

**ENERGY AND WATER DEVELOPMENT
APPROPRIATIONS FOR FISCAL YEAR 2012**

WEDNESDAY, APRIL 13, 2011

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

The subcommittee met at 2:10 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Dianne Feinstein (chairman) presiding.

Present: Senators Feinstein, Johnson (SD), Landrieu, Reed, Lautenberg, Harkin, Tester, Alexander, Cochran, Collins, Murkowski, and Graham.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

**STATEMENT OF HON. JO-ELLEN DARCY, ASSISTANT SECRETARY OF
THE ARMY (CIVIL WORKS)**

OPENING STATEMENT OF SENATOR DIANNE FEINSTEIN

Senator FEINSTEIN. The hearing will come to order.

I would like to apologize for being late. I thought I would tune in to the President's address, that there would be some specifics and after a while I thought uh-oh, I better go to the hearing. So here I am, and I want to thank everybody here for being patient.

I want to welcome our witnesses. I happen to be a big fan of the Army Corps of Engineers (COE), and particularly all the dredging, the levee protection, the river protection, everything that you do in California to enable us to exist is critical.

Mike Connor, who is the Commissioner of the Bureau of Reclamation (BOR) has done excellent work. I am a big fan in what is a tough area in California. No adage has ever been truer than "whiskey is for drinking and water is for fighting", and California puts that into action every year. So I thank you for being a problem-solver rather than a problem-maker.

We all recognize, I think, the difficult fiscal environment we are in. However, we also realize that our economy is fragile, still recovering, and could turn the wrong way, so we want to do our very best to see that those agencies that stimulate economic and job growth and protect the safety of our communities are themselves protected.

COE and BOR are the agencies we depend on to build the water infrastructure that moves our Nation's cargo, protects our cities from flooding, provides irrigation water and hydropower, and facilitates much needed environmental restoration. Not only does the work of these agencies provide jobs now, the infrastructure that is constructed continues to benefit the economy for decades. It is amazing.

Unfortunately, the budget request reflects the consistent underfunding that we have seen in prior years, and I must say I am very disappointed in our part of the continuing resolution which takes another whack at COE.

The President's fiscal year 2012 budget for COE is \$4.6 billion. That is 15 percent below the 2010 enacted amount. Two major project accounts for the Department of the Interior under the jurisdiction of this subcommittee are proposed at \$1.05 billion, which is 7 percent below the fiscal year 2010 enacted amount. That is a lot. So this is a tough budget for both agencies.

For COE, the top six construction projects account for \$737 million of the \$1.48 billion requested for construction work. That is 51.8 percent of the total. The other 79 construction projects—79—compete for the remaining 48 percent of funds.

In the general investigation account, 75 percent of the funding is directed to national programs and two individual studies. The other 63 studies proposed will have to compete for 25 percent of the funds.

In BOR's budget, I am pleased to see the administration propose a new account for the San Joaquin River restoration. The \$9 million in discretionary funding, along with the mandatory funding under the joint settlement agreement between the Federal Government, the State, and the water contractors will assure that water impacts are reduced or avoided while maintaining the San Joaquin River ecosystem.

Rural water projects are funded in both the water and related resources account and the proposed new Indian water rights account for fiscal year 2012. There are seven ongoing rural water projects proposed at \$35.5 million from the water and related resources account for 2012. All of these benefit various tribes. The new Indian water rights account proposes \$51.5 million for four similar new projects. One has to wonder whether these funds can be effectively used for these new rural water systems in fiscal year 2012. That will be something for us to look into.

So I want to welcome Jo-Ellen Darcy, the Assistant Secretary of the Army (Civil Works), Lieutenant General Robert L. Van Antwerp, the Chief of Engineers for the United States Corps of Engineers. And from the Department of the Interior, we will hear from Anne Castle, the Assistant Secretary for Water and Science, and the wonderful Mike Connor, Commissioner of the Bureau of Reclamation.

Now before formally introducing you, I would like to indicate my great pleasure in introducing my ranking member for this. We worked together on the Interior Committee and it was very easy to do. We were able to work out any issue, and you are really a gentleman, Lamar, and in this arena that is doubly appreciated.

You get double points. So I thank you for being you, and I am delighted to recognize you for your remarks.

STATEMENT OF SENATOR LAMAR ALEXANDER

Senator ALEXANDER. Thank you, Madam Chairman. It is a treat to work with you. Thank you for the compliment. What I especially like about Senator Feinstein is she was a mayor. She can make decisions and she speaks with precision. So it is easy to work with her. And we have many of the same values and judgments about the future of our country.

Senator Feinstein said that whiskey is for drinking and water is for fighting in the West, and all across our country, I think all of us are here today because we know that inland waterways and locks are for creating private sector jobs. And that is really the number one goal we have got in this country no matter where we are from.

I want to thank the chair for holding this hearing and thank all the distinguished leaders of the Departments for coming. COE has been around since the Revolutionary War. It touches the lives of every American, keeps our inland waterways open and running, manages our drinking water, provides emission-free electricity, looks after recreational waters, and as Tennesseans found out last year during our flood, helps us manage river levels during serious flooding. It does many things well, but we want to be in a position to help COE do things even better and jobs are a good place to start.

The Nation's inland waterways do not get on the front pages as much, but they keep trucks off our highways. They result in lower fuel costs at a time when fuel is going up. They reduce the cost of repairing roads. Barges can carry a ton of freight 576 miles on a gallon of fuel compared to the 150 miles per gallon a truck can carry a ton of freight. And one barge of dry cargo can displace as many as 70 trucks, putting that freight on our waterway and taking it off our crowded interstate.

We think of the Chickamauga Lock in the Chattanooga area of Tennessee. If it were to close, which it has a real risk of doing if it is not replaced, it would put 100,000 big trucks on I-75. If COE is committed to mothball projects, it would expand the amount of freight on our waterways. In fact, the only inland waterways project COE has prioritized is years past its planned completion date, hundreds of millions of dollars over budget, with still no end in sight. We have to find a solution that expands our current locks and gets new ones built.

One of the things that I want to talk about today when my question time comes is that industry, commercial users, came to COE in good faith in 2008, attempted to find a solution to put more money in the Inland Waterways Trust Fund, only to have COE appear to walk away from the documented help draft and condemn the report's findings. I would like to have some answers about why that happened. What could have been a great example about how industry and Government could work together turned out to be a cautionary tale about a fickle Government dealing with an industry.

So the questions, Madam Chair, that I will be asking are how do we fix the trust fund and make sure that projects like Chickamauga Lock get built. Are we doing all we can to utilize our ports and harbors? We need to examine how we are managing the Harbor Maintenance Trust Fund. The President said his goal in the State of the Union Address was to double exports. It is going to be hard to do unless we provide adequate funding for dredging our ports and harbors. And then what are the specific factors driving decisionmaking on COE projects? We need to ask for detailed examinations and explanations of how decisions are made and the process by which certain projects are deemed priorities.

This is an important hearing. I am glad to be a part of it. And I look forward to hearing from the witnesses.

Thank you, Madam Chair.

Senator FEINSTEIN. And I thank you, Senator.

From the Department of the Interior, we will hear from Anne Castle, the Assistant Secretary for Water and Science.

General Antwerp, it is my understanding that this is going to be your last appearance before the subcommittee as you will be retiring next month. So you can give us the true, unvarnished truth, as you see it.

We will expect nothing less. I want to thank you for your many years of service to our Nation. I look forward to working with your successor, General Bostick, once he is confirmed.

I want to remind the witnesses that your full statements will be in the record, and I hope you will just provide a brief summary of what you are saying. And then we will go the early bird rule, and I will alternate sides in recognizing Senators.

Senator COCHRAN. Madam Chairman, could I ask unanimous consent that a statement appear at this point in the record?

Senator FEINSTEIN. You certainly may, and all statements will be put in the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR THAD COCHRAN

Madam Chairman, thank you for convening this hearing to review the administration's fiscal year 2012 budget request for the Army Corps of Engineers (COE) and Bureau of Reclamation. I am pleased to join you in welcoming the panel for attending today's hearing.

My State is fortunate to border such prominent bodies of water as the Mississippi River and the Gulf of Mexico, which are both vital to our domestic economy for shipping and travel. Our relationship with the Corps of Engineers has enabled Mississippi and its neighboring States to benefit from access to these waters while also benefiting from COE-built levees, dams, and locks which safeguard against floods. COE has also been very helpful over the years in helping Mississippi address many of its aging wastewater infrastructure issues throughout our State. Flood control, port dredging, and environmental infrastructure projects are very important to our State, and we appreciate your responding to these needs.

The fiscal year 2012 proposal for the Mississippi River and its tributaries has caused concern among commodity exporters who worry about COE's ability to maintain the Mississippi River channel at authorized depths. The Mississippi River System enables more than \$100 billion in exports to traverse its waters annually. Thousands of jobs rely on a fully functioning river system, and I hope COE will continue to respond to these national and local interests.

I look forward to your testimony, and to working with you during the coming year.

Senator FEINSTEIN. Secretary Darcy, would you begin please?

SUMMARY STATEMENT OF JO-ELLEN DARCY

Ms. DARCY. Madam Chairman and distinguished members of the subcommittee, thank you for the opportunity to present the President's fiscal year 2012 budget for the civil works program of COE.

The budget requires new appropriations of \$4.631 billion. In keeping with the administration's program to put the Nation on a sustainable fiscal path, this is \$836 million, or about 15 percent, below the 2010 enacted amount of \$5.445 billion. It is about a 6 percent reduction from the 2011 budget for the civil works program.

The budget concentrates funding primarily in the three civil works program areas: commercial navigation, flood and coastal storm damage reduction, and aquatic ecosystem restoration.

The 2012 budget continues the Army's commitment to a performance-based approach to budgeting in order to provide the best overall return from available funds in achieving economic, environmental, and public safety objectives.

The budget provides \$50 million for a comprehensive levee safety initiative to help ensure that Federal levees are safe and to assist non-Federal entities as they address safety issues with their own levees.

The operation and maintenance program also includes a new environmental and energy sustainability program to reduce energy consumption at COE projects and buildings.

The 2012 budget places priority on collaboration with other Federal agencies in the development of funding allocations for aquatic ecosystem restoration. For 2012, this collaboration is reflected in five major ecosystems:

- the California Bay-Delta;
- Chesapeake Bay;
- the Everglades;
- the Great Lakes; and
- the gulf coast.

The budget provides for use of \$758 million from the Harbor Maintenance Trust Fund to maintain coastal commercial navigation channels and harbors.

The administration plans to develop legislation to expand the authorized uses of the Harbor Maintenance Trust Fund so that its receipts are available to finance the Federal share of other efforts in support of commercial navigation through our Nation's ports. No decisions have been made yet on what additional costs would be proposed to be paid from this Harbor Maintenance Trust Fund.

Inland waterways capital investments are funded in the budget at \$166 million, of which \$77 million is financed from the Inland Waterways Trust Fund. This is the total amount that is affordable in 2012 with the current level of revenue coming into the trust fund. The administration will work with the Congress and stakeholders to authorize a new mechanism to increase the revenue paid by commercial navigation users of the inland waterways.

The administration also plans to work with the Congress and stakeholders to explore ways to support broader recapitalization of COE's aging infrastructure, modification of its operations, or de-

authorization as appropriate, consistent with our modern day water resources principles and priorities.

Last year, President Obama established the America's Great Outdoors initiative to promote innovative community-level efforts to conserve outdoor spaces and to reconnect Americans to the outdoors. The Civil Works recreation program is closely aligned with the goals of the America's Great Outdoors initiative and includes a variety of activities to reconnect Americans, especially our young people, with the Nation's outdoor resources.

We continue to strengthen COE's planning expertise, including through greater support for our planning centers of expertise and continued support for the development of revised water project planning principles and guidelines.

A number of lower-priority programs and activities receive reduced or no funding in our 2012 budget. For example, funding for maintenance of navigation harbors and waterway segments that support little or no commercial use is reduced by about one-half. Also, no funding is provided for small projects in several of the continuing authorities programs. The budget proposes to reprogram \$25 million of prior year funds from these lower-priority programs to finance ongoing phases of projects in higher-priority continuing authorities programs.

In summary, the President's budget for 2012 for the Army Civil Works program is a performance-based budget. It supports water resources investments that will yield long-term returns for the Nation.

Madam Chairman and members of the subcommittee, I look forward to working with you in support of the President's budget.

PREPARED STATEMENT

And if you would indulge me for about 30 seconds, I would like to personally thank General Van Antwerp for his years of service. I came into this job a year and a half ago and I could not have asked for a better partner and a better leader for COE, and he will be sorely missed. So thank you.

[The statement follows:]

PREPARED STATEMENT OF JO-ELLEN DARCY

Madam Chairman and distinguished members of the subcommittee, thank you for the opportunity to present the President's budget for the Civil Works program of the Army Corps of Engineers (COE) for fiscal year 2012.

OVERVIEW

The fiscal year 2012 budget for the Civil Works program reflects the administration's priorities through targeted investments in the Nation's infrastructure that help restore the environment and revitalize the economy, while also reflecting the need to put the country on a fiscally sustainable path. With those tenets in mind, the primary objectives of the budget are as follows:

- Focus funding on water resources infrastructure projects that produce high economic and environmental returns to the Nation and those that address public safety needs.
- Restore high-priority ecosystems such as the California Bay-Delta, Chesapeake Bay, the Everglades, the Great Lakes, and the gulf coast.
- Support a comprehensive levee safety initiative to help ensure that Federal levees are safe and to enhance efforts to assist non-Federal parties to address safety issues with their levee systems.
- Provide priority funding to the maintenance of high-performing projects.

- Propose changes in the way Federal activities in support of commercial navigation through the Nation’s ports are funded, and support increases in inland waterways receipts.
- Improve the way in which COE addresses the Nation’s most pressing water resources challenges.
- Increase the organizational efficiency and improve the management, oversight, and performance of ongoing programs.

The budget concentrates funding for development and restoration of the Nation’s water and related resources within the three main Civil Works program areas:

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

Additionally, the budget supports hydropower, recreation, environmental stewardship, and water supply services at existing water resources projects owned or operated by COE. Finally, the budget provides for protection of the Nation’s regulated waters and wetlands; cleanup of sites contaminated as a result of the Nation’s early efforts to develop atomic weapons; and emergency preparedness. The budget does not fund work that should be the responsibility of non-Federal interests or other Federal agencies, such as water and wastewater treatment projects.

FISCAL YEAR 2012 DISCRETIONARY FUNDING LEVEL

The budget provides gross new discretionary funding of \$4.631 billion, which will keep the Civil Works program moving forward to help revitalize the economy, and provide for restoration and stewardship of the environment. The budget also proposes cancellation of the \$57 million in unobligated funding previously provided in the Mississippi River and Tributaries account for construction of the Yazoo Backwater Pumps, Mississippi project. This cancellation would achieve \$57 million in real savings for the American taxpayer. Of the amount proposed to be cancelled, \$22 million is an offset to fiscal year 2012 gross appropriations, for a net request of \$4.609 million. (The Congress appropriated the remaining \$35 million to “restore” funds that COE had “borrowed” under the Stafford Act while responding to a natural disaster at another project. Because the Congress restored these funds in an emergency supplemental appropriation, their cancellation does not “score” as an offset to our discretionary funding request.)

In keeping with the administration’s program to put the Nation on a sustainable fiscal path, the funding for Civil Works in the 2012 budget is \$836 million, or about 15 percent, below the enacted amount of \$5.445 billion in fiscal year 2010. It is about 6 percent below the fiscal year 2011 budget level. The fiscal year 2012 funding level reflects a considered, practical, effective, and sound use of available resources, focusing on those investments that are in the best interest of the Nation.

Within the \$4.631 billion recommended gross appropriations, \$1.48 billion is for projects in the Construction account, and \$2.314 billion is for activities funded in the Operation and Maintenance (O&M) account. The budget also includes \$104 million for Investigations; \$210 million for Mississippi River and Tributaries; \$27 million for Flood Control and Coastal Emergencies; \$196 million for the Regulatory Program; \$109 million for the Formerly Utilized Sites Remedial Action Program; \$185 million for the Expenses account; and \$6 million for the Office of the Assistant Secretary of the Army (Civil Works). Attachment 1 shows this funding by account and by program area.

ATTACHMENT 1.—FISCAL YEAR 2012 BUDGET—BUSINESS LINE/ACCOUNT CROSS-WALK
 [In millions of dollars]

Business Lines	Funding Categories											
	I	C	O&M	MR&T			FUSRAP	FCCE	REG	E	OASA (CW)	TOTAL
				I	C	O&M						
Flood and Coastal Storm Damage Reduction	48	721	523	1	63	91	155					1,447
Coastal	7	23	8			3	3					41
Inland	41	698	515	1	63	88	152					1,406
Hydropower		6	176									182
Navigation	18	283	1,237		13	24	37					1,575
Coastal	7	117	706			2	2					832
Inland	11	166	531		13	22	35					743
Environment:												
Aquatic Ecosystem Restoration	38	470	23		2		2					533
Stewardship			96			4	4					100
FUSRAP							109					109
Regulatory												
Recreation			247						196			196
Emergency Management (incl. NEPP)			7							27		259
Water Supply			5									34
Expenses											185	5
OASA(CW)											6	185
TOTAL	104	1,480	2,314	1	78	131	210	27	196	185	6	4,631

I=Investigations; C=Construction; O&M=Operation and Maintenance; MR&T=Flood Control, Mississippi River and Tributaries; FUSRAP=Formerly Utilized Sites Remedial Action Program; FCCE=Flood Control and Coastal Emergencies; REG=Regulatory Program; NEPP=National Emergency Preparedness Program; E=Expenses; OASA (CW)=Office of the Assistant Secretary of the Army (Civil Works).

The fiscal year 2012 budget continues the Army's commitment to a performance-based approach to budgeting to provide the best overall return from available funds from a national perspective in achieving economic, environmental, and public safety objectives. Competing investment opportunities for studies, design, construction, and operation and maintenance were evaluated using multiple metrics, and objective performance criteria guided the allocation of funds.

The fiscal year 2012 budget supports investments in flood and storm damage reduction, commercial navigation, environmental restoration, and other programs. The distribution of funding among these programs is similar to the distribution in the fiscal year 2011 budget, except that environmental restoration received a slightly lower proportion of overall funding. Of the total in the fiscal year 2012 budget, 31 percent is allocated to flood and storm damage reduction; 34 percent is allocated to commercial navigation; 18 percent is allocated to environmental restoration and protection; and 17 percent is allocated among other program areas.

NEW INVESTMENTS IN FISCAL YEAR 2012

The Civil Works budget includes funding for two construction new starts and several other new initiatives, as described below.

In the Construction account, the budget includes \$8 million for a new start for the Hamilton City project in California, which provides environmental restoration and flood damage reduction benefits. The budget also includes \$3 million to initiate a storm damage reduction project along the New Jersey coast between Raritan Bay and Sandy Hook Bay in the Port Monmouth area.

There are four new study starts in the Investigations account: Fish Passage at Englebright and Daguerre Point Dams on the Yuba River in California for \$100,000; environmental restoration and flood damage reduction at Cano Martin Pena in Puerto Rico for \$100,000; the Chesapeake Bay Comprehensive Plan for \$250,000; and the Louisiana Coastal Area Comprehensive Plan for \$100,000.

The O&M program includes \$12.3 million for a new environmental and energy sustainability program. This will involve developing tools to enable COE to meet Federal sustainability goals and implementing energy-saving measures at COE projects and buildings. The 38 Civil Works COE districts will compete for these funds by proposing specific measures to conserve energy. Lessons learned from this competition will inform future investments to increase environmental and energy sustainability of the Civil Works program.

The budget provides \$50 million for a comprehensive levee safety initiative. This initiative includes \$46 million in the O&M account to continue and expand activities to help ensure that Federal levees are safe and to assist non-Federal entities to address safety issues with their levees. The levee safety initiative also includes \$4 million in the Flood Control and Coastal Emergencies account. These funds will be used for COE participation in the expansion of interagency teams, known as Silver Jackets, to include every State, and to provide unified Federal assistance in implementing flood risk management solutions.

AQUATIC ECOSYSTEM RESTORATION

The fiscal year 2012 budget places priority on collaboration with other Federal agencies in the development of funding allocations for aquatic ecosystem restoration. Attachment 2 provides a list of the ecosystems and funding amounts budgeted on this basis.

FISCAL YEAR 2012 PRIORITY ECOSYSTEMS FUNDING

[In millions of dollars]

Ecosystem account	Projects and studies	Amount
I ¹ I C ² I/C/O&M	California Bay Delta:	
	Yuba River Fish Passage (new recon)	0.10
	San Pablo Bay Watershed Study	0.50
	Hamilton City (new start)	8.00
	Additional studies and projects in Navigation and Flood Damage Reduction Programs	49.00
	Total, California Bay Delta	58.00
I	Chesapeake Bay:	
	Chesapeake Bay Comprehensive Study (new recon)	0.25

FISCAL YEAR 2012 PRIORITY ECOSYSTEMS FUNDING—Continued

[In millions of dollars]

Ecosystem account	Projects and studies	Amount
C	Poplar Island	12.00
C	Chesapeake Bay Oysters	5.00
	Total, Chesapeake Bay	17.00
	Everglades:	
C	Continuing projects and activities	163.00
O&M ³	Continuing projects and activities	5.00
	Total, Everglades	168.00
	Great Lakes:	
I	Interbasin control—(Great Lakes-Ms R Nuisance Species)	3.00
C	Chicago sanitary and ship canal	13.50
O&M	Chicago sanitary and ship canal	10.50
	Total, Great Lakes	27.00
	Gulf coast:	
GI	Louisiana coast comprehensive study (new recon)	0.10
GI	LCA studies	16.00
CG	LCA projects	10.60
	Total, Gulf coast	27.00

¹I=Investigation²C=Construction³O&M=Operation and Maintenance.

In connection with this effort, the budget provides \$168 million for COE for the ongoing South Florida Everglades Restoration Program, consisting of \$163 million for Construction and \$5 million for O&M. The budget supports the continued construction of five ongoing aquatic ecosystem restoration projects in south Florida:

- Picayune Strand;
- Site One Impoundment;
- Indian River Lagoon South;
- Kissimmee River; and
- the C-111 (South Dade) project.

The budget also supports work on other major ecosystem-wide initiatives, such as \$58 million for studies and projects in the California Bay-Delta, including an important new reconnaissance study for fish passage at Englebright and Daguerre Point Dams on the Yuba River; an ongoing feasibility study for the Sacramento-San Joaquin Delta Islands and Levees; an ongoing comprehensive feasibility study for the Sacramento-San Joaquin River Basins; and a new construction project at Hamilton City for ecosystem restoration and flood damage reduction.

The budget includes \$128 million for the Columbia River Fish Mitigation program, an ongoing effort to reduce the adverse impacts of a series of COE dams on migrating salmon. Funds will be used to construct juvenile fish bypass facilities, improve adult fish ladders and conduct other activities that support salmon habitat. The budget also provides \$73 million for ongoing work under the Missouri River fish and wildlife recovery program to construct shallow water habitat and undertake other activities to recover and protect federally listed species, such as the pallid sturgeon.

INFRASTRUCTURE RECAPITALIZATION

The administration plans to work with the Congress and stakeholders to explore ways to support recapitalization of aging COE infrastructure, modification of its operations, or de-authorization, consistent with modern-day water resources principles and today's and tomorrow's water resources priorities. Under these principles, direct beneficiaries would be asked to pay a significant share of the costs to rehabilitate, expand or replace projects, as they would for a new project, commensurate with the benefits they receive. Options such as direct financing will be considered as part of this effort, where appropriate.

The aging of infrastructure affects all of our activities. For example, with regard to the production of hydropower, the fiscal year 2012 budget provides \$176 million to operate and maintain COE hydropower facilities. In order to decide how best to use the available funding, COE has been working under its Hydropower Modernization Initiative (HMI) to develop a long-term capital investment strategy. One significant feature of the HMI is the Asset Investment Planning Tool, which was designed to:

- analyze the condition of critical components and the consequences of failure;
- determine the value of additional hydropower and its cost; I14
- quantify risk exposure for capital investments; and
- create 20-year funding scenarios to allow for timely and cost-effective rehabilitation or replacement of hydropower facilities and their components.

To assist the Federal Government in rehabilitating aging equipment, COE also is pursuing increased use of non-Federal funds.

HARBOR MAINTENANCE TRUST FUND

The budget provides for use of \$758 million from the Harbor Maintenance Trust Fund to maintain coastal channels and harbors. Despite an overall Civil Works reduction of 15 percent below the enacted fiscal year 2010 level, the amount recommended in the fiscal year 2012 budget for harbor maintenance and related work is essentially unchanged from the 2 prior years. The administration also plans to develop legislation to expand the authorized uses of the Trust Fund, so that its receipts are available to finance the Federal share of other efforts in support of commercial navigation through the Nation's ports. No decisions have been made yet on what additional costs would be proposed to be paid from receipts into the Harbor Maintenance Trust Fund. Development of proposed legislation will proceed in the coming months.

INLAND WATERWAYS TRUST FUND

Inland waterways capital investments are funded in the budget at \$166 million, of which \$77 million is financed from the Inland Waterways Trust Fund. This is the total amount that is affordable in fiscal year 2012 with the current level of revenue coming into the Trust Fund. The administration will work with the Congress and stakeholders to revise the laws that govern the Trust Fund, to include increasing the revenue paid by commercial navigation users of the inland waterways to meet their share of the costs of activities financed from this trust fund.

AMERICA'S GREAT OUTDOORS INITIATIVE AND CIVIL WORKS RECREATION

On April 16, 2010 President Obama signed a Presidential Memorandum establishing the America's Great Outdoors (AGO) initiative to promote and support innovative community-level efforts to conserve outdoor spaces and to reconnect Americans to the outdoors. This initiative was celebrated at several events around the country, including a public "listening" event the Secretary of the Interior and I held in August 2010 at a Civil Works project near St. Louis, Missouri.

COE has been actively involved with the AGO initiative, working in concert with its partners to leverage financial and human resources so the public can continue to enjoy water-based recreation opportunities at COE lakes. The Civil Works recreation program and activities are closely aligned with the goals of the initiative and include a variety of measures to reconnect Americans, especially young people, with the Nation's outdoor resources.

COE manages 12 million acres of lands and waters supporting water-based recreation and environmental stewardship. The Civil Works program is particularly well-suited to support the AGO initiative, given that 90 percent of COE projects are within 50 miles of metropolitan areas. Camping, hiking, swimming, boating, and other water-oriented recreation opportunities attract 370 million visits a year to 422 COE projects. In addition, COE has active programs to conserve and protect lands and waters for wildlife, fisheries, endangered species and open space.

PLANNING IMPROVEMENTS

Working through the Chief of Engineers, the Army continues to strengthen and improve the planning expertise of COE, including greater support for planning Centers of Expertise, better integration of project purposes, greater reliability of cost estimates and schedules in planning and programming, and continued support for the development of revised water project planning Principles and Guidelines. Also, the Army has initiated a pilot program to identify means of enabling studies to reach decisions more efficiently.

VETERANS CURATION PROJECT

The fiscal year 2012 budget includes \$2 million to continue the Veterans Curation Project, which provides vocational rehabilitation and innovative training for wounded and disabled veterans, while achieving historical preservation responsibilities for archaeological collections administered by COE. The project supports work by veterans at curation laboratories located in Augusta, Georgia; St. Louis, Missouri; and Washington, DC.

LOWER-PRIORITY PROGRAMS

Funding of \$76 million is provided in the fiscal year 2012 budget for maintenance of navigation harbors and waterway segments that support low commercial use. This is a reduction of \$64 million from the fiscal year 2011 budget. The Estuary Restoration Program is funded at \$2 million, compared to \$5 million in the fiscal year 2011 budget.

No funding is provided for small projects in 4 of the 9 Continuing Authorities Programs (CAPs):

- section 14 (emergency streambank and shoreline protection);
- section 103 (shore protection);
- section 107 (navigation); and
- section 208 (snagging and clearing).

The budget proposes to reprogram \$23 million of CAP funds carried over from prior years from these four CAPs to finance ongoing phases of projects in 4 of the remaining 5 CAPs:

- section 111 (mitigation of shoreline damages caused by navigation projects);
- section 204 (beneficial use of dredged material);
- section 206 (aquatic ecosystem restoration); and
- section 1135 (modification of completed projects for the benefit of the environment).

Section 205 (flood damage reduction) also is supported, and has sufficient carry-over within it to finance the fiscal year 2012 program without a reprogramming.

No funding is provided for the Aquatic Plant Control program, nor is specific line item funding provided for coordination activities associated with the National Estuary Program and the North American Waterfowl Management Program. Coordination activities will take place, as appropriate, in connection with separately funded programs and projects.

Funding under the Formerly Utilized Sites Remedial Action Program (FUSRAP) is reduced by \$21 million, from \$130 million in the fiscal year 2011 budget to \$109 million in the fiscal year 2012 budget.

AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

COE continues the work funded in ARRA. The act provided \$4.6 billion for the Civil Works program. That amount includes \$2 billion for Construction; \$2.075 billion for O&M; \$375 million for Mississippi River and Tributaries; \$25 million for Investigations; \$25 million for the Regulatory Program; and \$100 million for the Formerly Utilized Sites Remedial Action Program. The ARRA funds were allocated to more than 800 projects in 49 States, the District of Columbia, and Puerto Rico, and 400 of those projects have been completed.

Nearly all of the \$4.6 billion of these funds have been obligated, leaving only a small amount, as authorized, for contract supervision and administration, as well as known contract claims and modifications. As of last month, more than \$3.1 billion of the total had been expended, primarily payments to contractors for work already completed. Of the more than 2,100 recipients of the COE ARRA funds, 99.8 percent submitted a report last quarter as required under the act and provisions of ARRA contracts.

The projects funded by ARRA provide important support to the Nation's small businesses in their economic recovery. Of the total ARRA funds, small business awards account for about 51 percent of the ARRA funds obligated and about 72 percent of the total contract actions.

COE achievements to date with ARRA funds include improvement of 28 important commercial navigation harbors and channels; repair or improvement of dozens of hydropower projects; accelerated completion of site cleanup at 9 FUSRAP sites; completion of 822 periodic inspections of federally constructed levee systems, including both systems maintained by COE and those maintained by local sponsors; and completion of important work to restore 57 aquatic ecosystems.

CONCLUSION

In summary, the President's fiscal year 2012 budget for the Army Civil Works program is a performance-based budget that supports water resources investments that will yield long-term returns for the Nation.

Madam Chairman and members of the subcommittee, I look forward to working with this subcommittee in support of the President's budget. Thank you.

Senator FEINSTEIN. Thank you very much for those words.

General Van Antwerp, would you like to make some comments?

**STATEMENT OF LIEUTENANT GENERAL ROBERT L. VAN ANTWERP,
CHIEF OF ENGINEERS**

General VAN ANTWERP. Madam Chairman and distinguished members of the subcommittee, the budget this year funds 92 construction projects, 55 in the flood-storm-damage reduction. Three are budgeted for completion. We have 16 commercial navigation projects in this budget and 19 aquatic ecosystem projects. Two of these are scheduled as new starts.

The budget supports our continued stewardship of water-related infrastructure. The operation and maintenance program for the fiscal year 2012 budget includes \$2.314 billion and an additional \$131 million under the Mississippi River and Tributaries program.

COE teammates continue to respond wherever and whenever needed to help during major floods and other national emergencies. As you can imagine, we are gearing up right now. The budget provides \$27 million for the preparation for floods, hurricanes, and other natural disasters, to include \$4 million to support the levee safety initiatives in States known as "silver jackets."

I would like to just provide a quick update on preparations as we look forward—not really look forward to, but as we anticipate potential spring flood events. We are working with the Federal Emergency Management Agency (FEMA) and the National Weather Service to monitor the high probability of spring flooding in the north central United States, a lot of which is already happening out there, specifically the Red River and the upper Mississippi River and the Minnesota River. Based on our projections, our Commanders have requested the advance planning and advance measures funding needed to flood fight. We are out there on the ground right now. And I guess in three words I would say we are ready.

On the international front, although not covered specifically by this subcommittee, I am proud to tell you a little bit about our work in Iraq and Afghanistan, if you will indulge me that. We have 1,168 COE members, largely civilians, right now deployed overseas. Every day they put on their battle armor and they work on the projects that we have asked them to do. They have completed more than 6,000 infrastructure and water-related projects. We have a lot of our Civil Works members that work in COE over there deployed on this military mission.

Last month, Ms. Darcy and I traveled to Afghanistan with my counterparts from the other services and witnessed this amazing work and had a chance to praise them for their efforts and thank them.

On the 21st and 22d of March, we traveled down to New Orleans. We wanted to visit all the major projects in our Hurricane Storm Damage Risk Reduction System and make sure that the system was ready to defend against the 100-year event by June 1 and

I am proud to say and happy to say that we are ready. It has just been amazing what work has been done down there.

PREPARED STATEMENT

Finally, I would like to just say that we are committed to staying on the leading edge of service to our Nation in these water-related issues, and I look forward to your questions. Thank you.

[The statement follows:]

PREPARED STATEMENT OF LIEUTENANT GENERAL ROBERT L. VAN ANTWERP

Chairman Feinstein and distinguished members of the subcommittee: I am honored to be testifying before your subcommittee today, along with the Assistant Secretary of the Army (Civil Works), the Honorable Jo-Ellen Darcy, on the President's fiscal year 2012 budget for the Civil Works Program of the United States Army Corps of Engineers (COE).

My statement covers the following 12 topics:

- Summary of fiscal year 2012 program budget;
- Direct program;
- Investigations program;
- Construction program;
- Operation and maintenance program;
- Reimbursable program;
- Proposed legislation;
- Planning program modernization;
- Efficiency and effectiveness of COE operations;
- Value of the Civil Works Program to the Nation's economy and defense;
- Research and development; and
- National defense;

SUMMARY OF FISCAL YEAR 2012 PROGRAM BUDGET

COE is fully committed to supporting the President's priorities to reduce the deficit, revitalize the economy and restore and protect the environment. The fiscal year 2012 Civil Works budget is a performance-based budget that reflects a focus on the projects and activities that provide the highest net economic and environmental returns on the Nation's investment or address significant risks to human safety. The budget also proposes cancellation of the unobligated balance of funding in the Mississippi River and Tributaries account that was previously provided for construction of the Yazoo Backwater Pumps, Mississippi project. The reimbursable Interagency and International Services Program is projected to involve an additional \$1.6 billion.

DIRECT PROGRAM

The budget includes \$4.6 billion, including funding for the operation and maintenance of more than 600 flood and storm damage reduction projects, 143 commercial coastal navigation projects, and 51 commercial navigation projects on the inland waterways. It also funds continuing construction of 90 construction projects and 2 new construction starts. The budget includes funds for 58 studies already underway and 4 new study starts. It will enable COE to process approximately 70,000 permit requests and to operate 75 hydropower plants with 350 generating units that produce about 24,000 megawatts per year. The budget will enable about 370 million outdoor recreational visits to COE projects and will provide water supply storage for about 14 percent of the Nation's municipal water needs. The budget will sustain COE's preparedness to respond to natural disasters that we may experience. Finally, the budget also proposes to reduce Federal costs through a reduction in funding in lower-priority programs.

INVESTIGATIONS PROGRAM

The budget for the Investigations program will enable COE to evaluate and design future projects that are most likely to be highperforming within COE three main mission areas:

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

The budget includes \$104 million for these and related activities in the Investigations account and \$1 million in the Mississippi River and Tributaries account. It funds 58 continuing studies (1 reconnaissance and 57 feasibility) and 4 new studies:

- Englebright and Daguerre Point Dams (Yuba River) Fish Passage, California;
- Cano Martin Pena, Puerto Rico;
- the Chesapeake Bay Comprehensive Plan; and
- the Louisiana Coastal Area Comprehensive Study.

Funding is also included for the Water Resources Priorities Study, a high-priority evaluation of the Nation's vulnerability to inland and coastal flooding, as well as the effectiveness, efficiency, and accountability of existing water resource programs and strategies.

CONSTRUCTION PROGRAM

The goal of the construction program is to deliver as high a value as possible to the Nation from the overall available funding through the construction of new water resources projects and the replacement, rehabilitation, and expansion of existing water resources projects in the three main Civil Works missions (flood and storm damage reduction, aquatic ecosystem restoration, and commercial navigation) and related projects (principally hydropower). The fiscal year 2012 budget includes \$1.48 billion in the Construction account and \$78 million in the Mississippi River and Tributaries account to further this objective. Consistent with this goal, the budget also gives priority to projects that address a significant risk to human safety.

The budget funds 92 construction projects, including:

- 55 Flood and Storm Damage Reduction projects (3 budgeted for completion);
- 16 Commercial Navigation projects (including 5 continuing mitigation items and 4 dredged material placement areas);
- 19 Aquatic Ecosystem Restoration projects (including 3 projects to meet Biological Opinions); and
- mitigation associated with 2 Hydropower projects.

Two of these construction projects are new starts. In the construction program, the aquatic ecosystem restoration mission also includes significant environmental mitigation work in the Columbia River Basin and the Missouri River Basin needed to support the continued operation of COE multi-purpose projects, which improves habitat and migration pathways for endangered and threatened species.

Performance measures, which COE uses to establish priorities among projects, include the benefit-to-cost ratios for projects with economic outputs and the most cost-effective restorations of significant aquatic ecosystems. The selection process also gives priority to dam safety assurance, seepage control, static instability correction work, and to projects that address a significant risk to human safety. These performance measures maximize benefits to the Nation from the Civil Works construction program by focusing on the projects that will provide the best net returns for each dollar invested.

OPERATION AND MAINTENANCE PROGRAM

The facilities owned and operated by, or on behalf of, COE of Engineers are aging. As stewards of this infrastructure, we are working to ensure that its key features continue to provide an appropriate level of service to the Nation. Sustaining such service poses a technical challenge in some cases, and proper maintenance is becoming more expensive at many of our projects as infrastructure ages.

The Operation and Maintenance (O&M) program for the fiscal year 2012 budget includes \$2.314 billion and an additional \$131 million under the Mississippi River and Tributaries program with a focus on the maintenance of key commercial navigation, flood and storm damage reduction, hydropower, and other facilities. Specifically, the O&M program supports completed works owned or operated by the Corps of Engineers, including administrative buildings and laboratories. Work to be accomplished includes:

- operation of the locks and dams of the inland waterways;
- dredging of inland and coastal Federal commercial navigation channels;
- operating multiple purpose dams and reservoirs for flood damage reduction, aquatic ecosystem restoration, hydropower, recreation, and other related purposes;
- maintenance and repair of these facilities;
- monitoring of completed storm damage reduction projects along our coasts; and
- general management of facilities and the lands associated with these purposes.

REIMBURSABLE PROGRAM

Through the Interagency and Intergovernmental Services Program, we help non-DOD Federal agencies, State, local and tribal governments, and other countries with timely, cost-effective implementation of their programs. Rather than develop their own internal workforce to oversee design and construction of projects, these agencies can turn to COE, which has these capabilities. Such intergovernmental cooperation is effective for agencies and the taxpayer by using the skills and talents that we bring to our Civil Works and Military Program missions. The work is principally technical oversight and management of engineering, environmental, and construction contracts performed by private sector firms, and is totally financed by the agencies we serve. We only accept agency requests that we can execute without impacting our Civil Works or Military Programs missions, are consistent with our core technical expertise, and are in the national interest.

Currently, we provide reimbursable support for about 70 other Federal agencies and several State and local governments. Total reimbursement for such work in fiscal year 2012 is projected to be \$1.6 billion, reflecting completion of most ARRA work and a general reduction in budget capability for most of our other agency customers. The exact amount will depend on requests from the agencies.

PROPOSED LEGISLATION

The budget includes several legislative proposals that will improve operations or enable execution of important national programs. The budget proposes to extend the authority to implement measures to prevent the migration of invasive aquatic species into the Great Lakes, to transfer funds between accounts to enable completion of the New Orleans perimeter protection by June 2017, to purchase the property that houses the Cold Regions Research Engineering Laboratory in Hanover, New Hampshire, and to make a minor modification to existing law that will enable us to serve in an official capacity in meetings of the Permanent International Association of Navigation Congresses. As included in the testimony of Assistant Secretary of the Army (Civil Works) Jo-Ellen Darcy, the budget also discusses two other important legislative initiatives, concerning the way in which Federal navigation activities are funded.

PLANNING PROGRAM MODERNIZATION

COE will continue to implement actions to improve its Civil Works Planning Program performance through a planning modernization effort. This effort focuses on how best to organize, manage, operate, and oversee the planning program to more effectively address 21st century water resources challenges, including:

- improved project delivery that yields smarter outcomes;
 - improved technical capability of our planners;
 - enhanced collaboration with Federal, State, local, and nongovernmental partners;
 - evaluating and enhancing Corps Planning Centers of Expertise production capability and staffing; and
 - strengthening the objectivity and accountability of our planning efforts.
- Our improved planning performance will include:
- updated planning guidance and policy;
 - streamlined, adaptable planning processes to improve effectiveness, efficiency, accuracy, and responsiveness; and
 - enhanced technical capabilities.

In fiscal year 2011, COE launched a 2-year National Planning Pilot Program to test the concepts of this approach within our current policy and to develop and refine methodologies and processes for planning studies across all business lines in a manner that is sustainable and replicable and that will inform future Civil Works guidance. We expect to conduct approximately 7 to 9 pilot studies over the course of the National Planning Pilot Program.

EFFICIENCY AND EFFECTIVENESS OF COE OPERATIONS

COE always strives to continually improve the efficiency and effectiveness of its investigations, construction, and operation and maintenance programs. In fiscal year 2012, COE will further expand the implementation of a modern asset management program; increase its focus on the most important maintenance work; implement an energy sustainability program; pursue major efficiencies in the acquisition and operations of its information technology assets; and complete the ongoing reorganization of its acquisition workforce.

EMERGENCY RESPONSE

From across the Nation, the people who work for COE continue to respond whenever needed to the call to help during major floods and other national emergencies. The critical work they are doing reduces the risk of damage to people and communities. The budget provides \$27 million for preparedness for floods, hurricanes, and other natural disasters, including \$4 million in support of the levee safety initiative for COE participation in the expansion of interagency teams known as Silver Jackets, to include every State, and provide unified Federal assistance in implementing flood and storm damage reduction solutions.

RESEARCH AND DEVELOPMENT

Civil Works Program research and development provides the Nation with innovative engineering products, some of which can have applications in both civil and military infrastructure spheres. By creating products that improve the efficiency and competitiveness of the Nation's engineering and construction industry and by providing more cost-effective ways to operate and maintain infrastructure, Civil Works program research and development contributes to the national economy.

NATIONAL DEFENSE

Internationally, COE continues to support the mission to help Iraq and Afghanistan build foundations for democracy, freedom, and prosperity.

We are proud to serve this great Nation and our fellow citizens, and we are proud of the work COE does to support America's foreign policy, particularly with our ongoing missions in Afghanistan and Iraq. Men and women from across the COE—all volunteers and many of whom have served on multiple deployments—continue to provide critical support to our military missions there and humanitarian support to the citizens of those nations. Currently, 1,168 COE employees (civilian and military) are deployed in Iraq and Afghanistan, where they have completed a total of more than 6,000 infrastructure and water resources projects.

Ms. Darcy and I traveled to Afghanistan last month. As with every opportunity that I've had to travel to that theater, I continue to be amazed—but not surprised—by the progress being made. It was truly a privilege to visit with the outstanding COE men and women who are making this happen, and to see their dedication and commitment.

In Afghanistan, the COE is spearheading a comprehensive infrastructure program for the Afghan national army, and is also aiding in critical public infrastructure projects.

CONCLUSION

COE is committed to staying at the leading edge of service to the Nation. We are committed to change that ensures an open, transparent, and performance-based Civil Works Program.

Thank you, Chairman Feinstein and members of the subcommittee. This concludes my statement.

Senator FEINSTEIN. Thank you very much, General.
Secretary Castle, would you like to begin?

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

STATEMENT OF HON. ANNE CASTLE, ASSISTANT SECRETARY FOR
WATER AND SCIENCE

ACCOMPANIED BY REED MURRAY, PROGRAM DIRECTOR, CENTRAL
UTAH PROJECT COMPLETION ACT OFFICE

Ms. CASTLE. Yes. Thank you, Madam Chair, Senator Alexander, and members of the subcommittee. Thank you for inviting me here to discuss the President's 2012 budget request with you today. You have noted Commissioner Connor's presence. With me also is Reed Murray who is the Director of the Central Utah Project Completion Act (CUPCA) should you have any specific questions about that program.

Interior's mission is essential to our American way of life. We protect our natural resources and our cultural heritage. We honor our Nation's trust responsibilities to American Indians and Alaska Natives. We supply water to lands and people throughout the West. We provide energy to power our future. Our Interior Department people and programs touch virtually every single American.

The Interior 2012 budget funds our primary mission areas, and we have done that by eliminating and reducing lower-priority programs, by streamlining and gaining efficiencies, and by deferring some projects.

The 2012 combined budget request for BOR and the CUPCA program is \$1.1 billion. As you said, Madam Chair, that is a \$78.3 million reduction, 7 percent, from the 2010 enacted level.

One of the highest priorities that we have in the Department of the Interior is to address water challenges by providing Federal leadership on the path to a sustainable water future. We are doing that through our WaterSMART initiative, and we are trying to address the 21st century pressures on our Nation's water supplies. The 2012 budget request by Interior for the WaterSMART initiative is \$70 million. That is distributed between BOR and the U.S. Geological Survey (USGS).

Of that request, \$59 million is for BOR programs. That includes three ongoing BOR programs, the title 16 Water Recycling and Reuse Grant Program, the Basin Studies Program, and the WaterSMART cost share grant funding.

Two additional programs are being added to the WaterSMART initiative this year. One already existed within BOR. That is the Water Conservation Field Services program. The other is the Cooperative Watershed Management program which is a new program authorized under the Secure Water Act, and we have seed money in the BOR budget for that in 2012.

USGS has requested funding to undertake a multiyear nationwide water availability and use assessment that was also author-

ized by the Secure Water Act, and that is what its funding is in the WaterSMART program.

I want to briefly highlight just a few of BOR's other significant efforts. BOR just released its hydropower resource assessment that takes a look at the potential to add hydropower capacity to existing BOR facilities. The next phase of that assessment will look at adding hydropower capacity to canals and conduits. So we are trying to assess the potential for additional renewable energy at existing facilities.

We are currently in a dialogue with Mexico on the management of the Colorado River, and we have ongoing efforts to improve our water operations on the Colorado River—from looking at renewable energy projects in the headwaters all the way down to desalination efforts near the Mexican border.

We are actively pursuing solutions to the ongoing water challenges in the California Bay-Delta. Our efforts there are focused on co-leading with the Council on Environmental Quality (CEQ) an interagency effort to implement the December 2009 Interim Federal Action Plan.

Our 2012 budget includes funding for the initial implementation of four Indian water rights settlements that were authorized in the Claims Resolution Act at the end of last year. And in addition to those four settlements, BOR's budget includes funding for the Navajo-Gallup Water Supply Project, an ongoing project.

With respect to CUPCA, the 2012 budget request is for \$33 million. That includes \$28.5 million to design, construct and provide land acquisition for the Utah lake system, which is the last remaining component of the Central Utah Project. That amount includes full funding for the construction of the Provo River Canal Enclosure Project, which will provide 8,000 acre-feet of saved water to benefit endangered species and 30,000 acre-feet, when completed, to municipalities in Salt Lake and Utah Counties in Utah.

This budget was constructed, as has been said, in the context of very difficult economic times. We took a hard look at our existing programs. We made some very, very tough calls, and we made some reductions in order to shoulder our share of responsibility to reduce the deficit. We think we have done that in a way that adequately protects water and power deliveries, protects the ecosystems that are affected by those delivery systems so that we can ensure reliability of supplies in the future, and makes appropriate investments in our infrastructure.

PREPARED STATEMENT

I look forward to your questions. I appreciate and thank you for your support, and this subcommittee's support of the missions within the Department of the Interior. I look forward to discussing this budget with you.

[The statement follows:]

PREPARED STATEMENT OF ANNE CASTLE

Madam Chair, Senator Alexander, and members of this subcommittee, I am pleased to appear before you today to discuss the President's fiscal year 2012 budget for the Department of the Interior. I would also like to thank the members of this subcommittee for your ongoing support for our initiatives over the last 2 years.

The 2012 budget builds on that strong foundation with \$12.2 billion requested for the Department of the Interior. The budget demonstrates that we can responsibly cut the deficit, while investing to win the future and sustain the national recovery. Our budget promotes the actions and programs that America told us are important in 50 listening sessions across the country. In response, we developed a new 21st century conservation vision—America’s Great Outdoors. The budget continues to advance efforts that you have facilitated in renewable energy and sustainable water conservation, cooperative landscape conservation, youth in the outdoors, and reforms in our conventional energy programs.

I will also discuss the President’s fiscal year 2012 budget request for implementation of the Central Utah Project Completion Act, and I thank the subcommittee for your continued support of the Central Utah Project Completion Act Program as well.

INTRODUCTION

Interior’s mission—to protect America’s natural resources and cultural heritage and honor the Nation’s trust responsibilities to American Indians and Alaska Natives—is profound. Interior’s people and programs impact all Americans.

The Department is the steward of 20 percent of the Nation’s lands including national parks, national wildlife refuges, and the public lands. Interior manages public lands and the Outer Continental Shelf, providing access for renewable and conventional energy development and overseeing the protection and restoration of surface-mined lands. Through the Bureau of Reclamation (BOR), Interior is the largest supplier and manager of water in the 17 Western States and provides hydropower resources used to power much of the country. The Department supports cutting edge research in the earth sciences—geology, hydrology, and biology—to inform resource management decisions at Interior and improve scientific understanding worldwide. The Department of the Interior also fulfills the Nation’s unique trust responsibilities to American Indians and Alaska Natives, and provides financial and technical assistance for the insular areas.

The Department of the Interior makes significant contributions to the Nation’s economy. It supports more than 1.3 million jobs and more than \$370 billion in economic activity each year. Parks, refuges, and monuments generate more than \$24 billion in economic activity from recreation and tourism. Conventional and renewable energy produced on Interior lands and waters results in about \$295 billion in economic benefits and the water managed by Interior supports more than \$25 billion in agriculture. The American outdoor industry estimates 6.5 million jobs are created every year from outdoor activities.

2010 ACCOMPLISHMENTS

At the start of the administration, Interior set on a course to create a comprehensive strategy to advance a new energy frontier; tackle the impacts of a changing landscape; improve the sustainable use of water; engage youth in the outdoors; and improve the safety of Indian communities. These priority goals integrate the strengths of the Department’s diverse bureaus and offices to address key challenges of importance to the American public. Interior has been making progress in these areas, including:

Approving 12 renewable energy projects on public lands that when built, will produce almost 4,000 megawatts of energy, enough energy to power close to 1 million American homes, and create thousands of construction and operational jobs.

Designating more than 5,000 miles of transmission corridors on public lands to facilitate siting and permitting of transmission lines and processing more than 30 applications for major transmission corridor rights-of-way.

Establishing 3 of 8 planned regional Climate Science Centers and 9 of 21 Landscape Conservation Cooperatives.

Issuing grants to water districts and other water delivery authorities resulting in the conservation of 150,000 acre-feet of water.

Increasing the number of youth employed in conservation through Interior or its partners by 45 percent more than 2009 levels.

Reducing overall crime in four Indian communities as a result of a concerted effort to increase law enforcement officers, conduct training in community policing techniques, and engage the communities in law enforcement efforts.

The Department advanced key priorities and strategic goals that will improve the conservation and management of natural and cultural resources into the future.

Interior, along with the Department of Agriculture, the Environmental Protection Agency, and the Council on Environmental Quality, participated in the White House Conference on America’s Great Outdoors and held 50 public listening sessions across the Country that have helped shape a conservation vision and strategy for the 21st

century. We have released a report, *America's Great Outdoors: A Promise to Future Generations* that lays out a partnership agenda for 21st century conservation and recreation.

In the spirit of America's Great Outdoors, we welcomed new national wildlife refuges in Kansas and Colorado and proposed a new conservation area in Florida at the headwaters to the Everglades. These refuges mark a new era of conservation for the Department, one that is community-driven, science-based, and takes into account entire ecosystems and working landscapes.

The Department worked with others to develop an action plan to help address water supply and environmental challenges in the California Bay-Delta area, invested more than \$500 million in major water projects over the past 2 years, and moved forward on long-standing water availability issues in the Colorado River Basin.

In December, the Secretary issued a recommendation to the Congress to undertake an additional 5.5 miles of bridging on the Tamiami Trail in the Everglades above and beyond the 1-mile bridge now under construction. When combined with other planned work in the Everglades Agricultural Area and water conservation areas, this project should restore 100 percent of historic water quantity and flow to Everglades National Park.

With the help of the Congress, we brought about resolution of the *Cobell v. Salazar* settlement and resolved four Indian water rights issues through enactment of the Claims Resolution Act of 2010. We also completed negotiation of a new Compact of Free Association with the island of Palau which awaits congressional approval.

In December of last year, the President hosted the second White House Tribal Nations Conference bringing together tribal leaders from across the United States; we are improving the Nation-to-nation relationship with 565 tribes.

FISCAL RESPONSIBILITY

Interior's 2012 budget must be viewed in the context of the difficult fiscal times facing the Nation and the President's freeze on discretionary funding. The 2012 budget reflects many difficult budget choices, cutting worthy programs and advancing efforts to shrink Federal spending. The budget contains reductions totaling \$1.1 billion or 8.9 percent of the 2010 enacted level. Staffing reductions are anticipated in some program areas, which will be achieved through attrition, outplacement, and buy-outs to minimize the need to conduct reductions in force to the greatest extent possible. These reductions are a necessary component of maintaining overall fiscal restraint while allowing us to invest additional resources in core agency priorities.

This budget is responsible. Interior's \$12.2 billion budget funds important investments by eliminating and reducing lower-priority programs, deferring projects, reducing redundancy, streamlining management, and capturing administrative and efficiency savings. It maintains funding levels for core functions that are vital to uphold stewardship responsibilities and sustain key initiatives. The 2012 request includes \$11.2 billion for programs funded by the Interior, environment, and related agencies appropriation. The 2012 request for BOR and the Central Utah Project Completion Act, funded in the Energy and Water Development Appropriations Act, is \$1.1 billion in current appropriations, \$78.3 million or 7 percent below the 2010 enacted level.

INVESTING IN THE FUTURE

America's Great Outdoors.—Last year, the administration initiated a national dialogue at the White House Conference on America's Great Outdoors. In 50 listening sessions held across the Country, the public communicated their conservation and recreation priorities, and the result is a report to the President, "America's Great Outdoors: A Promise to Future Generations". The report outlines how the Federal Government can support a renewed and refreshed conservation vision by working in collaboration with communities, farmers and ranchers, businesses, conservationists, youth, and others who are working to protect the places that matter to them and by engaging people across the country in conservation and recreation.

The 2012 America's Great Outdoors initiative focuses on investments that will lead to healthy lands, waters and resources while stimulating the economy—goals that are complementary. Through strategic partnerships, Interior will support and protect historic uses of lands, restore lands and resources, protect and interpret historic and cultural resources, and expand outdoor recreation opportunities. All of these activities have significant economic benefits in rural and urban communities.

Youth.—Furthering the youth and conservation goals of the America's Great Outdoors initiative, the 2012 budget proposes to continue engaging youth by employing and educating young people from all backgrounds.

Interior is uniquely qualified to engage and educate young people in the outdoors and has programs that establish connections for youth ages 18 to 25 with natural and cultural resource conservation. These programs help address unemployment in young adults and address health issues by encouraging exercise and outdoor activities. For example, Interior is taking part in the First Lady's Let's Move initiative to combat the problem of childhood obesity. Interior has long-standing partnerships with organizations such as the 4-H, the Boy Scouts, the Girl Scouts, the Youth Conservation Corps, and the Student Conservation Association. These programs leverage Federal investments to put young people to work and build a conservation ethic.

Cooperative Landscape Conservation.—Interior's 2012 budget realigns programs and funding to better equip land and resource managers with the tools they need to effectively conserve resources in a rapidly changing environment. Significant changes in water availability, longer and more intense fire seasons, invasive species and disease outbreaks are creating challenges for resource managers and impacting the sustainability of resources on public lands. These changes result in bark beetle infestations, deteriorated range conditions, and water shortages that negatively impact grazing, forestry, farming, as well as the status of wildlife and the condition of their habitats. Many of these problems are caused by or exacerbated by climate change.

Interior's 2012 budget includes \$175.0 million for cooperative landscape conservation, an increase of \$43.8 million. The budget funds the completion of the Climate Science Centers and Landscape Conservation Cooperatives, the organizing framework for the Department's efforts to work collaboratively with others to understand and manage these changes. These efforts will allow the Department to meet its priority goal to identify resources vulnerable to climate change and implement coordinated adaptation response actions for 50 percent of the Nation by the end of 2012.

Water Challenges.—Interior is working to address the 21st century pressures on the Nation's water supplies. Population growth, aging water infrastructure, changing climate, rising energy demands, impaired water quality and environmental needs are among the challenges. Water shortage and water use conflicts have become more commonplace in many areas of the United States, even in normal water years. As competition for water resources grows, the need for information and tools to aid water resource managers also grows. Water issues and challenges are increasing across the Nation, but particularly in the West and Southeast due to more prolonged droughts than we have experienced historically. Traditional water management approaches no longer meet today's needs.

BOR proposes to fund the rebased WaterSMART at \$58.9 million, \$11 million below 2011 levels. The three ongoing WaterSMART programs include:

- the WaterSMART Grant program funded at \$18.5 million;
- Basin Studies funded at \$6 million; and
- the title XVI Water Reclamation and Reuse program funded at \$29 million.

The rebasing adds the existing Water Conservation Field Services program, funded at \$5.1 million, and participation by BOR in the Cooperative Watershed Management program, funded at \$250,000. WaterSMART is a joint effort with USGS. USGS will use \$10.9 million, an increase of \$9 million, for a multi-year, nationwide water availability and use assessment program.

Other significant programs and highlights specific to BOR include:

In 2010, the Secretary issued a Secretarial Order establishing the WaterSMART program which embodies a new water sustainability strategy. WaterSMART coordinates Interior's water sustainability efforts, creates a clearinghouse for water conservation best practices and implements a department-wide water footprint reduction program to reduce consumption of potable water by 26 percent by 2020.

We are in dialogue with Mexico on the management of the Colorado River. We have ongoing efforts to improve our management of resources on the Colorado River, from renewable hydropower development near the headwaters to a pilot program of desalination near the Mexican border.

We are actively pursuing workable solutions to regional issues such as in the California Bay-Delta. The Bay-Delta is a source of drinking water for 25 million Californians and sustains about \$400 billion in annual economic activity, including a \$28 billion agricultural industry and up until recently supported a thriving commercial and recreational fishing industry. Our efforts in the Bay-Delta are focused on co-leading an inter-agency effort with the Council on Environmental Quality (CEQ) to implement the December 2009 Interim Federal Action Plan for the California Bay-Delta Conservation Plan. In coordination with five other Federal agencies, we are leveraging our activities to address California water issues, promote water efficiency and conservation, expand voluntary water transfers in the Central Valley, fund drought relief projects, and make investments in water infrastructure. Over the past 2 years, we have invested more than \$500 million in water projects in California.

We have also, in close coordination with NOAA and the State of California, worked on the California Bay-Delta Conservation Plan, a long-term plan aimed at restoring both reliable water supplies and a healthy Bay-Delta ecosystem.

On March 22 we announced an update to the Water Supply Allocation for Central Valley Project (CVP) water users for 2011. This updated allocation reflects improved precipitation and snowpack in the Sierra Nevada Mountains in the last month. We are pleased to report that the current allocation for most CVP contractors is 100 percent of their contract supply. Agricultural water service contractors South-of-Delta allocations have been increased from 50 percent to 65 percent and municipal and industrial contracts from 75 percent to 90 percent. These allocations represent good news given recent years, but many challenges remain. We will continue to work with our Federal, State, and local partners to improve water supply reliability while addressing significant ecological issues. BOR is continuing to update the forecast to provide the most current information to its stakeholders.

HYDROPOWER

Hydropower is a very clean and efficient way to produce energy and is a renewable resource. Each kilowatt-hour of hydroelectricity is produced at an efficiency of more than twice that of any other energy source. Further, hydropower is very flexible and reliable when compared to other forms of generation. BOR has nearly 500 dams and 10,000 miles of canals and owns 58 hydropower plants, 53 of which are operated and maintained by BOR. On an annual basis, these plants produce an average of 40 million megawatt (MW) hours of electricity, enough to meet the entire electricity needs of more than 9 million people on average.

BOR and the Federal Energy Regulatory Commission (FERC) have an existing MOU, signed in 1992, that addresses the establishment of processes for early resolution of issues related to the timely development of non-Federal hydroelectric power at BOR facilities. BOR and FERC recently met to discuss how to improve the timeliness of the processes developed in that MOU and resolution of authority issues.

BOR is assessing the potential for developing low-head hydroelectric generating capacity on federally owned canals and conduits.

Overall, the Department shares the subcommittee's view that interagency coordination can leverage Federal and private sector investment in additional hydropower development. This consideration was foremost in the Department's signing a Memorandum of Understanding with the Department of Energy and COE on March 24, 2010 to increase communication between Federal agencies and strengthen the long-term relationship among them to prioritize the generation and development of sustainable hydropower. This administration is committed to increasing the generation of environmentally sustainable, affordable hydropower for our national electricity supplies in as efficient a manner as possible.

Indian Land and Water Settlements.—Interior's 2012 budget includes \$84.3 million in BOR and Bureau of Indian Affairs (BIA) to implement land and water settlements.

BOR's budget includes \$51.5 million for the initial implementation of four settlements authorized in the Claims Resolution Act of 2010. The legislation included water settlements for the Taos Pueblo of New Mexico and Pueblos of New Mexico named in the Aamodt case, the Crow Tribe of Montana, and the White Mountain Apache Tribe of Arizona. BOR's contribution to the Navajo-San Juan settlement is also included in the account.

The Claims Resolution Act of 2010 establishes trust funds for tribes to manage water systems and settlement funds to develop infrastructure. The primary responsibility for constructing these water systems was given to BOR, while BIA is responsible for the majority of the trust funds, which includes \$207.2 million in mandatory funding in 2011.

These settlements will deliver clean water to the Taos Pueblo and the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque in New Mexico, the Crow Tribe of Montana, and the White Mountain Apache Tribe of Arizona. In addition to funding for the initial implementation of these four settlements, BOR's budget includes \$24.8 million for the Navajo-Gallup Water Supply project. In the 2012 budget, BOR is establishing an Indian Water Rights Settlements account to assure continuity in the construction of the authorized projects and to highlight and enhance transparency. Both BOR and BIA are working cooperatively to implement the settlements.

CENTRAL UTAH PROJECT COMPLETION ACT (CUPCA)

I am pleased to provide the following information about the President's fiscal year 2012 budget request for implementation of CUPCA.

CUPCA, titles II–VI of Public Law 102–575, provides for completion of the Central Utah Project (CUP) by the Central Utah Water Conservancy District. The act also authorizes funding for fish, wildlife, and recreation mitigation and conservation; establishes an account in the Treasury for deposit of these funds and other contributions; establishes the Utah Reclamation Mitigation and Conservation Commission to coordinate mitigation and conservation activities; and provides for the Ute Indian Rights Settlement.

The 2012 request for the Central Utah Project Completion Account provides \$33 million for use by the District, the Mitigation Commission, and the Department to implement titles II–IV of the act, which is \$9 million less than the 2010 enacted level. The decrease in funding for the 2012 budget is due in part to accelerated funding provided in 2009 through the American Recovery and Reinvestment Act and in part to the administration's effort to reduce the deficit.

The request for the District includes \$28.5 million to fund the designs, specifications, land acquisition, and construction of the Utah Lake System (\$18.5 million). This includes full funding (\$10 million) for construction of the Provo River Canal Enclosure Project, which when completed will provide 8,000 acre-feet of conserved water for endangered fish and convey 30,000 acre-feet of CUP water.

The request includes \$2 million for the Mitigation Commission to implement the fish, wildlife, and recreation mitigation and conservation projects authorized in title III (\$1.8 million) and to complete mitigation measures committed to in pre-1992 BOR planning documents (\$200,000), all of which are necessary to allow CUP operations.

Finally, the request includes \$2.5 million for the program office for endangered species recovery and operation and maintenance costs associated with instream flows and fish hatchery facilities (\$954,000) and for program administration (\$1.6 million).

CONCLUSION

Thank you for the opportunity to testify on behalf of the President's fiscal year 2012 budget request for the Department of the Interior. I want to reiterate my appreciation for the long-standing support of this subcommittee. This budget has fiscal discipline and restraint, but it also includes forward looking investments. We have a tremendous opportunity to improve the future for all generations with wise investments in healthy lands, clean waters and expanded energy options.

I look forward to working with you to implement this budget. This concludes my overview of the fiscal year 2012 budget request for the Department of the Interior. I am happy to answer any questions that you may have.

Senator FEINSTEIN. Thank you very, very much.

General, I would like to begin with the Harbor Maintenance Trust Fund if I might. It is my understanding that this fund has a significant surplus and that the budget request states that the administration will be making a proposal concerning the fund. As I understand it, this proposal will allow other agencies that are conducting port-related activities to charge those activities to the trust fund. Is that correct? Could you explain this proposal?

General VAN ANTWERP. Senator, I will take a stab at that and then turn to my policy partner here to address the other part.

First of all, you are absolutely correct that there is a large amount in the fund, probably estimated at around \$6 billion.

Senator FEINSTEIN. Excuse me.

General VAN ANTWERP. Yes, ma'am.

Senator FEINSTEIN. I left out Commissioner Connor, and it was truly an oversight. Why do you not finish with that, if it is agreeable? Then, Commissioner Connor, I really apologize.

General VAN ANTWERP. We were smiling at each other. I thought you let him off the hook. We want to hear from him. I will just conclude this one part about the Harbor Maintenance Trust Fund.

Generally in a given year, we get about \$1.4 billion in receipts, and we have budgeted this year along the lines of \$750 million from the trust fund.

And I will let Ms. Darcy take the policy part of this, if that is okay.

Senator FEINSTEIN. Okay, fine.

Ms. DARCY. Would you like me to finish now, Senator?

Senator FEINSTEIN. Well, where I am going is whether or not this rapidly depletes the trust fund.

Ms. DARCY. Well, the trust fund, as the General said, gets about \$1.4 billion annually; those funds currently are in the Treasury even though all of the funds that come in must be appropriated. And for COE, we get about \$783 million appropriated from that annual revenue stream in our annual appropriations. So the balance is in the Treasury and the rest of its use is determined by the administration and by the Congress.

Senator FEINSTEIN. It is my understanding that the budget proposal does not provide for full authorized widths and depths to be maintained at any harbor handled by COE. Maybe you would like to come back to this, but my concern is that you will eat up the trust fund with other activities. The dredging gets done partially and we have some real impediment to trade and commerce in our country. So we will come back to that.

Commissioner Connor.

STATEMENT OF HON. MICHAEL L. CONNOR, COMMISSIONER

Mr. CONNOR. Thank you, Madam Chair. I took no offense. If I have learned nothing else in this job, it is sometimes the less said the better.

So I thank you for your kind words and I thank you and the members of the subcommittee for your support of BOR, and I appreciate the opportunity to discuss the President's 2012 request.

Overall, BOR's budget reflects a comprehensive set of actions and initiatives that support BOR's mission. The budget continues to emphasize working smarter to address the water needs of a growing population. Certainty and sustainability are primary goals with respect to the use of water resources that require BOR to take action on many fronts, and our budget proposal was developed with that principle in mind.

I should note that our efforts to work smarter include an array of partnerships with COE, from the Joint Dam Safety and Flood Protection Project at Folsom Dam to our sustainable hydropower initiative. In these tight budget times, combining our resources with those of COE will help bring value to the American taxpayer.

The fiscal year 2012 budget request for BOR focuses on six priorities which I want to touch briefly on in my remaining time, and I will avoid those areas already discussed.

Number 1, infrastructure. Overall, our budget continues to support the need to maintain infrastructure in a safe operating condition while addressing the myriad of challenges facing water users in the West. Approximately 51 percent of our water and related resources budget, or \$407 million, is dedicated to operation, maintenance, and rehabilitation activity. These activities include the dam safety program, site security program, and RAX, which is shorthand for replacements, additions, and extraordinary maintenance.

As already noted, a second priority is the WaterSMART program. A specific aspect that I want to highlight is that we have estab-

lished a priority goal for approving and funding actions to increase the available water supply for agricultural, municipal, industrial, and environmental uses in the Western United States by 490,000 acre-feet by the end of 2012. WaterSMART concentrates on expanding and stretching limited water supplies in the West to reduce conflict, facilitate solutions to complex water issues, and meet the needs of expanding municipalities, the environment, and agriculture. Conservation and efficient management are central to the creative solutions needed in the arid West.

Ecosystem restoration is the third priority area. In order to meet BOR's mission goals of sustainably producing power and delivering water, we must continue to focus on the protection and restoration of the aquatic and riparian ecosystems affected by our operations. Ecosystem restoration involves a large number of activities, including our Endangered Species Recovery programs.

Twenty to 25 percent of BOR's 2012 budget is allocated to activities in support of ecosystem restoration. This amount includes the request for operating, managing, and improving California's Central Valley Project, or CVP. CVP-related funding will support completion of the Red Bluff pumping plant and fish screen project on the Sacramento River, the Trinity River, and the San Joaquin River restoration programs, and other actions to protect and enhance California's Bay-Delta region.

Our budget request also supports ongoing implementation of the Lower Colorado River Multi-species Program, the Platte River Endangered Species Recovery Program, the Upper Colorado and San Juan River Endangered Fish Programs.

In addition, funding requested for the Columbia and Snake River Salmon Recovery Program will implement required biological opinion actions associated with the Federal Columbia River power system.

Finally, funding is also sought for the Klamath, Middle Rio Grande, and Yakima projects to support extensive initiatives to address the competing demands in those basins.

Cooperative landscape conservation and renewable energy production, a fourth area of focus, are departmental initiatives in which BOR is actively engaged. As a threshold matter, we are developing and implementing approaches to understand and effectively adapt to the risks and impacts of climate change on western water. As you know, Madam Chair, better than anybody, the future protections of decreasing flows in the Colorado River and reduced snowpack in the Sierra Nevada Mountains have already caused Californians to actively begin implementing local and regional solutions to the threats to their water supplies and the environment. Other areas of the country are starting to follow suit.

Through our Basin Studies program and implementation of the Secure Water Act, BOR is aggressively trying to assist in acquiring the data and improving the science related to future projections of water supplies so that effective adaptation strategies can be developed and implemented. In 2012, the Basin Studies program will continue west-wide risk assessments focusing on the threats to water supplies from climate change and other sources and will coordinate responsive actions with the Department's Landscape Conservation Cooperatives.

BOR's science and technology program will also continue research that targets improved capability for managing water resources in the face of climate change, invasive species issues, as well as integrating renewable energy and energy-efficiency activities into our water operations.

A fifth initiative is very important to the administration and that is our longstanding commitment to the Secretary's goal to strengthen tribal nations. Assistant Secretary Castle has already mentioned our support for the Indian water rights programs. BOR is going to begin a number of implementation activities this year in support of the recently enacted four settlements, as well as continuing activities with respect to other Indian water rights settlements.

I should note that we have requested \$36 million for rural water projects which also support a number of tribal nations.

PREPARED STATEMENT

Madam Chair, in conclusion, we appreciate again your support for BOR and the support of the subcommittee, and I will answer questions at the appropriate time.

[The statement follows:]

PREPARED STATEMENT OF MICHAEL L. CONNOR

Thank you Madam Chair, Senator Alexander, and members of this subcommittee for the opportunity to discuss with you the President's fiscal year 2012 budget request for the Bureau of Reclamation (BOR). With me today is Bob Wolf, Director of Program and Budget.

I appreciate the time and consideration this subcommittee gives to reviewing and understanding BOR's budget and its support for the program. BOR works hard to prioritize and define our program in a manner that serves the best interest of the public.

Our fiscal year 2012 request continues support for activities that, both now and in the future, will deliver water and generate hydropower, consistent with applicable State and Federal law, in an environmentally responsible and cost-effective manner. Overall, our goal is to promote certainty, sustainability, and resiliency for those who use and rely on water resources in the West. Success in this approach will help ensure that BOR is doing its part to support the basic needs of communities, as well as providing for economic growth in the agricultural, industrial, and recreational sectors of the economy. In keeping with the President's pledge to freeze spending and focus on deficit reduction, this budget reflects reductions and savings where possible. Although the 2012 budget request allows BOR to fulfill its core mission, essential functions have been trimmed and economized wherever possible.

The budget continues to emphasize working smarter to address the water needs of a growing population and assisting States, tribes, and local entities in solving contemporary water resource challenges. It also emphasizes the operation and maintenance of BOR facilities in a safe, efficient, economic, and reliable manner; assuring systems and safety measures are in place to protect the public and BOR facilities. Funding for each program area down to the individual projects within BOR's request is based upon adherence to administration, departmental, and BOR priorities. BOR is responsible for the oversight, operation, and maintenance of major Federal infrastructure that is valued at \$87.7 billion in current dollars. Key areas of focus for fiscal year 2012 include Water Conservation, Landscape Conservation Cooperatives and Renewable Energy, Ecosystem Restoration, Youth Employment, supporting tribal nations and maintaining infrastructure. Recognizing the budget challenges facing the Federal Government as a whole, BOR will continue its efforts to partner with other Federal agencies such as the U.S. Army Corps of Engineers (COE), Department of Energy (DOE), and the Natural Resources Conservation Service, to maximize the efficiency by which we implement our programs.

BOR's 2012 budget request is \$1 billion, which includes \$53.1 million for the Central Valley Project Restoration Fund (CVPRF). This request is offset by discretionary receipts in the CVPRF, estimated to be \$52.8 million. The request for permanent appropriations in 2012 totals \$194.5 million. Overall, BOR's 2012 budget is

a responsible one and consistent with the administration's goal of fiscal sustainability. BOR will still be making strategic investments that provide a strong foundation to meet water resources challenges across the West.

WATER AND RELATED RESOURCES

The 2012 budget request for Water and Related Resources, BOR's principal operating account, is \$805.2 million, a decrease of \$108.4 million from the 2011 request.

The request includes a total of \$398.5 million for water and energy, land, and fish and wildlife resource management and development activities. Funding in these activities provides for planning, construction, water conservation activities, management of BOR lands including recreation, and actions to address the impacts of BOR projects on fish and wildlife.

The request also provides a total of \$406.7 million for water and power facility operations, maintenance, and rehabilitation activities. BOR emphasizes safe, efficient, economic and reliable operation of facilities, ensuring systems and safety measures are in place to protect the facilities and the public. Providing the funding needed to achieve these objectives continues to be one of BOR's highest priorities.

HIGHLIGHTS OF THE FISCAL YEAR 2012 REQUEST FOR WATER AND RELATED RESOURCES

I would like to share with the subcommittee several highlights of the BOR budget including an update on the WaterSMART (Sustain and Manage America's Resources for Tomorrow) Program and Interior's establishment of a Priority Goal target to enable capability to increase available water supply for agricultural, municipal, industrial, and environmental uses in the Western United States by 490,000 acre-feet by the end of 2012.

WaterSMART Program.—The request focuses resources on the Department of the Interior's WaterSMART program. The program concentrates on expanding and stretching limited water supplies in the West to reduce conflict, facilitate solutions to complex water issues, and to meet the growing needs of expanding municipalities, the environment, and agriculture.

BOR proposes to fund the rebased WaterSMART program at \$58.9 million, \$11 million below 2011 levels. The three ongoing WaterSMART programs include:

- the WaterSMART Grant program funded at \$18.5 million;
- Basin Studies funded at \$6 million; and
- the title XVI Water Reclamation and Reuse program funded at \$29 million.

The rebased program adds the existing Water Conservation Field Services program, funded at \$5.1 million, and participation by BOR in the Cooperative Watershed Management program, funded at \$250,000. This is a joint effort with the USGS.

Other significant programs and highlights include:

Ecosystem Restoration.—In order to meet BOR's mission goals of securing America's energy resources and managing water in a sustainable manner for the 21st century, a part of its programs must focus on the protection and restoration of the aquatic and riparian environments affected by its operations. Ecosystem restoration involves a large number of activities, including BOR's Endangered Species Act recovery programs, which are required in order to continue project operations and directly address the environmental aspects of the BOR mission.

The 2012 request provides \$154.6 million for operating, managing and improving California's Central Valley Project (CVP). This amount supports Ecosystem Restoration including \$34.8 million for the Red Bluff Pumping Plant and Fish Screen within the CVP, Sacramento River Division, which will be constructed to facilitate passage for threatened fish species, as well as providing water deliveries. The funding for the CVP also includes \$10.5 million for the Trinity River Restoration program and \$3 million from the CVP Restoration Fund which includes development of a comprehensive monitoring and adaptive management program for fishery restoration and construction of channel rehabilitation projects at various sites along the Trinity River.

The request includes \$26 million for Lower Colorado River Operations to fulfill the role of the Secretary as water master for the Lower Colorado River and implementation of the Lower Colorado River Multi-Species Conservation (MSCP) program which provides long-term Endangered Species Act compliance for the operations. Of this amount, \$18.3 million for the MSCP program will provide quality habitat to conserve populations of 26 species.

The budget requests \$20 million for other Endangered Species Act Recovery Implementation programs, including \$11 million in the Great Plains Region to implement the Platte River Endangered Species Recovery Implementation program. It

also includes \$6.2 million for the Upper Colorado and San Juan River Endangered Fish Recovery programs. This funding will continue construction of a system that automates canal operations to conserve water by matching river diversions with actual consumptive use demands and redirecting the conserved water to improve instream flows. Additionally, the Columbia/Snake River Salmon Recovery program funding of \$17.8 million will be used for implementation of required Biological Opinion actions including extensive hydro actions, plus tributary habitat and hatchery initiatives.

The 2012 budget includes \$18.6 million for the Klamath project, which supports studies and initiatives to improve water supplies to meet the competing demands of agricultural, tribal, wildlife refuge, and environmental needs in the Klamath River Basin.

No funding is requested for the Klamath Dam Removal and Sedimentation Studies. These studies are being completed with funds previously appropriated and will be used to inform a Secretarial Determination in 2012 as to whether removing PacifiCorp's four dams on the Lower Klamath River is in the public interest and advances restoration of the Klamath River fisheries. The studies and Secretarial Determination are being carried out pursuant to an agreement with PacifiCorp and the States of California and Oregon.

The 2012 budget includes \$23.6 million for the Middle Rio Grande project. Funds support the acquisition of supplemental non-Federal water for Endangered Species Act efforts and low flow conveyance channel pumping into the Rio Grande during the irrigation season. Further, funding is used for recurring life cycle river maintenance necessary to ensure uninterrupted, efficient water delivery to Elephant Butte Reservoir, reduced risk of flooding, as well as delivery obligations to Mexico.

The Yakima River Basin Water Enhancement Project request is \$8.9 million, which will continue funding grants to the Benton and Roza Irrigation Districts and Sunnyside Division Board of Control, to implement conservation measures and monitor the effects of those measures on the river diversions.

Cooperative Landscape Conservation and Renewable Energy.—BOR is actively engaged in developing and implementing approaches to understand, and effectively adapt to, the risks and impacts of climate change on western water management. The Basin Studies Program is part of Interior's integrated strategy to respond to climate change impacts on the resources managed by the Department, and is a key component of the WaterSMART Program. In 2012, the Basin Studies Program will continue West-wide risk assessments focusing on the threats to water supplies from climate change and other factors and will be coordinated through the Department's Landscape Conservation Cooperatives (LCCs). BOR will take the lead responsibility for establishing and coordinating work at the Desert and Southern Rockies LCCs. Included within BOR's Science and Technology program is water resources research targeting improved capability for managing water resources under multiple drivers affecting water availability, including climate change. This research agenda will be collaborated and leveraged with capabilities of the Interior Climate Science Centers.

BOR is also working in partnership with DOE and COE in identifying opportunities to address the President's clean-energy goals through the development of new sustainable hydropower capacity as well as integrating renewable energy in our operations. The partnership with DOE and its Power Marketing Administrations will also assess climate change impacts on hydropower generation.

Supporting Tribal Nations.—BOR has a long-standing commitment to realizing the Secretary's goal to strengthen tribal nations. Fiscal year 2012 continues support through a number of BOR projects ranging from endangered species restoration to rural water and implementation of water rights settlement actions.

The request includes \$12.8 million for the Animas-La Plata project to continue constructing components of the Navajo Nation Municipal Pipeline and filling Lake Nighthorse as the project nears completion.

The 2012 BOR budget requests \$35.5 million for on-going authorized rural water projects. The projects that benefit tribal nations include Mni Wiconi, the rural water component of the Garrison Diversion Unit, Fort Peck Reservation/Dry Prairie, Jicarilla Apache Reservation, and Rocky Boys/North Central Montana. One other rural water project that does not directly affect tribes is the Lewis and Clark Project. Funding for the Perkins County Project is complete. The first priority for funding rural water projects is the required O&M component, which is \$15.3 million for fiscal year 2012. For the construction component, BOR allocated funding based on objective criteria that gave priority to projects nearest to completion and projects that serve on-reservation needs.

The request includes \$7 million for the Native American Affairs program to provide technical support for Indian water rights settlements and to assist tribal governments to develop, manage and protect their water and related resources. The Co-

lumbia/Snake River Salmon Recovery, Klamath, Central Valley Project Trinity River Restoration, Yakima and Yakima River Basin Water Enhancement Projects mentioned above under Ecosystem Restoration benefit tribal nations. Also, the newly established Indian Water Rights Settlement Account discussed below supports tribal nations.

Youth Employment.—To meet the Secretary's challenge to achieve the Priority Goal for youth employment, BOR is working hard to engage, educate, and employ our Nation's youth in order to help develop the future stewards of our lands. Secretary Salazar challenged the Interior Bureaus to increase employment of youth between the ages of 15 and 25 in natural and cultural resource positions. Last year, BOR began working with youth conservation corps to hire youth and expose them to the great work that it does. We continue to use all hiring authorities available to bring young people in through internships, crew work, and full time positions.

Aging Infrastructure.—Through BOR's continued emphasis on preventive maintenance and regular condition assessments (field inspections and reviews), the service life of many BOR assets and facilities have been extended, thereby delaying the need for significant replacements and rehabilitation efforts, including the related funding needs. Although BOR and its project beneficiaries have benefited greatly from this preventive maintenance, we recognize that as assets and facilities age, they require an increased amount of maintenance. Sometimes this requires more frequent preventive maintenance, and, in other situations, significant extraordinary maintenance, rehabilitations, or replacements may be required.

It is important to note that much of the Operation and Maintenance (O&M) funding responsibilities of BOR's assets lies with our project beneficiaries and those operating entities that operate and maintain federally owned transferred works. For some operating entities and project beneficiaries, rehabilitation and replacement needs may exceed available resources. In particular, many smaller irrigation or water conservancy districts are unable to fund these needs in the year incurred absent long-term financing assistance. To address this issue, the administration is currently exploring strategies for helping these entities to rehabilitate these facilities. We are also exploring potential utilization of the authority provided under Public Law 111-11 that would allow extended repayment of extraordinary (nonroutine) maintenance costs on project facilities. Water users are currently required by Federal reclamation law to pay these costs, which are often substantial, in advance.

BOR's fiscal year 2012 proposed budget is \$40.8 million in appropriations for various projects for Replacements, Additions, and Extraordinary Maintenance (RAX) activities where BOR is directly responsible for daily O&M. This request is central to mission objectives of operating and maintaining projects to ensure delivery of water and power benefits. BOR's RAX request is part of its overall Asset Management Strategy that relies on condition assessments, condition/performance metrics, technological research and deployment, and strategic collaboration to continue to improve the management of its assets and deal with its aging infrastructure challenges. This amount represents only the fiscal year 2012 request for discretionary appropriations. Additional RAX items are directly funded by revenues, customers, or other Federal agencies.

The Bonneville Power Administration will continue to provide up-front financing of power operation and maintenance and for major replacements and additions for the power plants at the Boise, Columbia Basin, Hungry Horse, Minidoka, Rogue River, and Yakima projects. In the Great Plains (GP) Region, BOR, Western Area Power Administration, and COE have entered into an agreement which enables the customers to voluntarily direct fund power RAX items. A long-term funding agreement with the customers for the Parker-Davis Project on the Colorado River was executed in fiscal year 1999. Fiscal year 2012 costs of operation, maintenance and replacement for this project will be 100 percent up-front funded by the customers. To date, the Central Valley Project power O&M program is funded 100 percent by the customers, in addition to funding selected RAX items. BOR will continue to explore ways to reduce the Federal cost of its projects and programs.

A total of \$83.7 million is requested for BOR's Safety of Dams program, which includes \$63.6 million directed to dam safety corrective actions; of that, \$27.5 million is for work at Folsom Dam. Funding also includes \$18.5 million for safety evaluations of existing dams and \$1.6 million to oversee the Interior Department's Safety of Dams program.

BOR's request for Site Security is \$25.9 million to ensure the safety and security of the public, BOR's employees, and key facilities. This funding includes \$6.9 million for physical security upgrades at high-risk critical assets and \$19.1 million to continue all aspects of bureauwide security efforts including law enforcement, risk and threat analysis, personnel security, information security, risk assessments and security-related studies, and guards and patrols.

BOR continues efforts to reach agreements with non-Federal and Federal partners to share in the cost of water resource management and development. Cost-sharing of 50 percent for construction and rehabilitation of recreation facilities at various BOR reservoirs will continue. Additionally, BOR's current planning program seeks 50 percent cost-sharing on most studies. This reflects BOR's emphasis on partnerships for water management initiatives.

INDIAN WATER RIGHTS SETTLEMENTS

On December 8, 2010 the President signed the Claims Resolution Act of 2010 that included four water settlements. These settlements resolve longstanding and disruptive water disputes, provide for the quantification and protection of tribal rights, and will deliver clean water to the Pueblos of Taos, Nambe, Pojoaque, San Ildefonso, and Tesuque in New Mexico, the Crow Tribe of Montana, and the White Mountain Apache Tribe of Arizona. In order to accomplish this, the act provides various mechanisms and funding structures designed for both construction and for the tribes to use to manage water systems following construction. The primary responsibility for developing water infrastructure under these settlements was given to BOR. Mandatory funding was provided to both BIA and BOR in 2011 for a portion of the funds established under the act. We anticipate that BOR will begin expending some of this mandatory funding to work with all parties to begin implementing these settlements.

The four Indian water rights settlements will provide water supplies and offer economic security for the tribes and pueblos described above. The agreements will build and improve reservation water systems, rehabilitate irrigation projects, construct a regional multi-pueblo water system, and codify water-sharing arrangements between Indian and neighboring communities. Construction will take place over time and annual funding requirements will vary from year to year. Notwithstanding the availability of some level of mandatory funding, discretionary appropriations will still be necessary. BOR is requesting \$26.7 million in 2012 for the initial implementation of these four settlements.

BOR is establishing the Indian Water Rights Settlements account to assure continuity in the construction of the authorized projects and to highlight and enhance transparency in handling these funds. In establishing this account, BOR will also request \$24.8 million for the Navajo-Gallup Water Supply project (title X of Public Law 111-11) in order to have major current funding for BOR's Indian Water Rights Settlements treated in the Claims Resolution Act in a single account.

The Navajo-Gallup Water Supply Project will provide reliable and sustainable municipal, industrial, and domestic water supplies from the San Juan River to the Navajo Nation including:

- the Window Rock, Arizona area;
- the city of Gallup, New Mexico; the Navajo Agricultural Products Industry; and
- the southwest portion of the Jicarilla Apache Nation Reservation.

The total request for BOR for Indian Water Rights Settlements in 2012 is \$51.5 million in discretionary funding and \$60 million in permanent funds.

POLICY AND ADMINISTRATION

The 2012 budget request for the Policy and Administration appropriation account, the account that finances BOR's central management functions, is \$60 million or 6 percent of the total request, a reduction of \$1.2 million from the 2011 request. This reduction reflects the impact of the pay freeze and the Administrative Cost Savings discussed below.

ADMINISTRATIVE COST SAVINGS AND MANAGEMENT EFFICIENCIES

The 2012 budget request includes reductions that reflect the Accountable Government Initiative to curb nonessential administrative spending in support of the President's commitment on fiscal discipline and spending restraint. In accordance with this initiative, BOR's budget includes \$5.8 million in savings in 2012 against actual 2010 expenditures in the following activities: travel and transportation of persons, transportation of things, printing and reproduction, and supplies and materials. Actions to address the Accountable Government Initiative and reduce these expenses build upon management efficiency efforts proposed in 2011 totaling \$3.9 million in travel and relocation, Information Technology, and strategic sourcing and bureau-specific efficiencies totaling \$1.3 million.

CENTRAL VALLEY PROJECT RESTORATION FUND

The 2012 budget includes a request of \$53.1 million for the CVPRF. This budget request is offset by collections estimated at \$52.8 million from mitigation and restoration charges authorized by the Central Valley Project Improvement Act. The request considers the effects of the San Joaquin River Restoration Settlement Act (Public Law 111–11, March 30, 2009) which (beginning in 2010) redirects certain fees, estimated at \$5.6 million in fiscal year 2012, collected from the Friant Division water users to the San Joaquin River Restoration Fund.

SAN JOAQUIN RIVER RESTORATION FUND

The 2012 budget also reflects the settlement of *Natural Resources Defense Council v. Rodgers*. BOR proposes \$9 million in discretionary funds into this account, which was established by the San Joaquin River Restoration Settlement Act. Under the Settlement, the legislation also provides for approximately \$2 million in annual appropriations for the Central Valley Project Restoration Fund for this purpose, as well as mandatory funds. The Fund seeks to provide a variety of physical improvements within and near the San Joaquin River within the service area of the Friant Division long term contractors to achieve the restoration and water management goals. These funds are important for BOR to meet various terms of the settlement that brought water contractors, fishery advocates, and other stakeholders together to bring to an end 18 years of contentious litigation.

CALIFORNIA BAY-DELTA RESTORATION FUND

The 2012 budget requests \$39.7 million for CALFED, pursuant to the CALFED Bay-Delta Authorization Act. The request focuses on the Bay-Delta Conservation Plan and interagency science efforts to address short- and long-term water resource issues. Other activities include a renewed Federal/State partnership, Smarter Water Supply and Use, and addressing the degraded Bay-Delta Ecosystem actions which include Federal participation in the Bay Delta Conservation Plan and interagency science efforts to address short- and long-term water resource issues based on the Interim Federal Action Plan. The CALFED Bay-Delta Program was established in May 1995 to develop a comprehensive long-term plan to address the complex and interrelated problems in the Delta region, tributary watersheds, and delivery areas. The Program's focus is on conserving and restoring the health of the ecosystem and improving water management, including Federal participation in the Bay Delta conservation Plan.

FISCAL YEAR 2012 PLANNED ACTIVITIES

BOR's fiscal year 2012 goals are directly related to fulfilling contractual requests to deliver water and power. Our goals also address a range of other water supply needs in the West, playing a significant role in restoring and protecting freshwater ecosystems consistent with applicable State and Federal law, enhancing management of our water infrastructure while mitigating for any harmful environmental effects, and understanding and responding to the changing nature of the West's limited water resources. It should be emphasized that in order to meet BOR's mission goals of securing America's energy resources and managing water in a sustainable manner for the 21st century, a part of BOR's programs must focus on the protection and restoration of freshwater ecosystems.

By the end of fiscal year 2012, BOR will enable capability to increase available water supply for agricultural, municipal, industrial, and environmental uses in the Western United States by 490,000 acre feet through its conservation-related programs, such as water reuse and recycling (title XVI), and WaterSMART grants. BOR will maintain dams and associated facilities in good condition to ensure the reliable delivery of water. It will maximize the percent of time that its hydroelectric generating units are available to the inter-connected western electrical system during daily peak demand periods.

Moreover, the fiscal year 2012 budget request demonstrates BOR's commitment to meeting the water and power needs of the West in a fiscally responsible manner. This budget continues BOR's emphasis on managing those valuable public resources. BOR is committed to working with its customers, States, tribes, and other stakeholders to find ways to balance and provide for the mix of water resource needs in 2012 and beyond.

CONCLUSION

Madam Chair, please allow me to express my sincere appreciation for the continued support that this subcommittee has provided BOR. This completes my statement. I would be happy to answer any questions that you may have at this time.

Senator FEINSTEIN. Thank you very much.

HARBOR MAINTENANCE TRUST FUND

I want to go back to the Harbor Maintenance Trust Fund because it seems to me that there is a catch 22, and that is that the trust fund is going to be used for other things and that there are no authorized widths or depths for dredging. Therefore, ports will be haphazardly dredged. I am sorry Senator Graham is not here because he was interested in the Port of Charleston. I do not know how you will select those ports that get dredging versus those that do not because there are no earmarks, and I think that is going to make it very difficult in the COE budget to know what you do and what you do not do. And so I am particularly disturbed by what I see coming to really handcuff the Harbor Maintenance Trust Fund.

Could you respond to that?

General VAN ANTWERP. First of all, Senator, I would like to say that the way that we prioritize our dredging is we look for a number of factors. We put them through a sieve of prioritization. What is the shoaling that happens in there? What is the commercial nature of that port or harbor?

As kind of an overview, we have 59 ports and harbors that carry about 90 percent of the waterborne cargo of this country. It is about \$1.4 trillion through our ports and harbors. So there are some that are what we call very high-commercial-use harbors.

We take the navigation or the dredging dollars and spread them as well as possible over those with the highest traffic that we can. It is not haphazard in the sense that it does not have a prioritization scheme to it. It absolutely does. We do high use, medium use, and low use.

Senator FEINSTEIN. Right. You have 59 ports. You have a lot of work to do. Why would you want to have other activities take money from this trust fund, and what would those other activities be?

Ms. DARCY. Senator, the proposal that is being developed within the administration is looking at a number of things. It has not been developed yet. Some examples of things that might be looked at to receive some of this funding would be increased security needs at ports. We are trying to look at the Nation's ports as a whole system and what commercial navigation needs there are and what can be provided through the Trust Fund.

Also, the Trust Fund balance—as you noted, about \$1.4 billion comes in annually, and then that is appropriated. So if you were concerned about the depletion of the balance that can be managed by the appropriations process.

Senator FEINSTEIN. Well, let me just say I hope so. You know, we have the largest port in the Nation. Forty-five percent of the container traffic comes in and out of the Port of LA—Long Beach. If you are not dredging that port to its fullest, if you scrimp on that, the whole thing shuts down. And so I do not understand

using this money for security dollars. It seems to me keeping these ports viable is really an important mission, and it in itself absorbs all the money.

Ms. DARCY. When developing the proposal, all of those things will be considered. As I said, the proposal is still under development within the administration, and we will be considering these and many other factors.

Also, whatever proposal we develop will have to be developed with all of you because it would require legislative changes. So the Finance Committee would have to be involved, as well as the authorizing and appropriations committees.

Senator FEINSTEIN. How much surplus is in the trust fund?

Ms. DARCY. I think the current estimate is about \$5.8 billion.

Senator FEINSTEIN. Five point eight billion dollars. And how much will be used on port dredging this year?

Ms. DARCY. The President's request is for \$758 million.

Senator FEINSTEIN. That is all.

Ms. DARCY. Yes.

Senator FEINSTEIN. I am glad Senator Graham just came back because what we just learned was that there are \$7 billion in the port trust fund for dredging, but only \$700 million-plus is being put forward by the administration for dredging.

I guess what I am telling you as chairman—I do not know if others would agree with it—but that is not the right thing to do. You have to keep these ports viable. So if you have a response to that, I would appreciate it. If you do not, that is okay too.

Ms. DARCY. The proposal that is being developed is looking at the commercial ports from all of the needs, including navigation and including keeping them dredged at a viable depth.

Senator GRAHAM. Madam Chairman, could I just—

Senator FEINSTEIN. Yes, please. Go ahead, Senator.

Senator GRAHAM. As I understand it, there is a difference between maintaining a port, dredging, and actually a new start where you would deepen the harbor. Is that correct?

Ms. DARCY. Yes, sir.

Senator GRAHAM. So I think I understand a little bit about their dilemma. Once you get a harbor at a certain depth, there is a trust fund to keep it dredged at that depth. What we are talking about in Charleston and Savannah and other places is actually going lower than the approved level, which would probably be a different exercise financially, is that correct General.

General VAN ANTWERP. That is correct.

Senator GRAHAM. I have learned more about this than I ever wanted to learn.

General VAN ANTWERP. You know a lot about this, Senator.

Senator GRAHAM. Yes, the hard way. I just want 40,000 bucks, \$40,000. I am really cheap.

General VAN ANTWERP. To go deeper in a port, it is largely based on the benefit-cost ratio, its commercial use, and its national economic benefit. This year, in new starts we are at 2.5 benefit-to-cost ratio for inclusion in the budget.

Senator FEINSTEIN. Trust me. He will want more than \$40,000. The \$40,000 is just a study.

All right, I think I have consumed enough time.

Senator Alexander.

Senator ALEXANDER. Thank you, Madam Chair.

I have actually learned a good bit about the Charleston Port as well over the last few days. And I know you have. We all feel very well educated about it. But it does not have a finer advocate than Senator Graham anywhere in the United States.

CHICKAMAUGA LOCK

Secretary Darcy, have you ever visited the Chickamauga Lock?

Ms. DARCY. I have not, Senator.

Senator ALEXANDER. Are you aware of its current condition?

Ms. DARCY. I have been briefed about its current condition. I know that the Chief and the Commanding General from the Great Lakes and Ohio River Division have been there, however.

Senator ALEXANDER. What are your projections about how long it can be reliably operated and maintained?

Ms. DARCY. I am not sure that we have those. Do we, General?

General VAN ANTWERP. Well, first of all, we think there is a low probability of failure right now, but we are watching it closely. We have gauges. We are watching that to give pre-notification if there is going to be a failure. There is no question we are watching the maintenance curve on this and it grows and grows every year, and at some point it goes to the point that you have got to make the improvements and you must fix it.

Senator ALEXANDER. Well, is it not true that it is in danger of a catastrophic failure?

General VAN ANTWERP. We feel the probability right now is low to moderate.

Senator ALEXANDER. How much maintenance funding will be needed to keep it open over the next 5 or 10 years?

General VAN ANTWERP. I would say about \$2 million to \$3 million every year. But I could see somewhere in the near term that it's going to be about \$15 million per year because there are some things that are going to have to be done. That is if we just stay on the maintenance track, but \$2 million to \$3 million probably for the next 5 years each year.

Senator ALEXANDER. Have you considered asking the Tennessee Valley Authority to contribute funds to the replacement of the lock?

General VAN ANTWERP. Senator, I am not sure if we have had the discussion on whether they would want to provide funds for that.

Senator ALEXANDER. Finally, when is work scheduled to resume on the project?

General VAN ANTWERP. Well, right now we are in the process of building the cofferdam. In the fiscal year 2012 budget there is zero funding for it. At some point the project would cease and we would button it up and then wait for future funding to continue.

INLAND WATERWAY TRUST FUND

Senator ALEXANDER. Secretary Darcy, we talked a moment ago about the Inland Waterway Trust Fund. It is in a little different shape, is it not? It does not have much money in it.

Ms. DARCY. No, it does not.

Senator ALEXANDER. What does it have?

Ms. DARCY. I think the current balance that we have in our budget request for 2012 coming from the Trust Fund is \$77 million.

Senator ALEXANDER. Is it true that that is about enough for one project this year?

Ms. DARCY. It is about enough for maybe three.

Senator ALEXANDER. Maybe three.

There was a plan that the commercial users of the Inland Waterway Trust Fund worked on and I believe worked on with the administration in which they basically worked out a proposal to increase the fuel tax on themselves on their own fuel in order to put more money into the Inland Waterway Trust Fund so that locks like the Chickamauga Dam and other needed projects could be done. But it is my understanding that you wrote a letter to Congressman Oberstar disagreeing with the plan last year.

Does the administration have its own plan to enhance the revenues in the Inland Waterway Trust fund? And when will we see the plan if there is such one planned?

Ms. DARCY. Senator, we are working with the Inland Waterway Users Board and the industry to develop a plan to increase the funding in the trust fund, as well as looking at ways to equitably charge the users in the future.

Senator ALEXANDER. Well, what was wrong with the plan that was rejected last year?

Ms. DARCY. There were many recommendations and some of them shifted the cost share burden to the general Federal taxpayer and took it away from the user. So that was one of the major objections.

Senator ALEXANDER. Excuse me. I was talking and I did not hear your entire answer.

Ms. DARCY. There were cost share changes developed that would shift a lot of the burden back to the general Federal taxpayer as opposed to the direct user.

Senator ALEXANDER. And when will your proposal be ready for us to see?

Ms. DARCY. I do not know, Senator, hopefully soon.

Senator ALEXANDER. Well, does "soon" mean a matter of a few months or a few years or what?

Ms. DARCY. I think it is in between. It is less than a few years and more than a few months.

Senator ALEXANDER. Well, there is a certain urgency to this when you have the users of the waterways, who are agreeable to contributing extra dollars to create projects that all of us believe are important for new jobs. I think the sooner, the better. So I would like to urge you to make it a priority and let us see it as soon as possible.

Ms. DARCY. Yes, Senator.

Senator ALEXANDER. Thank you.

Senator FEINSTEIN. Thank you very much, Senator.

I will read the list. It is Johnson, Landrieu, Cochran, Tester, Graham, Collins, Reed, Lautenberg and Murkowski, so Senator Johnson.

Senator JOHNSON. Thank you, Madam Chairman.

Commissioner Connor, I am extraordinarily concerned about inadequate funding request for ongoing congressionally authorized

rural water projects. Two of these projects, Mni Wiconi and the Lewis and Clark regional water system, are vital infrastructure projects in South Dakota. In your budget request, the seven authorized drinking water projects would receive a total of just \$35 million, with \$15 million of that for operations and maintenance. That leaves about \$20 million for construction for the projects. My understanding is that past BOR analysis shows that it would take \$58 million per year in construction dollars just to keep up with inflation. The math here just does not work.

Especially for Lewis and Clark, the States of South Dakota, Iowa, and Minnesota, as well as the 20 member-cities and rural water systems, have prepaid \$153.5 million which represents 99.7 percent of their cost share. They have prepaid their share in some cases a decade or more before they will receive water. The Federal Government has nearly one-half of its cost sharing remaining. The proposed fiscal year 2012 budget only includes \$493,000 for Lewis and Clark which would not allow for any new construction.

Can you assure these cities and rural water systems that the Federal Government is, indeed, committed to finishing this important water project in a reasonable time? What is the plan for funding authorized water projects beyond this budget, because this request takes us and the taxpayers backwards on our investment, could you respond to that?

Mr. CONNOR. Yes, Sir, Senator Johnson.

Without a doubt, the rural water program is the program in our budget that has taken the biggest decrease in funding this year.

As to your specific question about whether the Federal Government is committed to these projects, we are, but it is going to be very tough in these tight fiscal times. I say we are because we invested more than \$950 million in Recovery Act funds. We invested \$200 million initially in these rural water projects, and then recognizing that they were a good investment, given ARRA parameters, we allocated another \$32 million toward, I think, five of those projects near the end of last year. So we were trying to use those resources as best as possible to continue to move those projects out and serve additional communities. But in the priority order that we look at our budget and the resources we have available this year—they are good programs and good projects, but are just running short on the funds available.

We are going to go back and take a look pursuant to the 2006 Rural Water Act. We owe the Congress a report on the status of these projects and how we can look forward toward trying to complete them. We are going to get that done this summer. We will look at some additional criteria that we may want to add, and we will see what we can do as far as looking at the resources to try and make more progress in addition to the progress that we already made with ARRA funds.

Senator JOHNSON. Do you have any suggestions for what the 20 communities and rural water systems that exist and are using 99.7 percent of the cost share will do in the future?

Mr. CONNOR. Well, we will work with those communities and see how in these tight budget times we can make strategic investments and phase in incrementally those aspects of the project and serve additional people. I recognize that the Lewis and Clark project is

having significant problems. Our primary focus, beyond once we address the operation and maintenance obligations that we have, is to try and complete projects, and we did complete the Perkins County project in South Dakota and we are trying to ensure we can complete the Mni Wiconi project in 2013.

Senator JOHNSON. Mr. Commissioner, I too am eager to see this important project completed, the Mni Wiconi project, and I appreciate that BOR has placed a high priority on the project. Unfortunately, construction funds are still falling short of what is needed to keep the project on pace and overhead and contract costs have hindered construction. It is my understanding that reduced funding will have an impact on the ability to complete this and other projects within their statutory timeframes. Will you review the project authorization and recent funding levels and work with the Congress to ensure that this project is completed as envisioned?

Mr. CONNOR. We will certainly work with you. With respect, the vast majority of our construction funds proposed for 2012 are for Mni Wiconi, but we still think that puts us in the area of being able to complete our obligations by 2013. But we will review that and we will definitely work with you, Sir.

Senator JOHNSON. My time has expired. Thank you.

Senator FEINSTEIN. Thank you very much, Senator Johnson.

Senator Landrieu.

Senator LANDRIEU. Thank you very much.

Let me begin, Senator Feinstein and Senator Alexander, to tell you how much I look forward to working with you on this subcommittee. It is a very important subcommittee for our Nation and particularly for the State that I represent. In Louisiana, we have the opposite challenges of some of the West Coast States. We have too much water, not too little water, and we are struggling to manage that.

Let me also add, General Van Antwerp, thank you for your leadership and for your guidance as we have designed and built some of the most sophisticated levee and flood control systems ever constructed in this Nation in the aftermath of the catastrophe, the biblical flood that we had when the Federal levee system collapsed 5½ years ago in and around the city of New Orleans, and we are on the back end of some of that.

And for the subcommittee, I want to thank all of you who were on the subcommittee before and will continue to serve because the \$2 billion surge barrier, which is the largest surge barrier ever constructed in this Nation's history, is now up and operational. And I think we are going to be down there celebrating this milestone sometime in June. And I am pleased that we took several trips to the Netherlands to see the model of some of this technology. And I am pleased to share with the subcommittee, that having walked over the surge barrier and seen the construction of it in a detailed brief, that you can be very proud of the engineering that has gone in.

Having said all those good things, let me say that there are still extraordinary challenges that are reflected in this budget. And I know that you are dealing with very limited resources. But I want to add my concern. And I have a question about this interior waterway trust fund.

Senator Levin and Senator Hutchison and myself and a few others have introduced a bill to attempt, Senator Feinstein and others, Senator Alexander, to capture the money coming into this trust fund so that it actually can be used for the processes in which it was intended, which is dredging and maintenance of these ports. I think the chairman is absolutely correct that for trade and for jobs, it is just critical.

So, number one, are you aware of the legislation, Madam Secretary? Number 2, is the administration going to support the basically capturing of these revenues to maintain these very important ports and channels?

Ms. DARCY. Senator, I am aware of the legislation to keep what is coming into the Trust Fund for the navigation purposes that it was intended. In our budget, the administration has proposed using some of those funds, as you know, for the continued maintenance of the navigation channels. However, we are looking at using that funding for some other—

Senator LANDRIEU. Well, I just want to lay a warning that there is a growing number of Senators on both sides of the aisle that want the taxes paid by this industry to be used for the purposes in which they thought they were being taxed, which is the dredging and keeping open of these ports.

ALLOCATIONS WITHOUT EARMARKS

I want to ask a question and also make a point that while 90 percent of the cargo—and the question following up the chairman—how will you allocate now that there are no earmarks or directives from this subcommittee allowed? And you said we will go by a formula. The big cargo ports will get, you know, based on how much cargo comes in and out. I just want to remind everybody on the subcommittee for the record there are ports that are important to the Nation that are not cargo ports. We would call them “energy ports.” And if they do not stay open, nobody gets electricity, oil, gas, natural gas that comes into the ports along the gulf coast. The chairman might want to know we are not even included in the formula to begin with because unless you are a cargo port, you do not even get considered.

I tried to change that legislatively. You can imagine with natural gas coming into the country that port cannot get dredging because it is light. It is not heavy and it is not cargo. It is gas. It is liquid gas that comes in.

So this is a very interesting subject, and I just want to go on record. Senator Cochran knows some of this because, of course, he represents the State of Mississippi which has very similar concerns to the State of Louisiana. But that is one question.

And on the second, when we have, General Van Antwerp—my last question—a 100-year flood protection which we are trying to achieve—the Netherlands protects their people 1 out of every 10,000 years. We are protecting our people 1 out of every 100. So we on the international scale have a ways to go. And I know you cannot compare apples to apples there.

But when we raise the levees to 100 years, my final question is, do you have money budgeted to maintain them at that, or what happens when there is settlement in those levees, because this is

going to happen not just in south Louisiana along the gulf coast, but around the country. Is any of that budgeted in this budget to maintain those levees at the 100-year protection?

General VAN ANTWERP. Senator, for all the project features, once the ribbon is cut, it goes to local responsibility for the operation and maintenance of those levees and project features.

We are considering subsidence and sea level rise over time. In fact, we know probably in the next 50 years, many of those levees will have to be raised, some due to sea level rise, some due to subsidence. So that is in the plan. Of course, that is not budgeted 25 years out. For that, we will have to cross that bridge when we come to it because of the way we do the budgeting. But it is planned for.

And when we could, we purchased the real estate for, for instance, a wider base so that you could add to the height of that levee without having to get more real estate. If we could do that under the current funding, we did that. We are as ready as we can be, but we know we are going to have future maintenance of those facilities.

Senator LANDRIEU. Thank you.

Senator FEINSTEIN. Thank you very much, Senator Landrieu.

Senator Cochran.

Senator COCHRAN. Madam Chairman, I am pleased to join you in welcoming the panel to our hearing to review the President's budget request for the subjects that we are discussing.

I cannot help but wonder about how we reconcile the economic requirements of being a robust exporter of goods and services and commodities in the international marketplace with reducing the capacity to handle cargo on the Mississippi River in its ports and in other transportation modes which would get our goods and services to those who are buying what we are selling and what we are growing in terms of agriculture production in the lower Mississippi River Valley and way beyond.

We have up-to-date information about the fact that \$100 billion in exports is traversing the Mississippi River annually. Industries in more than 30 States—we are not talking about just Mississippi and Louisiana. We have great interest in this subject. But industries in more than 30 States rely on COE to help maintain the river at authorized levels and depths. Insufficient dredging and an inadequacy of funding for these activities would inevitably result in restrictions on ship traffic and cargo travel. To put it in perspective, some shippers estimate that a 1-foot reduction in depth means a ship must reduce its cargo by 1,500 tons.

MISSISSIPPI RIVER AND TRIBUTARIES PROJECT

The objective of the Mississippi River and Tributaries project was to uphold, maintain, and improve the Mississippi River system and its levees that contain it. And in face of those national interests, the President's budget request for the Mississippi River and Tributaries project is \$210 million. That is \$130 million below the fiscal year 2010 discretionary budget authority.

How are you going to cope with that reality? May I ask the panel if anybody has any suggestion about what you are going to do?

General VAN ANTWERP. Well, first of all, Senator, your observations are correct. We have 12,000 miles of inland waterways that

are maintained by COE and it touches really 41 States in our Union and is so incredibly important. We understand that.

I think what you will see when we have to prioritize is we try and keep the depth. What normally happens is that you reduce the width first. It means that you cannot have ships passing and you have to stage them.

The other part is to keep the locks open. We have 241 locks on our waterways. They are 58.3 years old on average. So the maintenance requirements are increasing. We prioritize those by the greatest risk. We do treat our waterways as a system. We have to keep the whole system open. If we have one lock go down, it can impact the whole waterway.

Senator COCHRAN. May I also ask another question about the Mississippi Yazoo back water project. This is an issue that has been around since 1941. The Congress has authorized and funded these activities that are connected to this project in the lower Mississippi River delta. And we had a recent decision in Federal court that canceled a project, in effect, or a decision was made not to proceed with the project because of a decision made by a Federal court judge in Mississippi.

This still remains a very troublesome issue to resolve, and I bring it up simply because I hope COE and others who are interested in this will work with the supporters of the project to try to reconcile differences and to come up with an alternative that would be satisfactory with COE. I do not have any magic solution to suggest. We would be glad to work and cooperate with the administration and with others in the Congress who are interested in this, but I raise the question so we have it as the beginning of another effort.

Thank you.

Senator FEINSTEIN. Thank you very much, Senator Cochran.

Senator Tester, you are next.

Senator TESTER. Yes, thank you, Madam Chair.

First of all, I want to express my appreciation for you all folks being here today. Water is our most valuable resource and the management of it is critically important.

As the questions and the comments have been expressed here today, I have got to tell you; you guys are in a tough position. I mean, since this Congress started, we have been talking about deficit and debt, and we are giving you hell because you are not spending enough money. And I think that there has to be an awakening here, if we are going to invest in infrastructure, that investment means spending money. And I will tell you that water, whether it is where it flows into the ocean or whether it is at the headwaters in a State like mine, is very, very important, and if we do not have the infrastructure to manage it, we will not manage it and the country will be poorer for it.

Secretary Darcy, we have visited in the past about the great city of Great Falls in Cascade County and a couple levees that they have there that were built in 1975. COE has certified those levees up until 2009, and the Corps decided not to certify any more levees.

When you were last before the Senate, you told my colleague—the senior Senator from Montana—Max Baucus, that you would immediately look into the policy whether it should be changed, and

that is whether FEMA either could certify or COE could certify to FEMA standards, one or the other. What have you found out?

LEEVE CERTIFICATION

Ms. DARCY. You are correct, Senator. I did tell Senator Baucus we would look into the policy and we have begun doing that. In the past, as you said, we certified levees and used Federal funds for that, and since 2008 we have not budgeted for that certification. We are looking at whether that is a possibility for us in the future.

Senator TESTER. And I will tell you that FEMA gives out the Provisionally Accredited Levee agreement. Okay, and they told Great Falls here about a month—you either got to sign it or forget it. COE has inspected in the past. Is there any potential you could harmonize your criteria? Have you done any work on that at all?

Ms. DARCY. We have done some work on it, but to be quite honest, it is not harmonized at this point.

Senator TESTER. I mean you fully understand the issue. You fully understand that there is not an engineering firm around that has an errors and omissions policy big enough that they will certify it. I mean, that is really what they have found out. And you know what? I think there are a lot of Great Falls, Montana up and down the different drainages in this country. And I will tell you that for that reason, Senator Baucus and I are dropping in legislation that gives COE not only the authority but the responsibility to certify those.

Once again, it may or may not cost money. You may be able to do it within your budget. You may need additional funds, but the fact is it has got to be done or folks are going to be put in flood plains. Businesses are not going to be able to be allowed to grow, some of the same things we heard earlier, only it just applies to this levee thing.

The intake dam, for either one of you, General Van Antwerp or Secretary Darcy, the work has begun rebuilding intake, and it is a rock ramp. I do not know if you are familiar with it or not. If you are familiar with it, I will not mess around anymore. But since you were here last year, the cost estimate jumped more than \$100 million. The thing is never going to be built if it is \$100 million, I will just tell you. Something is going to have to happen.

Can you give me your thoughts on why we had such a jump in cost on a project like intake?

YELLOWSTONE INTAKE DIVERSION DAM

General VAN ANTWERP. Well, I guess in a few words, it is very complicated. I will give you a couple of those complications, Senator.

First of all, the rock ramp at the depth and velocity that the pallid sturgeon needed was not working as we thought it would. We have had to make modifications. The modeling indicated a need for a much flatter side slope than the preliminary design. So that is, in a nutshell, the biggest piece of this.

Senator TESTER. The word I heard is they are bringing in rock from somewhere else.

General VAN ANTWERP. Well, the contractor has to bring in the rock to do it. Where he purchases it from is up to the contractor.

Senator TESTER. And so it is an open-ended contract. I mean, if he wants to bring in rock from Maine, we pay for it?

General VAN ANTWERP. Well, he has to meet the design criteria with the rock he brings in. He has to do it under the bid that he proposed. I do not believe this is a cost-plus contract.

Senator TESTER. Okay, but what I am saying is we started out this project was going to cost—and I cannot remember—\$15 million and now it is up more than \$100 million.

Senator FEINSTEIN. Would you permit me?

Senator TESTER. Yes.

Senator FEINSTEIN. Why can you not have Montana rock?

General VAN ANTWERP. You could if it meets the specifications. I think our contractors certainly would go out and get it at the best place they could get it for the right price. They are on the clock also.

Senator TESTER. I appreciate that, Madam Chairman, because that is exactly the question. And I do not know if this is factual or not. I am told by the locals that they are bringing rock from outside the area when there is rock there that will do the job.

My time has run out, and I am going to check it off to people who have been here.

But the fact is that there has got to be oversight and there also has to be some common sense put to the analysis. Look, I am all about paddlefish. I love them, but are we saving one paddlefish? Are we saving 50 percent of the paddlefish that go up the river? What are we getting for that \$80 million or \$90 million or more in additional spending? That is really kind of important.

Before I go, thank you, General, for your service, I very much appreciate it. We are going to miss you. Thank you.

Senator FEINSTEIN. Thank you very much, Senator Tester.

Senator Collins.

Senator COLLINS. Thank you, Madam Chairman. I am very pleased that I am next because I feel I need to clarify that rock from Maine is not responsible for cost growth from \$15 million to \$100 million. We do have outstanding rock in Maine.

Senator TESTER. I hear it is some of the best in the world.

Senator COLLINS. It is Great granite, which we would be happy to share with your State. But I am positive that is not the cause of the problem.

I do have two Maine-specific issues that I want to discuss with our witnesses today.

KENNEBEC RIVER

Secretary Darcy, as I am sure you recall, I wrote to you last month about a problem with the Kennebec River. And this is a very serious problem. I am hearing a lot of serious problems today.

Earlier this year, COE conducted a sweep survey of the Kennebec River that concluded that the controlling depth is now an alarming 19.7 feet, significantly less than the authorized 27 feet.

Now, let me explain to my colleagues why this matters. Bath Iron Works, which builds naval destroyers, uses the Kennebec River as the avenue for getting the ships to sea. And in October, the USS *Spruance* naval destroyer is scheduled to depart Bath Iron Works for its home port in Virginia. The Navy is very concerned

that the insufficient depth of the Kennebec River could cause that destroyer to run aground, and the Navy has said that the condition of the river constitutes an emergency and that it must be addressed in order to meet the scheduled delivery of this military asset. So this is truly a real challenge that is worrying to Bath Iron Works and to its customer, the Navy.

I understand that the cost estimate to complete the dredging is \$1.6 million.

Complicating the issue, the timing of the dredging is very important to the lobster and clamming industries in Maine whose peak season is during the summer months, in the month of August.

In fiscal year 2006, it is my understanding that \$630,000 was allocated for dredging activities on the Kennebec, but that that money, to my knowledge, has not yet been used for that purpose. Obviously, the ability of ships to enter and depart Bath Iron Works is of vital importance to our national security.

So I have two questions for you. One, do you expect a resolution of this issue in time for the scheduled departure of the Navy destroyer that is slated to depart in October? And second, is COE working with the local lobster men and clambers to minimize the impact on their livelihoods?

Ms. DARCY. Senator, yesterday I spoke with the Assistant Secretary of the Navy on this very issue, and we realize it is of vital importance not only to the Navy, but to our national security in order to have that ship delivered on time to Norfolk. I believe its schedule is September 1 of this year. We committed, along with the Assistant Secretary, to work together to find the money to get the dredging completed.

That said, in order to meet the September 1 deadline, we have a couple of challenges which you mentioned which include the clamming and the lobstering which the peak season is August, and it is in August when we would have to dredge. Our normal dredging schedule up there is usually between November and March. So we are sort of in a bind here.

We would have to get permits and work with the fishermen and lobstermen in order to get a schedule that works for them.

Senator COLLINS. I hope that you will work very closely with all of the parties, BIW, the Navy, the lobstermen, the clambers. It is too bad this was not done this past winter when there would not be the impact on the fishing industry and the lobstermen and clambers. We also need to accommodate Bath Iron Works.

I know my time has expired. Let me just very quickly say that COE met in Maine yesterday concerning the jetty at Camp Ellis in Saco, Maine. This is more than 100 years old. It was built by COE before there was an understanding of the erosion impact of having this jetty. That is another issue that has been going on for a long time. Each year I visit and see more and more danger to the homes along the shoreline, and I hope we can continue to work on that as well. We provided funding and there has been some progress, but we have got a long ways to go.

Senator FEINSTEIN. Thank you, Senator Collins.

Senator COLLINS. Thank you.

Senator FEINSTEIN. Senator Graham, you missed your time, but I know you are lively and a little spirit every now and then would not hurt.

Senator COLLINS. And I am boring.

Senator GRAHAM. No, you are not boring. You are just from Maine.

Senator GRAHAM. You are polite and kind.

Senator COLLINS. I will leave it at that then.

Senator GRAHAM. Yes.

I was over nominating a judge for the Fourth Circuit, and I may be the only guy in the history of the Senate to nominate a judge and put a hold on him all at the same time. So it has been a strange weekend.

Secretary Darcy, the Panama Canal is going to be deepened in 2014. Is that correct?

Ms. DARCY. That is the plan, yes, Sir.

Senator GRAHAM. The plan is to deepen the Panama Canal so that super cargo ships can pass through the canal. Is that correct?

Ms. DARCY. Yes.

Senator GRAHAM. These are ships a lot bigger than we have today.

Ms. DARCY. Many of them will be, yes, Sir.

Senator GRAHAM. It is going to change shipping as we know it.

Ms. DARCY. I anticipate that.

FUNDING HARBOR DEEPENING

Senator GRAHAM. So there are certain ports that are in existence today that are going to have to adjust their depth to accept these ships. Is that correct?

Ms. DARCY. Yes.

Senator GRAHAM. One of them is Charleston.

Ms. DARCY. Yes.

Senator GRAHAM. I think everybody realizes that. But it is just not Charleston. And if shipping is going to change and we are going to meet President Obama's goal of doubling exports in 5 years, which is a great goal, we better have the infrastructure to make that a reality.

So, Madam Chairman, you, your staff, Senator Alexander have been absolutely terrific and helpful. We have got a dilemma. In the 2011 budget, there was no money set aside by the administration to conduct a study, and as I understand the way you deepen a port, there are three phases: the study phase, the design phase, and the construction phase. Is that correct?

Ms. DARCY. Yes.

Senator GRAHAM. And the Congress has to authorize these studies for you to move forward. You just cannot do this on your own. Is that correct?

Ms. DARCY. Yes.

Senator GRAHAM. So what we have tried to do is find a way to allow the study in 2011 to go forward. And it is a 3-year process where the study goes on for 3 years, and after the study is done, the design phase kicks in. That is about \$25 million to \$30 million, and the construction to deepen the harbor to 50 feet, what we anticipate would be the depth to receive these ships, is several years,

about \$350 million. And there is a cost-sharing agreement between ports and the Federal Government. Is that correct?

Ms. DARCY. Yes.

Senator GRAHAM. So my dilemma is that I have no vehicle to allow the study in 2011 to go forward. It is a scoping study. It is about \$40,000 on the Federal side. The port in South Carolina is willing to pay the Federal Government's share, but we literally cannot. So everybody on this subcommittee has been helping me, and I am talking to the administration about a way forward.

But beyond Charleston, do we have a vision as a Nation as to what ports should be deepened to accept these ships? And is there a financing plan in place?

Ms. DARCY. No, Senator, we have not done a nationwide study to evaluate which ports should be deeper.

Senator GRAHAM. I would like to recommend to this subcommittee this would be a good use of our time to look as a Nation what does it mean for these ships to come through the Panama Canal, what does it mean to traffic on the Mississippi River, and try to make a good business decision.

I am willing, Madam Chairman, to allow COE to decide whether or not to spend money on Charleston's deepening if it makes sense from a national perspective. But since that system is not in place, I have to protect Charleston. And as you mentioned, there is a lot of money not being utilized. So we need to look at that account.

But, Secretary Darcy, could you propose to this subcommittee a plan, General, that would allow you to make an assessment of what ports need to be deepened based on the Panama Canal situation? Have you all done anything along those lines? Would you be willing to submit a plan to us if I ask you?

Ms. DARCY. We would have to be directed and funded to do so, Senator.

Senator GRAHAM. That funding problem.

I would just ask the subcommittee to look into this situation because as a Nation we do not have the infrastructure to basically accept ships that are going to be the standard for the future, and if President Obama's goal of doubling export is to be achieved, as Senator Alexander said, shipping is the key way to get goods throughout the world.

In South Carolina, BMW makes cars. We call it "Bubba Makes Wheels." But there is a BMW plant in Greenville/Spartanburg, South Carolina where we have shipped more than \$4 billion worth of cars made in South Carolina throughout the world. And the port in Charleston is responsible for 1 in 5 jobs in South Carolina. I bet you that is true in places in California. I know it is true in Mississippi and Alabama.

So let us look at what we should be doing as a Nation, General, and make a business decision. I am willing to let merit take over if we are all in the same boat together. So I will end this discussion with the idea of please, for God's sakes, help me find a way to do the scoping study in 2011, and we will look at a system-wide approach beyond that.

General, do you have anything to say?

General VAN ANTWERP. Yes, Sir, if I could just respond quickly.

We have six ports that are moving to the 50-foot depth. That is what you will need to come fully loaded through the new Panama Canal. We also have seven studies of deep water ports, which Charleston is if we get the feasibility dollars to do it, that have potential. With Charleston being 45 feet now, what would it take to go to 50? What is the benefit-cost ratio? We do have a lot of knowledge of how the ports are intertwined because you may not have to come in full from the Panama Canal if you have already offloaded some to go to the next port, the next port. So it is a system, and we can take that on if funded to do so.

Senator FEINSTEIN. Thank you.

Let me say this because I spoke to Senator Alexander. We will put report language in our bill to indicate very strongly our view which is that we do not believe money should be taken from this trust fund for other use. All anyone has to do is go to the Port of Hong Kong, go to any other major port to see how out-of-date our ports are. If we are going to compete internationally, we have to have a modern infrastructure, and the ports have to be consistently dredged.

So I think we will have some very strong language in our bill, and I want to say to the administration I will do everything I can to prevent that trust fund from being eroded with other activities.

Next is Senator Reed.

Senator REED. Thank you very much, Madam Chairman.

I want to welcome all the witnesses. I particularly want to welcome General Van Antwerp, Bob, thank you for your extraordinary service—you and your family—to the Army and to the Nation. Although the General looks much younger than I, we were contemporaries at West Point. So it is good to see you. Clearly his talent was recognized early on at West Point. I am in another line of business and that speaks for itself.

Now, let me continue. I want to thank you, both Secretary Darcy and General Van Antwerp, for the extraordinary response of COE of Engineers to the floods last year in Rhode Island. Your New England district personnel were incredibly active, hands-on, great initiative. They were particularly helpful in prioritizing dredging at the Patuxent Cove which would now allow for freer access of water from our systems into Narragansett Bay. And they have conducted reconnaissance studies. They have taken really this issue on. So can you accept my compliments and pass them on to those extraordinary public servants? Thank you.

CONTINUING AUTHORITIES PROGRAM (CAP)

Let me focus on a series of issues, Secretary Darcy, the continuing authorities programs. I found them to be very useful, particularly the 205 CAP, one of the programs that deal with flood control. And I have noticed that in the President's budget, there is the proposed elimination of four existing CAP's, and then the reliance on transferring funds to fulfill the obligations of some other CAP's.

Can you comment on the CAP activities, the proposed changes, and how would it affect flood control?

Ms. DARCY. Senator, you are correct. We did make a proposal in this budget to use some of the existing funds in the carryover pro-

grams from one CAP program to another. I think it is \$23 million. We are going to use that carryover money for other programs. And in looking at tough budget decisions and directions from the Office of Management and Budget, we had to make some choices, and we looked at the CAP programs.

The 205 program is one that is going to continue to be funded with carryover funds in this budget. CAP programs are smaller projects that do not need individual authorization or Chief's Reports, and there are certain thresholds as to how much Federal funding can be spent on those. They have been very effective especially in small States like Rhode Island. We will continue to fund those in this President's budget, but some of the others, like the small harbors money, are going to be cut. We are going to continue to fund those programs and they are prioritized within the region.

Senator REED. Well, I appreciate that with respect to the 205 program.

One of the other programs is the 103 CAP which does a lot with respect to coastal erosion, and we just had a recent report that 68 percent of the beaches in New England and the mid-Atlantic, basically the whole northeast coast, are eroding on an average of 1.6 feet a year. And in towns in Rhode Island—and this reminds me of a great story. Senator Theodore Francis Green was asked the size of Rhode Island. He said it depends, on what, and he responded, high tide or low tide.

So 1.6 feet a year is an important metric to us, and that 103 program I believe is one that is scheduled for elimination. So it begs the question how do we deal with this multi-State erosion problem along our beaches.

Ms. DARCY. I think it needs to be looked at as a system, as you said, with each of the beaches. We have money in the budget for beach renourishment projects. It is something that we are carefully considering when we make the budget proposals.

Senator REED. Thank you very much.

Madam Chairman, thank you.

And once again, thank you for your great assistance in our flooding. Thank you.

Senator FEINSTEIN. Thank you very much, Senator Reed.

Senator Lautenberg.

Senator LAUTENBERG. Thanks very much, Madam Chairman.

I listened with interest to your response to questions. I must say you are staying up-to-date and I wish that you had more money to stay up-to-date more with. But the fact of the matter is that we in New Jersey have lots of respect, but also need, if I might say, from COE.

PASSAIC RIVER BASIN

By the way, General Van Antwerp, I spent part of my military career in Antwerp, Belgium during the war, and I always had a good feeling about that city and we have about you as well.

Last month, I toured the Passaic River basin in New Jersey following a severe storm and saw the devastation firsthand. There is a dispute here between the communities. Local communities in that area believe that flood gates at the Pompton Lakes Dam have led to increased flooding in downstream communities. And an inde-

pendent consultant has been brought in and is investigating the matter. I was there during the heavy stage of the flood, and the communities downstream were deeply in trouble because of the flooding.

What has COE done to address this issue? Will it take in local concerns as the study moves forward?

General VAN ANTWERP. Absolutely, Senator, we will take those local concerns into account. We want total visibility on this. We welcome the other review of this also.

Senator LAUTENBERG. I hope so because something does not work, as is visible, when it is heavy weather.

Secretary Darcy, I am encouraged by the close cooperation between COE and the New Jersey Department of Environmental Protection to try to work toward a comprehensive plan for the Passaic River basin. However, the re-evaluation study is expected to cost COE \$7.5 million over the next 3 to 5 years. Is COE committed to requesting funding for this project in the future years?

Ms. DARCY. Senator, we have not included money for it in the fiscal year 2012 budget.

Senator LAUTENBERG. Well, we are going to need your support in getting this study done. The Passaic River has been a place with constant flooding and problems that result from that.

I was pleased to see that your budget request included funding for the Port Monmouth beach project in New Jersey. In the past, coastal projects have typically been added as earmarks during the appropriations process rather than being in the budget request. Well, with earmarks on their way—they are at a moratorium now—how does COE plan to address the need for coastal storm damage reduction projects as it writes a work plan for the rest of this year and looks ahead to future requests? How do we get it done?

Ms. DARCY. As far as the work plan that we will be required to write for the rest of this year, we will look to fund projects that are currently in the budget and then, with any remaining funds, look to prioritize other ongoing work.

Senator LAUTENBERG. I have a couple of other questions that I want to submit for the record.

But I want to ask you this. When I look at the budget that is requested for 2011, I see that there has been less money requested for fiscal year 2012 than we actually had with fiscal year 2011. I do not want to put you on the spot, but I do not think that is because there is less need. I do not know whether you are at liberty to say whether or not more is needed than we have presently allocated for the projects that you have requested or are underway.

Ms. DARCY. Senator, we are operating within the fiscal climate that we are in, and this budget is what the President believes will allow us to sustain our missions.

Senator LAUTENBERG. Thank you very much.

Senator FEINSTEIN. Thank you very much, Senator Lautenberg.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Madam Chair.

And thank you to those who are appearing before us today, for your testimony, for your work. We appreciate it.

FUNDING DECISIONS

Clearly a great deal of interest in this, Madam Chairman, ranking member. I think it is not just because you are such wonderful leaders here on this subcommittee, but I think it speaks to the issue of what we are dealing with and the significance of not only ports and harbors, but our reality that in this new world of no earmarks, how we are able to help advance those projects, whether it is as Senator Graham has indicated, whether it is as Senator Lautenberg has indicated, or whether it is as it relates to the small harbors issues, as I will bring up. These are very critical issues for us, and I think we recognize the investments to our communities that are made when COE does the job that we ask them to do.

Secretary Darcy, the question that I have for you—a series of questions here. We know that in recent years at least, we have seen the Congress increase the amount of funding for the construction of ports and harbors above the President's request. That was true in fiscal year 2010. In total, the Congress funded 350 studies and projects. The President had budgeted for 153. Now in fiscal year 2012, COE is budgeted for 149 projects, and as I mentioned, we are operating under this earmark moratoria.

The question that begs here is under this budget what happens to the 350-some-odd projects that were earmarked by the Congress in fiscal year 2010, and then going beyond there, what are the consequences for the local sponsors who have provided the matching funds from the municipal bonds or from the State funds? Where are we at this point in time with these projects that the Congress had said these are important, we need you to advance? Where are we now?

Ms. DARCY. Senator, in making our budget priorities, we look at the benefits to the Nation of all of these projects, and that is how they compete and that is how we will budget for them.

Senator MURKOWSKI. Well, I appreciate benefits to the Nation. We think that in Alaska we have a lot of benefits to the Nation. I know that Senator Collins feels that her ports and harbors have a lot of benefit to the Nation as well. But you are going to have 26 States, including Alaska, that are budgeted for O&M money, operation and maintenance money, in fiscal year 2012, but who will receive no funding for general construction because of these low cost-benefit ratios. And as you go around the dais here and look to the States that we represent—Alaska, Alabama, Mississippi, Hawaii, South Dakota, Iowa, Montana, Kentucky, Maine, and South Carolina—would not receive any construction funding.

So what do we say, that these 26 States are not significant or important to the national interest? We have had conversations about how the smaller harbors may be a lower priority from a national perspective, but in terms of what they contribute to a regional economy, they are extraordinarily important. So we have got a system where we have a cost-benefit ratio system that will never allow many of these States to ever get into the funding stream when it comes to general construction.

So if we do not have earmarks, what can the Congress do to ensure that these States that are not budgeted for construction can somehow or other continue to get funding? Because I will not ac-

cept the conclusion that 26 States, including Alaska, will just not see general construction money. That is not right.

Ms. DARCY. Senator, we do not do our budgeting on a State-by-State basis.

Senator MURKOWSKI. I understand that.

Ms. DARCY. We do it on a project-by-project basis. That is where the prioritization and the value come in.

As far as what can be done in the non earmark era, there are any number of ways to look at a budget, whether it is a systems-based budget or a line item-based budget. That is something that the Congress may need to look at.

Senator MURKOWSKI. I think the Congress needs to look at it. I think we need to work with COE because I think this has led us to a result that whether you are from Alaska and trying to get a small harbor going or Senator Graham from South Carolina that is trying to get Charleston advancing—we have got ourselves in a bit of a mess here. And I am looking for your suggestions as to how we resolve it because just going to old rhetoric, which we operate off of this cost-benefit ratio and that is the standard and that is the way it is, is not acceptable.

General, do you have comment you would like to make?

General VAN ANTWERP. Yes, Senator. First of all, we would love to work with you on the priorities. I think if there are no earmarks, then we go back to the priority scheme. So we could work together on how the priorities are set, and maybe it is different than we do right now. Right now it is very heavily weighted to the National Economic Development benefits, and so that is your benefit to cost ratio that you have been speaking of. I think there are ways to look at the priorities of the whole system where portions of it could be reallocated based on a certain set of priorities that were set.

Senator MURKOWSKI. Well, I appreciate that. I think that is something that we need to do and look forward to working with you as well as those of us here in the Congress.

I do have a series of questions regarding CD-5 and the failure by COE to be able to proceed with the bridge over the Colville River. I recognize that I am over my limit, though, but I would like to pose a series of questions to you for a response.

Thank you, Madam Chair.

Senator FEINSTEIN. Thank you very much, Senator Murkowski.

Senator Harkin.

Senator HARKIN. Thank you, Madam Chair. Thank you very much, Ranking Member Alexander.

LEVEE CERTIFICATION

Secretary Darcy, across the country, a number of cities are facing decertification of their levees as a result of higher estimated water flows, one of those cities being the capital city of Iowa, Des Moines. In the Des Moines case, the loss from a 100-year flood is very likely to be well more than \$1 billion. And that does not count the considerable loss of new construction and economic development that will occur with decertification. In other words, if they decertify the levees, there are big areas that are now being opened up with new expressways and areas for economic development. That will prob-

ably come to a screeching, grinding halt if these levees are decertified.

Now, the city of Des Moines and other cities I am aware of across the country cannot afford to wait over a decade for studies and remediation. In Des Moines' case, the possible solutions are complex, including possible modification of COE dams, the raising of bridges, the widening of streams, the raising of levees. Each year of delay is a significant loss in economic development and jobs, higher flood insurance costs and again also possible flood damage. We really need COE to move forward with these complicated studies in Des Moines which I am told and understand is within your existing authorities.

COE has unique and needed capabilities. That should include allowing the local sponsor, for example, to contribute funding up front with the understanding that if a project develops, those advances would be appropriately counted as a match. Again, so we do not lose crucial time, we are trying to get up-front money which the city of Des Moines is willing to do in order to collapse that timeframe, but again those monies then would count as part of their match so they do not lose this whole timeframe.

So I hope that you will support having these studies move forward as efficiently and quickly as possible and, as we wait for regular funding, that you do all you can to approve the use of city-advanced funds, which I was just talking about, with the agreement that those local funds would count as a match against approved activities that would come on later on.

Can you respond to that statement, because I have been meeting with the people in Des Moines. They are at a critical juncture right now. If we do not get something done within the next about 18 months, we are facing some real economic problems in the city of Des Moines. So, again, my question is, in your jurisdiction could we get the city of Des Moines to advance those funds, get those studies collapsed, do it in a hurry, while we wait for regular funding?

Ms. DARCY. Senator, if we have a written agreement with the local sponsor and COE, it is my understanding that we can accept up-front money and provide further credit.

Senator HARKIN. You could if there is an agreed plan.

Ms. DARCY. Yes, at the beginning.

Senator HARKIN. With the city of Des Moines.

Ms. DARCY. Yes, with the local sponsor.

Senator HARKIN. If the city of Des Moines comes up with that, how long do you think it would take to get that approved? I mean is this something we could look at in a very short timeframe?

Ms. DARCY. I believe so, Senator.

CEDAR RAPIDS, IOWA

Senator HARKIN. Okay, that is good. That is very good.

Well, okay, we have one other city in Iowa that is on a river and it gets flooded. It is called Cedar Rapids. You know that very well. And first of all, I commend COE for its rapid movement of the Chief's report on Cedar Rapids. It has been very good, General. But as you know, the findings propose a project based on traditional criteria. I know you are probably aware of this. It is one side of the river. General, you know that very well. The other side of the river,

more than 3,000 homes, and would you not know it, these are families with lower incomes than those that are on the side to be protected. So it is always those with lower incomes—they do not get any help.

I think the philosophy of the December 2009 proposed national objectives, principles, and standards for related resources should be followed in a case like this. The Cedar Rapids waiver request will soon come to you to provide protection on both sides of the river. I urge you to grant it. That is the correct position on an equity and environmental justice basis. Cedar Rapids is a major engine for the economy of all of eastern Iowa, and it will be severely damaged with the lack of investments without a project on both sides of the river.

I also hope that you will support allowing Cedar Rapids to count all of a sponsor's traditional costs that it incurred since the date of the flood.

So that waiver request will be coming to you soon.

UPPER MISSISSIPPI RIVER NAVIGATION

Last, Madam Secretary and General, I want to talk a little bit about the upper Mississippi navigation. We spent and I spent 20 years working to get this final plan approved for the upgrading of the locks and dams on the upper Mississippi. We finally got it done. And now I am worried about the ability to move ahead, both to maintain and move forward on the improvements in that navigation system.

Of course, I was disappointed with the level of support in the fiscal year 2012 budget proposal from the White House, and I think it is clear that the budget agreement that we are probably going to agree on is going to put some real strains on the ability of COE to move forward. Madam Chair, I will be submitting some questions for the record in this regard.

My point is this. I think that there is a need to increase funding available the Inland Waterways Trust Fund. I was pleased with the National User Board's proposal which recognized that need but also called for both more efficient processes regarding navigation construction and the reworking of the definitions of what is considered navigation. I can tell you that behind every dam—well, I cannot say "every". I have not visited them all. Behind most of them are great recreational areas, a lot of fishing. Even in some of the places down the Mississippi, you would be amazed how many people go out there just to bird watch and watch the bald eagles.

Have you watched that Web site, the Decorah Eagles, by any chance? No. There is a Web site. It is called Decorah, D-e-c-o-r-a-h. You have been there a lot of times, but it is called Decorah Eagles. What they did, Madam Chair, someone—not someone—an entity, an environmental group, set up a web camera in a tree focusing on an eagle's nest.

Senator FEINSTEIN. I saw it. It was wonderful.

Senator HARKIN. Is that not wonderful?

Senator FEINSTEIN. Yes, and the baby.

Senator HARKIN. And the little baby is being hatched and all that and everything.

Senator FEINSTEIN. It is great.

Senator HARKIN. Hundreds of thousands of people around the world watching it.

Well, along the Mississippi River, people are doing that. They are going out watching birds. There is a lot of recreation taking place.

It seems to me that it should not all be counted as navigation. It should be counted both as recreation and as navigation.

And we ought to allow for an increase in the taxes that even the barge people say they want to do but they want to make sure that it is used for navigation and to make sure that the recreational uses behind those dams and stuff are funded as recreational uses and not as navigational uses.

So I just wanted to say that. Like I said, rather than getting into it here, I will submit for the record a number of questions.

But I just want to thank you very much, Madam Secretary, and General, thank you so much for all you have done. Cedar Rapids—you have been great in response and helping us out there. Believe me I know the constrictions on that other side of the river. I understand that. I am just trying to see what is equitable and what could possibly be done to help a situation that cries out for some kind of justice here. So however we can work that out, I would sure appreciate it. Thank you both very much.

Thank you, Madam Chair.

Senator FEINSTEIN. Thank you very much, Senator Harkin.

To our witnesses, you have had 10 percent of the Senate here today, 10 people. That is very unusual for a subcommittee meeting, and I hope you interpret it as compliment and I hope you interpret it as the interest with which we hold your areas of expertise.

DAM SAFETY

I have a couple more questions. One is on dam safety, before I turn to BOR who has been sitting there so quietly, I want to say a couple of things.

There is a 90 percent chance in California that within the next 30 years, we have a major earthquake. It is not a chance. It is a probability. We are in the Ring of Fire. We have seen the Ring of Fire with huge earthquakes in South America, Banda Aceh, Christ Church, New Zealand, and all the way up. So there is a lot of reason to be concerned.

We have in California three dams—I do not know, but the words I have been given are “most at-risk” category, whatever that means. One, Lake Isabella, has been under study for 6 years.

Now, the first question is what qualifies a dam for the “most at-risk” category, General.

General VAN ANTWERP. Senator, we look at a number of factors. Probably the most damaging factor would be whether there is material coming through the foundation of that dam. We call that piping in the engineer world. And most of the DSAC-1 dams, which is the category you were mentioning, where it is urgent and compelling that we fix them now, have that problem. They are bringing material through the foundation. So we know there is erosion taking place. That is the most critical factor.

We have a number of those under rehabilitation right now as we speak.

Senator FEINSTEIN. Well, how long do you have to study them, 6 years for Lake Isabella?

General VAN ANTWERP. Lake Isabella—we have looked very closely at that. As we look at it, we think we are going to be fine with that if we stay on the schedule we are on.

Senator FEINSTEIN. Which is what?

General VAN ANTWERP. The schedule right now is that we are going to fund that at \$7 million in fiscal year 2012, which is the capability. We have a wedge of funding that is not totally visible to you all for dam safety. We are funding that project to continue on the schedule and we will make the repairs necessary when they come. We have \$7 million in fiscal year 2012 for that.

Senator FEINSTEIN. How about the other two most at-risk dams?

General VAN ANTWERP. The Success Dam is budgeted with \$18 million in fiscal year 2012, so that one is also on schedule. What we are going to do there is acquire properties and we are on track with the \$18 million. I think on both of those dams, we definitely have our eye on them and we are aware of their condition.

Senator FEINSTEIN. And the third one?

General VAN ANTWERP. The third one. Which one is that?

Senator FEINSTEIN. I am trying to remember which one it is and I cannot remember.

General VAN ANTWERP. Martis Creek. We have our eyes on that too. This is Mr. Steve Stockton who is our Director of Civil Works. He knows these in and out.

Senator FEINSTEIN. And so, on that one?

General VAN ANTWERP. I am not exactly sure. I do not have the notes on where we are.

Senator FEINSTEIN. Would you let me know, please, because, obviously, I am vitally concerned.

General VAN ANTWERP. Right.

Senator FEINSTEIN. Now, let me turn to BOR.

You have proposed a new account for Indian water rights settlements. The question is how much mandatory funding accompanies the \$51.5 million discretionary funding you have proposed for fiscal year 2012?

Mr. CONNOR. The \$51.5 million was basically designed to meet the capabilities that we have for 2012 with respect to the four new settlements. And what we are trying to do there, although there is a significant amount of mandatory funds being made available for those four new settlements, they also include a substantial amount of associated appropriations needs. I think to the tune of about \$700 million was provided in mandatory funding, but with respect to BOR, we will still, for these four new settlements, about \$250 million in discretionary appropriations is needed. So what we have tried do is to try and get the appropriations process going to cover that need.

With respect to the new account, we have also incorporated the Navajo-Gallup pipeline project in New Mexico, the Navajo settlement in the San Juan River basin. There are about \$25 million in that account, I think we are going to ramp up to a capability in 2012 on the Navajo project to something around \$70 million to \$80 million. So there is a substantial ramp-up that is going on in that project itself, and so it will be a combination of those appropriated

dollars, the \$25 million, in the new account, plus we have been provided mandatory funds of \$60 million in the Claims Resolution Act of 2010.

Senator FEINSTEIN. Do these settlement agreements require funding annually?

Mr. CONNOR. They do not necessarily require specific funding annually. Some of them do. For instance, the *Crow* settlement contemplates an immediate distribution of \$4 million I believe.

Senator FEINSTEIN. Are they all water systems?

Mr. CONNOR. They are a combination of trust funds, which will come out of BIA accounts and infrastructure which are primarily designated for BOR. So we have municipal and industrial (M&I) systems, drinking water systems, but we also have some rehabilitation of existing irrigation systems that are part of the projects.

Senator FEINSTEIN. So you believe they can be funded without taking the money from anywhere else.

Mr. CONNOR. Right now, through the new account, plus the combination of mandatory funds that we have, for the next few years we think we can manage that situation. But once again, overall, we are still looking at \$250 million plus another \$500 million for Navajo. We are looking at, through appropriated dollars over the next decade, about \$750 million worth of appropriated dollars that we have got to find somewhere.

Senator FEINSTEIN. I want to thank you for your sensitivity to the South-of-Delta water issues. I was very pleased to learn that BOR has increased the allocation for farmers from 65 percent to 75 percent last week. I know these followed two previous rounds of increases. However, as you know well, there is still a lot of consternation in the central valley when most other projects are receiving 100 percent, and we have got a bumper crop of water and it is still the South-of-Delta that does not have 100 percent.

In your judgment, how close to 100 percent can this region get with all the water that is now available?

Mr. CONNOR. Well, there is still a chance to get up to that 100 percent level. I would like to provide some perspective, though. Since 1990, we have only hit that 100 percent level South-of-Delta three times. The average over that 20-year period is 62 percent to South-of-Delta allocation for agriculture.

Senator FEINSTEIN. I actually got out the contracts and read them, and it is interesting because they are contracts with all kinds of hedges in them because generally when somebody signs a contract, you expect to be bound by the terms of the contract. In this case, the Government is not really bound by 100 percent water allocation under the contract. I do not know that people know that, and I think it is very hard. And I think when farmers look around and they see other water districts with 100 percent, it becomes even harder. And I understand there are special exigencies for the South-of-Delta, but try and sell that. It is unsalable, and I think you know that.

Mr. CONNOR. Yes, absolutely. There are priorities. There are water rights conditions and the new environmental obligations that we have. All of those factors have affected that South-of-Delta allocation. But you are right. The expectations are there because of the contract quantities, and notwithstanding the fact those 20 years of

experience show us that there is not enough water to consistently meet that 100 percent need, there is still an expectation out there, particularly this year when the snowpack and precipitation is 160 percent of average statewide.

Senator FEINSTEIN. Well, I know you are sensitive, and you have been just great and it is very much appreciated. I know how tough it is. Whatever we do, it is not enough, but at least we are trying. So thank you.

Perhaps the biggest effort in California is the Bay-Delta conservation plan and what might come from it in the 10- to 15-year build period after. Can you provide an update on BOR's efforts to develop a programmatic EIS for the Bay-Delta conservation plan?

Mr. CONNOR. Yes, Senator. Over the last 4 or 5 months, there has been a very concerted effort by BOR, in concert with the other Federal regulatory agencies, Fish and Wildlife Service and NOAA Fisheries, working with the California Fish and Game and the Department of Water Resources. We are calling it the "five agency process". And we have been led in that effort by Deputy Secretary David Hayes. And I think we have made a remarkable amount of progress in dealing with six major issues that are key to working through so that the State of California, which is going to be the permittee under the Bay-Delta Conservation Plan process, can go in and submit their plan with a reasonable expectation that we can work through those issues and get to a final permit. It is not pre-decisional. The regulatory agencies have made that very clear. But we are trying to get enough in the area so that there is a reasonable expectation of success.

We have resolved, I think, four of the six issues. We are working very hard over the next couple of months to resolve the last two, and hopefully beginning mid-summer, the State will be in a position to submit its plan which will kick off the Environmental Impact Statement/Environmental Impact Report process. A lot of the analysis is already being done waiting for the final plan to come in. I think there is still hope that within a year's time period, that there will be a draft on the street.

Senator FEINSTEIN. Another problem. Since 2007, quagga mussels have been inundating the Colorado River system. They were found within Lake Mead, and since then, everybody has been working to prevent them. I met with the metropolitan water district the other day. They were telling me how they had spent millions of dollars and these things are just in gobs along their lines. Each quagga reproduces a million mussels a year. You cannot kill them with cold water. They have to go in and scrape feet of quagga mussels piled up. And if it infiltrates the water system, we have really got a problem.

How much activity within BOR is going on to really try to combat this mussel issue, because it is a huge one? The Met just e-mailed the staff. They spent \$28 million total scraping these things off the pipes.

Mr. CONNOR. Yes. It is quite a problem and unfortunately, it is one that is spreading. And that is where our initial actions are right now. Our initial actions are to work very closely with the State agencies in trying to educate the public about the potential for transferring quagga mussels between bodies. Right now, we

used, I think, around \$5 million of our Recovery Act money just to do a broad survey west-wide of our various facilities to try and get a grasp on the scope of the problem, trying to educate people so that the problem does not increase.

With respect to actually dealing with them in the facilities that they are in, most of our activity has been related to research and development activity. We are trying to kill them through various means. We are trying to develop coatings that will maybe keep them off the infrastructure.

Senator FEINSTEIN. You mean by getting them high, Codeine?

Mr. CONNOR. No, coating—C-O-A-T.

Senator FEINSTEIN. Oh, I thought you said codeine.

Mr. CONNOR. It took me a second. I think that is good that I did not immediately react, coating.

Senator FEINSTEIN. Got it.

Mr. CONNOR. That will hopefully inform us about how we can keep them off of some of the infrastructure. But they are already there, and as Metropolitan Water District (of Southern California) well knows, they are investing a lot of their operation and maintenance funds right now just to try and control the problem.

Senator FEINSTEIN. Well, thanks to Senator Alexander and our work on Interior, Lake Tahoe, which we are trying to do some work on and save, which is one of two last remaining clear water lakes, huge lakes, is beginning to be infiltrated. So there is a boat boycott, and every boat prior to going into Lake Tahoe has to be specially inspected and washed.

So I do not know if you can come up with any of the things that can be done. They have to get in somewhere, and we have got to prevent them from getting in. I mean, with a lake that is relatively isolated, if these are carried like from Lake Mead on the bottom of a boat to Lake Tahoe, you can clean the boat. But we really need some help and Federal suggestions of what can be done because they are really going to destroy not only the Colorado water supply system, but also our Great Lakes.

Mr. CONNOR. Right. I agree. I think the inspection stations, the education process, everything we are participating in with our State partners in that effort, but it is a growing problem that we need to pay more attention to.

Senator FEINSTEIN. Thank you very much.

Senator Alexander.

Senator ALEXANDER. No thank you, Madam Chair.

Senator FEINSTEIN. No, thank you, you said, all right.

Well, let me thank everybody. Let me particularly thank our witnesses. I think this was a very useful hearing. As Senator Alexander whispered to me, I am glad I am up here, not down there.

At this time I would like to ask the subcommittee members to please submit any questions that they have for the record.

ADDITIONAL COMMITTEE QUESTIONS

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

QUESTION SUBMITTED TO JO-ELLEN DARCY

QUESTION SUBMITTED BY SENATOR PATTY MURRAY

Question. Assistant Secretary Darcy, I appreciate all you have done in your time with the Corps of Engineers (COE) and the good work of the districts that serve my home State of Washington. We are obviously facing very difficult budget times and unfortunately, the President's budget request reflects that for COE. Yet even as we face these hard times, COE has ongoing General Investigations that are routinely not included in the President's budget request, like the Elliott Bay Seawall GI or the Skagit River GI. Can you tell me how you plan to continue these important projects?

Answer. All projects and studies are evaluated and considered for funding. However, only the highest-priority studies from a national perspective are proposed for funding. The Army has undertaken a broad effort to review the scope of active studies to ensure resources are appropriately aligned to complete those studies most likely to result in a high-performing project. For example, as part of this effort, the Skagit River study will be reviewed this year.

The Army is working to finalize implementation guidance for section 4096 of the Water Resources Development Act of 2007, which includes the determination of the feasibility of reducing future damage to the Elliott Bay Seawall from seismic activity. A Feasibility Scoping Meeting is scheduled for the project this fiscal year.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

COMPLETION OF THE LEVEE SYSTEM FOR THE GREATER NEW ORLEANS AREA

Question. On June 1, the city of New Orleans and the State of Louisiana will mark an historic and long-awaited milestone. The city that has given so much to this Nation—that is strategically located at the entrance to one of the world's largest river systems—will be protected against the ravages of a 100-year storm and flood event. The Corps of Engineers (COE) is to be commended for its work in completing this herculean task, but there are many questions left unanswered. Since the American people have invested nearly \$15 billion in this effort, we have a serious responsibility to make sure this money is not wasted and that it will sustain a 100-year level of protection over the long term. I have a couple of questions on this point:

Ms. Darcy, there is clear precedent in law and regulation for COE to assume operation and maintenance of navigation structures in federally navigable waterways. If COE does not have the legislative authority to operate the newly constructed structures along the Gulf Intracoastal Waterway, will the administration support legislation to give COE this authority?

Answer. The hurricane risk reduction system in the Greater New Orleans area includes numerous floodgates, many of which cross roads, interstate highways, and navigation channels. The hurricane risk reduction floodgates crossing navigation channels are designed to have minimal interference upon navigation, unless there is a tropical event which requires their operation. Under current law, the Coastal Protection and Restoration Authority of Louisiana (LA-CPRA) is responsible for operating and maintaining all of the hurricane risk reduction system, including the floodgates. Two of the largest floodgates for the hurricane risk reduction system cross the Gulf Intracoastal Waterway (GIWW). Although these two surge gates are located across a Federal navigation channel, their purpose is to reduce the risk from storm surge and not for navigation. Requiring the State to be responsible for the costs of operation and maintenance is in keeping with requirements of Public Law 99-662, Public Law 109-234 and Public Law 110-252, all as amended.

Furthermore, in keeping with the above legislative requirements, LA-CPRA has entered into Project Partnership Agreements and has agreed to be 100 percent responsible for the Operation and Maintenance of the hurricane risk reduction system project features. This applies to all features, including the pumping station and these two floodgates which cross the GIWW.

Question. I understand from local levee officials that in order to maintain the 100-year level of protection, future "lifts" to increase the height of the levees will be needed in certain areas of the system. This will be caused by the settling of the material used to construct the levee and could be needed as early as next year. Will the administration budget for these critical needs and if so, why not?

Answer. Public Law 109-234 and Public Law 110-252 authorized and funded COE to raise levee heights where necessary and otherwise enhance the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity

project to provide the level of protection necessary at the time of construction to achieve the certification required for participation in the National Flood Insurance Program (NFIP). Additional authority and funding would be required for the Federal Government to construct future levee lifts.

Question. What do you estimate these needs to be, and how will it affect the certification of the overall levee system in New Orleans?

Answer. The Greater New Orleans—Hurricane Storm Damage and Risk Reduction System will initially be accredited by the Federal Emergency Management Agency (FEMA) for a 10-year period. Current regulations require that FEMA be notified if any part of the system fails to meet the certification requirements during the 10-year period.

Additional authority and funding would be required to pursue construction of the future levee lifts and other additional measures on the Lake Pontchartrain and Vicinity project and the West Bank and Vicinity project to sustain FEMA system accreditation and participation in the NFIP in the future.

The estimated cost for future levee lifts and other measures to sustain elevations necessary for system accreditation are not known at this time.

Question. The Harbor Maintenance Trust Fund is authorized under the Harbor Maintenance Revenue Act of 1986 (Public Law 99-662, title XIV), as amended. Revenue is derived from a 0.125 percent ad valorem tax imposed upon commercial users of specified U.S. ports and investment interest. These funds are intended for the operation and maintenance of our ports and harbors—critical dredging that keeps these centers of navigation and commerce open for business. More than \$1 billion is collected each year, and the total estimated balance in the fund this year is more than \$7 billion. We have all of these funds, yet our ports and harbors are in desperate need of dredging. Why does the Harbor Maintenance Trust Fund carry billions in surplus when our critical ports and harbors are in desperate need of dredging funds?

Answer. The balance in this trust fund, which has grown over a period of many years, reflects multiple factors, principally the value of goods subject to the harbor maintenance tax, the tax rate, the enacted spending levels, and the limitation in current law on the authorized uses of these receipts. In our view, the overall funding level that the Federal Government provides for maintenance dredging and related purposes should be determined independent of the level of the Harbor Maintenance Tax receipts. More specifically, the allocation of these funds should reflect consideration for the economic and safety return, as well as a comparison with other potential uses of the available funds.

Our investments in coastal port maintenance are directed primarily at providing operational capabilities and efficiencies. To make the best use of these funds, COE evaluates and establishes priorities using objective criteria. These criteria include transportation cost-savings, risk reduction, and improved reliability—all relative to the cost. Consequently, maintenance work generally is focused more on the most heavily used commercial channels, which together carry about 90 percent of the total commercial cargo traveling through our coastal ports. However, many ports will experience draft limitations on vessels due to channel conditions, at least during parts of the year.

While COE could spend more on harbor maintenance and related work, the amount proposed in the budget for this purpose, which is financed from this trust fund, is an appropriate level, considering the other responsibilities of COE for inland navigation, flood risk management, aquatic environmental restoration, hydro-power, and the other Civil Works program areas. COE continues to develop analytical tools to help determine whether additional spending from this trust fund is warranted based on the economic and safety return, as well as a comparison with other potential uses of the available funds. Dredging costs continue to rise due to increases in fuel, steel, labor, and changes in methods of dredged material placement. We recognize that this presents challenges in maintaining commercial navigation projects.

COASTAL RESTORATION AND PROTECTION—LCA

Question. I am very encouraged that the President requested construction funding for coastal restoration in Louisiana in his fiscal year 2011 budget. After decades of study and planning, we will finally be turning dirt to restore and protect our fragile coast. I understand that this represents 1 of only 2 new starts recommended by the President, but I want to emphasize how critical it is that we use these funds wisely and efficiently. Ms. Darcy, I understand that this is a programmatic funding request.

How does COE intend to capitalize on the fiscal year 2012 budget request and ensure that multiple projects have received the appropriate executive branch approval?

Answer. The President's fiscal year 2012 budget includes \$10.6 million to begin construction under the Louisiana Coastal Area (LCA) ecosystem restoration program. The COE district office is working on several reports, and my staff is working with them to expedite the appropriate approval process.

Question. Also, which specific LCA projects will receive funding this year and the coming fiscal years?

Answer. Fiscal year 2012 funds will be used to continue construction of authorized restoration projects underway in fiscal year 2011 with reports that have favorably completed executive branch review, to initiate one new construction phase, and to continue monitoring and other restoration-related activities. Potential construction in fiscal year 2013 could include project(s) from the LCA 6 portfolio, Beneficial Use of Dredged Material Program (BUDMAT), and the Demonstration Program. The specific project(s) selected for fiscal year 2013 construction will be based upon funding available, approval of individual reports by the executive branch and execution of the necessary agreements with the State of Louisiana.

In fiscal year 2014 and beyond, we foresee continuation of construction for projects within the LCA 6, BUDMAT, and Demonstration Program with the addition of projects from the LCA 4 and LCA 5 portfolios.

DREDGING NEEDS ON THE MISSISSIPPI

Question. I have heard from a number of very concerned ports, businesses, and citizens about the navigability along the lower Mississippi River due to high water. The Mississippi is the central artery for navigation for nearly the entire Nation. As you know, 40 percent of the entire continent is drained by the Mississippi River Delta. This drainage basin (approximately 1,234,700 square miles) covers about 40 percent of the United States and ranks as the fifth largest in the world. The inland waterways of the United States include more than 25,000 miles (40,000 km) of navigable waters. Much of the commercially important waterways of the United States consist of the Mississippi River system—the Mississippi River and connecting waterways.

Do you have the funds you need to ensure that the Mississippi River remains open for business at the maximum authorized depths?

Answer. The Army is committed to maintaining coastal navigation between the gulf and the ports of the New Orleans and Baton Rouge area. Funds to do so are included in the budget. The dredging needs on this part of the lower Mississippi River are difficult to predict, as they depend on flow conditions, sediment loads, and a variety of other factors, which vary each year as well as over the course of the year. COE continually monitors conditions on the river to ensure the most efficient use of available funds to minimize the need for any depth, speed or night-time restrictions.

Question. How are you balancing this critical need with the needs that other essential waterways are facing across the State of Louisiana and the Nation?

Answer. COE has a large inventory of navigation projects to maintain and seeks to provide levels of service that reliably and safely support freight movements in a way that provides the most overall value to the Nation from the available funds. Navigation projects were categorized as high, moderate, and low commercial navigation use based on tonnage. COE's approach involves a focus on the high and moderate commercial use navigation projects, which together move 99 percent of the Nation's waterborne commercial cargo. Generally, before providing more funding to a project, we consider whether we could achieve a greater return by applying those funds elsewhere. The low-use projects funded in the fiscal year 2012 budget were selected with the intent to optimize use of the available funding across a range of uses, with emphasis on harbors of refuge, subsistence harbors, projects with Coast Guard Search and Rescue stations, energy delivery projects where marine transportation is the only means to make the deliveries, and commercial navigation projects with less than 1 million tons of commercial cargo.

INLAND WATERWAY TRUST FUND

Question. The Inland Waterways Trust Fund is used to pay one-half of the costs associated with the construction, replacement, rehabilitation, and expansion of Federal inland waterways projects. There are dozens and dozens of critical locks and dams that are in a dramatic state of disrepair—including 1 in New Orleans that has been waiting for replacement for more than 50 years. I am strongly opposed to

the administration's proposal of a new funding mechanism, which would replace the existing fuel tax.

However, I am most interested in knowing how COE plans to address the massive backlog of projects on the inland waterway system. Ms. Darcy, how is your agency addressing this critical need?

Answer. Neither the administration nor the inland navigation community is content with current funding levels. In the short-term, the administration has been budgeting for the capital costs of inland waterways projects based on the level of anticipated revenues from the current excise tax on inland waterways diesel fuel.

Question. Do you believe changing the funding mechanism is the best way to address the problem in this economy?

Answer. The administration is open to discussions on revisions to the existing funding mechanism as well as new funding mechanisms.

QUESTION SUBMITTED BY SENATOR MITCH MCCONNELL

Question. What funding levels are needed for fiscal year 2012 and fiscal year 2013 in order to maintain the Kentucky Lock project on its critical construction path?

Answer. Two features of the Kentucky Lock and Dam project currently are underway: the superstructure feature (highway/railroad), which we expect to complete in December 2011, and the upstream lock monolith, for which we allocated funding under the American Recovery and Reinvestment Act of 2009. However, the Corps of Engineers (COE) does not plan to move forward with further work on Kentucky Lock and Dam project at this time due to the low level of the receipts to the Inland Waterways Trust Fund, as well as to the relative priority of these projects among the potential inland waterways capital investments. For example, the priorities of the Inland Waterways Users Board, which will be given due consideration in the formulation of future budgets, placed a higher priority for early construction on several other inland waterways projects and deferred completion of Kentucky Lock and Dam, as well as other projects. When the project is ready to resume, COE will develop a proposed schedule, after assessing the critical path toward completion at that time.

Question. The inland waterway system has a number of lock and dam modernization projects whose construction completion dates have been significantly delayed and whose project construction costs have risen far beyond the levels originally authorized by the Congress for those projects. What do you believe the consequences will be of failing to adopt a workable, reasonable long-term capitalization plan to address this situation? Specifically, please speak to the specific long-term impacts to Olmsted Lock and Dam, Kentucky Lock, Wolf Creek Dam, and Greenup Lock and Dam projects without a capitalization plan.

Answer. COE's program today is focused on the operation, maintenance, repair, rehabilitation, and replacement of major flood control and commercial navigation infrastructure systems, and the repair of aquatic ecosystems that COE projects have affected. The overall budget for the program is primarily devoted to maintaining these systems so that they can continue to provide economic, environmental and social benefits to the Nation.

For example, an increasing proportion of our funding in recent years has been devoted to the maintenance and rehabilitation of existing infrastructure, primarily for flood risk management, but also for inland navigation projects. Similarly, the budget for the construction program gives priority to dam safety assurance, seepage control, and static instability control work (about \$450-\$500 million per year) to repair unsafe dam structures.

The administration will be considering options for a comprehensive recapitalization policy for the Civil Works Program, but still is in the early stages of this effort, which will include an examination of current asset management tools and review of existing policies and authorities. It is anticipated that new authorities will be needed to ensure that the infrastructure continues to address the water resources priorities of the Nation.

The projects you mention, and their costs, are not affected by the absence of a capitalization plan. The Olmsted Locks and Dam and the Wolf Creek Dam projects have received a priority for funding for many years. Their schedules and costs have changed principally due to a variety of other factors specific to those projects. For the Kentucky Lock and Dam project, we expect to complete the superstructure feature (highway/railroad) in December 2011. We also provided funding under the American Recovery and Reinvestment Act of 2009 for work on the upstream lock monolith. However, COE does not plan to move forward with further work on Kentucky Lock and Dam project or on the Greenup Locks and Dam project at this time

due to the low level of the receipts to the Inland Waterways Trust Fund, as well as to the relative priority of these projects among the potential inland waterways capital investments.

Question. Please provide an updated (to fiscal year 2011) “Benefits Foregone” account of the economic cost to our Nation’s economy due to lock and dam modernization projects that were not built using an efficient construction schedule (previous COE analysis attached).

Answer. We no longer compile this information. It was inaccurate and misleading, as well as based on an unrealistic premise. However, we would be glad to provide it for any specific project, with appropriate qualifications.

Question. What action is COE taking to be better stewards of taxpayer dollars?

Answer. The budget focuses on the highest-performing projects and programs within the three main water resources missions of COE:

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

For example, the budget includes \$51.78 million, more than a \$40 million increase, for a comprehensive levee safety initiative to help ensure that Federal levees are safe and to assist non-Federal parties to address safety issues with their levees. The budget also proposes to create savings and efficiencies through elimination of duplicative and lower-priority programs.

Question. What is the estimated level of benefits not recoverable for the Olmsted project?

Answer. The budget continues to place a high priority on the completion of this project. The primary benefits resulting from construction of the Olmsted Locks and Dam project (which also includes demolition of Locks and Dams 52 and 53) are vastly improved navigation transit at a key point on the Ohio River; coupled with significant decreases in current operation and maintenance costs due to the age and advanced deteriorated condition of Locks and Dams 52 and 53.

COE, in its feasibility report, estimated that the construction of Olmsted Locks and Dam would reduce vessel transit costs and net Federal operation, maintenance, and repair costs by around \$69 million per year. Operation and maintenance costs at Locks and Dams 52 and 53 continue to increase. A failure event at either of these projects could close a key transit point on the river to navigation, with broad effects on commerce. This ongoing risk will increase until COE completes Olmsted Dam and the new locks are operational.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

Question. My understanding is the Pacific Division of the Corps of Engineers (COE) found deficiencies on appeal with the Alaska District’s rejection of Conoco’s section 404 application to construct a bridge to access the National Petroleum Reserve. As you know, the Native Village of Nuiqsut and really all of the local stakeholders supported the collaborative process that led up to this modified proposal. On remand, is COE looking closely at the record for what the local subsistence community prefers?

Answer. The district considered local support for Conoco’s preferred alternative as part of its public interest review in the original decision. All relevant public interest factors were carefully evaluated and balanced. The decision whether to authorize a proposal, and under what conditions, is determined by the outcome of this general balancing process, subject to other legal requirements. The district determined that the district’s record of decision did not clearly document their decisionmaking process with respect to the public interest determination. Therefore, while Pacific Ocean division did not remand to Alaska district for the single issue of local support, the remand did instruct the district to clearly document the balancing process.

Further, local support for a project does not obviate the section 404(b)(1) guidelines requirement that only the least environmentally damaging practicable alternative (LEDPA) may be permitted, so long as that alternative does not have other adverse environmental consequences. Based on the information provided to the district, Conoco’s proposal was not determined to be the LEDPA.

Question. Prior to the COE’s rejection of Conoco’s permit on February 5, 2010, the Environmental Protection Agency (EPA) had designated the Colville River Delta “an aquatic resource of national importance.”—an aquatic resource of national importance (ARNI). Ms. Darcy, what is your definition of “national importance?”

Answer. The term “ARNI” is used in the process established under an “inter-agency dispute resolution memorandum of agreement” (MOA) developed under section 404(q) of the Clean Water Act. The current 404(q) MOA was signed by the EPA,

Department of the Interior (DOI), Department of Commerce (DOC), and my office in 1992. The MOA provides procedures and timeframes for resolving inter-agency disputes regarding permit applications, in an effort to make timely permit decisions. An ARNI is a resource-based threshold used to determine which individual permit cases can be elevated under the 404(q) procedures. Factors used in past elevations to identify an ARNI include diverse high-quality ecosystems, rarity and uniqueness, and economic importance for fish and wildlife species. In other words, the underlying concept is simply that impacts to particularly important aquatic resources should be carefully evaluated.

Question. Has the EPA ever designated an ARNI in consultation with COE or any other agency, or the public? Is there any transparency to the designation?

Answer. The term ARNI is only used on the context of a Clean Water Act (CWA) section 404(q) elevation under the 1992 MOA between EPA, DOI, and DOC, to identify those individual permit cases that may be elevated to my office for review. EPA does not “designate” an aquatic resource as an ARNI. Rather, it concludes that the aquatic resources and proposed impacts are significant enough to request review by my office as provided in the MOA.

Question. If COE disagrees with the EPA’s designation of an ARNI, does COE have any means of reversing or modifying the designation?

Answer. The conclusion that the aquatic resources and proposed impacts are significant enough to request review by my office is not an official designation or decision that requires reversal or modification. The term ARNI refers to a criterion used by the resource agencies (EPA, DOC, DOI) to determine if an individual permit may be elevated under the CWA section 404(q) elevation procedures.

A District Commander may not reject a resource agency’s substantive conclusion regarding its determination that the aquatic resource impacted by the proposed project is an ARNI and that the impact will result in an unacceptable impact on ARNIs. The 404(q) MOA is intended to allow agencies to elevate certain applications to my office, after following the specified procedures and timeframes described in the MOA.

Once my office receives the request for review of the individual permit application from a headquarters office of the agency (e.g., the EPA Assistant Administrator for Water), the permit decision is held in abeyance.

My office does have the ability and authority to agree or disagree with the designation of an ARNI and with the determination that the project will result in substantial and unacceptable impacts to ARNIs after thorough review of the permit and the decision document, and in many instances after an on-site meeting.

I understand that there are several examples where my office has in fact disagreed with the resource agency designation and/or the determination of substantial and unacceptable adverse effects to ARNIs. If this occurs, my office will inform the headquarters office of the agency that sought headquarters review of the permit application of my decision. The permit is not finalized during a period of 10 days following my decision so that EPA if it desires may initiate a review under its 404(c) authority.

Question. If COE moves forward with granting section 404 clearance to proceed with a fill project even after EPA has designated an area an ARNI, would COE consider it likely that EPA would use its section 404 authority to veto the project?

Answer. Not necessarily. Since 1972, when the Congress enacted section 404, the EPA has only prohibited a proposed action, as provided in section 404(c), about 14 times. The decision to initiate a 404(c) action rests solely with the EPA, and is not tied to the concept of an ARNI.

Question. With CD-5, COE had worked with Conoco, the State of Alaska, and the local community stakeholders since 2004 toward an agreement on accessing CD-5, only to ultimately deny the permit in 2010. How can we in the Congress justify spending on such a process if we ultimately don’t have a project?

Answer. CWA requires the chemical, physical, and biological integrity of the Nation’s waters be restored and maintained. In accordance with this statutory requirement, the regulatory program decisionmaking process involves an evaluation conducted pursuant to the CWA section 404(b)(1) guidelines and a public interest review. These requirements are intended to ensure that proposed discharges into waters of the United States are not contrary to the public interest and do not result in unacceptable adverse impacts to the aquatic environment. The regulatory process is informed by the applicant as well as information provided by State and Federal regulatory and resources agencies, the local community and other interested stakeholders.

In the case of CD-5, COE worked with Conoco Phillips Alaska Inc. (CPAI), the State of Alaska, and the local community stakeholders since 2004 toward identifying a proposal that could potentially be approved for a permit. During those years, CPAI

requested the application review process be suspended on occasion, as they made changes to their proposed project; and so they could continue to work with the local community stakeholders to come to a local agreement about access to the CD-5 area without impacts to subsistence use and local jobs, and to provide mitigation/compensation for social impacts to those communities, to name a few. COE worked diligently with CPAI to find a way to avoid and minimize impacts to jurisdictional waters. In addition, COE made numerous requests for information that would allow them to evaluate portions of the CD-5 project. It is the applicant's responsibility to supply all required and necessary information and to clearly demonstrate that their proposal is the least environmentally damaging practicable alternative. CPAI did not provide the information required to rebut the presumption that another alternative with less environmental impacts on aquatic resources did not exist.

It is the responsibility of the regulatory program to take an unbiased look at each and every project, weigh the detriments and benefits and make a decision based on the law and regulations, public interest factors, and the purpose and need for a project. The decisionmaking process ends in one of several ways:

- permit issuance;
- permit issuance with conditions;
- the applicants' withdrawal of their application; or
- permit denial.

COE works with applicants and the agencies to protect aquatic resources by ensuring that project proposals avoid and minimize unnecessary impacts and mitigate for unavoidable impacts. This process enables the agency to make favorable decisions on 99 percent of the applications received, and works as the Congress intended.

Question. Is it possible to build a bridge, perhaps one of higher elevation or with better placed supports, through an area with an ARNI designation?

Answer. ARNI designation does not prohibit an activity or a discharge in these aquatic resources, including building a bridge through an area identified as an ARNI. COE recognizes that if the resource agencies identify an area as an ARNI, that this term implies that the resource may be high quality, rare, unique, or have economic importance for fish and wildlife species, and that proposed impacts to these important aquatic resources should be carefully evaluated.

Section 404(b)(1) of the CWA requires that only the LEDPA may be permitted, so long as that alternative does not have other adverse environmental consequences. COE denied the permit because it determined based on information provided by the applicant, input from the public and Federal resource agencies that a roadless alternative with horizontal directional drilling (HDD) would be the LEDPA.

QUESTIONS SUBMITTED TO LIEUTENANT GENERAL ROBERT L. VAN ANTWERP

QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

HARBOR MAINTENANCE TRUST FUND

Question. It is my understanding that the Harbor Maintenance Trust Fund has a significant surplus. The budget request states the administration will be making a proposal concerning the Harbor Maintenance Trust Fund to the Congress. As I understand it, this proposal will allow other agencies that are conducting port related activities to charge those activities to the Trust Fund.

Could you explain this proposal a little further?

Answer. Several Federal programs support commercial coastal navigation (primarily Corps of Engineers [COE], Coast Guard, Federal Emergency Management Agency [FEMA], Customs, National Oceanic and Atmospheric Administration, and Department of Transportation), in a variety of ways. The fiscal year 2012 budget proposes to expand the authorized uses of the Harbor Maintenance Trust Fund (Trust Fund) receipts, so that they are available both for harbor maintenance and to finance the Federal share of other Federal activities that support commercial navigation through our ports. Spending would continue to be subject to annual appropriations decisions, just financed from the Trust Fund instead of the General Fund. The proposal would not limit the amount of annual spending for any specific purpose or program, such as harbor maintenance.

Question. How does this proposal improve our Nation's harbors? It sounds like the same things will be accomplished but accounting for the costs will be different. Am I missing something?

Answer. The proposal would support investments that contribute to the strength of the American economy. It would facilitate the development of a comprehensive

investment strategy, improve the allocation of resources to and among multiple agencies, and provide transparency on the extent of the Federal support.

Question. Won't this rapidly deplete the Trust Fund balance?

Answer. The proposal is still under development. We expect the Trust Fund to retain a workable balance. We would work with the Congress to decide which other Federal coastal navigation efforts are covered. The extent of the long-term effect on the size of the Trust Fund balance would depend upon which other Federal activities are included.

Question. When the trust fund is depleted by these new activities, how will we maintain the harbors and waterways that are currently funded through the Trust Fund?

Answer. We expect the trust fund to retain a workable balance. However, if it were to be depleted at some future date, the Congress would then decide how to fund the Federal coastal navigation efforts, including those of COE.

Question. Assuming these other activities will continue to be funded from the Trust Fund, will maintenance of these waterways be further restricted due to lack of funding in the Trust Fund?

Answer. That is not our intent or expectation. In fact, there could be more dredging under the proposal. In our view, the overall funding level that the Federal Government provides to COE for maintenance dredging and related purposes should be determined independent of the level of the Harbor Maintenance Tax receipts. More specifically, the allocation of these funds should reflect consideration for the economic and safety return, as well as a comparison with other potential uses of the available funds.

Question. The budget request states a number of times that you are addressing the highest-priority needs. It is also my understanding that the budget proposal does not provide for full authorized widths and depths to be maintained at any harbor maintained by COE. Has there been any calculation of the economic impacts by not fully dredging all of Nation's ports?

Answer. There has been no calculation of the economic impacts of not fully dredging all of the Nation's ports. Maintenance of existing navigation channels to fully authorized dimensions would reduce the cost of some ship movements, but would not necessarily increase the total throughput capacity of the ports. The fiscal year 2012 budget for COE includes \$758 million from the Trust Fund to support the maintenance of coastal harbors and their channels and related work. To make the best use of these funds, COE evaluates and establishes priorities using objective criteria. These criteria include transportation cost-savings, risk reduction, and improved reliability—all relative to the cost. Our objective is to provide operational capabilities and efficiencies, with a focus on the most heavily used commercial channels (carrying more than 10 million tons of cargo/year), which together carry about 90 percent of the total commercial cargo traveling through our coastal ports.

Question. It would seem that if the administration goal is to double exports, that fully dredging our ports and waterways would be an essential step in making this goal a reality. Am I missing something?

Answer. Maintenance of existing navigation channels to fully authorized dimensions would reduce the cost of some ship movements, but would not necessarily increase the total throughput capacity of the ports. The fiscal year 2012 budget for COE gives priority to the maintenance of the Nation's large deep-draft harbors. The budget also includes \$65 million for the ongoing deepening of the port of New York/New Jersey; \$42 million for construction/expansion of dredged material placement facilities at the ports of Norfolk, Virginia; Savannah, Georgia; and Jacksonville and Tampa, Florida in order to continue maintenance of the deep draft channels serving these ports; \$600,000 for preconstruction engineering design of Savannah Harbor expansion, Georgia; and \$726,000 for a channel improvement study at Brazos Island Harbor (Brownsville), Texas.

DAM SAFETY

Question. Dam safety is of critical importance to our Nation and particularly California. Currently there are three dams in California in the most at-risk category.

Could you explain COE's criteria on how projects are ranked related to risk?

Answer. COE uses a dam safety portfolio management process that continually monitors and assesses the condition and risk associated with all COE dams and assigns a Dam Safety Action Classification (DSAC). The priority for funding is focused on addressing the highest-risk dams with the most cost-effective risk reduction alternatives for all DSAC I, II, and III projects. DSAC I dams have been determined to have a confirmed urgent and compelling issue that requires taking immediate and expedited actions to reduce and manage the risk. Therefore, DSAC I dams with

life safety consequences are given first priority. For prioritization within DSAC II and III projects, significant weight is given to the quantitative tolerable risk guidelines, but other nonquantitative considerations, including As Low as Reasonably Practical (ALARP), are also used for a more complete basis. The greater the estimated annual probability of failure and the further the estimated life risk is above the tolerable risk limit, then the greater the urgency to act. Further detail on ranking criteria is available in Draft ER1110-2-1156, Chapter 6.3. Draft version of ER 1110-2-1156 has been released as interim guidance to the field. The regulation is available for download at http://www.usace.army.mil/CECW/Documents/cecwe/er1100_2_1156_1nov10.pdf.

Question. Can you explain what risks these dams and the people below them are facing and what actions are taken to reduce risks while studies are undertaken and corrective plans formulated?

Answer. COE executes its project purposes guided by its commitment and responsibility to public safety. It is after public safety tolerable risk guidelines are met that other purposes and objectives are considered. COE dams are geographically widely spread across the Nation and exhibit varying degrees of deficiency and life-safety risk. Interim Risk Reduction Measure Plans (IRRMP) are the key documents that frame operational decisionmaking for high-risk dams (DSAC I, II, and III). Structural and nonstructural alternatives for the interim risk reduction measures are evaluated for effectiveness to reduce the probability of failure and/or consequences associated with the failure modes. Reservoir pool restrictions, modification of reservoir regulation plan, and updating of Emergency Action Plans (EAPs) are always evaluated as options. The IRRMPs establish the specific threshold events, decision points, and actions required. COE discusses issues consistently and openly with affected stakeholders upstream and downstream of our structures.

Question. These studies seem to take an inordinately long time, particularly for high-risk dams. For instance, Lake Isabella in my home State has been under study for the last 6 years. Isn't there a way to accelerate these studies so the remediation work can get started?

Answer. The risk-informed approach that COE is implementing will allow focus on our most critical deficiencies. This focus will provide a more expedited repair to our worst issues. Given the multiple purposes of most COE dams and the long-term benefits provided, the projects will still require thorough analysis of any modification to assure public safety by modification to the dam. Dam analysis and designs are complex technical efforts. Risk assessments must be performed to understand the extent of a problem and to evaluate options to fix the dams. In many cases, COE dams have multiple deficiencies which increase the complexity of repair.

Question. Your budget proposes \$436.7 million for repairs to 10 projects and an additional \$37.2 million to continue studies on other dams that have various risk ratings. Repairs on some of these projects are multi-year and, in many cases, extremely expensive—with the repairs often costing more than the original dams. Does COE have additional capability for dam safety work in fiscal year 2012?

Answer. All DSAC I projects that are ready for construction, and some DSAC II projects, are funded at the maximum rate that COE can efficiently and effectively use funds. Decisions on the funding for other dam safety projects (other DSAC II projects and all DSAC III projects) include consideration of budgetary and technical resources as well as other factors.

Question. Your budget proposes \$27.6 million for evaluation studies and lists 100 different dams where these studies would be conducted. That works out to about \$275,000 per study. That seems very low. Can you explain this better?

Answer. The fiscal year 2012 budget will progress study efforts at 73 projects with levels of effort ranging from \$50,000 to \$800,000. The prioritization and funding amount is re-evaluated quarterly to adjust to incidents, study progress, successful performance during flood events, and other relevant information.

Question. Is this a list of potential studies that will be undertaken or will all 100 be underway in fiscal year 2012?

Is it also fair to assume that when these projects were formulated prior to authorization and construction, that the 50-year maintenance costs were factored into the benefit cost ratio that led to their authorization and construction?

Answer. An estimate of the 50-year maintenance costs has been factored into the benefit-cost ratios for projects proposed by COE under the 1983 Principles and Guidelines and prior planning guidance.

Question. Further, the budget request proposed \$9.5 million to undertake post-evaluation work. However, there is no description of what this post evaluation work is or which projects it would be undertaken on. Can you provide some more information?

Answer. Dam Safety Modification reports for Addicks and Barker Dams (DSAC Is) are scheduled to be approved in fiscal year 2012 and Pre-Construction Engineering & Design (PED) for these dams will be initiated in fiscal year 2012. COE is initiating PED and some limited site preparation construction on Bolivar and East Branch Dams (DSAC IIs) that have approved Dam Safety Modification reports, but that will not be funded for construction until fiscal year 2013.

Question. With the number of dams that are considered high risk and the decline of your budget request over the last 3 years, how are your future budgets going to be able to accommodate these increasing costs?

Answer. The Army manages risks across a broad portfolio of structures, with the objective of reducing the overall portfolio risk. The decision on priorities in project queues is risk informed and performed from a national perspective. Over much a longer period than just the past 3 years, the budget has consistently funded all DSAC I projects and some DSAC II projects at the maximum rate that COE can efficiently and effectively use funds.

There are 10 continuing DSAC I and II dam safety projects funded in the fiscal year 2012 budget for a total of \$436.7 million. This funding is allocated within the construction appropriation. As additional high-risk dams are identified we will work to address them as well. We expect to continue funding all DSAC I projects that are ready for construction, and some DSAC II projects, at the maximum rate that COE can efficiently and effectively use funds.

SMALL PORTS

Question. Your budget request cuts funding to many small ports and harbors across the country. Can you tell us a little about the criteria used to determine those cuts?

Answer. Navigation projects were categorized as high, moderate, and low commercial navigation use based on commercial tonnage. Funding is focused on high and moderate navigation projects (coastal projects carrying at least 1 million tons of cargo and inland waterways with at least 1 billion ton-miles of traffic), which move 99 percent of the Nation's waterborne commercial cargo. The low-use projects funded in the fiscal year 2012 budget were selected with the intent to optimize use of the available funds for such projects across a range of uses including critical harbors of refuge, subsistence harbors, projects with Coast Guard Search and Rescue stations, energy-delivery projects such as home heating oil where marine transportation is the only means to make the deliveries and navigation projects with significant, albeit less than 1 million tons of commercial cargo.

Question. Was the criteria that you used for determining your budgetary priorities for fiscal year 2012 contemplated when these projects were originally formulated, authorized and constructed?

Answer. No. The prioritization criteria for the Operation and Maintenance program consider the current use of a project and a variety of other factors, in order to assess how the return on a further investment to the Nation in maintenance compares with other potential uses of those funds.

Question. Was it safe to assume that if the project was economically justified, that the administration would budget for maintenance of the project as appropriate?

Answer. No. However, if the construction of the project was found by the executive branch to be economically justified at that time, the administration generally will consider the project for funding.

Question. Can we, for argument's sake, assume that nearly all the projects that were not budgeted in fiscal year 2012 were economically justified, when construction was completed?

Answer. No. Many projects were authorized without an approved COE report. Others are not being funded due to policy concerns that arose prior to their construction.

Question. This would mean that all of these unbudgeted projects were determined to accrue benefits to the national, as well as, the regional and local economies, am I correct?

Answer. Many, but not all, of the projects would have a COE report that estimates that the project would accrue net benefits. However, key assumptions in these reports may be open to question. For example, benefit estimates for a proposed navigation project generally rely on a speculative projection of future traffic levels.

Question. Was there any analysis to determine if the ports were moving the tonnage projected in the documents that led to authorization and construction of the projects?

Answer. COE has not conducted such an analysis as this would be a large undertaking for an inventory of more than 1,000 navigation projects.

Question. It would seem to me that if a port was meeting its tonnage projections, that it would most likely be meeting the economic projections from the original analysis conducted prior to authorization. Is it safe to assume that some of these small ports would have had small tonnage amounts projected, but yet were still considered economically justified?

Answer. Some of these ports would have been justified based on tonnage projections. However, even where the tonnage is on track with projections, dredging costs have increased dramatically since many projects were authorized. Also, the economic analysis in these reports generally does not account for the effects of funding limitations.

Question. Then how can you not budget for a port that is meeting tonnage projections?

Answer. The fiscal year 2012 budget seeks to allocate the available Federal funds to the activities that will have the highest return on investment to the Nation.

Question. Was there any analysis of the impacts to the national, regional, and local economies of not funding these ports and harbors in your budget?

Answer. No, this would be a large undertaking with an inventory of more than 1,000 projects.

Question. It appears that your criteria being based solely on tonnage would put many ports at a disadvantage to even be considered for funding. How do you justify this criteria?

Answer. While most economists agree tonnage is not a direct measure of the economic benefit, it is a good first-order approximation and there is little agreement on an alternative.

Question. Wouldn't some type of economic analysis be in order to determine the value of these ports to the national, State, and local economies rather than basing your decision solely on tonnage?

Answer. We are working to allocate the funds as best as possible. There is also a cost associated with more analysis. However, COE continues to develop analytical tools to help determine whether additional spending for harbor maintenance and related activities is warranted based on the economic and safety return, as well as a comparison with other potential uses of the available funds.

Question. Wouldn't the economic value of these ports be a better indicator of where maintenance funding should be concentrated?

Answer. We are open to considering other factors. However, in allocating maintenance funds, we are mostly trying to find the best use of an incremental investment above or below the amounts that we are, or are not, already providing.

NEW STARTS

Question. For fiscal year 2011 you proposed two new construction starts for a total of \$29 million. These two starts, if they are started, require outyear funding in excess of nearly \$2 billion. For fiscal year 2012, you have proposed two more new construction starts that will require outyear funding in excess of \$120 million. With the declines in your budget requests that have been recommended in the last 3 years, how do you expect these projects to be funded in future years?

Answer. In the out-years, they would continue to compete for funding, as they did successfully in the development of the fiscal year 2011 and fiscal year 2012 budgets. Also, the \$2 billion total for the two fiscal year 2011 new construction starts mostly reflects the cost of authorized work under the Louisiana Coastal Area ecosystem restoration program to address the effects of large and continuing wetland losses on the ecosystem. Each year of delay could complicate the long-term restoration effort.

Question. How were the two "new starts" in the President's budget selected? What criteria were used?

Answer. Raritan to Sandy Hook (Port Monmouth), New Jersey, qualifies as a "Risk to Life" new start. This project addresses a significant risk to human safety and damage to property resulting from increased flood exposure, shoreline erosion, and increased exposure of the shore and inland areas to tidal inundation and wave attack damages. This increased exposure, combined with runoff from coastal creeks, results in increased danger of high flood depths and water velocities with little warning time.

Hamilton City, California qualifies as an ecosystem restoration new start predominantly because it connects four other restored environmental areas, thereby providing a larger continual habitat corridor. This project will also provide ancillary flood risk management benefits to Hamilton City and nearby agricultural lands.

Question. The new study starts that you have proposed are all ecosystem restoration studies. Are there no new flood control or navigation studies that warrant the administration's support?

Answer. While there are many potential flood control and navigation new study starts, the four new study starts proposed for the budget were considered to be a higher priority.

Question. What did the administration hope to demonstrate through selection of these particular projects?

Answer. The four new studies (in addition to those proposed in fiscal year 2011) include:

- Englebright and Daguerre Point Dams (Yuba River) Fish Passage, California;
- Caño Martin Peña, Puerto Rico;
- the Chesapeake Bay Comprehensive Plan; and
- the Louisiana Coastal Area Comprehensive Study.

Three of these studies were proposed as new starts because they will examine ways to contribute to restoration and increased sustainability of ecosystems that were part of last year's interagency collaborative planning initiative. The study of Caño Martin Peña, Puerto Rico will examine ways to provide critical estuarine habitat restoration and move people out of a floodway.

Question. It is my understanding that more than half of the Chief of Engineers reports expected to be submitted to the Congress this year are ecosystem restoration studies. Doesn't this indicate an unbalanced program if the majority of studies being produced are for ecosystem restoration rather than the more traditional COE's missions of flood control and navigation?

Answer. The distribution of Chief's reports among mission areas will vary year to year. The number of reports in any one year is not an appropriate indicator of the makeup of the construction program. Also, the budget funds studies and preconstruction engineering and design work for many proposed flood control and navigation projects.

LEVEE VEGETATION

Question. COE is developing new national policies for the allowance and/or removal of trees and other vegetation from levee projects. Meanwhile, COE has participated in a collaborative effort with the State of California to develop vegetation-removal guidelines for the Central Valley. This collaborative effort holds promise for reaching a reasonable and balanced program for assuring levee integrity and, at the same time, taking into consideration unique circumstances and resources found in many areas in the Central Valley, and COE's past involvement with the region's levees. What is the proposed timing on a revised draft vegetation variance process and when does COE plan to have a final policy?

Answer. COE's goal is to work with resource agencies, such as the National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the Environmental Protection Agency, and levee owners to transition noncompliant levees to COE standards, including vegetation standards. Achieving this goal will allow us to jointly maintain public safety, ensure eligibility under Public Law 84-99 for assistance in making repairs after a flood, and comply with Federal environmental laws.

Noncompliant levee vegetation may affect the safety, structural integrity and function of the levees, could obstruct visibility for inspections, impede access for maintenance, and could block emergency flood fighting operations. Clear vegetation policies, standards, and practices are critical to an effective life-cycle flood risk management program.

The vegetation variance policy referenced in the question was originally issued in 1997 to implement section 202(g) of the Water Resources Development Act of 1996. The policy recognizes that there may be some instances where vegetation may preserve, protect or enhance natural resources and/or protect the rights of Native Americans. This variance process is designed to accommodate those special cases when it is possible to do so while still maintaining the safety, structural integrity and function of the levees, and allowing access for inspection and flood fighting. In August 2009, COE began revising this vegetation variance request process to reflect current organizational changes and levee safety program principles such as utilizing agency technical reviews, applying a systems approach, and ensuring COE levee safety technical leads are part of the process.

Due to strong interest from sponsors in how changes to this vegetation variance request process may impact them, COE solicited comments on the proposed revisions through the Federal Register, with a notice and comment period from February 9, 2010 to April 26, 2010. COE received more than 500 comments from more than 100 separate organizations and individuals. As a next step, COE is considering

whether to post, for the second time, a revised draft vegetation variance request policy for public comment.

Question. Out of the hundreds or thousands of levee failures over the years, how many (and what percent) were caused by vegetation on a levee?

Answer. It is very difficult to determine after the fact whether one factor, such as vegetation, can be attributed to the cause of a levee breach, unless it was observed, documented, and studied during the actual failure. Because direct impacts of vegetation on levees cannot be quantified, potential impacts are based on field observations. COE is aware of instances in which vegetation has been a hindrance to inspections, monitoring, and flood fighting during a flood event. Moreover, vegetation can obstruct the ability to detect indicators for a potential levee breach, such as seepage.

Question. As part of the vegetation variance process, is COE willing to consider regional variances which address vegetation management within the context of unique geographic settings such as exist in California?

Answer. COE recognizes that just as no two regions are the same ecologically, no two levee systems are the same from an engineering perspective. The current draft policies allow for the consideration of the unique engineering and environmental context of particular levee systems to develop vegetation management solutions that address both levee safety and natural resource requirements. The ultimate goal is to work with resource agencies and levee owners to transition noncompliant levees to COE's standards, which may include obtaining vegetation variances or identification of other solutions to fit the specific regional conditions. For example, since 2008, COE and California have been engaged in the California Levee Roundtable, a collaborative partnership of Federal, State, and local organizations that facilitates the consideration of the local environmental and engineering context to develop system-wide levee solutions throughout the region. COE hopes to be able to continue this collaborative process with willing State participants.

Question. Is COE willing to consider regional variances which prioritize vegetation management with respect to all risk factors, without inhibiting or delaying the remediation of higher-priority risk factors?

Answer. COE supports prioritizing how and when levee deficiencies are addressed based on risk. This approach has been integrated into the COE systemwide improvement framework policy. This policy provides an opportunity for local levee authorities to use an interagency approach to identify solutions that optimize resources, and to sequence improvements and corrective actions based on risk. This approach is available to the Central Valley levees through the California Levee Roundtable.

Question. Is COE willing to consider regional variances which provide clear guidance on the level of detail needed for a variance, how that detail will be evaluated, and an appeal procedure should COE and the local sponsor disagree on the outcome of the process?

Answer. The most recent revisions to the draft vegetation variance process are designed as a collaborative approach through which there will be early determination on the most viable approach to meeting COE policies and standards while complying with applicable laws, regulations, and treaties. The intent is that any conflicts or issues should be raised and resolved during the collaborative process as opposed to having a formal appeal process. As such, it is likely that a decision to pursue a vegetation variance could be identified early in the process, diminishing the need for extensive environmental and engineering analysis. For situations in which the levee sponsor would like to pursue a vegetation variance request, more detail has been added to the technical requirements in the draft policy so the levee sponsor can better estimate the cost requirements. Though the review and approval process remains the same, COE believes these steps are necessary to make a well-informed decision about a levee system that is providing economic and safety benefits to the public living behind the levee.

Question. How does COE intend to evaluate, disclose, and address the impacts of this process on the environment and endangered species impacts?

Answer. COE recognizes that in carrying out its responsibility to promote safety and reduce the risk of damage to property through structurally sound levees, the agency must address environmental and natural resource needs through compliance with all applicable laws, regulations, and treaties. COE will comply with all applicable environmental requirements in implementing the policy for requesting a variance from COE vegetation management standards for levees and floodwalls.

COE believes that the best approach is to review the environmental impacts of the application of specific standards as they are applied to site-specific circumstances. With this approach, COE recognizes that each levee is a unique flood risk reduction system that operates within the broader and equally unique local eco-

system. This approach also recognizes that the analysis of potential environmental impacts is dependent upon future, undetermined actions and decisions of the levee sponsors who operate and maintain the levee systems.

When environmental requirements are triggered as COE makes decisions on the inspection standards applied to specific levee systems, the COE will work closely with the levee sponsors, appropriate resource agencies and tribes, as well as other interested parties to complete the required environmental compliance.

Question. Many encroachments that do not comply to new policies, including but not limited to trees, in California's levee systems were either installed, permitted, or required by COE. In other cases the encroachments existed at the time the completed Federal project was turned over to non-Federal sponsors for operation and maintenance. Under COE's new policies (or new implementation of old policies) how will the COE's share responsibility for addressing the construction and environmental costs of compliance?

Answer. "Encroachments" are features such as fences and utility lines requested by the non-Federal sponsor to be added within the levee system project real-estate easement after project completion. Encroachments and vegetation are handled differently under COE policies. COE has a well-defined encroachment permit process. Unpermitted encroachments will be the responsibility of the non-Federal sponsor to correct, including construction costs and environmental compliance. For vegetation, related policies are still under review and not yet final. However, in the final policy COE intends to clearly identify responsibilities of the non-Federal sponsor and COE, including situations when COE will be responsible for addressing the cost of the vegetation (both corrective actions and environmental compliance).

Question. California's Department of Water Resources (DWR) developed a rough cost estimate that compliance with COE's vegetation guidance would cost about \$7 billion for 1,600 miles of Federal levees in the Central Valley. If that is correct, would you think that compliance is a good investment?

Answer. The California DWR also has said that given the overall condition of the levees in the Central Valley, higher-risk deficiencies such as underseepage, structural instability, and erosion should be addressed first. In general, COE agrees with this assessment. COE supports DWR's goal to leverage resources by prioritizing levee remediation in order to maximize improving safety. COE is currently working with DWR to incorporate such prioritization as part of the State's long-term strategy for levee improvements that will be outlined in the California Central Valley Flood Protection Plan.

Question. Does COE have its own cost estimates for compliance with its vegetation guidance?

Answer. No, meeting COE vegetation management standards is an operation and maintenance responsibility typically implemented by a local levee sponsor.

Question. Will section 104 credit and section 408 approval be available for projects that do not meet the Levee Vegetation ETL, as long as non-Federal partners are addressing higher-risk factors. How will this be manifested in COE processes?

Answer. COE supports modifications that will improve the levee system and recognizes it may not be possible for a local levee sponsor to address all deficiencies at one time. The determination for credit (now considered under section 2003 of WRDA 2007, not section 104) or section 408 approval for levees that do not meet COE standards for vegetation will be evaluated on a case-by-case basis. Further, the vegetation variance request process and the section 408 approval process can be combined where appropriate.

LEVEE CERTIFICATION

Question. It is my understanding that you have or are planning to implement an engineering circular entitled "USACE Process for the National Flood Insurance Program Levee System Evaluation". This EC for the first time establishes a 10-year time limit for levee certification.

Can you tell us how you arrived at this 10-year limit, whether stakeholders were involved in that process?

Answer. Currently there is no FEMA requirement for periodic review of levee certifications. Until FEMA policy is established, it is recommended that, for every certification issued by COE after 10 years, the certification should be reviewed or verified. Flood risk and levee conditions can change over time and it is important to ensure that a levee still meets expected requirements. The 10 years is to serve as a maximum timeframe between certification determinations. A certification can be reviewed any time before the 10 years, if it is of professional opinion there are indications that the project may no longer meet levee certification requirements.

Throughout development of this EC, stakeholders were provided opportunities to provide input.

Question. What do you see as the process going forward for those levees whose certification is older than 10 years, and can you give us a sense of how this decertification effort will impact COE's civil works budget?

Answer. It is a local community's responsibility to provide FEMA documentation that a levee meets NFIP criteria for flood mapping purposes. COE does not anticipate any impacts from this effort on the Civil Works budget because we do not budget for levee certification.

CALIFORNIA-SPECIFIC QUESTIONS

Question. The U.S. Geological Survey (USGS) has told my office that there is a high probability that a moderate to severe earthquake could lead to the failure of more than one-half of the levees in the Sacramento Delta. According to the 2009 Delta Risk Management Strategy developed by the California DWR using USGS data: "an earthquake of magnitude 6.7 or greater has a 62 percent probability of occurring in the San Francisco Bay Area between 2003 and 2032. Such an earthquake is capable of causing multiple levee failures in the Delta region which could result in fatalities, extensive property damage and the interruption of water exports from the Delta for an extended period of time."

What actions has COE taken to reduce the risk of major, multiple levee failures in the Sacramento Delta?

Answer. COE is partnering with the State of California and the Bureau of Reclamation (BOR) as described below on the following initiatives related to improving the levee system in the Sacramento-San Joaquin Bay-Delta:

Geographic Information System (GIS) Contingency Mapping and Emergency Response Planning.—A Memorandum of Agreement (MOA) was signed between COE and the California Department of Water Resources (DWR), allowing COE and DWR to initiate phase I of GIS Flood Contingency Mapping and Emergency Response Planning for the Delta region. The team met with Delta counties in August 2010 to gather input on concepts for the GIS products, response report, and related data. The second round of meetings were held in November 2010 to present the 35 percent complete product, validate data collected thus far, and gather additional information from county and RD representatives. During July 2011, the PDT met with State and local representatives to review the 65 percent product. The 100 percent product is expected in fall 2011. This will constitute the end of our phase I of GIS Flood Contingency Mapping and Emergency Response Planning for the Delta region. The products will be immediately useful for emergency response planning and will include:

- Standardized GIS database of Emergency Management data;
- Flood Contingency Map Books and large-scale wall maps of the Delta region; and
- An accompanying report documenting the existing framework, existing data, and any potential data gaps.

In May 2011, COE, along with other State, Federal, and local agencies, participated in the California Emergency Management Agency-led 2011 Golden Guardian Exercise. This year included a 3-day Full Scale Exercise based on a major flood in California's Inland Region (Delta).

Delta Islands and Levees Feasibility Study.—The Delta Islands and Levees Feasibility Study (Delta Study) is a cost-shared study to explore potential solutions to address ecosystem restoration needs, flood risk management problems, and related water resources issues in the Delta and Suisun Marsh area. The President's fiscal year 2012 budget includes \$1.015 million for this feasibility study. A Feasibility Cost Share Agreement (FCSA) was executed in May 2006 with the California DWR, the non-Federal sponsor. The COE-DWR study team meets regularly to move the study forward and holds periodic Agency Coordination Meetings with associated Federal, State and local agencies, including BOR.

On August 11, 2011, COE will participate in an interagency meeting to discuss preliminary Sacramento—San Joaquin Delta Modeling. The objective of this modeling is "to develop representative hydrodynamic, sediment transport, water quality, and ecosystem models that enable COE's Sacramento District to, with solid scientific support, understand the system-wide impact of natural and purposeful changes to the Delta and allow it to proactively manage these vital water resources." We expect the basic model to be completed by December 2011. This will be a useful tool to aid project planning and emergency response planning in the Delta.

The feasibility study will culminate in a feasibility report that will make recommendations on possible solutions and next steps.

Interagency Federal Action Plan.—On a broader level, COE supports the Interagency Interim Federal Action Plan for the Bay-Delta (December 2009) and its Update (November 2010). The Action Plan consists of studies, programs, and actions that address essential Bay-Delta issues including helping to ensure integrated flood risk management. The Bay Delta Conservation Plan (BDCP) has been identified as a priority effort by the State and in the Interim Federal Action Plan. COE's Regulatory, Operations, and Planning Programs regularly participate in coordination related to the BDCP. Regulatory and operations have proactively engaged the State, BOR, and others to ensure that they understand Clean Water Act section 404 and section 10 and section 14 of the River and Harbors Act permitting requirements and processes that may be required for the BDCP. COE also participates in interagency (State-Federal) groups focused on advancing science to inform management decisions, including those related to levees, in the Bay-Delta.

Question. How does COE prioritize which levees it repairs?

Answer. In coordination with local and State partners, mainly the California DWR, COE prioritized levee improvements in the 2006 "Report to Congress" based on risk associated with levee failure (protection of life, property, infrastructure, etc.). Ongoing project prioritization is based on how well each project met environmental, economic, and other implementation criteria including availability of a local cost-share partner. The Delta Islands and Levees Feasibility Study will make recommendations to address flood risk management for the Delta as a system.

Question. When prioritizing levee repairs, has COE taken into account which levees are most likely to allow salt water to enter the fresh water supply for 20 million Californians should the delta levees fail?

Answer. System-wide assessments and recommendations, including impact of delta levee failure on the freshwater supply, will be evaluated under the Delta Islands and Levees Feasibility Study. The 2006 "Report to Congress" considered risk to water supply.

Question. Does COE have an estimate of the overall damage, including loss of the fresh water supply, and cost to repair the levees should a serious earthquake strike northern California?

Answer. COE does not have a current estimate of the overall damage, including loss of the fresh water supply, and cost to repair the levees. This will be evaluated under the Delta Islands and Levees Feasibility Study. The California DWR published a report that does provide an estimate. This effort is the State's in-kind cost-share for the Delta Islands and Levees Feasibility Study.

Question. Does COE have an estimate of how much it would cost to reduce the risk of massive levee failure from "high" to "moderate" or "low"?

Answer. No. This will be evaluated under the Delta Islands and Levees Feasibility Study.

Question. The maritime industry in California carries more than 40 percent of the Nation's waterborne international cargo. Recent studies by COE show that there is more than \$400 million worth of cargo disrupted for every foot of reduced depth of channel. However, while dredging costs on a per-yard basis have increased 160 percent nationally over the past decade, ports across California and the Nation have not been provided adequate funding to maintain their congressionally authorized dredge depths. Why is it that numerous Federal channels in California are not at their congressionally authorized depth and width?

Answer. Navigation channels rarely have full depth and width available. At present, only 2 of the top 10 navigation projects in COE inventory have full depth and width available. These two projects (both are in the State of California) are, in large part, naturally deep and do not require significant maintenance dredging.

Question. How does the President's budget request for fiscal year 2012 achieve the goals of maintaining the channels in California to their authorized depth and width as well as meeting the President's National Export Initiative?

Answer. The President's fiscal year 2012 budget includes \$8.75 million in the operation and maintenance account for the Oakland Harbor, and \$8.15 million for the Richmond Harbor; as well as \$350,000 in the construction account to continue work associated with the construction of the Oakland Harbor 50 feet deepening. These efforts support commercial use of deep draft navigation projects (1million tons of commercial cargo or more per year) as follows: the Oakland Harbor has 17 million tons of commercial cargo per year and the Richmond Harbor has 25 million tons of cargo per year.

In addition, the President's fiscal year 2012 budget includes \$65 million for the ongoing deepening of the port of New York/New Jersey; \$42 million for construction/

expansion of dredged material placement facilities at the ports of Norfolk, Virginia; Savannah, Georgia; and Jacksonville and Tampa, Florida in order to continue maintenance of the deep draft channels serving these ports; \$600,000 for preconstruction engineering design of Savannah Harbor expansion, Georgia; and \$726,000 for a channel improvement study at Brazos Island Harbor (Brownsville), Texas. The budget also includes \$580 million in the Operation and Maintenance appropriation to maintain our high and moderate commercial use deep draft navigation projects that support 1 million tons of commercial cargo or more per year.

QUESTION SUBMITTED BY SENATOR TIM JOHNSON

Question. The Cheyenne River Sioux Reservation in my State faces acute water needs. For years, the only intake for a land mass the size of Connecticut was in the Cheyenne River. That location had many problems, including the intake coming precariously close to taking in air when the Corps of Engineers (COE) would draw down the Oahe Reservoir. There were also silt problems exacerbated by drawn down and heavy metals in the river. To its credit, COE took the lead in building a new intake in the main stem of the Missouri in deeper water without silt. A number of agencies also contributed to that project. Unfortunately, the reservation still faces an extremely undersized water treatment plant and pipelines. The present day needs on this large reservation are about 8 million gallons a day and future needs are estimated at 12 million gallons a day. Their present water treatment plant and pipelines can only handle 1.2 million gallons a day. As a result, there is a moratorium on the construction of any new homes. This is a reservation where there are often two or three families living under one roof. When they have a fire on the reservation the water system is depleted immediately. In the short term, we must rebuild the core of the system—an untreated water line, a water treatment plant, and a treated water line. This is an important issue for public health, safety, and the economic needs of the reservation. There was an authorization in the last Water Resources Development Act bill of \$65 million under the COE's Environmental Infrastructure program, but it has not been funded. Recently, USDA Rural Development awarded a large grant/loan package to the tribe to start this project, but Rural Development doesn't have enough money to complete the entire project. In the same way that we had a multi-agency approach with the intake, I want to ask if you will consider participating on a multi-agency approach in the future. Rural Development has taken the lead but I wish to see COE and other agencies also play a role. Will you do so?

Answer. At my request, the Omaha District Tribal Liaison will contact you to ensure that we remain current on the status of your efforts to address these concerns. However, COE has three main missions:

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

Because environmental infrastructure projects fall outside of these missions, they do not compete well for COE funding given the many other needs across the country that are within the COE's primary mission areas.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

LEVEE CERTIFICATION

Question. There is no question that my State understands the critical need for sound levees that are reliable and provide the best protection possible for our community. In many ways, what we experienced in Katrina and Rita was a preview for the rest of the Nation of just how vulnerable we are. Approximately 700 counties across the country are home to thousands of miles of levees. Most of these levees were built a generation ago and were designed and engineered at a time when the satellites and GPS were just a dream. After decades of relying on older technology, U.S. Army Corps of Engineers (COE) and Federal Emergency Management Agency (FEMA) have arrived in communities—large and small—with new a standard for levee certification. These communities are very concerned with the significant consequences of having to meet the standards. For some communities it presents a stark choice: find the money to repair and update these levees or drive up the insurance rates to unsustainable levels.

General Van Antwerp, what information and technology is COE using to certify these levees?

Answer. Participation in the National Flood Insurance (NFIP) is a decision of the local community. It is a local community's responsibility to provide FEMA documentation that a levee meets NFIP criteria for flood mapping purposes. There are three cases in which COE may perform a NFIP levee system evaluation:

- If the levee is operated and maintained by COE;
- If it is part of an ongoing COE project; or
- If funding was provided by another Federal agency or by a local sponsor and it has been demonstrated that COE is uniquely equipped to perform the work and that such services are not reasonably and quickly available through ordinary business channels.

For situations in which COE is performing a NFIP levee system evaluation, it will follow procedures in Engineer Circular (EC) 1110-2-6067, "USACE Process for NFIP Levee System Evaluation". The processes in this EC only apply to COE when performing levee evaluations for NFIP purposes. Other entities may still follow the requirements in title 44 of the Code of Federal Regulations, section 65.10 (44 CFR 65.10), Mapping Areas Protected by Levee Systems; however, the EC is consistent with and founded on the principles of 44 CFR 65.10 while updating methods and references to current COE practices and criteria.

Question. Does this take into account the assessments and evaluation made by the local sponsors?

Answer. Yes, all best-available information will be considered during the analysis.

Question. What resources, if any, are available to assist local communities in meeting these standards?

Answer. COE and FEMA work closely together with the local communities to ensure the most accurate and current levee information is available to them and to identify how this information informs the NFIP mapping process.

QUESTIONS SUBMITTED BY SENATOR JACK REED

PANAMA CANAL

Question. As you know, the expansion of the Panama Canal expansion is due to be completed in 2014. Several east coast ports are vying for Federal funding to deepen their channels or make other improvements in order to handle larger Post-Panamax vessels, which require 48 feet of depth and higher air drafts.

What are the economic opportunities that will come from the expansion of the Panama Canal?

Answer. It is difficult to say what overall effect this 2014 lock opening will have on the U.S. economy, or what opportunities it may provide.

Question. Do these opportunities warrant the deepening of all east coast ports that currently serve Panamax vessels so that they can accommodate Post-Panamax ships?

Answer. Probably not, at least not at this time. The ports make the initial business decision to pursue large capital investments necessary to take advantage of the post-Panamax shipping opportunities. The Corps of Engineers (COE) evaluates requests to deepen, widen, or lengthen channels to estimate the costs and benefits to the Nation of the proposal.

Question. How is COE choosing to make its investments in port projects related to the Panama Canal expansion?

Answer. Most of the funding in COE coastal navigation program is not related to the opening of the Panama Canal lock. However, on the Atlantic and gulf coasts, several ports are working with COE on proposals to deepen and widen their channels to accommodate the largest of the post-Panamax vessels, which will be able to reach them more directly after the new locks on the Panama Canal open in 2014. On the Atlantic coast, the United States now has two ports with channels deep enough to receive these ships when they are fully loaded (Norfolk and Baltimore) and will have a third (New York/New Jersey) by 2014 based on the current COE construction schedule. The United States also has several other ports with depths of 45 feet on the Atlantic and gulf coasts, which these vessels can use when less than fully loaded.

The President's fiscal year 2012 budget includes \$65 million for the ongoing deepening of the port of New York/New Jersey; \$42 million for construction/expansion of dredged material placement facilities at the ports of Norfolk, Virginia; Savannah, Georgia; and both Jacksonville and Tampa, Florida, in order to continue maintenance of the deep draft channels serving these ports; \$600,000 for preconstruction engineering and design of Savannah's harbor expansion, Georgia; and \$726,000 for a channel improvement study at Brazos Island Harbor (Brownsville), Texas.

Question. Is there any coordination with the Department of Transportation (DOT), the Department of Commerce, and other Federal agencies in selecting the ports that should be deepened or in making related infrastructure investments (highways, rail, etc.) that support deepening projects?

Answer. Yes. For example, COE is working with the DOT to improve decision-making on Federal investment in coastal navigation infrastructure through better coordination. DOT is providing information on previous years' selected TIGER Grant recipients to COE, which we will be considering as part of the Civil Works budget preparation. Similarly, the DOT has invited COE technical experts to advise it during the upcoming review process for next year's TIGER Grant selections. Our staffs are also working on common metrics for comparing potential investments that support coastal navigation, and for evaluating the performance of those investments.

Question. If it is found that significant new private sector revenue will be generated from the taxpayer investment in port deepening projects related to the Panama Canal's expansion, would it make sense, in these tight fiscal times, to finance these projects through a Federal loan or loan guarantee program (perhaps through an infrastructure bank)?

Answer. There may be advantages to such an approach, as an option in lieu of the traditional cost-sharing. Many ports can borrow or raise funds on their own. A Federal program like an infrastructure bank, in which proposed investments, at ports and elsewhere, compete with each other for support based on their return to the Nation, could be used where needed to catalyze public and private sector investment.

QUESTIONS SUBMITTED TO MICHAEL L. CONNOR

QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

INDIAN WATER RIGHTS SETTLEMENT

Question. You have proposed a new account for these Indian Water Rights Settlements. How much mandatory funding accompanies the \$51.5 million in discretionary funding you have proposed for fiscal year 2012?

Answer. Title VII of the Claims Resolution Act of 2010 (Public Law 111-291) (CRA) provides \$60 million in mandatory funding for each of fiscal years 2012-2014 for the Reclamation Water Settlements Fund, which was established in the Public Land Management Act of 2009 (Public Law 111-11). Mandatory funding for the Navajo-Gallup Water Supply Project in the amount of \$60 million described above is included in the Indian Water Rights Settlement Account in the President's fiscal year 2012 budget.

CRA also provided mandatory funding in fiscal year 2011 for four other Indian water settlements. The Bureau of Reclamation (BOR) is in discussions with the tribes in the four new settlements to develop contract and engineering plans for the use of the mandatory funds. Once the contracts have been agreed to and engineering plans have been developed, BOR will be able to develop a construction timetable and thereby develop proposals for the use of the funds.

Question. Where is the funding coming from within your program for the Indian Water Rights Settlements?

Answer. CRA provides \$444.9 million in mandatory funding and authorizes \$244.4 million in discretionary funding to BOR in the four Indian water rights settlements within CRA. As well, for each of the fiscal years from 2012-2014 CRA also provides \$180 million in mandatory funding, or \$60 million each year, for the Navajo-Gallup Water Supply Project to accompany the authorization of appropriations of \$870 million in title X of Public Law 111-11.

Specifically, for BOR, title III—the White Mountain Apache Tribe Water Rights Quantification appropriates \$152.7 million in mandatory funding and authorizes \$11 million in discretionary funding; title IV—Crow Tribe Water Rights Settlement appropriates \$219.8 million in mandatory funding and authorizes \$158.4 million in discretionary funding; title V—Taos Pueblo Indian Water Rights appropriates \$16 million in mandatory funding and authorizes \$20 million in discretionary funding; and title VI—Aamodt Litigation Settlement appropriates \$56.4 million in mandatory funding and authorizes \$55 million in discretionary funding.

Question. Do the Water Rights Settlements require specific funding amounts annually?

Answer. There are no specific dollar amounts that are required for each year in the legislation but there are timeframes which are specified for settlement imple-

mentation. The amounts requested are based on capability as determined by the scope of the work that is expected to be performed within CRA.

Question. What is the nature of the projects that these funds will be used for? Aren't they rural water systems?

Answer. Each of the four settlements in CRA authorizes the construction of various projects, principally water construction projects. CRA requires BOR to:

- Construct a Rural Water System for the White Mountain Apache Tribe;
- Rehabilitate the Crow Irrigation Project and to construct a Municipal, Rural and Industrial Water System for the Crow Tribe Water Rights Settlement;
- Provide financial assistance in the form of grants on a nonreimbursable basis to eligible non-Pueblo entities for the construction of Mutual Benefit projects, primarily groundwater projects for the Taos Pueblo Indian Water Rights Settlement; and
- Construct a Regional Water System for the Aamodt Litigation Settlement.

Question. How do these projects differ from the seven on-going rural water projects funded in the water and related resources account?

Answer. CRA authorized the Secretary to enter into Settlement Agreements with specific tribes and to undertake the specific actions included in those Settlements. One key difference is that the projects authorized under CRA settle claims against the United States through negotiated settlements. If project and financial timelines are not met, the negotiated settlements may be terminated. Not only are the significant investments of time and funding associated with negotiating the settlements at risk, but underlying these settlements is the quantification of tribal water rights. If the settlements fail, the tribal water rights are not quantified and the communities affected would revert to the prior state of uncertainty with respect to the quantification and the effect of Federal tribal rights on State-based rights. The rural water projects also address water supply needs and provide regional drinking water systems. However, the United States does not face the same legal burden in meeting those future needs as it does with respect to meeting the obligations associated with the settlements authorized under CRA.

Question. Can these new projects proposed for funding in fiscal year 2012 utilize all of the discretionary funding recommended in fiscal year 2012?

Answer. BOR expects to use all of the discretionary funds that are being requested as well as some of the mandatory funding that is made available within the CRA. In fiscal year 2012, BOR is requesting \$51.5 million in discretionary funding in the Indian Water Rights Settlement account, of which \$24.8 million is directed to the Navajo-Gallup Water Supply Project. The balance of the discretionary request, or \$26.7 million, is for the remaining four new settlements.

Question. Why did the seven ongoing projects compete so poorly in the fiscal year 2012 budget compared to these four new projects?

Answer. The seven ongoing rural water projects did not compete for funding with the tribal settlements that are funded within the CRA. These projects have separate authorizations and are at widely varying points in their completion schedules. BOR prioritizes funding for its ongoing (authorized) rural water projects based on established criteria. The first priority for funding rural water projects is the required operation and maintenance (O&M) component. For the construction component, BOR gives priority to projects nearing completion and projects that serve on-reservation needs. For BOR, CRA authorized and appropriated \$444.9 million in mandatory funding for five specific tribal water settlements. The Congress also authorized \$249.3 million in discretionary funding within the CRA.

CRA settlements require numerous conditions that have to be fulfilled by the Secretary within specified dates in order to satisfy the terms of the agreements. If the conditions are not met, the settlements may fail and the parties to the settlements will likely return to the courts for the resolution of their grievances. The funding BOR requested for CRA projects is required to fulfill the terms of the CRA.

RURAL WATER

Question. Four of these ongoing rural water projects received roughly \$500,000 each. Can anything constructive be done with \$500,000 for these ongoing projects? What do you anticipate to be accomplished with this small amount of funding?

Answer. Funding amounts for the four rural water projects only reflect Federal funding and does take into account the contributed non-Federal funding. Funds requested by BOR for fiscal year 2012 and the planned use of the funds are shown below:

Fort Peck Reservation/Dry Prairie Rural Water System (Montana).—Funding in fiscal year 2012 will enable the tribes and the non-Federal sponsor, Dry Prai-

rie, to perform a minimal level of administrative business for the project; no design or construction would be performed.

Lewis & Clark Rural Water System (South Dakota, Minnesota, Iowa).—Funding in fiscal year 2012 will enable the project sponsor to perform a minimal level of administrative business for the project; no design or construction would be performed.

Rocky Boys/North Central Montana Rural Water System (Montana).—Funding in fiscal year 2012 will enable the tribe and the non-Federal sponsor, North Central Authority, to perform a minimal level of administrative business for the project; no design or construction would be performed.

Jicarilla Apache Rural Water System (New Mexico).—Funding in fiscal year 2012 continues design and construction of existing water and wastewater facilities.

Non-Federal funding for Fort Peck and Rocky Boy's has not been totally contributed. Non-Federal funding for Lewis & Clark will be fully contributed in fiscal year 2011 and non-Federal funding for Jicarilla has been totally contributed and exceeded.

MNI WICONI

Question. The authorization for Mni Wiconi, one of the rural water projects, sunsets in 2013. Will this project be completed by that date based on the budget request, or will the project require an authorization change?

Answer. It is anticipated that the Mni Wiconi Project will be completed by the sunset date of 2013 if funding is provided at the current budget request level.

NEEDS ASSESSMENT

Question. Has BOR undertaken a needs assessment for the next 25 years?

Answer. BOR has multiple activities within the WaterSMART Basin Studies Program that are in the process of assessing future needs for water in the Western United States. The Basin Studies are 50/50 cost shared activities with non-Federal entities to assess future water supply and demand imbalances including the impacts of climate change. As part of these activities future water demand will reflect changes to water needs from population changes, irrigation, and changes to evapotranspiration from climate change as well as any other stresses on the system. If current or future imbalances between supply and demand are identified, the Basin Studies will develop adaptation and mitigation strategies including structural and non-structural opportunities within the basin.

Through the Basin Studies Program beginning in fiscal year 2012, BOR will offer the opportunity to conduct feasibility studies as authorized by the Omnibus Public Lands Management Act (Public Law 111–11) of 2009 with respect to adaptation and mitigation strategies identified through the Basin Studies or other similar appraisal level studies including the impacts of climate change. Also within the Basin Studies Program, BOR began the West Wide Climate Risk Assessments (WWCRAs) in fiscal year 2010. Beginning in fiscal year 2011, BOR is identifying changes to agricultural demands in a changing climate as part of the WWCRAs. In future years, the WWCRAs will explore other changes to water demands and needs by working with stakeholders within the eight major BOR river basins identified within Public Law 111–11.

With respect to the needs of BOR's infrastructure, although a small number of BOR offices assess and project their individual needs 10 or more years into the future, there has been no comprehensive BOR-wide assessment covering the next 25 years. Most of BOR's assets are not considered "replaceable units of property" and, therefore, do not have well-defined service lives, nor are there good predictive estimates for such future needs. However, in September 2009, BOR updated its Major Rehabilitation and Replacement (MR&R) needs for a defined 5-year timeframe related to aging infrastructure. These needs have been broadly characterized as potential costs associated with BOR's "aging infrastructure".

BOR also has planning activities underway with its rural communities who are pursuing rural water projects at specific locations throughout the West. These activities are undertaken pursuant to competitive criteria developed under Public Law 109–451.

Finally, in the area of dam safety, BOR maintains an active program to monitor existing dams and initiate corrective actions where appropriate. This program helps ensure the safety and reliability of BOR dams to protect the downstream public and property.

O&M

Question. How do you propose to address BOR's aging infrastructure given the decreasing O&M budget?

Answer. To address the requirements of aging infrastructure on projects where BOR is directly responsible for daily O&M, BOR continues to assess the condition of its assets and prioritizes funding to address requirements of greatest importance, given the current budget environment. The prioritization of requirements is based largely on a risk-based approach, evaluating not only the significance of the deficiency involved, but also the potential consequences should the activity not be undertaken.

Through BOR's continued support of a past and current philosophy and emphasis on preventive maintenance and regular condition assessments (field inspections and reviews), many of the service lives on BOR assets and facilities have been extended, thereby delaying the need for significant replacements and rehabilitation efforts (including the related funding needs). Although BOR and its beneficiaries have benefited greatly from this preventive maintenance philosophy, BOR recognizes that as assets and facilities age, they require an increased amount of maintenance. Sometimes this requires more frequent preventive maintenance, and, in other situations, significant extraordinary maintenance, rehabilitation, or replacement may be required.

BOR's fiscal year 2012 proposed budget is \$40.8 million for various projects for Replacements, Additions, and Extraordinary Maintenance (RAX) activities across BOR. This compares to the fiscal year 2011 enacted budget of \$45.8 million. This request is central to mission objectives for operating and maintaining projects ensuring delivery of water and power benefits. BOR's RAX request is part of its overall Asset Management Strategy that relies on condition assessments, condition/performance metrics, technological research and deployment, and strategic collaboration to continue to improve the management of its assets and deal with its aging infrastructure challenges. This amount represents only the fiscal year 2012 request for discretionary appropriations. Additional RAX items are directly funded by revenues, customers, or other Federal agencies.

AGING INFRASTRUCTURE

Question. Public Law 111-11 provided you with authority to address aging infrastructure. Do you plan to budget for these projects?

Answer. BOR is currently developing its policy to implement the authority provided under Public Law 111-11 to allow extended repayment of extraordinary (non-routine) and emergency extraordinary maintenance costs on project facilities. Water users are currently required by Federal law to pay these costs, often substantial, in advance.

It is important to note that much of the operation and maintenance (O&M) funding responsibilities for BOR's assets is the responsibility of our project beneficiaries and those operating entities that operate and maintain our transferred works facilities. For some operating entities and project beneficiaries, rehabilitation and replacement funding needs may exceed their available resources and ability to provide the funds in advance. In particular, many smaller irrigation or water conservancy districts are unable to fund these needs in the year incurred absent financing assistance. BOR expects to consider funding such projects in the future based on the policy and funding priorities and water user financial capability, as appropriate.

PRINCIPLES AND GUIDELINES

Question. Please explain how the revised Principles and Guidelines, to be called the Principles and Requirements, will impact BOR's construction and other programs.

Answer. The Principles and Requirements are not yet finalized and it is anticipated that agencies will have some level of flexibility in developing agency-specific guidance to allow for the achievement of their specific missions and authorities. Two essential differences between the proposed Principles and Requirements and the 1983 Principles and Guidelines will affect BOR's planning and evaluation process.

First, under the 1983 Principles and Guidelines, agencies relied solely on economic benefit-cost analysis to recommend a particular alternative for implementation. When evaluating, comparing, and recommending a specific alternative for implementation under the proposed Principles and Requirements, agencies are to fully consider the social, economic, and environmental effects of proposed alternatives before selecting the one to be recommended for implementation.

Second, the proposed Principles and Requirements may apply to a broader scope of Federal water resource activities than the 1983 Principles and Guidelines. This means that certain BOR programs and activities not previously subject to the 1983 Principles and Guidelines may be subject to the Principles and Requirements.

CLIMATE CHANGE

Question. What is BOR doing to address Climate Change in the West?

Answer. BOR is addressing the stressors of climate change through a comprehensive set of activities, including participating in Landscape Conservation Cooperatives (LCCs) and Climate Science Centers (CSCs), providing West-Wide Climate Risk Assessments, and conducting research and development of climate analysis tools through the WaterSMART Grant and Science and Technology Programs. BOR is also supporting the Department of the Interior's Priority Goal for Climate through these activities to support the LCCs, conduct vulnerability assessments, and implement adaptation actions. LCCs and CSCs are an important part of the framework established by Secretary Salazar in Secretarial Order 3289 to address climate change by bringing science capability to resource managers. BOR is conducting research through the Science and Technology program, which includes collaboration with the Department of the Interior (Department) Climate Science Centers. BOR's Science and Technology program also established the Climate Change and Water Working Group (C-CAWWG) in 2008 to partner with other Federal agencies to address the needs of water managers as they manage the Nation's water and hydropower resources under a changing climate.

Through the Basin Study Program, which includes the Basin Studies, West-Wide Climate Risk Assessments, and the LCCs, BOR is conducting vulnerability assessments to identify the impacts of climate change to water resources in each of the major river basins in the West, as authorized under section 9503 of the SECURE Water Act (subtitle F of title IX of the Omnibus Public Land Management Act of 2009, Public Law 111-11, 42 U.S.C. 10364). In April 2011, BOR submitted its first report under section 9503 of the SECURE Water Act regarding risks to future water supplies from climate change. The report, entitled "SECURE Water Act Section 9503(c)—Reclamation Climate Change and Water 2011", is available at <http://www.usbr.gov/climate/> and identifies current uncertainties regarding projections of climate change risks and impacts, while highlighting likely significant impacts associated with the projected rise in temperature, changes to precipitation, reduced April 1 snowpack levels, and changes to both the timing and quantity of streamflow throughout the Western United States. The vulnerability assessments conducted under the Basin Study Program will contribute to the Department's Priority Goal for Climate Change. Additionally, in fiscal year 2011, BOR identified a number of adaptation actions (e.g., WaterSMART Water and Energy Efficiency Grants, Bay Delta Conservation Plan, retrofitting of Hoover Dam to wide-head turbines, and Pilot Run of the Yuma Desalting Plant) being conducted to adapt to stressors within the Western United States, including those from climate change. These adaptation actions will also contribute to the priority goal and span a wide array of BOR's mission responsibilities from water supply planning efforts, retrofitting of hydropower turbines, to the restoration of rivers and ecosystems.

SECURE WATER

Question. What guidance documents exist for implementing the Cooperative Watershed Program and the SECURE Water Act?

Answer. The Cooperative Watershed Management Act, subtitle A of title VI of the Omnibus Public Land Management Act (Act) of 2009 (Public Law 111-11), authorized the Department of the Interior (Department) to provide financial assistance to establish and expand collaborative watershed groups. The act authorizes direct financial support for the operations of a collaborative watershed group, as well as watershed project funding, including restoration projects. The act calls for the Department to establish an application process for the program and prioritization and eligibility criteria for considering applications, in consultation with the States.

In the summer of 2010, the Department received input from the States regarding the program processes and criteria in response to a questionnaire. The fiscal year 2012 President's budget requests \$250,000 to implement the CWMP through a funding opportunity. The funding opportunity announcement will describe the proposal selection process and criteria, taking into consideration the early feedback received from the States. BOR expects to post the draft funding opportunity announcement in the Federal Register later this year in order to solicit additional public comments on the proposed selection process and criteria. The funding opportunity announcement will then be revised, as needed, based on comments received and will be post-

ed on www.grants.gov before the end of 2012. The funding opportunity announcement will be the first document describing program processes and procedures. Additional guidance will be developed as program implementation begins.

Section 9503 of the SECURE Water Act (subtitle F of title IX of the Omnibus Public Land Management Act of 2009), authorizes BOR to assess the risks and impacts of climate change to water resources, identify adaptation strategies, and provide financial assistance for feasibility studies. BOR implements section 9503 through complementary activities within the WaterSMART Basin Study Program and Science and Technology program. This comprehensive approach allows BOR to incorporate the best-available science—through coordination with science agencies—into climate change adaptation planning with stakeholders. The Basin Study Program activities include the West-Wide Climate Risk Assessments, the Basin Studies, and the Landscape Conservation Cooperatives. Guidance related to each of these activities is available through program specific links on BOR's Basin Study Program Web site at www.usbr.gov/WaterSMART/basinprogram. A document entitled "Basin Study Program Framework", available at the aforementioned Web site, provides an overview of the Basin Study Program and specifically describes the process for conducting a Basin Study. Additionally, in April 2011, BOR submitted its first report to the Congress under section 9503 of the SECURE Water Act, identifying the risks to future water supplies as well as potential changes in demands and impacts on BOR's mission responsibilities from climate change. The report, entitled "SECURE Water Act Section 9503(c)—Reclamation Climate Change and Water 2011," is available at <http://www.usbr.gov/climate/> and provides a comprehensive explanation of BOR's activities (including primarily the West-Wide Climate Risk Assessments) that contributed to the report.

BAY-DELTA INTERAGENCY PLAN

Question. Are there remaining interim Federal Bay-Delta Interagency action plan items that are unfunded and if so, how will they be funded?

Answer. Implementation of the four elements of the Interim Federal Action Plan (IFAP) is a multi-year process. Multiple Federal agencies are strategically aligning resources to implement the IFAP. To date, BOR has funded programs and projects to support those elements of the IFAP that are within BOR's purview. Funding in the future is subject to appropriations. Budget requests will be submitted as appropriate and will continue to be a priority for BOR in the future. Potential funding sources include, but may not be limited to Water and Related Resources, California Bay-Delta Restoration, and Central Valley Project Restoration Fund.

TITLE XVI PROGRAM

Question. These projects are critical to providing additional water sources to many western communities, including many communities in California. Is there more that BOR can do to assist in these programs?

Answer. Water reuse projects are a critical aspect of water supply sustainability in the West. By improving efficiency through reuse, title XVI projects provide flexibility during water shortages and help to diversify the water supply. On May 23, 2011, BOR selected eight congressionally authorized projects to receive approximately \$11.3 million in fiscal year 2011 title XVI construction funding. In addition, recently BOR invited sponsors of potential new water recycling projects to apply for cost-shared funding to develop new title XVI feasibility studies. On May 9, 2011, after applying program criteria to funding applications submitted by non-Federal sponsors, BOR selected eight entities who will leverage \$1.1 million in Federal funding to complete \$4.9 million in studies of new water reuse projects.

Question. What is the backlog of unfunded projects?

Answer. For previously authorized title XVI projects, the remaining authorized Federal cost-share totals approximately \$595 million once fiscal year 2011 funding has been applied. BOR is currently working to gather information from project sponsors to determine whether any projects have smaller costs than expected, in which case Federal cost-share may require adjustment, and to refine estimates of each project sponsor's construction plans over the next few years. Once additional communications with sponsors have been completed, BOR will have an updated estimate of the remaining Federal cost-share for authorized projects.

Question. How many separate projects are authorized, and of these does BOR have an opinion on the viability of the individual projects?

Answer. There are currently 53 authorized title XVI projects. We are developing a list of authorized projects that sponsors are not planning to pursue with new or additional construction at this time.

Question. Why don't these projects compete well within the administration budget?

Answer. Water reuse through the title XVI program is a key aspect of the Department's WaterSMART program. The President's fiscal year 2012 budget, which includes \$29 million for such projects, points to the crucial role of water reuse in efforts to address water supply sustainability and represents a significant increase over funding levels for the program in recent years.

Question. Has placing these projects under the WaterSMART Program given them more or less visibility within the BOR budget?

Answer. By incorporating the title XVI program into WaterSMART, the Department has been able to articulate the role of water reuse in efforts to stretch the limited water supplies in the West. The fiscal year 2012 budget request builds on lessons learned in other programs such as WaterSMART Grants, including the use of funding opportunities that incorporate prioritization criteria to identify projects that most closely match program goals. Through the use of such funding opportunities, project sponsors have a chance to communicate to BOR the expected benefits of each project—how each project can be expected to contribute to water supply sustainability, benefits to the environment and water quality, and any contributions to increased energy efficiency in the delivery of water, among others.

The Department's coordinated approach to addressing water supply sustainability issues in ways that maximize the benefits of Federal funding extends beyond title XVI and existing WaterSMART Grants. This year as part of WaterSMART, for example, BOR and USDA's Natural Resources Conservation Service (NRCS) worked together on an innovative funding opportunity to leverage funding for water delivery agencies and agricultural producers in California's Central Valley. BOR announced its selection of five Bay-Delta Agricultural Water Conservation and Efficiency Projects for funding, totaling \$4.2 million, on May 18, 2011. The selected projects will increase district-level efficiencies through BOR funding and also facilitate water conservation and/or water use efficiency on farms. NRCS will provide up to an additional \$5 million in funding and technical assistance to growers in the selected districts for eligible on-farm conservation practices.

Title XVI projects, along with WaterSMART Grant projects, are also included as part of the Department's Priority Goal for Water Conservation, which provides additional visibility.

SOUTH OF DELTA WATER ALLOCATIONS

Question. As you know, I and many others have been closely following the BOR's water allocation for south-of-Delta water users in California's Central Valley. I was pleased to learn of BOR's decision last week to increase the allocation for farmers from 65 percent to 75 percent of their service contract. This followed two previous rounds of increases in recent weeks. However, there remains a great deal of frustration and consternation in California as to why BOR is unable to provide 100 percent of the allocation given the historic level of snow and rainfall we have experienced this year. Do you expect to increase the allocation of water supplies to south-of-Delta users again this year? If so, do you believe that you will ultimately be able to announce a 100 percent allocation?

Answer. On April 8, 2011, BOR increased the allocations for the south-of-Delta agricultural project water users from 65 percent to 75 percent, and on April 25, from 75 percent to 80 percent.

The most probable runoff forecast for this water year shows that we will be in the upper quartile of the historical annual volumes. We are currently analyzing the runoff forecast and are preparing our forecast of CVP operations. Our studies should be completed later this summer and a determination will be made about further increases to the allocation. With the current operational constraints, it may not be possible to achieve 100 percent allocation this contract year. Factors affecting BOR's ability to declare a 100 percent allocation for the south of Delta agricultural water users include the actions required by the biological opinions to avoid jeopardizing listed species and project operations.

BOR has been able to utilize flood flows that have reached Mendota Pool to supplement the water supply to the extent that the flood flows can be forecasted. We have also been able to augment the allocated water supply with water that the districts rescheduled from contract year 2010 and supplemental water exported from the Delta between March 1 and May 8. With these additional water supplies, the total delivery to the south-of-Delta agricultural water users will exceed the volume of an 80 percent allocation.

CVP RESTORATION FUND

Question. After nearly 20 years what is the status of the CVP Restoration Fund in addressing the goals of the Central Valley Project Improvement Act?

Answer. The Central Valley Project Improvement Act (CVPIA) Activity Report (CPAR), dated August 25, 2009, and made public in December 2009, provides a detailed report on the status of restoration activities. In general the report identifies a number of activities that have been completed under the CVPIA and remaining activities which are yet to be completed. The fiscal year 2010 "Annual Accomplishment Report to Congress" will provide an update on the status of all CVPIA program activities and will be available to the Congress and the public before the end of 2011.

Question. How much funding has been expended to date for these purposes?

Answer. From fiscal year 1993 through fiscal year 2009 the Program has expended just more than \$972 million for program implementation:

- \$599.5 million—Restoration funds;
- \$290.9 million—Water and related resources;
- \$76.2 million—State of California cost share;
- \$5.3 million—California Bay Delta Restoration; and
- \$29,000—American Recovery and Reinvestment Act.

Question. Do you have an estimate as to when this program would be complete?

Answer. The CVPIA fish and wildlife restoration program is comprised of two broad types of activities: those with endpoints (e.g., structural fish restoration actions and fish screens); and those that are annual ongoing (e.g., instream flow management, gravel replenishment, scientific monitoring and wildlife refuge incremental level 4 water acquisition and conveyance). The annual ongoing activities are expected to occur in perpetuity and thus completion dates do not apply. The activities with endpoints will attain completion however those dates have not been established since their implementation is in some cases beyond the long-range planning timeframe of the next 10 years. Therefore, no date has been set for the reduction in Restoration Fund collections from water and power contractors since the reduction is contingent upon completion of activities with endpoints. See the CVPIA Program Activity Review Report (CPAR, 2009) for more information on program performance measures and completion criteria.

Question. Is there a better way to allocate the collection of fees among the users?

Answer. BOR is required per CVPIA section 3407(c)(2) to collect \$50 million per year for the Restoration Fund (indexed to about \$76 million in current dollars). Because other CVPIA revenues have not been as high as anticipated, BOR has been required to assess the maximum mitigation assessment required by CVPIA. This assessment is paid by water and power contractors and is capped at \$30 million annually (indexed to about \$46 million in current dollars).

Although BOR cannot require its water contractors to pay additional annual payments in excess of the CVPIA designated amounts of \$6 and \$12, respectively, per acre-foot (October 1992 dollars) for agriculture and municipal and industrial water users, respectively, there is no comparable limitation on the amount paid by power contractors. Consequently, when BOR must collect \$30 million (October 1992 dollars) in charges, it has no discretion but to collect the balance from its CVP power contractors.

CVPIA did not authorize BOR to collect less than \$50 million per year (unless activities are completed) or to collect more from water contractors. Through fiscal year 2009 (based on a 10-year rolling average), power contractors have paid about 32.7 percent of all collections into the Restoration Fund with the balance paid by water users.

Question. Are there other ways to improve fee collections into the fund?

Answer. These financial obligations, issues, and impacts are being examined in detail in an ongoing comprehensive evaluation that BOR is preparing in collaboration with Western Area Power Administration that is addressing the following areas:

- Identification of the activities and projects that have met prerequisites for completing the remaining requirements, and the impact on future water and power contractor collections. (CVPIA allows reducing collections from contractors once activities are complete.)
- An evaluation of BOR's discretion and flexibility regarding financial obligations and funding under the law.
- An evaluation of the CVPIA reimbursability requirements and BOR's discretion related to repayment requirements.

—An assessment of the extent to which CVPIA's financial collection mechanisms have resulted in anticipated Restoration Fund revenues, along with any problematic consequences.

—An assessment of options for assessing and collecting funds for reimbursable activities if and when the costs exceed contractors' credits.

BOR recognizes that the financial viability of the CVP hinges on the availability and marketability of a reliable and competitive source of power plans to complete the above-mentioned evaluation by December 2011. BOR staff has met with representatives of the Northern California Power Association and the Central Valley Project Water Association to ensure their concerns are addressed as part of the evaluation. BOR is committed to working with our stakeholders to address concerns about CVPIA.

CALFED

Question. As you know, the Bay Delta Conservation Plan is a joint effort of Federal and State water agencies, environmental organizations and other water users to plan and implement an environmental permitting process that will restore habitat for Delta fisheries and insure reliable water deliveries to 25 million Californians. The goal of the Bay Delta Conservation Plan is to devise a 50-year plan of water system and ecosystem improvements, and environmental law compliance through adaptive management. It will still likely take 10 to 15 years to complete the projects necessary to increase water deliveries south of the Delta. Until the plan is fully implemented, I fear that farmers will continue to struggle to receive enough water.

Can you please provide me with an update on BOR's efforts to help develop a Programmatic Environmental Impact Statement for the Bay Delta Conservation Plan?

Answer. Federal agencies are fully engaged in developing the Bay Delta Conservation Plan (BDCP). The three lead agencies, Department of the Interior, through BOR and the U.S. Fish and Wildlife Service (FWS) and the Department of Commerce, through the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) together with COE and the U.S. Geological Survey have significantly enhanced Federal engagement on the BDCP. BOR has and will continue to provide expertise throughout the BDCP process to ensure Central Valley Project (CVP) operations and water deliveries are considered, evaluated, and addressed. BOR will evaluate the BDCP in consideration of CVP statutory and contractual obligations. BOR expects to pursue section 7 consultation with NMFS and FWS for CVP operations as part of the BDCP process.

BOR serves as a Federal co-lead agency in preparation of the BDCP Environmental Impact Report/Environmental Impact Statement (EIR/EIS). The BDCP EIR/EIS will include both programmatic and project-specific analyses in compliance with National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) requirements. Preparation of the EIR/EIS has slowed since the beginning of 2011 to allow further formulation and development of the BDCP including identification of the BDCP proposed Project. Federal lead agencies are coordinating with the new State administration and a revised schedule for completion of both the BDCP and the associated EIR/EIS is currently under development. The BDCP EIR/EIS will identify and analyze potential environmental impacts of permitting and implementing the BDCP Proposed Project as well as alternatives to the Proposed Project. Therefore, the EIR/EIS schedule must track with identification of the BDCP Proposed Project.

Question. What are the greatest challenges you (anticipate) in completing the Programmatic Environmental Impact Statement and implementing the Plan?

Answer. Challenges to complete the EIR/EIS for the BDCP include finalizing the identification of a proposed Project for the BDCP; gaining multi-agency support for the effects analysis methodology; gaining agreement on an array of alternatives to be analyzed in the EIR/EIS; determining future governance strategies; determining short-term construction and long-term financing strategies.

Question. Are there small projects, statutory changes or administrative actions that can be taken in the 10- to 15-year interim period before the Plan is fully implemented that will allow for increased water deliveries to south-of-Delta users?

Answer. Actions that could be implemented in the next 10–15 years will be addressed in a near-term plan, which is being discussed as part of the development of the BDCP.

SAN JOAQUIN RIVER RESTORATION

Question. As the author of the San Joaquin River Restoration Settlement Act, I have a keen interest in BOR's implementation of various programs the legislation authorized. I know that the Settlement is also an important priority for BOR, but

the administration has never requested the level of new appropriations in the early years needed to ensure full implementation. Full funding benefits all parties:

- the Friant Water Users;
- the third-party landowners; and numerous interests seeking full restoration of the river.

When do you expect to release the San Joaquin River Restoration Programmatic Environmental Impact Statement?

Answer. BOR released the Draft Program Environmental Impact Statement/Report (Draft PEIS/R) for the San Joaquin River Restoration Program (Restoration Program) for public review on April 22, 2011. The 60-day public comment period ended on June 21, 2011. The Draft PEIS/R analyzes and discloses the direct, indirect, and cumulative impacts of implementing the Stipulation of Settlement in *NRDC, et al., v. Rodgers, et al.*, (Settlement) consistent with the requirements of NEPA and the State equivalent to NEPA-CEQA. BOR is the NEPA lead agency and the California DWR is the CEQA lead agency for the document. BOR anticipates completing the Final PEIS/R in early fiscal year 2012 and signing a Record of Decision shortly thereafter.

Question. What is your plan to ensure sufficient funding to meet the timeline for completing San Joaquin River restoration projects that are called for in the settlement and the Programmatic EIS?

Answer. We recognize that some actions required by the Settlement are unavoidably behind schedule. This includes certain channel and structural improvement projects that may be beneficial for successful reintroduction of salmon. We are initiating consultation with the parties to the Settlement to develop a new schedule based upon the recently released Draft PEIS/R. This new schedule will assure implementation of the Restoration Program in a manner that addresses the requirements of the Settlement for expeditious action while meeting the requirements of the legislation to minimize impacts on third-party interests. A revised funding schedule will be formulated once a new settlement schedule has been developed. Funding for the Restoration Program will remain a priority as we proceed with the program's implementation. The fiscal year 2012 budget requested \$9 million for this program.

Question. The Settlement Act required BOR to establish a "Recovered Water Account" to allow Friant contractors to obtain additional water for storage during wet years. I understand that BOR has recently made a decision regarding the "Recovered Water Account" that may help provide some additional supplies to Central Valley farmers this year. Can you please explain?

Answer. On October 23, 2006, the U.S. Eastern District Court of California approved the Stipulation of Settlement in *NRDC et al. v. Kirk Rogers, et al.* Under paragraph 16(b), the Settlement requires BOR to develop a Recovered Water Account to monitor and record reductions in water deliveries occurring as a result of the Settlement and make water available at a total cost of \$10 per acre-foot to contractors who experience a reduction in water deliveries as reflected in their Recovered Water Account. Recovered Water Account water is to be made available during wet hydrologic conditions, when water is not otherwise required to meet other obligations of the Secretary of the Interior.

In 2010, the Friant Division long-term contractors did not experience substantial reductions in water deliveries as a result of the Settlement and thus, had relatively low balances in their Recovered Water Accounts. Since early 2011, the San Joaquin Basin has been experiencing wet hydrologic conditions and water is available in Millerton Lake that is not otherwise needed to meet other obligations of the Secretary of the Interior. In response to this condition, in early April, BOR credited an additional 460,000 acre-feet to the Friant Division long-term contractors Recovered Water Accounts. The 460,000 acre-feet of credits were based on a projected average water supply impact for 2012 to 2015. The credits were allocated to Class 1 and Class 2 contractors in proportion to anticipated impacts and contract amounts. With the allocation of 460,000 acre-feet of credits, BOR also made Recovered Water Account water available to each contractor accordingly.

Consistent with the Settlement, the Recovered Water Account water is made available at a total cost of \$10 per acre-foot. This relatively low-cost water provides a source of water for groundwater banking and other activities that will assist the Friant Division long-term contractors in avoiding future impacts of the Settlement. With the allocation of 460,000 acre-feet of credits and making this Recovered Water Account water available, BOR has worked to avoid some of the future water supply impacts that may occur with the implementation of the Settlement.

LAKE POWELL/LAKE MEAD

Question. I understand that yesterday, BOR announced that it will release an additional 3.33 million acre-feet of water from Lake Powell to Lake Mead based on significant snowpack in the Upper Basin of the Colorado River. Combined with previous releases totaling 8.23 million acre-feet, that will bring the total to 11.56 million acre-feet this year. Unfortunately though, because of the prolonged drought we have experienced, I suspect we have a long way to go before we refill Lake Mead. Can you tell me about how much water we will now have in Lake Mead and how far does this get us in terms of recovering from the many years of drought?

Answer. Glen Canyon Dam is projected to release approximately 12.46 million acre-feet (MAF) from Lake Powell to Lake Mead, which represents an additional 4.23 MAF of water this water year (October 1–September 30) for Lake Mead. At the end of the water year BOR projects that Lake Mead will have approximately 12.87 MAF of water in storage (approximately 50 percent full). Projected releases from Glen Canyon Dam are updated monthly throughout the year to reflect changing hydrology.

In terms of drought recovery, it is challenging to quantify because it is largely dependent on future hydrology; it is not uncommon to have short periods of high annual runoff from the Rocky Mountains during extended drought periods.

Due to this year's higher inflow, BOR projects the first occurrence of shortage in the lower Colorado River Basin could be in 2015, at a 5-percent probability. At this time last year, BOR had projected an 8-percent chance of shortage as early as 2012.

Question. How much storage capacity remains in Lake Mead?

Answer. Discounting exclusive flood control space (approximately 1.5 MAF), Lake Mead has an available capacity of 25.877 MAF. By December 31, 2011, BOR projects that Lake Mead will have 13.973 MAF of water in storage, which will take up 54 percent of its available storage capacity. At this level the remaining unused storage capacity at Lake Mead will be 11.904 MAF (46 percent of Lake Mead's total available capacity).

IMPERIAL, COACHELLA, AND METROPOLITAN WATER

Question. What do these additional waters mean in terms of deliveries to lower Colorado River users, particularly those in California:

- the Palo Verde Irrigation District;
- Imperial Irrigation District;
- Coachella Valley Water District; and
- the Metropolitan Water District of Southern California.

Answer. The amount of water available to be delivered to water contractors in the Lower Basin, including California contractors, is dependent on the condition determined for the operation of Lake Mead under the 2007 Record of Decision for Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead (Interim Guidelines). The operating condition is determined based on reservoir elevations projected for January 1 of the upcoming year. In 2011, the Secretary has determined that the operating condition is Intentionally Created Surplus (ICS). This determination will not change due to the increased flow into Lake Mead. Current projections for 2012 and 2013 indicate that the most probable operating condition will once again be in the Normal—ICS Surplus range, with up to a 30 percent chance of a Surplus Condition in 2013.

The Secretary has the discretion to declare either a Normal or Surplus Condition when Lake Mead elevations are between 1,075 feet mean sea level (MSL) and 1,145 feet MSL. During a Normal Condition, water contractors are allowed to take delivery of their full entitlement. In an ICS Surplus Condition, water contractors may take delivery of their full entitlement plus delivery of Intentionally Created Surplus water, up to the limits allowed under the Interim Guidelines. If over the next few years the elevation of Lake Mead were to increase above 1,145 feet MSL, this would trigger a Surplus Condition. Those contractors with a surplus entitlement would be allowed to take delivery of their surplus entitlement up to limits established in the Interim Guidelines in addition to a full entitlement.

QUAGGA MUSSEL

Question. In January 2007, quagga mussels were detected in Lakes Mead and Mohave within the Lake Mead National Recreation Area. Since then, Federal, State, and local agencies have been working to prevent the spread of this environmentally and economically damaging non-native aquatic invasive species. Despite their best efforts, quagga mussels continue to impact water users along the Colorado River system—clogging filters, pipes, and pumps. Most traditional methods of control are

not compatible with drinking water and environmental regulations. Given that 25 million people down river rely on the Colorado River as a key element of their water supply, resolving, or at least managing the quagga problem may be a priority for BOR. Can you please explain what BOR has done to address the problem and what does it propose to do in the future?

Answer. As a high-priority component of BOR's Science & Technology (S&T) Program since 2008, BOR has focused invasive mussel research activities on improving early detection methods; identifying, developing, demonstrating, and implementing facilities protection technologies and strategies; and assessing ecological impacts. Researchers are engaged in a number of mussel-related activities including monitoring of more than 350 water bodies throughout the Western United States for the presence of mussels, coatings testing to prevent or reduce settlement on critical infrastructure, development of a promising treatment product called Zequanox™ (based on the common bacteria *Pseudomonas fluorescens*), and field evaluation of filtration and UV treatment technologies to exclude mussels from raw water systems. The potential of several other technologies is also being explored for removal or settlement prevention on intake structures and within pipelines including elevated pH control strategies; pulsed pressure devices; turbulence generating devices; carbon dioxide injection; dissolved oxygen reduction; potential for the use of certain registered herbicides; retrofit of trashrack raking systems; fish predation; and alternative fish screening technologies. Many of these activities involve collaboration with other Federal and State agencies, BOR's managing partners, and private industry and are expected to evolve as future research needs and new technologies are identified. BOR is also continuing to assess the long-term ecological impacts related to mussel infestations in western water bodies.

BOR has also developed an Equipment Inspection and Cleaning Manual in cooperation with COE. This manual provides recommendations for inspection and cleaning of vehicles and equipment as a prevention tool to limit the spread of mussels and other invasive species carried to new sites by contaminated equipment. Since release of this manual, many other agencies and organizations have adopted its mussel prevention protocols. BOR also hosted the 17th International Conference on Aquatic Invasive Species in San Diego last year to help attract attention of the global scientific community to the importance of these mussels in the western watersheds of the United States.

Question. How much has BOR spent to address the quagga mussel problem?

Answer. It is estimated that BOR will have spent more than \$12.5 million through fiscal year 2010 and includes appropriations, power revenues and other funding from customers.

Question. What are those funds being used for?

Answer. Since 2008, BOR funding has supported mussel-related activities including prevention, early detection and rapid response, control and management, research and development, and education and outreach.

Question. How has the quagga mussel impacted water quality and habitat in the Colorado River both above and below Lake Mead?

Answer. Quagga mussels appear to be impacting water quality and habitat in the Colorado River above and below Lake Mead. Water clarity is increasing and, as a result, the production of aquatic weeds is increasing and becoming a problem at pumping plants intakes. The extent to which this change is caused by mussels versus other factors has not been quantified. Quagga mussels are also expected to affect nutrient dynamics and therefore have a detrimental impact on fisheries. BOR is continuing to assess the long-term ecological impacts related to mussel infestations including changes in water quality, interactions with other benthic organisms, and the potential for cyanobacteria-producing toxins in western water bodies.

Question. What else could we do to address the problem, to protect habitat and wildlife, and to preserve water and irrigation district infrastructure?

Answer. BOR continues to address evolving issues through monitoring, research, outreach, and education activities. Further knowledge is continually being gained through research that improves our understanding of mussel-related ecological and infrastructure impacts in the West and supports our strategies to mitigate impacts to water and hydropower facilities. Prevention of mussel movement to new water bodies is a very important activity, but it falls primarily to agencies that manage recreation at lakes and reservoirs and have authority to control the movement of watercraft and invasive species.

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QUESTION SUBMITTED BY SENATOR PATTY MURRAY

ODESSA SUBAREA SPECIAL STUDY

Question. Commissioner Connor, as you know I have worked closely with the Bureau of Reclamation (BOR) over several years on the Odessa Subarea Special Study to look at surface options for irrigation to reduce the impact to the aquifer. Clearly, agriculture is vital to Washington State's economy and the Central Washington area is a huge part of the industry. We are so close to finishing the Study to determine the best path forward, but I am hearing that the BOR doesn't plan to fund the remainder. Can you please tell me your plan to ensure the completion of the study?

Answer. BOR recognizes the importance and understands the significance of the Columbia Basin water issues, and specifically the Odessa Subarea Special Study (Study). In this regard, BOR has partnered with the State of Washington (State) to investigate the possibility of continued development of the Columbia Basin Project to deliver project surface water to replace the current ground water use in the Odessa Subarea. The Study is near completion; however, faced with considerable competing demands for aging infrastructure, satisfying Endangered Species Act regulatory requirements on operating projects, and other high-priority water issues throughout the 17 Western States, it was not possible for BOR to provide funding for the study in the fiscal year 2012 President's budget. BOR will continue to work with the State to bring the Study to completion as soon as possible. BOR and State of Washington Department of Ecology have jointly prepared a draft environmental impact statement (EIS) to meet the National Environmental Policy Act and State Environmental Policy Act requirements. The draft EIS was released to the public from October 26, 2010 through January 31, 2011, with more than 210 comment letters received. The final EIS is anticipated to be completed by late 2011.

QUESTIONS SUBMITTED BY SENATOR TIM JOHNSON

RURAL WATER

Question. Given increases in prices over time and the necessary noncontract and overhead costs associated with construction projects, it follows that the longer a project takes to complete, the more expensive it will be. Has the extension of the completion of Bureau of Reclamation's (BOR) Rural Water Supply Projects increased overhead costs at the expense of construction?

Answer. Yes. As annual appropriations are less than what is necessary to support full project construction, we believe some Rural Water Supply Projects are incurring increased overhead costs at the expense of construction.

Question. If so, by how much?

Answer. BOR does not have any way of quantifying such an increase and does not have specific data to determine the actual extent to which increased overhead may impact the total cost of completing projects.

Question. How does BOR propose to restore the funds which had to be used to cover overhead costs so that construction can be completed?

Answer. Historically, cost indexing authorized for each of the current rural water projects has kept pace with inflation, and coupled with a favorable construction climate, projects appear to be progressing within original cost estimates. The funds requested by BOR for rural water construction are formulated to account for projected construction capabilities and other mission critical work.

SUBCOMMITTEE RECESS

Senator FEINSTEIN. So thank you for taking it all with good humor. Thank you very much.

And the hearing is recessed.

[Whereupon, at 4:12 p.m., Wednesday, April 13, the subcommittee was recessed, to reconvene subject to the call of the Chair.]