and offsite upland sites requiring testing of these materials and just a wide variety of things.

I believe that the U.S. Army Corps should maintain its past practices of allowing energy ports like the Port of Mobile to be able to use their Port Energy Funds to dredge and engage in dredge material management activities and that this new guidance is overly restrictive to operations and maintenance of the Port of Mobile.

Mr. Secretary, will you commit to reviewing this new guidance and ensuring that the Port Energy Funds can be used for both dredging and for dredged material management activities?

Mr. CONNOR. I will absolutely—

Senator MURRAY. Before you give an answer to that question, Senator Britt, I have to go to another committee hearing. Senator Murkowski's on her way. I know you'll not say no, but would you mind holding the gavel until Senator Murkowski gets here?

Senator BRITT. I would be honored. Thank you.

Senator MURRAY. Thank you very much.

Senator BRITT. Thank you, Madam Chairman.

Senator MURRAY. I will turn that over to you until she gets here.

Senator BRITT. Thank you so much.

Senator MURRAY. Thank you.

Senator BRITT [presiding]. This is the first time, Number 99 out of 100.

[Laughter.]

Senator BRITT. It's going to take quite some time before I get to do something like that again. Thank you.

Mr. CONNOR. Senator, I'll just say I was a staff person in the Senate when I think Barack Obama was 99th.

Senator BRITT. Okay. Well, there you go, there you go.

Mr. CONNOR. I'm absolutely committed to relooking at the guidance. I think there's two questions. The beneficial use of dredged material, dredged material management is that within the definition of expanded uses under the statute, and then I think my predecessor, we might have some guidance out there that might be causing issues.

So I will go back and look at that because, quite frankly, one of the most impressive aspects of last week's tour was the—and General Spellmon gets all the credit for setting a high goal for bene-

ficially using dredged material and that has a lot of advantages and environmental benefits and I saw a lot of that last week.

We want to incentivize that. We don't want to minimize that. So I will go back and look at that guidance.

Senator BRITT. No, and we're really proud. That's something that we've tried to do and, you know, I'm sure you saw it there with the creation of the island and creating the ecosystems, you know, allowing thousands of birds to nest and including the Brown Pelican there that was removed from the Federal Endangered Species List in 2009.

So certainly want to make sure that we're being responsible and so I appreciate you leaning into that, as well.

And on that note, you know, I'm going to raise this issue. I know that permitting approvals do take time and that you and your staff continue to work with the Port of Mobile just to make sure that we're doing what we need to do to get this done on time and meeting the needs of the community.

General SPELLMON. Ma'am, I'll just say we completely acknowledge the space requirements there. So this is a 1,200 acre beneficial use site. We are working with EPA (Environmental Protection Agency) and the port on the permitting requirements.

Ma'am, I don't see any issues. We'll get this done.

Senator BRITT. Okay. Thank you so much.

I'll tell you what. That concludes my questions. We have General Hubbard waiting and I'm not used to even getting through a portion of my questions. So this is—you know, who knew, but would love to talk to you. I know that you're responsible not only for Civil Works but Military Construction, as we mentioned earlier.

Can you share with the committee any challenges that you're having in this space, anything that you believe that needs to be brought to our attention?

Mr. CONNOR. Ma'am, the Number 1 challenge and the Number 1 opportunity that we have in the Corps of Engineers today is our workload. If you go back to the early '90s through 2000, we had about a \$15 billion program that was across Civil Works, Military Construction, and all the other government agencies that we do work for and today's not \$15 billion. If you add that all up, it's about \$92 billion and we largely have the same size workforce, slightly larger.

Last year we hired 5,000 new engineers on to our team and we lost 4,000 to retirements and transfers. So it's certainly the Number 1 challenge but it's also an opportunity in that we're looking for more innovative ways to get after our projects. We're working more with industry, working more with architect-engineer firms in our designs, and we're having to break a little bit of internal culture, but I think it's all healthy.

Senator BRITT. Yes, Mr. Secretary, thank you.

General SPELLMON. If I could just add on to that, I think, you know, in addition to the issues and the workload and the ways the organization is trying to adjust and using our assets across the entire enterprise, those are incredibly important.

I think also one of the challenges that we face is not just the magnitude of the costs and cost increases and the personnel to carry out the work, but, quite frankly, we have some very well-in-

tended rules that we operate under with respect to fully funding projects or investigations, such as through the bipartisan Infrastructure Law, such as BBA-2018, and, quite frankly, we've had significant cost increases not just in construction activity but even in the investigations as the work gets more complex.

So I think, you know, some flexibility or just recognition and Congress has already done this. We had some restrictions of having to finish projects with BBA-2018 funding. We got some relief in the last Omnibus Appropriations Bill. So we were able to supplement those BBA-2018 funds with additional resources from the bipartisan Infrastructure Law and move forward with the critical project on California's shorelines.

So I would just say I think that's a dialogue that we need to continue to have with the professional staff and with Senators about where we're not able to complete work, which just gets us high centered and that's in nobody's best interests, whether it's investigations or construction activity.

Senator BRITT. Absolutely. And, General, can I dig down? So you had 4,000 people retire.

Mr. CONNOR. Ma'am, it was an arrangement of retirements, folks transferring to private construction work, folks going to work for other Federal agencies, so a large transition over the past year and a half in our workforce.

Senator BRITT. And so what all does the plan entail to recruit and to kind of fill that gap?

Mr. CONNOR. Yes, ma'am. So we have really energized not only our recruiting campaign, I mean, we were advertising in Time Square here just a few months ago, but also our retention campaigns within the—I mean, this is a unique agency within the Federal Government. Seldom are our projects alike. They're very, very complicated and that's how we sell when we recruit. This is rewarding work that we're doing on behalf of the Nation.

Senator BRITT. Excellent, excellent. Thank you.

General SPELLMON. Can I just say I'm attending Infrastructure Task Force meeting later on after this hearing and so I was just getting the read-out on some of these statistics with respect to engineers in particular.

So I think we anticipate, you know, based on the levels of resources we have normally and even increasing that we would, you know, have an 8 percent increase on the number of engineers that we need and I think even anticipating that, the statistic that I was just given earlier today was that we're still going to be something across not just government but the private sector something like 40,000 engineers short of where we need to be to carry out the anticipated level of infrastructure design/construction activity over the next several years and we're graduating less engineers and so we're losing ground in that way.

So, in addition to hiring and I think we're competing well, it's the retirements and the exit that a lot of folks are making. We need to somehow get the younger generation more interested, more willing to enter into the engineering field and profession because we need them.

Senator BRITT. Yes, absolutely. We'll do a little recruitment tool then and tell people we need more engineers and certainly what an incredible way to serve our country.

You mentioned Selma earlier in your remarks. Can you tell me a little bit about what is going on there and what the plans are?

Mr. CONNOR. Yes, ma'am. The good news is we're fully funded for preliminary engineering and design and we'll have our designs complete in October of this year and we'll use that design, ma'am, to fully inform what our first size of the first construction contract.

I've had the opportunity to visit this project. Everybody on this project is excited about this work ahead. The next task is to wrap up the designs and then we look forward to moving out on construction.

Senator BRITT. Excellent. As you know, Selma is not only an important place in Alabama but obviously a historic marker for our Nation and so certainly appreciate your attention to that project.

And you also have responsibilities to manage recreational areas. Am I right in saying that?

Mr. CONNOR. Yes, ma'am. Hundreds of them across the country.

Senator BRITT. Yes. So tell me, I know a lot of those are subject to damage and other things. Can you share with the committee how you prioritize those fundings, kind of across your business line, particularly within that area?

Mr. CONNOR. Yes, ma'am. Very challenging mission and we have some great rangers in the Army Corps of Engineers that get a lot of mileage out of the dollars that we appropriate—we give them, and certainly it's just always very, very competitive.

When I give my recommendations to the Secretary every fall for the next year's budget, life safety always goes to the top and then we have legal mandates, national security requirements that lead into our economic and environmental returns, and we certainly always want to finish what we start and that's very, very challenging for our recreation sites.

We do the best we can. We try to get the maximum use out of every dollar that we are given. It is challenging, but the public, the amount of public that comes out to our recreation sites along the water just seems to grow every year and it's a program that we're extremely proud of.

Senator BRITT. Excellent. Well, I think this was part of being new. I think this was a test to see if I could finish this out.

I wanted to thank you all for coming today. This will end our hearing. I'd like to thank the witnesses and my colleagues for participating in today's hearing.

I look forward to working together on this year's appropriations bill to ensure that we are providing the Army Corps and the Bureau the resources that they need.

ADDITIONAL COMMITTEE QUESTIONS

I will keep the hearing record open for 1 week. Committee members who would like to submit written questions for the record should do so by 5 p.m. Wednesday, May 3.

We appreciate the Army Corps and the Bureau for responding to them in a reasonable time period.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. MICHAEL L. CONNOR

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

Question. Port of Nome: The Port of Nome project is a strategic asset for national security, search and rescue, maritime commerce and environmental protection. In recent weeks, we have heard senior military leaders testify before Congress as to the need for a deep draft arctic port. Yet, this project is a civil works project and I worked to deliver the \$250mm from the ILJA to fund the first phase of the project and good progress has been made on that. Meanwhile, section 8312 of WRDA 2022 amended the cost share to change the project 90% Federal and 10% non-Federal sponsor.

Mr. Connor and General Spellmon, will the U.S. Army Corps of Engineers fully fund the completion of the project through its construction budget and workplan from FY25 on?

Answer. The Administration is committed to considering this project for funding, along with other programs, projects, and activities across the Nation that are competing for the available Federal resources. The Corps is committed to completing the Port of Nome Modification project.

Question. Considering the cost share modification, I expect the administration's budget requests and construction work plan funding to account for this change with no delay in budgetary resources. Will the Administration honor the WRDA provision for budgeting purposes?

Answer. Budgeting for this project will be in accordance with the new cost share under the amended authority.

Question. Congressionally Directed Spending. Mr. Connor, last year I was able to secure Congressionally Directed Spending for a couple of worthy projects in Alaska that had been languishing in the Civil Works queue for years. Obviously, this was much appreciated and a good example why this CDS process is good for states, like Alaska, whose projects do not compete well in the overall Corps budget process. We were excited to see them in the FY23 Omnibus, only to be surprised to find these projects were not included in the President's FY24 Budget Request. If there is no money in the President's Budget request, I do not see how these projects can be continued in the FY24 work plan. My expectation, and I believe the expectation from my colleagues in Congress, was that the Corps would pick-up these projects once they received a CDS.

Whose decision was it to abandon these CDS requests in the Budget Request and why were they not included in the President's Budget Request?

Answer. The FY2024 Budget was completed before the FY2023 appropriations were passed; therefore, CDS projects newly funded in FY2023 were not considered for funding in the FY2024 Budget but will be considered for future budgets and potential work plans.

Question. I think we can all appreciate the substantial risks intermittent funding poses to projects especially in my state. Do you intend on funding my CDS requests to completion?

Answer. Enacted CDS projects will be considered for funding in future President's Budget request and potential work plans, along with all other worthwhile programs, projects, and activities across the Nation in competition for limited Federal resources.

QUESTIONS SUBMITTED TO LIEUTENANT GENERAL SCOTT A. SPELLMON

QUESTIONS SUBMITTED BY SENATOR CHRISTOPHER A. COONS

Question. As expressed in the Federal statute that formed the Delaware River Basin Commission (DRBC), Public Law 87-328, the Commission's five members are responsible for financially supporting DRBC's operations. The United States share of this signatory member funding is \$715,000, representing 20 percent of member contributions. This percentage is based upon an equitable agreement among the Commission's four member states and the United States, and the Corps of Engineers is the Federal member.

Section 5019 of the Water Resources Development Act of 2007 as amended (121 Stat. 1201, 128 Stat. 1306) reads:

“The Secretary shall allocate funds to the Susquehanna River Basin Commission, the Delaware River Basin Commission, and the Interstate Commission on the Potomac River Basin to fulfill the equitable funding requirements of the respective interstate compacts.”

As recently as the FY2023 appropriations bills, Congress included the following phrase in the Joint Explanatory Statement:

“The Congress has made clear its intent that the Susquehanna, Delaware, and Potomac River Basin Commissions be supported, and the Corps is encouraged to budget accordingly in future budget submissions.”

Since this payment is a statutory obligation, why does the President’s Budget not include funding for the DRBC, or any other river basin commission or interstate compact where the Corps is a signatory?

Answer. Consistent with statutory requirements, the Corps has requested funds for the River Basin Commissions through its yearly budgetary process as part of the General Expenses account for participation in the commission meetings. As part of the President’s budget development process, the River Basin Commissions are considered for funding, along with many other worthwhile programs, projects, and activities across the Nation in competition for limited Federal resources.

Question. Since the Corps of Engineers has not included funds for the River Basin Commissions in almost 30 years, in complying with the statute, have you or any of your predecessors filed the report required by section 5019? If not, why not?

Answer. The Administration budgets for the Corps’ participation in the Commission meetings in the General Expenses account.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

Question. Tribal Consultations and Craig Harbor: General Spellmon, my understanding is the U.S. Army Corps of Engineers has adopted Tribal Policy Principles to guide your work. These principles are included on your website and characterized as part of your mission. I want to focus on the principles that deal with tribal consultation specifically. The Corps has committed to both pre-consultation which requires the U.S. Army Corps of Engineers to involve Tribes collaboratively, before and throughout decisionmaking, to ensure the timely exchange of information, the consideration of disparate viewpoints, and the utilization of fair and impartial dispute resolution processes. The Corps is also committed to government-to-government consultation to fulfill its obligations to consider the potential effects of Corp programs on natural and cultural resources, and Section 810 of the ANILCA outlines the procedures for all Federal agencies to evaluate impacts on subsistence uses and needs, and means to reduce or eliminate such impacts (16 USC 3120). I am concerned that the Corps does not appear to have followed these principles regarding the Craig Harbor project in Southeast Alaska to the detriment of the community there and the Craig Tribal Association ending the project for the near future after millions of dollars of Federal, state and city money was spent. In this specific case, the feasibility report was completed in 2015 and did not include tribal consultation. Six years later tribal consultation was attempted retroactively in the context of the Validation Report, which I think you will agree is not the ideal context for conducting tribal consultation on a project.

Is there a process or procedure for how to conduct tribal consultations for projects that are midstream in the Army Corps process?

Answer. Tribal consultation under Section 106 occurred throughout the feasibility phase of the project. The Alaska District consulted with Craig Tribal Association four times under Section 106 consultation efforts and three times under informal, in person nation-to-nation consultation efforts between 2012–2015. Consultation under Section 106 was reinitiated in 2020, during the start of the pre-construction engineering and design (PED) phase. An in-person meeting to continue negotiations on the Section 106 Memorandum of Agreement was held in 2020 and two additional Section 106 consultation efforts led to the formal request for nation-to-nation consultation in 2021.

Question. Can you—should you—proceed with a project, at whatever phase, if consultation obligations have not been fulfilled or if all parties have not responded to requests for participation.

Answer. Pursuant to Section 106 of the National Historic Preservation Act (Section 106), the Corps is legally required to consult with federally recognized Tribes at certain phases of all Corps activities; initial project phases cannot be concluded without fulfilling this required Tribal consultation. It would be inconsistent with Federal statutory requirements for a Corps project to proceed without consultation

or without robust evidence of attempts to provide Tribes the opportunity to respond to requests for participation. In this instance, Tribal consultation under Section 106 occurred four times during the feasibility phase of the project and four times during the Pre-construction Engineering and Design phase of the project.

Question. Is there a requirement for a Memorandum of Agreement to be signed before proceeding? Would it be prudent to make that a Corps policy if it isn't already?

Answer. Corps policy is to follow all applicable legal requirements under Section 106 of the National Historic Preservation Act (NHPA). A Memorandum of Agreement (MOA) is required to resolve adverse effects to historic properties as the project was designed at the time of the Pre-construction Engineering and Design phase and Validation Study. In accordance with the regulations for the Protection of Historic Properties at 36 C.F.R. Part 800, the MOA for this project needs to be executed prior to non-planning actions. If the location, size, scope, or other factors in the project design change, consultation under Section 106 of the NHPA would be re-initiated and the Corps' assessment of effects to historic properties reevaluated to determine whether an MOA is required to resolve adverse effects to historic properties.

Question. General Spellmon, a report from Congressional Research Services in 2021 stated, "An ongoing challenge for USACE is that numerous authorized studies and construction projects remain unfunded. USACE has an estimated \$109 billion total construction backlog." I heard about that, and as part of the Bipartisan Infrastructure Framework my colleagues and I worked on clearing a small portion of that backlog—we provided \$17.1 billion of supplemental appropriations. Another piece that may help clear that backlog would be to address some of these older reports and determine which are relevant.

How many Chiefs Reports are over 10 years old? 50? 100 years old?

Answer. The following is a list of projects authorized in Water Resource Development Acts based on recommendations from Chief's Reports and does not include projects that may have been authorized elsewhere. Of note, this list was developed based on resources and information available in a centralized manner; a more comprehensive response would require additional time and resources to conduct.

WRDA	Chief's Reports Authorized
2022	25
2020	46
2018	12
2016	30
2014	34
2007	46
2000	2(28 ¹)
1999	30 (15 ²)
1996	31(13 ³)

¹ 28 projects were authorized subject to completion of a Chief's Report by December 31, 2000.

² 15 projects were authorized subject to completion of a Chief's Report by December 31, 1999.

³ 13 projects were authorized subject to completion of a Chief's Report by December 31, 1996.

Question. At what point do they become obsolete?

Answer. Projects that have been authorized by Congress remain authorized until they are deauthorized by law, such as in accordance with the periodic deauthorization provisions found in Water Resource Development Acts.

Question. Is there a process for reviewing these Chiefs Reports and removing them from the queue once they no longer reflect the need of that community?

Answer. For those projects that have been authorized but have not been constructed, Water Resources Development Acts provide direction for the Secretary to undertake a process that may result in project deauthorizations. Criteria found in WRDA limited the projects subject to this deauthorization process to projects that were authorized by Congress prior to 2007 and have not had any obligation of funding for the past ten fiscal years. The number of authorized projects that fit the criteria is very small.

QUESTIONS SUBMITTED BY SENATOR JOHN HOEVEN

Question. The Army Corps of Engineers is conducting an environmental impact statement (EIS) for the Dakota Access Pipeline (DAPL) and the Line 5 Tunnel Project, two energy projects that are vital to our nation's economic and national se-

curity. For DAPL, the Corps is responsible for reviewing a 0.21-mile crossing of the Missouri River. For the Line 5 Tunnel, the Corps is reviewing a 4.5-mile tunnel under the Straits of Mackinac. The Corps currently estimates that it will take over 4 years to complete an EIS for each project. Why is the Army Corps unable to meet the Biden administration's own goal of 2 years for completing an EIS for DAPL and the Line 5 Tunnel?

Answer. Line 5 requires a Department of Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Following the end of the scoping period, the Corps established a detailed schedule with the steps needed for information gathering and review. These include the collection of information associated with compliance with Section 106 of the National Historic Preservation Act. The updated schedule includes more accurate review and comment periods on relevant documents for cooperating agencies, federally recognized Tribes, and Section 106 consulting parties. The updated schedule also provides for robust Tribal consultation as outlined in Presidential directives and in the memo from the Office of the Assistant Secretary of the Army for Civil Works. The updated schedule delivers an open, transparent and public process that objectively evaluates alternatives to render a decision within the scope of the Corps' authorities.

DAPL has requested the Corps to issue an easement under the Mineral Leasing Act to cross Corps-managed Federal land at Lake Oahe. Tribal engagement and consultation regarding the DAPL crossing of Lake Oahe is critical to fulfilling the Corps' NEPA requirements, including coordinating with various Tribes and the State of North Dakota. The Corps extended the schedule to specifically ensure that Tribal concerns were heard, understood, and addressed in the Draft Environmental Impact Statement.

Question. The U.S. Army Corps' mission is to, "deliver vital engineering solutions, in collaboration with our partners, to secure our Nation, energize our economy, and reduce disaster risk." Do you agree that an efficient and reliable permitting process is needed to support this mission? Given that multiple projects under review by the agency are impacted by delays that drive up project costs, how can we make the permitting process more predictable and reduce the risk of litigation, while maintaining reasonable environmental safeguards?

Answer. Yes, the Corps agrees that an efficient and reliable permitting process is needed to support Corps missions. The Section 408 program verifies alterations to authorized Corps civil works projects will not be injurious to the public interest and will not impair the usefulness of the project. In September 2018, Engineer Circular 1165-2-220 was issued, which provides clarification and a more formal process, including delegation of all decisions from Headquarters, elimination of the 60% minimum design requirement so information requirements can be scaled to the scope of the request, and a 30-day Completeness Review and 90-Day Technical review and decision timeline for each 408 request. The mission of the Regulatory Program is to protect the Nation's aquatic resources and navigation capacity while allowing reasonable development through fair and balanced decisions. The Program's "end state" is to issue balanced, timely, and transparent regulatory decisions, rooted in sound science and compliant with applicable laws. The Bipartisan Infrastructure Law allocated an additional \$160 million to the national regulatory program to assist in eliminating the backlog of old actions, re-invigorate initiatives that will ultimately help streamline the processes, become more transparent, technologically advanced, public focused, and timelier in making final permit decisions.

QUESTIONS SUBMITTED BY SENATOR BILL HAGERTY

Question. Last time you were before this Subcommittee, we discussed border wall construction policy and contracts. At the time, you told me there were roughly 20 vendors with which the Corps of Engineers was negotiating with to terminate contracts related to a misguided executive order issued on January 20, 2021. I have heard from small businesses in Tennessee who have been affected by often contradicting directives—between USACE directed pauses and termination from the Corps. This company tells me that to date, no action has been taken on the Termination for Convenience Settlement Proposal. The Army Corps of Engineers failure has had real consequences and inflicted real pain on small businesses including those in Tennessee.

Has USACE paid any contractor for "standby time" ordered under Section 1 of the Proclamation, which required a "Pause in Construction and Obligation of Funds" at the Border Wall. If the USG did issue a standby directive and contractors have not been paid for complying with the USACE directive, what authority does the USACE have to withhold payments?

Answer. The agency is not withholding payments. We are evaluating requests, to include properly submitted requests for costs associated with “standby time,” following the process prescribed in the Federal Acquisition Regulation (FAR). As part of the process, requests must be submitted in compliance with the FAR and are audited by the Defense Contract Audit Agency (DCAA) before the contracting officer can make a determination regarding payment to prime contractors. The Corps has made payments to some contractors for standby costs in accordance with the process described above.

Question. Are there funds included in the USACE appropriations funding requests, specifically intended to make Contractors whole for contract ‘pauses’ and subsequent terminations in 2021 for work performed at the Border Wall?

Answer. There are no Corps-specific appropriations requests to execute the southern border barrier program. The border barrier program is funded with Department of Homeland Security appropriations, Army Operations and Maintenance funds (through 10 USC 284), and Military Construction funds (through 10 USC 2808). Under each of these lines of appropriation, there are obligated, but unexpended funds that may be utilized to pay allowable, allocable, and reasonable suspension and termination costs.

Question. What are the funding mechanisms available to ensure timely and prompt payment of outstanding monies due as a result of the USACE’s contract ‘pauses’ and subsequent termination of Contracts under the Proclamation?

Answer. Prime contractors have an obligation to submit complete and fully supported termination and equitable adjustment requests in a timely manner in accordance with the FAR. Simultaneously, Federal agencies have an obligation to evaluate such requests with assistance from DCAA as needed. Incomplete or unsupported requests can delay evaluation. Once the Corps determines that a contractor is entitled to compensation, the contractor submits a formal request for payment, which would be subject to the Prompt Payment Act. All parties are expected to act in good faith to resolve equitable adjustment requests and termination settlement proposals.

Question. Why has the Government failed to respond (pay, reject, etc.) to standby work invoices and or respond to numerous formal requests for Information concerning the status of these invoices?

Answer. The Corps is evaluating termination settlement proposals, including any costs asserted in connection with “standby time,” following the process prescribed in the FAR. As part of the evaluation process, requests submitted in compliance with the FAR are audited by DCAA before the contracting officer can make a determination regarding payment to prime contractors. USACE strives to respond in a prompt manner to all prime contractor inquiries. All communication regarding subcontractor information requests and compensation must be with our prime contractors.

Question. Why did USACE Fort Worth District mandate that all Contractors stop work and remain in standby mode on 20 January 2021, and also order them “Not to demobilize,” yet USACE refused to provide a new contract line item level (CLIN) or line item authorizing payment for the unilateral orders for this “new” standby mode, whereby all contractors would have been able to invoice and get paid for this work?

Answer. Pursuant to the Presidential Proclamation dated 20 January 2021, USACE temporarily suspended all border barrier contracts and paused immediately the obligation of funds related to construction of the southern border wall. The suspension notices covered demobilization activities to prevent or minimize further obligation of funds.

Contractors seeking “standby” costs would do so by making a request under the suspension of work clause asserting an unreasonable period of suspension, or, if appropriate, as part of a termination settlement proposal. Establishing a new CLIN to reimburse contractors for valid suspension costs is not the appropriate mechanism to address this matter.

Question. Does the USACE have sufficient funding to cover all costs associated with Executive Order 13767?

Answer. The precise costs of suspension and termination of these contracts will be determined via negotiations with each prime contractor. As described above, the termination process includes a submission of a complete and adequate termination settlement proposal by each prime contractor, audit by DCAA, evaluation by the Corps, and culminates with negotiation of a fair and reasonable settlement amount. It is only when this process is completed for each contract that the Corps can determine whether the funds currently available are sufficient to cover all costs associated with the suspension and termination of these contracts.

How does the USACE, plan to keep this committee informed on its progress to resolve these payment issues to small businesses negatively impacted by these contradicting directives?

Answer. Upon request, the Corps can inform the committee as termination settlement negotiations for border barrier contractors are finalized and any required contract modifications executed. Any payments made by the Corps will be to prime contractors. Please note that most small businesses working on USACE border barrier contracts are subcontractors.

QUESTIONS SUBMITTED BY SENATOR SUSAN M. COLLINS

Question. Proposed Change to U.S. Army Corps of Engineers Maine General Permit. I have heard concerns from constituents in Maine about changes proposed by the New England District (NAE) to the Maine General Permit. The NAE uses state general permits in each New England state rather than the nationwide regulatory permits. NAE is proposing updates to the Mitigation Standard Operating Procedures in a manner that would significantly affect the Maine General Permit, which was last updated in 2020. Under the changes being developed, the threshold at which compensatory mitigation for adverse impacts to aquatic resources is triggered in Maine would be reduced from 15,000 square feet to 5,000 square feet. My constituents are concerned about the financial burden of these changes on many Maine residents and small businesses. According to one licensed site evaluator in Maine, if a home builder in Cumberland County wants to construct a driveway to his property that has a 5,200 square foot wetland impact, the home builder would owe the Corps \$75 for the permit fee. Under the changes being developed, that same home builder would be faced with \$30,576 in wetland compensation fees in addition to the \$75 permit fee. NAE has told local stakeholders that this change is necessary because approximately 110 acres of wetlands, representing 0.00048% of the land area in Maine, have been lost over the last 5 years without compensatory mitigation.

While conserving our wetlands is important, is the Corps aware of the substantial financial impacts this change to the mitigation threshold would have on Maine residents and businesses?

Answer. The New England District has considered the regulated public's needs in its determination to modify its mitigation policy. The Corps' regulatory mission requires that the Corps balance reasonable development while protecting aquatic resources. The change to establish the compensatory mitigation requirement for impacts greater than 5,000 aligns with neighboring states and the Corps' national program. This consistency brings predictability, which has tremendous public service value. The Corps' mitigation policy does not preclude the need to consider mitigation requirements on a case-by-case basis. The Corps will make every effort to ensure that we work closely with the public during this transition.

The fee referenced by the site evaluator is for the purchase of mitigation credits through Maine's compensatory mitigation provider, Maine Natural Resource Conservation Program (MNRCP). The Corps' affiliation with MNRCP is to ensure that the compensatory mitigation projects that are constructed as a result of the sale of credits are consistent with the 2008 Mitigation Rule. Applicants sometimes prefer this mitigation method as it is quick and shifts the responsibility to provide compensatory mitigation to MNRCP. However, there is no requirement from the Corps to utilize this program.

Permit applicants can propose their own compensatory mitigation for impacts to aquatic resources. This can be fulfilled by restoring, enhancing, creating, or preserving wetlands onsite or offsite. Compensatory mitigation is only an option if unavoidable adverse impacts remain after all appropriate and practicable avoidance and minimization has been achieved.

Question. Why is every state in New England required to have the same permit when the states have such vastly different financial, geographical, and natural resources?

Answer. Every New England state operates under a different set of General Permits that considers the economic, geographic, and resource differences across the states, yet the programs of each state need to operate within the same framework within the New England district. General Permits can be tailored to a specific state to ensure the process is streamlined and reduces duplication with the State agencies. General Permits recognize the role that states play in addressing certain components of the Corps regulatory review, including compliance with laws governing water quality certification and coastal zone management. The General Permits are available for impacts that will not result in more than minimal individual and cumulative impacts to the aquatic environment.

The New England District's accountability for consistency and transparency is not limited to the six states in its area of responsibility, but also with the other 41 Corps districts and nine divisions located throughout the United States and associated territories. In 2007, the Corps published the Nationwide Permits (NWPs), establishing that compensatory mitigation would be required when adverse impacts exceed 0.10 acre (4,356 SF) to ensure that no more than minimal individual and cumulative impacts occur. This standard remains in current NWPs. The NWPs mitigation threshold allows for reasonable development and provides a tool for avoidance, minimization, and compensation. The revision of the district's mitigation standard operating procedures would allow the district to be more consistent with national policy and ensure the continued use of all New England district General Permits.

Question. Camp Ellis Beach. Section 8342 of the Water Resources Development Act of 2022, enacted in December 2022, increased the maximum amount of Federal funds that may be expended for the Camp Ellis Continuing Authorities Program project in Saco, Maine. Work cannot begin on this project until a Project Partnership Agreement is signed.

What is the timeline for signing the Project Partnership Agreement?

Answer. The Corps is expeditiously developing a Project Partnership Agreement (PPA). Upon approval, the Corps will provide it to the City of Saco for review and execution.

Question. Can you commit to prioritizing this project?

Answer. Yes.

SUBCOMMITTEE RECESS

Senator BRITT. We stand adjourned. Thank you.

[Whereupon, at 3:04 p.m., Wednesday, April 26, the subcommittee was recessed, to reconvene subject to the call of the Chair.]