

**ENERGY AND WATER, AND RELATED AGEN-
CIES APPROPRIATIONS FOR FISCAL YEAR
2007**

WEDNESDAY, APRIL 5, 2006

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

The subcommittee met at 2:40 p.m., in room SD-124, Dirksen Senate Office Building, Hon. Pete V. Domenici (chairman) presiding.

Present: Senators Domenici, Craig, Bond, Allard, Murray, Dorgan, and Landrieu.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

**STATEMENT OF JOHN PAUL WOODLEY, JR., ASSISTANT SECRETARY
OF THE ARMY (CIVIL WORKS)**

OPENING STATEMENT OF SENATOR PETE V. DOMENICI

Senator DOMENICI. The hearing will please come to order. Because of schedule problems, we are going to let some Senators speak out of order. Senator Bond would like to make an opening statement at this point. I yield to you, Senator.

STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Mr. Chairman, I thank you very much for your kind courtesies.

Mr. Woodley, we have had long discussions about the need for locks on the Mississippi and Illinois Rivers, and one of these days I hope we will have an authorization coming out of our Environment and Public Works Committee which will allow this committee to do the vitally important work it should do in funding our vitally needed Nation's infrastructure.

I have here in my hand an article from the Wall Street Journal which I would share with you and those with whom you discuss. It's called "As Utilities Seek More Coal, Railroads Struggle to Deliver." It reports that their shipping fees are going up a reported 20 to 50 percent. The Department of Transportation predicts that commercial shipping volume over the next 20 years will increase by 70 percent. Most people, at least outside Washington, recognize the

bulk commercial freight cannot be emailed, so transportation capacity is an issue that will demand leadership, and the sooner the better.

Last month Secretary Johans of the Department of Agriculture, Deputy Connor, and Chief Economist Dr. Keith Collins testified before the Appropriations Committee. Mr. Woodley, if you and your team are not routinely in touch with Collins I would be very disappointed. Dr. Collins has been Chief Economist or in that office serving at least four or five presidents.

He testified again that any 50-year study is highly speculative, noting that even the 10-year forecasts USDA does are speculative and that 10 years is heroic enough. However, he is clear that they do not see stalled or dwindling or flat export activity through the gulf. In fact, he said they see a substantial increase, in testimony previously he said 40 to 45 percent in corn alone, and he sees a good long-term market for grains and oilseeds in the world and he noted that having efficient infrastructure will help make that possible.

As we all know, the demand for goods, agricultural goods, one item transported on the rivers, depends upon transportation. In good years ag exports exceed imports by \$30 billion, bringing great economic boost to the breadbasket of America as well as helping our balance of payments.

Secretary Johans agreed firmly that the existing lock system, built 70 years ago, has proved an important and wise investment and that should be obvious even to the fiercest opponents of commercial shipping.

Mr. Woodley, with help of able staff I want to introduce you to Major Charles L. Hall, Rock Island Engineer from 1927 to 1930. He advised President Hoover and Congress in 1929 that the proposed system, the one which currently exists on the Mississippi River, was not economically feasible and argued that "limited barge traffic did not indicate that a viable barge industry would develop." Fortunately, President Hoover and the Congress ignored the advice and President Hoover said modernization would "put the rivers back as great arteries as commerce after a half century of paralysis."

Now, with 80 million tons moved annually and two-thirds of our exported grain moving through that system, it is clear that the Congress and President Hoover were wise to ignore the expert advice of Major Hall. I suspect and fear that the Major may have a grandchild working dutifully somewhere, maybe at the Office of Management and Budget.

So I ask that you let history help inform your future decisions and that you consider that we must not only try to predict the future, but shape the future. In some cases, opinions of experts deserve to be very strongly considered just before they are very thoroughly rejected. I believe that some 80 members of the Senate believe that we should pass a Water Resources Development Act which will enable my good friend the outstanding chairman to act appropriately in this subcommittee.

I thank you, Mr. Chairman, for your comments.

Senator DOMENICI. Well, I thank you for your comments, and I just want to ask you, since you are one of the proponents, and quite

properly and appropriately, of the WRDA bill, what is your—in 2 minutes, what is holding it up?

Senator BOND. Initially there were objections from the Office of Management and Budget. We had an opportunity to go above their heads to policymakers who have a broader perspective and they agreed that the Office of Management and Budget would not threaten a veto. Currently there are, as I said, 80 signatures on a letter to the Republican and Democratic leaders saying that we need to move the bill. There are still holds in the Senate from people who want us to go back to the horse and buggy days and rely on overcrowded railroads and tremendously crowded highways to ship not only grain for the export market, but the tremendous amount of commercial commodities.

Senator DOMENICI. Those are Senators?

Senator BOND. Those are Senators.

Senator DOMENICI. We do not know who they are at this point and you cannot get them released. We are stuck.

Senator BOND. We intend to do everything we can and ask the leaders to call for a vote if the holds are not relieved and not pay attention to the holds, and we hope that the Office of Management and Budget will not follow Major Hall and have a last minute re-conversion to their opposition.

Senator DOMENICI. All right.

Senator BOND. Thank you, sir.

Senator DOMENICI. Having said that, the Democrats are present. When I opened they were not. I apologize for that. It was only 3 minutes, Senator, and then you came.

I am not going to have any opening statements. I think we are going to run out of time. Any opening statements desired on your side? I knew Senator Bond had to say something or else we would have a—

Senator DORGAN. Did he talk about the Missouri River management? If so, I will have an opening statement.

Senator DOMENICI. No.

Senator DORGAN. If not, I will not.

Senator DOMENICI. No. But I knew if I did not—

Senator BOND. I will be sure and cc you.

Senator DOMENICI. I knew if I did not let him speak the way he wanted to we would have problems.

How about over here?

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Mr. Chairman, I have a very brief statement.

Senator DOMENICI. Let us do it.

Senator ALLARD. Mr. Chairman, first of all I want to thank you for holding the hearing. The Corps of Engineers does a great deal for the country, as well as for Colorado, but I must express my disappointment with the fact that funding to complete the Fountain Creek watershed study was not included in the President's proposed budget again this year. The study was originally contracted at \$2.9 million with a 50 percent Federal, 50 percent local funding split. The locals have long ago put in over \$1.4 million, but the Federal Government has not lived up to its side of the bargain.

In what should be the final year of the study, it mystifies me why the Corps did not place enough value on the study to include it in the budget request. But I will have questions on that later on, Mr. Chairman. Thank you for your tolerance.

Senator DOMENICI. Thank you very much.

On the Democrats' side, Senator Mary Landrieu.

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Mr. Chairman, I have a statement for the record, but I do want to say that I will come back after the vote. I have a series of questions that really do need answers today based on the situation that we are facing in the gulf coast and some charts I want to share with you, Mr. Chairman, and the committee about the backlog of current projects.

[The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

Mr. Chairman, thank you for calling this hearing to review the President's budget for the Army Corps of Engineers.

Before I comment on any specific budget matters, I wish to express my appreciation for being a member of this subcommittee. Its jurisdiction over both energy and water are matters of monumental concern to my State of Louisiana, the Gulf Coast, and our Nation. Now is a critical time for action on these issues.

Because of these monumental issues and because of the relationships with you and Senator Reid that we have built, I sincerely look forward to working with both of you. I appreciate the time that each of you have taken over the years to join me in Louisiana to see the Nation's worst coastal erosion as well as successful projects such as the SELA flood control project.

For many years, Congress has received the administration's request for funding for the Civil Works program of the Army Corps of Engineers and has increased this request. In recent years, Congress has appropriated approximately 10 percent to 15 percent more funding. Once again, the administration has requested less funding for fiscal year 2007 for the Corps than was provided by Congress for the current fiscal year.

Simply stated, the administration's fiscal year 2007 budget request for the Corps puts the Nation at risk, and we cannot be complacent. Hurricanes Katrina and Rita shred that curtain of complacency and gave the Nation a look at the inadequate infrastructure as it relates to water management and flood protection. We must act.

Underfunding infrastructure puts our Nation at risk. Hurricanes Katrina and Rita exposed this risk. These storms were not the real culprits. Instead, the real culprit was the failure to fund a levee system that would have protected us against hurricanes such as these.

This failure caused the deaths of more than 1,000 people in Louisiana alone. More than 215,000 homes were destroyed with thousands more damaged. Countless businesses, churches, and schools were wiped out. The cost of recovering from this levee failure will be hundreds of billions of dollars. The cost will be far more than it would have cost to build the infrastructure that would have prevented this catastrophic loss.

The impact of the administration's inadequate Corps funding requests are also felt throughout the Nation on vital projects causing a delay in their completion and resulting benefits. Many of these projects are physically located in Louisiana but greatly impact the entire Nation.

For example, numerous hurricane protection and flood control projects in Louisiana are intended to protect millions of Americans living in coastal Louisiana. These projects are also intended to protect energy infrastructure that supplies oil and gas throughout the Nation.

The existing backlog of authorized projects combined with the WRDA authorizations currently under consideration amount to more than \$50 billion. Yet, the administration asks for only \$1.5 billion for construction in fiscal year 2007. At this pace, it will take at least 35 years to construct the backlog of projects assuming no inflation and no new projects are added during that time.

Hurricanes Katrina and Rita showed that we have not provided enough funding for levees and pumps. The current cost of recovering from the destruction caused

by these storms shows that it is more expensive to pay for re-building than for prevention.

Another component of protecting Louisiana and the Nation is the coastal restoration effort to save America's Wetland.

The Louisiana Coastal Area comprises one of the Nation's largest expanses of coastal wetlands. As an environmental treasure, it supports a diverse collection of migratory birds, fish, and other species. As a productive natural asset, the Louisiana Coastal Area supports an extensive energy infrastructure network responsible for an estimated 20 percent of our Nation's energy and provides over 20 percent of the seafood consumed in the United States. Additionally, offshore oil and gas production off of Louisiana's coast is one of the U.S. Treasury's largest revenue sources. This production contributes approximately \$6 billion a year to the Federal Government, and this amount is rising.

Despite these significant national contributions made by the Louisiana Coastal Area and its resulting standing as America's Wetland, it accounts for 90 percent of the Nation's total coastal marsh loss. This destruction puts all of its national benefits at risks. Accordingly, the Corps along with the State of Louisiana has been engaged in the development of a comprehensive coastal restoration plan. Hopefully, implementation of this plan will begin soon, and this Congress will provide the Corps with the funding necessary to do the job. I will continue to work with all of you toward achieving this vital goal.

Another example of a project physically located in Louisiana having national implications is the Inner Harbor Navigation Canal (IHNC) lock project. This project at the Port of New Orleans was wrongly zeroed out in the President's budget. Congress first authorized the replacement of this lock in 1956! It is a project of national significance that impacts trade in over 25 States on a daily basis. In fact, over 16 million tons of cargo move through this lock each year. Additionally, its completion directly relates to closing the Mississippi River Gulf Outlet which has destroyed more than 27,000 acres of wetland and thereby eliminated a hurricane buffer to metro New Orleans.

In closing, Hurricanes Katrina and Rita show us that we must invest more in our infrastructure. We either heed their warning or peril.

Finally, Mr. Chairman, I thank you for your continued leadership on the Nation's water issues. I look forward to the testimony of our witnesses and the opportunity to question them when appropriate.

Senator DOMENICI. Senator Craig.

PREPARED STATEMENT OF SENATOR LARRY CRAIG

Senator CRAIG. Mr. Chairman, I will ask unanimous consent that my full statement be a part of the record, but I want to recognize when a job well done is well done and completed, and I want to thank the Corps for their completing of the channel improvement project on the Snake River between Idaho and Washington. Critical importance to the aid of transportation in that region. I want to thank you for the work done.

Thank you, Mr. Chairman.

Senator DOMENICI. Your statement is made a part of the record. [The statement follows:]

PREPARED STATEMENT BY SENATOR LARRY CRAIG

First, I want to take a moment and thank all of those in the U.S. Army Corps of Engineers who have served their country in Iraq. I also want to commend those who served their fellow Americans in the wake of devastating hurricanes. It has been a trying year for many, and I appreciate the support you have provided those in need.

I also want to thank the Army Corps of Engineers for all the work they have done in many of our rural communities to get drinking and wastewater infrastructure updated. In my State, rural water infrastructure is an increasing need, with many rural communities struggling with funding and expertise to fulfill their responsibility of providing safe and reliable drinking water. As infrastructure continues to age and water quality standards rise, an agency like the Corps becomes more and more vital, and I hope to continue working with the Corps to see our water infrastructure meets the appropriate standards.

Additionally, I want to thank the Corps for completing the channel improvement project on the Snake River between Idaho and Washington. This project has aided farmers by providing a safe, efficient means of shipping to meet demands, not only for our country, but also other countries as well. As gas prices continue to rise and roads become increasingly crowded, barges will serve as a critical and efficient means of transporting commodities, and I will continue working with the Corps on similar projects.

I have a couple of concerns, one of which is the change in the Corps' budgeting practices. In the past, the Corps enjoyed considerable flexibility and were able to reprogram funds fairly easily, but with the changes, that will no longer be the case. At the appropriate time, I'll have a question about that issue.

I look forward to hearing your testimony.

Senator DOMENICI. Senator.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Yes, Mr. Chairman. I just wanted to welcome Secretary Woodley and General Strock. Thank you for your testifying today. I think what happened in the last few months in Senator Landrieu's State and elsewhere really showed all of us how important the work is you do and how important it is that we maintain that.

I want to compliment you for the three district offices that operate in my State. We have a really varied landscape when it comes to Corps projects. We have got hydroelectric, flood control, navigation, irrigation, and the Army Corps work is really essential to our economy and to our ability to maintain the critical infrastructure in our community. We have the Portland District that is maintaining the Columbia River dredging and the jetties, repairs to the jetties, critical for safety. The Seattle District is working on some really complex flooding issues and the Walla-Walla District is providing some really important engineering expertise for us for the waste treatment plant out of Hanford.

So I want to compliment you on that work, but I just want to say I have another hearing, but I want to say publicly I am deeply concerned about the investment to our infrastructure, to the Corps. We have got to do better than what we have been presented, because we have to continue, as I think the Senator from Louisiana well knows, to maintain the critical infrastructure we have and to make the important investments in our Nation's future. So I will join with all of you in working towards that direction.

Thank you, Mr. Chairman.

Senator DOMENICI. Very well. Thank you.

Well, I have a long analytical statement that, it would not help here. The atmosphere has been so nice that it would make things look very, very bad. Just suffice it to say that I think the way you handled the budgeting is a mess, and I do not think that you can expect us to do it the way you recommended.

You are short of money and we know that. The President did not fund—did not put in as much as we need. But the way you went around, went about trying to make the money work in my opinion has made matters worse. So do not look for us, for it coming out the way you recommended. It is going to come out, but with no damage, we hope.

My statement and Senator Cochran's statement will be made part of the record.

[The statements follow:]

PREPARED STATEMENT OF SENATOR PETE V. DOMENICI

Good afternoon—the hearing will come to order.

Today, the subcommittee will take testimony on the fiscal year 2007 budget request for the U.S. Army Corps of Engineers.

Our panel will consist of witnesses from the U.S. Army Corps of Engineers.

Testifying for them will be: John Paul Woodley, Principle Deputy, Assistant Secretary of the Army for Civil Works, and Lieutenant General Carl A. Strock, Chief of Engineers for the U.S. Army Corps of Engineers.

Mr. Woodley, General Strock, thank you for appearing before us today.

The President's budget for the Corps of Engineers proposes \$4.73 billion, which is \$596 million below the fiscal year 2006 enacted of \$5.33 billion after rescission.

PERFORMANCE-BASED BUDGETING

The Corps' budget was again prepared using performance-based budgeting. I have several concerns with developing the budget in this manner. This method seems to concentrate budget development at OMB rather than at the District level where it belongs.

Again for fiscal year 2007, the Remaining Benefits to Remaining Costs Ratio is the primary criteria for prioritizing funding decisions. There does seem to be more of an effort to ensure obvious national priorities were not overlooked, but no attempt to capture traditional items of importance to Congress.

For example, no attention has been given to workforce distribution in project selection. Congress has repeatedly demonstrated a desire for a geographically diverse Corps of Engineers organization. In order to maintain that distribution, a suite of projects needs to be selected to maintain the workforce at a stable level. The budget request does not consider this factor.

PROJECT SUSPENSIONS

The administration has budgeted \$41.4 million to suspend/terminate 10 construction projects that have been budgeted in the past in order to redirect resources to complete high-priority projects. However the 532 projects and studies that were included in the fiscal year 2006 Energy and Water Act are not addressed by the fiscal year 2007 Budget Request. It is as if termination of these items are either free or Congress's problem. I believe when the President signs an appropriation bill, all of those studies and projects become the joint property of the administration and Congress. Treating Congressional priorities differently will lead to consequences.

MAJOR ISSUES BY APPROPRIATION ACCOUNT

The General Investigations account is a disaster. Of the \$94 million requested, only \$16.7 million is provided for ongoing study efforts nationwide. This compares to \$102 million in the current fiscal year.

The budget request shifts projects totaling \$342 million from the Construction, General account to the Operations and Maintenance, General account. Beach renourishment due to navigation impacts, Endangered Species Act (ESA) compliance, beneficial use of dredged material and major rehabilitations are the categories of the items shifted.

A large portion of the shifted funds is Endangered Species Act compliance items. An example is Columbia River Fish Mitigation. In fiscal year 2006 this was an \$85 million CG line item. In fiscal year 2007, it is distributed across eight O&M projects for the Columbia River. There is no easy way to determine how much funding is for these mitigation activities and how much is for O&M. It is all considered O&M.

The other category of funding shifted to O&M is for major rehabilitations of locks and dams. Gentlemen, I have been around long enough to remember when these projects were funded in the O&M account. We moved them to the Construction, General Account and allowed half the costs to come from the Inland Waterway Trust Fund because they were not being sufficiently budgeted in O&M. Now, because of the backlog in the CG account, you are proposing to move them back to O&M. Why not try budgeting sufficient funding for them rather than playing three-card monte?

There were a couple of increases proposed in your budget for fiscal year 2007.

The budget proposes \$173 million for the Regulatory Program versus \$158 million enacted after rescission, a 9.5 percent increase. This account has increased from \$117 million since fiscal year 2000, by far the largest percentage growth in any Corps account over the same period, yet complaints about permits seem to be on the rise. I have been made aware several issues in New Mexico over the last 3

months. General Strock, you and I will need to have further discussions about this at another time.

The General Expenses account traditionally funds the Corps Headquarters and Division offices is proposed at \$164 million, a 7.9 percent increase. However, this includes \$6 million for the Office of the Assistant Secretary of the Army. When you compare the fiscal year 2006 enacted General Expenses of \$152 million to the fiscal year 2007 proposal of \$158 million, it is only a 3.9 percent increase.

Secretary Woodley, I understand that this \$2 million increase in your budget over the fiscal year 2006 enacted of \$4 million is to cover joint costs previously covered by the Department of the Army.

As you are aware, this office was funded in a separate account in the fiscal year 2005 and 2006 Energy and Water Acts. Prior to fiscal year 2005, your office was funded in the Defense Army OMA account. I think we should look at moving funding for your office back to the Defense Army OMA account due to your other duties as Assistant Secretary in addition to the Corps Civil Works Program.

You should know that I will oppose the regionalization of the O&M budget for fiscal year 2007. This method of displaying O&M effectively disguises the underfunding of O&M projects and allows the Corps the ability to freely move funds around. It appears that you invented a whole new way to aggregate and appropriate O&M just so you could get around the Congress's fiscal year 2006 reprogramming guidance.

The fact that you went to this much trouble in this budget proposal demonstrates our need to seriously reexamine reprogramming guidance as we prepare the fiscal year 2007 bill.

Finally, we will need to revisit contracting and reprogramming issues for fiscal year 2007. It is clear to me, that the language agreed to in fiscal year 2006 is not improving the management of the Civil Works program. If anything, it appears to be hindering getting work accomplished.

Secretary Woodley, General Strock, your full statements will be made a part of the record. I would ask that you summarize your statements.

PREPARED STATEMENT OF SENATOR THAD COCHRAN

Mr. Chairman, I thank you for holding this hearing and thank the witnesses for their willingness to appear today before the Energy and Water Subcommittee.

While I understand that this hearing is being held to consider the President's budget request for fiscal year 2007, I must mention at the outset the good work of the Corps of Engineers in my home State of Mississippi in the wake of Hurricane Katrina. I know there have been some concerns over the speed with which the Corps has had debris removed and the number of out-of-State companies that are leading the debris removal effort.

The Vicksburg District has been thoughtful in their proposal to use Mississippi contractors for smaller, more manageable contracts. The Government Accountability Office recently agreed that set-aside contracts are allowed in Mississippi, and this action will result in local people leading local debris removal contracts. I think this is good for recovery and good for Mississippi victims as well as businesses in our State. Thank you for this assistance.

I understand that the Corps of Engineers continues to use a performance based budgeting formula, which has led to the proposal to terminate 10 projects this year. Last year you proposed to terminate 35 projects. This means that important projects that were previously budgeted for by the Corps are, under this budget submission, not going to move forward.

Another area of concern is the language that was included in the fiscal year 2006 Energy and Water Appropriations bill regarding the Corps of Engineers' use of the continuing contract clause and their reprogramming guidelines. My constituents in Mississippi are already feeling the negative impacts of this language, and it is my understanding that the Corps will likely carry over large amounts of the historic funding levels provided in the current year's appropriations bill.

I appreciate the efforts of the Corps of Engineers but worry about inadequate funding of important missions under your jurisdiction. The Corps is charged with improving safety and security for our Nation's citizens, and I hope that this committee will provide the resources necessary complete these missions.

STATEMENT OF JOHN PAUL WOODLEY, JR.

Senator DOMENICI. Having said that, we are ready for you to speak. I gather that you want to do it in the normal order; is that

correct, where you want the Honorable Paul Woodley to speak first and then the General? Is that what we want to do?

General STROCK. Yes.

Senator DOMENICI. All right. Mr. Secretary, make your statement brief. It will be made part of the record.

General, we look forward to hearing from you next. Make your statement long. It will be made a part of the record also.

Mr. Woodley, please proceed.

Mr. WOODLEY. Thank you, Mr. Chairman. I appreciate the opportunity to testify today and ask that the full statement be put in the record.

Our 2007 budget includes about \$4.7 billion—

Senator DOMENICI. Pull the mike up a little. Thank you very much.

Mr. WOODLEY [continuing]. A 5 percent increase from last year. We provided a 5-year budget plan along with the other budget justification materials, including three potential 5-year funding scenarios for planning purposes and analytical purposes.

The budget includes an increase of about \$280 million for construction projects compared to the fiscal year 2006 budget. The funding is allocated according to guidelines that emphasize economic returns, reduction of risk to human life, and ecosystem restoration benefits.

Mr. Chairman, the budget provides \$173 million to the Corps' regulatory program to protect wetlands and other waters of the United States. This represents a \$15 million increase compared to fiscal year 2006 appropriations and a 20 percent increase in budgeted funding for the regulatory program over the last 3 years. The funding will be used to reduce permit processing times, improve aquatic resource protection through monitoring and compliance activities, and advance watershed approaches to permitting.

The budget also reassigns about \$340 million of work at existing projects from the construction account to the operation and maintenance account. This reassignment improves accountability and oversight, reflects the full cost of operation and maintenance, and supports an integrated funding strategy for existing projects.

The operation and maintenance budget has been revamped and is presented by major river basin and mission areas. This lays the groundwork for improved management of appropriated funds and more strategic formulation of future budgets.

The budget includes increased funding for preparedness, response and recovery activities related to flood and coastal storm emergencies. The budget does not include funding for recovery from last year's hurricanes since supplemental appropriations are being sought to provide that funding.

PREPARED STATEMENT

In summary, Mr. Chairman, the budget and the 5-year plan incorporate performance budgeting principles, allocate funding to activities with the highest returns, and advance important national objectives.

Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF JOHN PAUL WOODLEY, JR.

Mr. Chairman and distinguished members of the subcommittee, thank you for the opportunity to testify before the subcommittee, and to present the President's budget for the Civil Works program of the Army Corps of Engineers for fiscal year 2007.

OVERVIEW OF FISCAL YEAR 2007 ARMY CIVIL WORKS BUDGET

The fiscal year 2007 budget for Army Civil Works provides funding for development and restoration of the Nation's water and related resources within the three main Civil Works program areas, namely, commercial navigation, flood and coastal storm damage reduction, and aquatic ecosystem restoration. The budget also supports hydropower, recreation, environmental stewardship, and water supply services at existing water resources projects owned or operated by the Corps of Engineers. 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 preparedness, response, and recovery activities related to flood and coastal storm emergencies.

The budget does not fund work that should be the responsibility of non-Federal interests or other Federal agencies, such as wastewater treatment, irrigation water supply, and municipal and industrial water supply treatment and distribution.

The fiscal year 2007 budget includes new discretionary funding of \$4.733 billion, the highest civil works budget transmitted to Congress by any President. The estimate for fiscal year 2007 outlays is \$5.846 billion. Enclosure 1 displays the current estimate for the distribution of new discretionary funding among eight appropriation accounts, eight program areas, plus executive direction and management, and five sources including the general fund of the Treasury and trust funds. Enclosure 2 is a crosscut between appropriation accounts and program areas.

A 5-year budget development plan (FYDP) is being provided, as called for in the fiscal year 2006 Energy and Water Development Appropriations Act Conference Report. The FYDP includes three scenarios or projections—one based on the President's proposed fiscal year 2007 budget, one above that level, and one below that level. The projections are formula driven. They do not represent budget decisions or budget policy beyond fiscal year 2007 but they can provide perspective on the Army Civil Works program and budget.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

To date, the Corps has received \$3.3 billion in emergency supplemental appropriations to address the impacts of the 2005 hurricane season. In addition, on February 16 of this year the President transmitted to Congress his request for \$1.46 billion in additional emergency supplemental appropriations to strengthen and improve hurricane and storm protection in the greater New Orleans metropolitan area.

PERFORMANCE-BASED BUDGETING

The fiscal year 2007 budget builds upon lessons learned from the 2005 hurricane season, one of which is the importance of setting spending priorities to meet water resources needs that are the most compelling from a national perspective.

One of my priorities for the Army Civil Works program is to develop the Civil Works budget and manage the program based on objective performance measures. The fiscal year 2007 budget reflects significant progress toward this goal, by focusing funding those activities that are expected to provide the highest net returns to the Nation.

The fiscal year 2007 budget also supports performance-based budgeting by funding ongoing efforts to develop better risk-based facility condition indices and asset management systems. These analytical tools will improve our ability in the future to develop long-term asset management strategies and establish priorities for the operation, maintenance and management of Civil Works assets. Our goal is to begin using these improved analytical tools within 2 years.

The focus on Civil Works program performance has a number of foundations. First, the Civil Works Strategic Plan, which was updated in 2004, provides goals, objectives, and performance measures that are specific to program areas as well as some that are crosscutting. Second, each program area is assessed using the Program Assessment Rating Tool (PART). Both the Civil Works Strategic Plan and the PART-based program evaluations are works in progress and will continue to be updated.

The Environmental Stewardship sub-program and the Formerly Utilized Sites Remedial Action Program were assessed in the most recent assessment period (2005). Based upon the findings of these program assessments, the Corps is taking follow-

up actions to address identified problems. Summaries of all completed civil works program assessments can be found on the administration's new website, www.ExpectMore.gov.

Budget decisions link to performance in a number of ways. First, alternative funding levels relate to alternative performance targets, or levels of outputs and outcomes, as measured by the program area metrics. Second, related metrics and decision guidelines (see "Construction," below) are used to rank work within each account or within each program area.

CIVIL WORKS PROGRAM IMPROVEMENTS

The fiscal year 2007 Civil Works budget proposes five program improvements, as discussed below.

Funding Activities in the Operation and Maintenance Account

In addition to introducing the concept of watershed and system budgeting for operation and maintenance, described in detail below, the budget proposes to fund four types of operation and maintenance-related activities in the Operation and Maintenance account, rather than in the Construction account as has been the case in the recent past. It is appropriate to assign responsibility for these activities to the Operation and Maintenance program, both because of the nature of the work and because of its integral connection to operation and maintenance. This reassignment improves accountability and oversight, reflects the full cost of operation and maintenance, and supports an integrated funding strategy for existing projects. Total fiscal year 2007 funding for the activities being reassigned to the Operation and Maintenance program is about \$340 million. The four types of activities are described in greater detail below.

First, the Operation and Maintenance account would fund activities to comply with Biological Opinions at existing projects pursuant to the Endangered Species Act. These activities facilitate the Corps continuing to operate its existing multi-purpose projects, principally in the Columbia and Missouri River Basins. The compliance costs would be allocated among the project purposes of the operating projects.

Second, the account would fund rehabilitation of existing projects. Rehabilitation work would compete for funding on a level playing field with other operation and maintenance activities. The O&M program would consider each potential investment and develop recommendations based on a long-term strategy for maintaining the existing infrastructure. Fifty percent of the costs of rehabilitations for inland waterway projects would be derived from the Inland Waterways Trust Fund, just as was the case when they were funded in the Construction account.

Third, the account would fund the construction of facilities, projects or features that use maintenance dredging material. These include beneficial uses of dredged material for island and marsh creation, shore protection, and other environmental purposes pursuant to the Section 204/207/933 Continuing Authority Program and specific authorizations (such as for the Poplar Island, Maryland, project). These also include dredged material disposal facilities for material from maintenance dredging (including Indiana Harbor, Indiana, which had been line-item budgeted in the Construction account). Funding for the dredged material disposal facilities would be derived from the Harbor Maintenance Trust Fund, just as was the case when they were funded in the Construction account.

Fourth and finally, funding in the account would be used to replace sand lost from shores due to the operation of Federal navigation projects (navigation mitigation). This activity would be carried out pursuant to specific authorizations for shore protection projects that involve navigation mitigation, and pursuant to the Section 111 Continuing Authority Program. The budget proposes that funding for navigation mitigation be derived from the Harbor Maintenance Trust Fund. The estimated amount for fiscal year 2007 that would be derived from the trust fund for this purpose is \$27 million.

Accompanying the budget is proposed appropriations language that would clarify that these activities are to be funded in the Operation and Maintenance account. For example, the budget proposal includes a provision, which the Congress adopted in the fiscal year 2005 Energy and Water Development Appropriations Act, indicating that among the purposes for which funding is provided is "for the benefit of federally listed species to address the effects of civil works projects owned or operated by the Corps". The budget language also provides that funding for "eligible operations and maintenance" is to be derived from the Harbor Maintenance Trust Fund. Consistent with section 201 of the Water Resources Development Act of 1996, eligible operations and maintenance activities include not only harbor dredging but also the dredged material disposal facilities and navigation mitigation discussed above.

Watershed and System Budgeting for Operation and Maintenance

Although the concept of watershed and system budgeting and program execution for operation and maintenance (O&M) was adopted too late in the budget cycle to be fully implemented in formulating the fiscal year 2007 budget, the O&M budget is presented on a watershed/system basis and, if Congress concurs on the benefit of planning and carrying out the O&M program in accordance with system-wide priorities, then during fiscal year 2007 the O&M program would be managed by watershed and business program, rather than primarily project-by-project.

Proposed fiscal year 2007 funding is consolidated according to Civil Works program areas, such as commercial navigation and flood and storm damage reduction, for each of the 21 major river basins in the United States, as established by the U.S. Geological Survey. The specific projects that would receive funding in each basin also are identified by name. For future fiscal years, the budget not only will be presented by basin or system, but also will be developed in the first place based on basins and systems. Should operation and maintenance work be funded in the manner presented, managers in the field would be better able to adapt to uncertainties and changed conditions throughout the fiscal year, consistent with budget and appropriations decisions.

Repayment of the Judgment Fund

We are proposing that funds that (1) were appropriated in fiscal year 2006 or a prior year, (2) are not needed for the purpose for which they were appropriated, and (3) are carried over unobligated to fiscal year 2007 be reprogrammed to begin to repay the Department of the Treasury's Judgment Fund. The repayments would be for judgments against the United States that were paid by the Fund on Civil Works projects. Currently over \$150 million is owed to the Judgment Fund for Civil Works projects.

Expenses Account

The Expenses account funds the management and executive direction expenses of the Army Corps of Engineers, both at its Headquarters and Major Subordinate Divisions, as well as support organizations such as the Humphreys Engineer Center Support Activity, the Institute for Water Resources, and the Finance Center. In addition, the fiscal year 2007 budget proposes that, beginning in fiscal year 2007, the Office of the Assistant Secretary of the Army for Civil Works—including some indirect and overhead costs not previously allocated to this office—be funded in an expanded Expenses account, rather than in its own separate account or as part of the account funding the other Army Secretariat offices.

Reprogramming and Contracting

The budget proposes reauthorization of sections 101, 106, and 108 of the Energy and Water Development Appropriations Act, 2006, with certain changes. These sections established rules in law for fiscal year 2006 on reprogramming and continuing contracts. I would like to emphasize the programmatic need for one of these changes, namely, that we would no longer require each partially funded contract for operation and maintenance to be a continuing contract, so that the Corps would have the flexibility to use other contracting tools in the O&M program, such as base-plus-options contracts.

STUDIES AND DESIGN

The fiscal year 2007 budget concentrates funding on the 55 most promising studies and preconstruction engineering and design (PED) activities. For the navigation and flood and storm damage reduction studies, performance was assessed based primarily on likely economic benefits and costs. For PED activities for such projects, the estimated ratio of remaining benefits to remaining costs is known, and PED activities were funded for projects with ratios of 4.0 to 1 or greater at a 7 percent discount rate. For aquatic ecosystem restoration studies and PED activities, performance was assessed based on the likelihood of projects that would meet the criteria in the construction guidelines.

The budget provides \$94 million for the Investigations account and \$1 million for investigations within the Mississippi River and Tributaries account. Among the \$95 million total, \$25 million is for the Louisiana Coastal Area study of coastal wetlands restoration; \$20 million is for a national inventory of flood and storm damage reduction projects; \$13 million is for other project-specific studies including a new study needed to support continued land acquisition to further reduce the risk of flood damage in the Atchafalaya Basin; \$4 million is for project-specific PED; \$15 million is for research and development; and \$18 million is for other coordination, data collection, and study activities.

One of my priorities is to improve analytical tools to support water resource planning and decision-making. The budget supports this with robust funding for the Navigation Economic Technologies research program and for the development of benefit evaluation methods for aquatic ecosystem restoration.

CONSTRUCTION

In recent years, many more construction projects have been authorized, initiated, and continued than can be constructed efficiently at any one time. This has led to the postponement of benefits from the most worthy projects, which has significantly reduced overall program performance. To remedy this situation and to achieve greater value to the Nation from the Civil Works construction program, the budget focuses significant funding on the projects that yield the greatest return to the Nation, based upon objective performance criteria.

The budget again proposes performance guidelines to allocate funds among construction projects, including significant refinements to the performance guidelines proposed in 2006. The most significant of these changes is the addition of a non-economic performance criterion covering flood and storm damage reduction projects that address a significant risk to human safety.

Under the guidelines, the budget allocates funds among construction projects based primarily on the remaining economic benefits of projects relative to their remaining costs, their contributions to reducing life-threatening inundation hazards, and the extent to which they cost-effectively contribute to the restoration of nationally or regionally significant aquatic ecosystems where the ecosystems have become degraded as a result of Civil Works projects or to a restoration effort for which the Corps is otherwise uniquely well suited. The 2007 performance guidelines are at Enclosure 3.

The funded construction projects include 6 considered to be national priorities; 14 projects in their final year of construction (including 1 dam safety project); 10 other dam safety, seepage, and static instability correction projects; 1 high priority newly funded project (Washington, DC and vicinity, which will reduce the risk of flood damage to the museums on the National Mall, the Franklin Delano Roosevelt Memorial, and the World War II Memorial and eliminate the temporary closures at 23rd Street and Constitution Avenue, NW, and 2nd and P Streets, SW in downtown Washington, DC); and 60 other ongoing projects. Ninety-one projects are funded altogether.

After adjusting for the work reassigned to the Operation and Maintenance account, the budget provides an increase in construction funding of about \$280 million compared to the fiscal year 2006 budget. This robust funding level enables work on most of the 91 projects, as well as on the ongoing projects reassigned from the construction program to the operation and maintenance program, to proceed at between 80 percent and 100 percent of the maximum rate that the Corps can efficiently spend funds in fiscal year 2007.

For low priority projects that are scheduled to have a construction contract underway at the beginning of fiscal year 2007, the budget provides funding either to complete each ongoing contract, or to terminate it and pay the Federal share of settled claims, whichever is estimated to be less costly. The budget includes \$50 million for this purpose, \$42 million in the Construction account and \$8 million in the Mississippi River and Tributaries account.

CIVIL WORKS PROGRAM AREAS

The Army Civil Works program includes eight program areas, plus oversight/executive direction and management. The eight program areas are commercial navigation, flood and coastal storm damage reduction, aquatic ecosystem restoration, recreation, hydropower, water supply, emergency management, and the regulatory program. Budget proposals for the eight program areas are discussed below.

Emergency Management and Flood and Coastal Storm Damage Reduction

The budget for Emergency Management and Flood and Coastal Storm Damage Reduction reflects a sharpened focus on flood and hurricane preparedness and damage reduction.

The budget provides \$20 million in the Investigations account for a national inventory and database of flood and storm damage reduction projects, and for developing and testing methods to assess the structural and operational integrity and the associated risks of such projects. This effort will dovetail with the Corps' ongoing risk assessment for its portfolio of dams.

The budget provides \$81 million in the Flood Control and Coastal Emergencies account for planning, preparedness, and response to flood and storm emergencies,

and for rehabilitation of damaged flood and storm damage reduction projects. This is an increase of \$11 million over the fiscal year 2006 budget. Our experience during the 2005 hurricane season underscores the need for securing funds in advance for such purposes, and we urge the Congress to include this funding in the annual Energy and Water Development Appropriations Act.

The budget continues to support Federal participation in the initial phase of authorized beach nourishment projects for storm damage reduction and ecosystem restoration purposes. The budget continues the policy of funding Federal involvement in long-term, follow-on periodic renourishment only to the extent that the operation and maintenance of Federal navigation projects is the reason for the sand loss on shorelines.

Commercial Navigation

The amount budgeted for the construction and rehabilitation of inland waterway projects, \$394 million, is the highest amount ever included in a Civil Works budget. This funding will help ensure the continued efficiency and reliability of our principal inland waterways. Work will begin on rehabilitation of Lock and Dam 27, Illinois and Missouri, and Markland Lock and Dam, Indiana and Kentucky. The budget focuses operation and maintenance funding for the inland waterways on those segments that support high volumes of commercial traffic, including the Mississippi, Ohio, and Illinois waterways.

The budget gives priority to the operation and maintenance of harbors with high volumes of commercial traffic. The budget also funds harbors that support significant commercial fishing, subsistence, public transportation, harbor of refuge, national security, or safety benefits.

As discussed earlier, the budget provides funding under the operation and maintenance program for authorized beach renourishment work to the extent needed to replace sand lost due to Federal navigation operation and maintenance. This work is now part of the commercial navigation program area.

Aquatic Ecosystem Restoration

The budget includes \$164 million for the Corps contribution to the Everglades restoration effort. Of this amount, \$35 million is for the Corps to continue to participate financially in the Modified Water Deliveries project, along with the National Park Service. Within this amount, the budget also includes funds to initiate additional work on the Kissimmee River, continue the pilot aquifer storage and recovery projects program, continue other planning and design work on the Comprehensive Everglades Restoration Plan, and examine flows in the vicinity of Lake Okeechobee.

The budget provides \$27 million for the Upper Mississippi Restoration Program, including \$3 million for a study needed to establish priorities for the next 10 years for this nationally significant effort. To address the continuing loss of wetlands along the Louisiana coast, the budget provides \$20 million to continue planning and design for the Louisiana Coastal Area aquatic ecosystem restoration program and \$5 million for the science program supporting this effort.

As discussed above, the budget proposes that measures at operating projects to comply with Biological Opinions pursuant to the Endangered Species Act be funded from the Operation and Maintenance account and allocated among project purposes.

Regulatory Program

The President's budget provides \$173 million to the Corps Regulatory Program to protect wetlands and other waters of the United States. This represents a \$15 million increase compared to fiscal year 2006 appropriations, which would result in a total increase of 20 percent in funding over the last 3 years. One of my priorities for the Civil Works program is to improve the effectiveness of aquatic resource protection and the efficiency of permit reviews and decision-making. The added funds will be used to improve permit processing times, increase aquatic resource protection, and advance watershed-based approaches.

Investing in the Regulatory Program is a win-win proposition. The added funds will enable most public and private development to proceed with minimal delays, while ensuring that the environment is protected consistent with the Nation's water quality laws.

Recreation

The fiscal year 2007 budget proposes a recreation modernization initiative for Civil Works recreation facilities, based on a promising model now used by other major Federal recreation providers such as the National Park Service and the Forest Service. The administration has proposed legislation for the Corps to use additional fees and other revenues to upgrade and modernize recreation facilities at the sites where this money is collected.

Specifically, the legislation includes authority for the Corps to charge entrance fees and other types of user fees where appropriate, and to cooperate with non-Federal park authorities and districts. The Corps would use collections above a \$37 million per year baseline to provide facility modernizations and upgrades.

Hydropower

The budget provides funding for hydropower operation and maintenance costs, as well as funding for ongoing replacements at three hydropower projects. Unlike the budgets of recent years, the budget does not propose that Federal power marketing administrations directly fund the costs of hydropower operation and maintenance.

Environmental Stewardship

Corps of Engineers-administered lands and waters cover 11 million acres. That is equal in size to the area of the States of Vermont and New Hampshire. The budget proposes a total of \$89 million for environmental stewardship for these resources. Funded activities include shoreline management, protection of natural resources, continuation of mitigation activities, and protection of cultural and historic resources.

Oversight and Executive Direction and Management

The fiscal year 2007 budget provides \$164 million for the Expenses account. This account funds executive direction and management activities of the Corps headquarters, the Corps division offices, and related support organizations that pertain to Civil Works.

In addition, \$6 million of the funding for the Expenses account is for the Office of the Assistant Secretary of the Army (Civil Works). This amount is needed to cover not only the Assistant Secretariat share of costs that are usually allocated among offices in the Headquarters, Department of Army, but also the appropriate share of centrally managed and ordinarily non-allocated costs. The inclusion of funding for these purposes is in accordance with the direction in the fiscal year 2006 Conference Report.

The Budget proposes to finance audits through the Revolving Fund. The costs would be allocated among and then charged back to the benefiting accounts as a normal cost of doing business.

PRESIDENT'S MANAGEMENT AGENDA

The Army Civil Works program is pursuing five government-wide management initiatives, as are other Federal agencies. These are competitive sourcing, strategic management of human capital, financial management, e-government, and budget-performance integration. The Army Civil Works program also is participating in the initiative for real property asset management.

The Office of Management and Budget scores the status of each agency in implementing each initiative. Like most agencies, the Army Civil Works program started out with "red" stoplight scores across the board. On four initiatives—all but competitive sourcing and human capital—Civil Works status is still red. We are working to improve our progress and status and welcome your support of our efforts.

CONCLUSION

At \$4.733 billion, the fiscal year 2007 Army Civil Works budget is the highest Civil Works budget in history.

The budget reflects progress in performance-based budgeting, as called for in the President's management agenda. In developing this budget, we made explicit choices based on performance. The emphasis on the completion of high-performing construction projects, preparedness for and mitigation of flood and hurricane hazards, and improved execution of the Regulatory Program, for example, reflect a performance-based approach.

The Army Civil Works budget for fiscal year 2007 will enable the Civil Works program to move ahead with more resources to pursue investments that will yield good returns for the Nation in the future. The budget represents the wise use of funding to advance worthy, mission-based objectives. I am proud to present it.

Thank you, Mr. Chairman and members of the subcommittee, for this opportunity to testify on the President's fiscal year 2007 budget for the Civil Works program of the Army Corps of Engineers.

ENCLOSURE 1.—DEPARTMENT OF THE ARMY CORPS OF ENGINEERS—CIVIL WORKS BUDGET
SUMMARY, FISCAL YEAR 2007

	Amount
Requested New Appropriations by Account:	
Investigations	\$94,000,000
Construction	1,555,000,000
Operation and Maintenance	2,258,000,000
Regulatory Program	173,000,000
Flood Control, Mississippi River and Tributaries	278,000,000
Expenses	164,000,000
Flood Control and Coastal Emergencies	81,000,000
Formerly Utilized Sites Remedial Action Program	130,000,000
TOTAL	4,733,000,000
Requested New Appropriations by Program Area:	
Commercial Navigation	1,926,000,000
Flood and Coastal Storm Damage Reduction	1,291,000,000
Environment	539,000,000
(Aquatic Ecosystem Restoration)	(320,000,000)
(FUSRAP)	(130,000,000)
(Natural Resources)	(89,000,000)
Hydropower	285,000,000
Recreation	267,000,000
Water Supply	2,000,000
Emergency Management	86,000,000
(Flood Control and Coastal Emergencies)	(81,000,000)
(National Emergency Preparedness)	(5,000,000)
Regulatory Program	173,000,000
Executive Direction and Management	164,000,000
TOTAL	4,733,000,000
Sources of New Appropriations:	
General Fund	3,791,000,000
Harbor Maintenance Trust Fund	707,000,000
Inland Waterways Trust Fund	197,000,000
Special Recreation User Fees	37,000,000
Disposal Facilities User Fees	1,000,000
TOTAL	4,733,000,000
Additional New Resources:	
Rivers and Harbors Contributed Funds	445,000,000
Coastal Wetlands Restoration Trust Fund	75,000,000
Permanent Appropriations	18,000,000
TOTAL	538,000,000
Total New Program Funding	5,271,000,000

ENCLOSURE 2.—DEPARTMENT OF THE ARMY—CORPS OF ENGINEERS—CIVIL WORKS BUDGET, FISCAL YEAR 2007—CROSSCUT BETWEEN APPROPRIATION ACCOUNTS AND PROGRAM AREAS

	Navigation	Flood/Storm	Recreation	Aq. Eco. Rest.	Env. Steward.	FUS-RAP	Hydro-Power	Water Supply	Emerg. Mgmt.	Reg. Prog.	ED&M	TOT
Investigations	23	34		37								94
Construction	596	653		278			28					1,555
Operation/Maint.	1,270	387	253		84		257	2	5			2,258
MR&T—I		1										1
MR&T—C	14	111		5								130
MR&T—M	23	105	14		5							147
FUSRAP						130						130
FC&CE									81			81
Regulatory Expenses										173		173
											164	164
TOTAL	1,926	1,291	267	320	89	130	285	2	86	173	164	4,733

ENCLOSURE 3.—DEPARTMENT OF THE ARMY—CORPS OF ENGINEERS—CIVIL WORKS
 BUDGET, FISCAL YEAR 2007—PERFORMANCE BUDGETING GUIDELINES FOR CIVIL
 WORKS CONSTRUCTION

The budget for the construction account allocates funds based on the following seven performance-based guidelines, which improve the overall performance of the construction program by redirecting funds to high-performing projects and limiting new construction starts.

1. *Project rankings within mission areas.*—All ongoing, specifically authorized construction projects, including projects funded in the Mississippi River and Tributaries account, will be assigned based upon their primary purpose to one of the main mission areas of the Corps (flood and storm damage reduction; commercial navigation; aquatic ecosystem restorations) or to hydropower. Projects, except for aquatic ecosystem restoration projects, will be ranked by their remaining benefits divided by their remaining costs (RBRC), calculated at a 7 percent real discount rate. Aquatic ecosystem restoration projects will be ranked by the extent to which they cost effectively contribute to the restoration of a nationally or regionally significant aquatic ecosystem that has become degraded as a result of a Civil Works project, or to a restoration effort for which the Corps is otherwise uniquely well-suited (e.g., because the solution requires complex alternations to the hydrology and hydraulics of a river system).

2. *Project completions.*—Each project with an RBRC of 3.0 or greater that can be completed in the budget year with a final increment of funding will receive the balance of funding needed to complete construction and related administrative activities. Likewise, each aquatic ecosystem restoration project that cost-effectively contributes to the restoration of a nationally or regionally significant aquatic ecosystem that has become degraded as a result of a civil works project, or to a restoration effort for which the Corps is otherwise uniquely well-suited, and that can be completed in the budget year with a final increment of funding will receive the balance of funding needed to complete construction and related administrative activities.

3. *Projects with very high economic and environmental returns.*—The projects with the highest RBRCs (or that are the most cost-effective in contributing to the restoration of a nationally or regionally significant aquatic ecosystem that has become degraded as a result of a Corps project, for aquatic ecosystem restoration) will receive not less than 80 percent of the maximum level of funding that the Corps can spend efficiently in each fiscal year.

4. *Projects with a low priority.*—All ongoing flood and storm damage reduction, commercial navigation, and hydropower constructions projects that have RBRCs below 3.0, except for flood and storm damage reduction projects that are funded in the budget to address significant risk to human safety, will be considered for deferral. All ongoing aquatic ecosystem restoration projects that do not cost-effectively contribute to the restoration of a nationally or regionally significant aquatic ecosystem restoration that has become degraded as a result of a Civil Works project, and do not cost-effectively address a problem for which the Corps is otherwise uniquely well-suited, and are less than 50 percent complete will be considered for deferral. Where a project considered for deferral was previously budgeted, the budget will include funding to cover the cost of terminating or completing each ongoing contract, whichever is less. Budget year and future year savings from project suspensions (after covering the cost of terminating or completing ongoing contracts) will be used to accelerate the projects with the highest net economic and environmental returns.

5. *New starts and resumptions.*—The budget will provide funds to start up new construction projects, and to resume work on ongoing construction projects on which the Corps has not performed any physical work under a construction contract during the past 3 consecutive fiscal years, only if the project would be ranked in the top 20 percent of the ongoing construction projects in its mission area that year.

The term “physical work under a construction contract” does not include activities related to project planning, engineering and design, relocation, or the acquisition of lands, easements, or rights-of-way. For non-structural flood damage reduction projects, construction begins in the first fiscal year in which the Corps acquires lands, easements, or rights-of-way primarily to relocate structures, or performs physical work under a construction contract for non-structural project-related measures. For aquatic ecosystem restoration projects, construction begins in the first fiscal year in which the Corps acquires lands, easements, or rights-of-way primarily to facilitate the restoration of degraded aquatic ecosystems including wetlands, riparian areas, and adjacent floodplains, or performs physical work under a construction contract to modify existing project facilities primarily to restore the aquatic

ecosystem. For all other water resources projects, construction begins in the first fiscal year in which the Corps performs physical work under a construction contract.

6. *Other cases.*—All other ongoing construction projects will receive not more than the amount needed to meet earnings permitted under ongoing multi-year contracts and related costs, except for flood and storm damage reduction projects that are funded in the budget to address significant risk to human safety, which will receive at least the funding needed to pay contractor earnings and related costs.

Dam safety assurance, seepage control, and static instability correction projects that are funded in the budget for construction will receive the maximum level of funding that the Corps can spend efficiently in each fiscal year.

Projects that are funded in the budget for construction will receive the amount needed to ensure that they comply with treaties and with biological opinions pursuant to the Endangered Species Act, and meet authorized mitigation requirements.

7. *Ten percent rule.*—Up to a total of 10 percent of the funding available for construction may be allocated to ongoing construction projects regardless of the guidelines above. However, this may not be used to start up or resume any project.

The budget proposes that the administration and the Congress apply these guidelines to the Corps construction account and to the construction activities in the Mississippi River and Tributaries account.

Senator DOMENICI. Thank you very much.

General.

STATEMENT OF LIEUTENANT GENERAL CARL A. STROCK, CHIEF OF ENGINEERS

General STROCK. Mr. Chairman and members of the committee: I am honored to be testifying before you today with the Honorable John Paul Woodley on the President's fiscal year 2007 budget for the Army civil works program. If I may, I would like to briefly summarize the key points of my testimony and include my complete statement for the record.

Senator DOMENICI. Please do and that will be done.

General STROCK. Good, sir.

This budget is a performance-based budget that reflects the realities of the national budget, supporting the Nation's recent natural disasters and the global war on terror. This budget focuses construction on funding of 63 projects that will provide the highest returns on the Nation's investment, including 11 dam safety projects. Funds will be used for critical water resources infrastructure that improves the quality of our citizens' lives and provides a foundation for national economic growth and development.

The budget incorporates performance-based metrics for continued efficient operation of the Nation's waterborne navigation, flood control, and other water resource management infrastructure, fair regulation of wetlands, and restoration of important environmental resources.

There are six national priority construction projects funded in the construction program. They are: the New York-New Jersey Harbor Deepening Project; the Oakland River—the Oakland Harbor Deepening Project; construction of Olmstead Locks and Dam in Illinois and Kentucky; the Florida Everglades and South Florida Ecosystem; the Side Channels of the Upper Mississippi River System; and Sims Bayou in Houston, Texas; and two others, the Missouri River Restoration and the Columbia River Restoration, both funded in the operations and maintenance account.

This budget also provides the quality of recreation services through stronger partnerships and modernization. The budget provides approximately \$65.3 million to complete 14 projects, including one dam safety project, in 2007. As part of a comprehensive

strategy to reduce the construction backlog, the fiscal year 2007 budget funds projects that provide the highest returns and are consistent with current policies. In all, 91 projects are funded so that we can provide benefits to the Nation sooner.

The fiscal year 2007 budget includes \$2.258 billion for the operations and maintenance program and I can assure you that I will continue to do all that I can to make these programs as cost effective and efficient as possible.

Domestically, more than 8,000 volunteers from around the Nation have deployed to help citizens and communities on the gulf coast in the aftermath of Hurricanes Katrina, Rita, and Wilma. Even now, more than 6 months after Hurricane Katrina, 2,000 USACE volunteers continue to execute our FEMA-assigned disaster recovery missions along the gulf coast and to accomplish the critical restoration work of the New Orleans Area Levee System.

Internationally, the U.S. Army Corps of Engineers remains committed to the monumental task of helping to rebuild the infrastructure and economies of Iraq and Afghanistan, and more than 1,700 USACE volunteers have deployed to Iraq since 2003. They continue to make progress toward this Nation's goals of restoring the security and quality of life for all Iraqis and Afghans as they pursue democracy and freedom.

The Corps' Gulf Regional Division has overseen the initiation of 3,000 reconstruction projects and the completion of more than 2,100. These projects make a difference in the everyday lives of the Iraqi people and are visible signs of progress.

The water resources management infrastructure has improved the quality of our citizens' lives in support of the economic growth and development of this country. Our systems of navigation, flood, and storm damage reduction projects and efforts to restore aquatic ecosystems contribute to our national welfare.

PREPARED STATEMENT

In closing, the Corps is committed to selflessly serving the Nation and I truly appreciate your continued support in this end. Thank you, Mr. Chairman and members of the committee. This concludes my statement.

[The statement follows:]

PREPARED STATEMENT OF LIEUTENANT GENERAL CARL A. STROCK

Mr. Chairman 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 John Paul Woodley, Jr., on the President's fiscal year 2007 budget for the United States Army Corps of Engineers' Civil Works Program.

My statement covers the following 3 topics:

- Summary of fiscal year 2007 Program Budget,
- Civil Works Backlog,
- Value of the Civil Works Program to the Nation's Economy, and to the Nation's Defense.

SUMMARY OF FISCAL YEAR 2007 PROGRAM BUDGET

Introduction

The fiscal year 2007 Civil Works Budget is a performance-based budget, which 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 risk to human safety. The Civil Works Program, including the Direct and Reimbursed

programs, is expected to involve total spending (Federal plus non-Federal) of \$7.3 billion to \$8.3 billion. The exact amount will depend on assignments received from the Federal Emergency Management Agency (FEMA) for hurricane disaster relief and from the Department of Homeland Security for border protection facilities.

Direct Program funding totals \$5.271 billion, consisting of discretionary funding of \$4.733 billion and mandatory funding of \$538 million. The Reimbursed Program funding is projected to involve an additional \$2 billion to \$3 billion.

Direct Program

The budget reflects the administration's commitment to continued sound development and management of the Nation's water and related land resources. It incorporates performance-based metrics for the construction program, funds the continued operation of commercial navigation and other water resource infrastructure, provides a needed increase in funding for the regulation of the impacts of development on the Nation's wetlands, and supports restoration of nationally and regionally significant aquatic ecosystems, with emphasis on the Florida Everglades, the Upper Mississippi River, and the coastal wetlands of Louisiana. It also improves the quality of recreation services through stronger partnerships and modernization.

The budget emphasizes the construction and completion of water resources projects that will provide a high return on the Nation's investment in the Corps' primary mission areas. There are 91 projects, including 6 national priority projects; 14 projects in their final year of completion (including 1 dam safety project); 10 other dam safety assurance, seepage control, and static instability correction projects; 1 high priority newly funded project (Washington, DC and vicinity, which will reduce the risk of flood damage to the museums on the National Mall, the Franklin Delano Roosevelt Memorial, and the World War II Memorial and eliminate the temporary closures at 23rd Street and Constitution Avenue, NW, and 2nd and P Streets, SW in downtown Washington, DC); and 60 other ongoing projects. The focus of this budget is on providing the highest net economic and environmental returns on the Nation's investment and addressing significant risk to human safety.

Reimbursed 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, while maintaining and enhancing capabilities for execution of our Civil and Military Program missions. These customers rely on our extensive capabilities, experience, and successful track record. The work is principally technical oversight and management of engineering, environmental, and construction contracts performed by private sector firms, and is fully funded by the customers.

Currently, we provide reimbursable support for about 60 other Federal agencies and several State and local governments. Total reimbursement for such work in fiscal year 2007 is projected to be \$2.0 billion to \$3.0 billion. The exact amount will depend on assignments received from the Federal Emergency Management Agency (FEMA) for hurricane disaster relief and from the Department of Homeland Security for border protection facilities.

CIVIL WORKS BACKLOG

The budget addresses the construction backlog primarily by proposing that the administration and the Congress use objective performance measures to establish priorities among projects including potential new starts, and through a change in Corps contracting practices to increase control over future costs. The measures proposed include the ratio of remaining benefits to remaining costs for projects with economic outputs; the extent to which the project cost-effectively contributes to the restoration of a nationally or regionally significant aquatic ecosystem that has become degraded as a result of a Civil Works project or to an aquatic ecosystem restoration effort for which the Corps is otherwise uniquely well-suited; and giving priority to dam safety assurance, seepage control, static instability correction, and projects that address significant risk to human safety. With the exception of up to 10 percent of the available funds that could be allocated to any project under construction regardless of performance, resources are allocated based on Corps estimates to achieve the highest net economic and environmental returns and to address significant risk to human safety. Over time, this approach would significantly improve the benefits to the Nation from the Civil Works construction program.

We believe that narrowing the focus of our effort to fund and complete a smaller, more beneficial set of projects will improve overall program performance and bring higher net benefits per dollar to the Nation sooner. That is why the budget proposes

only one new, high priority construction start and accelerates completion of the highest-return projects.

Maintenance Program

The facilities owned and operated by, or on behalf of, the Civil Works Program are aging. As stewards of this infrastructure, we are working to ensure that it continues to provide an appropriate level of service to the Nation. Sustaining such service poses a technical challenge in some cases, and proper operation and maintenance also is becoming more expensive as this infrastructure ages.

The operation and maintenance program supports the operation, maintenance and security of existing commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration works owned and operated by, or on behalf of, the Corps of Engineers, including administrative buildings and laboratories. Funds are also included for national priority efforts in the Columbia River Basin and Missouri River Basin to support the continued operation of Corps of Engineers multi-purpose projects by meeting the requirements of the Endangered Species Act. Other work to be accomplished includes dredging, repair, and operation of structures and other facilities, as authorized in the various River and Harbor, Flood Control, and Water Resources Development Acts. Related activities include aquatic plant control, monitoring of completed coastal projects, and removal of sunken vessels.

The Operation and Maintenance program for the fiscal year 2007 budget consists of \$2.258 billion in the operation and maintenance account and \$147 million under the Mississippi River and Tributaries program. To improve accountability and oversight, reflect the full cost of operating and maintaining existing projects, and support an integrated investment strategy, the fiscal year 2007 Civil Works budget transfers several activities to the O&M program from the construction program. This budget also organized operation and maintenance activities by river basin and by mission area to set the stage for improved management of Civil Works assets and more systematic budget development in future years. Furthermore, we are searching for ways to reduce costs and thereby accomplish more with available resources.

The fiscal year 2007 budget also supports performance-based budgeting for the operation and maintenance program by funding ongoing efforts to develop better risk-based facility condition indices and asset management systems. These analytical tools will improve our ability in the future to develop long-term asset management strategies and establish priorities for the operation, maintenance and management of Civil Works assets. Our goal is to begin using these improved analytical tools within 2 years.

VALUE OF THE CIVIL WORKS PROGRAM TO THE NATION'S ECONOMY AND DEFENSE

We are privileged to be part of an organization that directly supports the President's priorities of winning the global war on terror, securing the homeland and contributing to the economy.

The National Welfare

The way in which we manage our water resources can improve the quality of our citizens' lives. It has affected where and how people live and influenced the development of this country. The country today seeks economic development as well as the protection of environmental values.

Domestically, more than 8,000 USACE volunteers from around the Nation have deployed to help citizens and communities along the Gulf Coast in the aftermath of Hurricanes Katrina, Rita, and Wilma. Even now, more than 6 months after Hurricane Katrina, 2,000 USACE volunteers continue to execute our FEMA-assigned disaster recovery missions along the Gulf Coast, and to work on rebuilding the New Orleans-area levee system.

As to Hurricane recovery—the Corps of Engineers is repairing significant damages to reaches of federally constructed levees, floodwalls and other features, repairing damaged pumping stations that were constructed or modified as a part of the Southeast Louisiana Urban Flood Control project, and repairing non-Federal levees and pump stations. Along the three outfall canals, we are installing interim closure structures and temporary pumps until a more permanent solution can be implemented. We have also initiated analyses that will explore options to improve protection along the Louisiana and Mississippi Coasts.

Mr. Chairman, we continue to work with you, this subcommittee, and other members of Congress on the authorization and funding proposed by the administration for modifications that will strengthen the existing hurricane protection system for New Orleans.

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 providing more cost-effective ways to operate and maintain infrastructure, Civil Works Program research and development contributes to the national economy.

The National Defense

Internationally, the U.S. Army Corps of Engineers remains committed to the monumental task of helping to rebuild the infrastructures and economies of Iraq and Afghanistan. Corps' Civilians and Soldiers continue to make progress toward this Nation's goals of restoring the security and quality of life for all Iraqis and Afghans as they pursue democracy and freedom.

More than 1,700 USACE volunteers have deployed to Iraq since 2003. The Corps' Gulf Region Division has overseen the initiation of nearly 3,000 reconstruction projects and the completion of more than 2,100. These projects make a difference in the every day lives of the Iraqi people, and are visible signs of progress.

In Afghanistan, the Corps is spearheading construction projects for the Afghan national army and national police, supporting USAID, and executing important public infrastructure and humanitarian projects.

CONCLUSION

The Corps of Engineers is committed to staying at the leading edge in service to the Nation. In support of that, we are working with others to transform our Civil Works Program. We're committed to change that leads to open, transparent modernization, and a performance-based Civil Works Program.

Thank you, Mr. Chairman and members of the committee. This concludes my statement.

Senator DOMENICI. Thank you very much.

Now, I want to make a little announcement which I think we all know up here, but let us make sure you know out there. The Majority Leader has indicated to us Republicans that at 3:15 he would like all Republicans present on the floor of the Senate. He is going to address the issue that is before the Senate. And we will try to be there. That is not mandatory for you all.

Senator DORGAN. Is it advisable?

Senator DOMENICI. It is whatever you will do.

What I would suggest, if you have no desire to go down and be part of that, I am willing to say you proceed if you be careful and do things right, and I am sure you will.

Now, we are going to—with your permission, I think we are going to use the time between now and 3:15 without yielding to you all and then give it to you. Everything will turn off. When we give it over to you, it will turn off 15 minutes after you take over. It will turn off, everything. So you will have 15 minutes also. I am kidding you.

The two Senators on this side, you want to split a little time and leave me a little at the end?

Senator ALLARD. I do not think I will take too long. I just have two or three important questions.

Senator DOMENICI. Proceed, Senator.

Senator ALLARD. I want to get back to this Fountain Creek Watershed Study in Colorado. How much has been expended by the Federal Government to conduct that study to date?

General STROCK. Sir, we have spent \$65,000 through fiscal year 2003.

Senator ALLARD. Not anywhere near a match of 50 percent of what local governments have spent, is that correct?

General STROCK. Yes, sir.

Senator ALLARD. Please share with me how you set priorities for the budget and why the funding for the Fountain Creek Study wasn't included this time around?

Mr. WOODLEY. Senator, in general the priorities within the general investigations account were set in accordance with the same priorities that are used with respect to the construction account, on the concept that the one would lead into the other. But this year our general investigations allocation was very severely constrained because it was largely devoted to two very large efforts that we are undertaking, one with respect to the Louisiana Coastal Area Restoration Study and the other is in a \$20 million request for a nationwide study and inventory of flood control structures, and in particular levees. So that put enormous constraints and very, very many very worthy studies were not able to be included in this year's budget request.

Senator ALLARD. Is that the same problem we are running into with the tamarisk removals? There are tamarisk removal projects I think all over the West. It is a water-drinking tree.

Mr. WOODLEY. Yes, sir, I am very familiar with salt cedar.

Senator ALLARD. And you do not have any plans to conduct any more of those removal projects in the West?

Mr. WOODLEY. I would have to get back to you on that. I will tell you that I would advocate for that. That is a very important—and indeed, the chairman and I have visited the Bosque in his home State, in which a great part of our effort that is ongoing along that watershed at Albuquerque is to remove the tamarisk salt cedar. It is something we are finding all over our properties and I think I would advocate for a concerted national effort to rid our areas of that.

Senator ALLARD. I think that is going along the Rio Grande in New Mexico. We have got the Rio Grande in Colorado and we also have the Arkansas and Colorado Rivers. So I am particularly interested in your responding as far as the Colorado projects in the West. I would like to get that information when you get a chance.

Mr. WOODLEY. Absolutely, yes, sir. I will get back to you on that.

Senator ALLARD. Very good.

Then I will stop right there, Mr. Chairman, so you and the other members can—

General STROCK. Senator, if I could quickly amend my answer to you. The \$65,000 I cited was through 2003, but since that time, in 2004 and 2005, we have had a total of \$937,000 against the project.

Senator ALLARD. Nine hundred thirty-seven thousand dollars?

General STROCK. And in 2006 \$125,000, for a total of \$1,032,000, which is matched by the State, and that is where we are now.

Senator ALLARD. Yes, okay. I appreciate that. Thank you.

Senator DOMENICI. General, I am going to talk about Katrina a little bit. I am sure that the distinguished Senator from Louisiana is going to follow up on a lot of this, but I want to go through as much as I can, and what I do not get through I am going to submit to you to answer.

First of all, General, can you give us a quick status update on the current rebuilding efforts?

General STROCK. Yes, sir. Currently our main target is by June 1 of this year to have the entire system restored and repaired to where it was when Katrina hit, and we are on target to do that, sir.

Senator DOMENICI. I have been told that the United States Geological Survey says that the storm surge from Hurricane Katrina is the greatest recorded storm surge to ever hit the United States. Can you confirm this was in fact a large hurricane that struck, contrary to what may have been said? And is that, is what I have just said, true?

General STROCK. Sir, I cannot personally confirm that. I have heard that cited, but I have not heard that directly from the USGS. But I do understand that is the case. I know that it was such a large system and storm surge, that it destroyed most of the gauges that would tell us what actually occurred.

Senator DOMENICI. So do you think the USGS can confirm this or do you think they cannot, what I have just said?

General STROCK. I am sure they can, yes, sir. I have absolute confidence in the USGS, yes, sir.

Senator DOMENICI. If we want that we should get it from them?

General STROCK. Yes, sir.

Senator DOMENICI. Along with everyone else, I have read articles from various experts about the levee failures in New Orleans. Most of those experts have indicated that the Corps was aware of potential problems with the levees as designed and constructed. Further, there has been considerable comment that the levees should have withstood the effects of Katrina.

General, I need to know from you, what is the Corps' response? Is there any fire to go with all this smoke or is this speculation from self-described experts without access to real concrete data?

General STROCK. Sir, that is a tough one to answer. I think that if you look at the history of these projects, the Lake Pontchartrain study, which is the one, the project which actually failed during the event, was authorized in 1965, so there have been literally generations of people involved in this. To say that at some point in this there may have been some concerns expressed about adequacy of designs and so forth, I really do not know.

I can tell you that as an institution we were not aware of any particularly hazardous situations. Each time we are confronted with that, we do look into that and ensure that we did not have previous knowledge of any potential vulnerabilities in the system.

Senator DOMENICI. Can you give us for the record a brief overview of the findings from the inter-agency performance evaluation team to date?

General STROCK. Yes, sir. For the record or here, sir? Here. Sir, I would be happy to expand in the record, but I can tell you that we have gotten to the point now where the IPET has reached some conclusions about the performance of the system. Specifically, in the 17th Street Canal area we have now concluded that we did have a problem with the design of the structures there, something we had hoped would not be the case, but now must confront that as a reality.

That finding is being reviewed by the American Society of Civil Engineers and we expect their response to that soon. So that is one of the most significant findings to date.

Other findings that the IPET has arrived at have to do with the storm surge in the Mississippi River gulf outlet, "MRGO," and the conclusion on that is that it does contribute to some degree in storm surge on the inner harbor, but to a very small degree. Point-two of a foot is being attributed to MRGO and I think that is an important aspect to consider in the future.

But sir, the most dramatic conclusion is that, yes, we had a design problem and that there may be other elements in the system designed along that way that need to be addressed.

Senator DOMENICI. As I understand the current situation concerning the levee rebuilding, funding provided through enacted supplemental appropriations will complete the levee system as currently authorized. This includes rebuilding levees to the authorized levels, that is to the authorized level of protection, I should say, as well as repairing non-Federal levees and pump stations. This system was not completed before Katrina; is that correct?

General STROCK. Sir, the system was not completed before Katrina. There are several projects involved in this, about six in all. Our estimate is that we have sufficient funding to complete those systems by September 1, 2007, and with the third supplemental to provide some enhancements like those you discussed.

I must caveat somewhat, though, sir, because the IPET results call into question the flood walls that we are using, we may have to replace some of the flood wall sections. Replacement of flood walls is not currently in our current estimates, with some small exceptions in the inner harbor area. So there may be an additional requirement to rebuild flood walls as we get into this. But generally speaking, we feel like we have sufficient funding.

Senator DOMENICI. I am not going to have time to go through this very difficult and bothersome issue of the \$6 billion authorization that has been alluded to by Director Powell and what should be done with it. Suffice it to say that I will submit to you three, four questions regarding that whole situation. Would you answer them as soon as you can?

General STROCK. Yes, sir.

Senator DOMENICI. Then I have a number of questions on continuing contracts and reprogramming, which were very difficult for us to handle in this budget. We had a very hard time as we tried to put it together. I will submit those to you and you can answer them as soon as possible.

General STROCK. Yes, sir.

Senator DOMENICI. Now, having done that, I am going to yield the gavel to you, Senator, and you do it as you see fit between the two of you, and we may return and we may not. But would you close it if we do not?

Senator DORGAN. Senator Landrieu, what did you want to say?

Senator LANDRIEU. Before Senator Domenici leaves, I just wanted to thank him for his focus on this Katrina-gulf coast issue. He has really been focused, as has his staff, with trying to come up with solutions as well as suggestions. So thank you, Senator, and I will have some others to follow up.

Senator DOMENICI. I did not mean to be critical. The General understands. These questions I am asking have to come out and we have to decide how to fix this, and it is very difficult to explain to the public and we need your help in explaining it. The authorized level and all this business, it does not mean much to people, but it is very, very much the order of the day for us on where we spend, why we spend, what we did not spend. So we need to work together on it.

General and Mr. Secretary, thank you. Thanks for your help in New Mexico, too. I skipped over that. Particularly, I thank you for the Acequias funding. Since you funded it, I am not going to ask you whether you can say it or not. Normally I try to find out if you can pronounce it, but if you can put the money in I do not care whether you can pronounce it or not.

Thank you very much.

General STROCK. Thank you, sir.

Senator DORGAN. Senator Domenici, thank you very much, and we will ask our questions and then adjourn the hearing, after we have done some legislative business.

Senator LANDRIEU. You do it, we will fix it.

Senator DORGAN [presiding]. At any rate, we appreciate the courtesy of Senator Domenici.

Let me ask a couple of questions, and state first that at the moment the Red River is running north. It is flooding, well above flood stage at Wapaton, crested now, we believe, yesterday in Fargo. It is now being steered through the city of Grand Forks.

This budget requests the final \$12 million for the flood control project in Grand Forks. We appreciate that. We have spent a lot of money on flood control projects up and down the Red River. That is I think a success story for the Corps of Engineers and we appreciate very much the work the Corps has done and believe that this is the last contingent of money that is required to complete the Grand Forks flood control project. So I want to say, especially in areas where we have seen really excellent work by the Corps, that we appreciate that, because we are experiencing this flood. I think it is the third highest in history, these crests, not so far from the 1997 crest in which the entire city of Grand Forks was evacuated. It is a pretty aggressive flooding.

Let me ask General Strock and Secretary Woodley about a parochial issue, but nonetheless an important one, the Fort Stevenson Marina Project at Fort Stevenson in North Dakota. The Corps of Engineers built a marina at Fort Stevenson and in half of the years you have not been able to see the water from the marina, so it has been unusable. I have been up there many times.

We finally created a circumstance where the Corps said they will move over—it is about 1 mile—and do a deeper water marina. It is not something that would break the bank, but the Corps made a commitment to do that. They were going to reprogram funds to do it. Now I think there is a question of whether the Corps is prepared and willing to proceed.

Can you tell me what the current thinking of the Corps is and what your commitment is?

General STROCK. Sir, what I do have on that is that we estimate that it is about an \$11 million requirement to accomplish the move-

ment of the marina. And yes, water is down, as it is throughout the northern reservoirs. And I would assume, since we have identified the cost associated, we feel like we can do it. But we simply do not have the money to do that now.

Senator DORGAN. When Mr. Rob Vining was making the commitment on behalf of Corps, he talked about using reprogrammed funds.

General STROCK. Yes, sir.

Senator DORGAN. It actually was \$5 million. Back then the cost was around \$5 million or \$6 million to do this. I do not know how the Corps has gotten this to an \$11 million project. But the problem is these folks have a marina that's unusable. It is the Corps' marina. The regulation of the water—instead of retaining water in the upper reservoirs, we have been flushing it out so that my friend from Missouri can run his barges down south. So folks who want to use a marina at Fort Stevenson do not have a marina to use, and moving a very short distance would give them a deep water marina and it would not cost a great deal. The Corps of Engineers actually built the first one. We have not been able to use it every other year.

So it seems to me the Corps has a responsibility to provide the money to move this.

General STROCK. Sir, I can certainly provide you a better informed answer for the record on why the cost has shifted. If we are relying on reprogramming, I think you understand the limits on reprogramming right now that have been placed on the Corps, and it is very difficult to find both sources and then get approval of moving money. That may be a factor in not being able to move ahead on this.

Sir, we certainly recognize the challenges of the drought. It has been going on for many, many years and we are trying to operate the system in accordance with the master manual, which has been recently revised and approved. And we do know that it does cause problems for everyone in the system, not just the upriver States but the downriver as well.

Senator DORGAN. Well, General, I am going to submit a list of questions about this. But I do think the Corps has a responsibility at Fort Stevenson and I do not know how you meet it. We have a presidential budget now that cuts \$0.5 billion. I know you are getting some emergency funding, but in terms of regular funding a cut of \$0.5 billion when you have unmet needs, you have commitments that have been made that are not now apparently going to be kept, that is a pretty unsatisfactory response to tell to the folks up in the northern part of the reservoir.

The upstream benefits of tourism, recreation, fishing are ten times the size of the downstream benefits of barging, and yet we continue to see that water rush out of those gates headed downstream.

You and I have more to talk about, I think, as well as the Secretary, about how we meet the responsibility to the people who have been told by the Corps that the Corps would move that Fort Stevens marina.

General, let me talk about a subject that you are not going to want to talk about at all. But I have tried to do this by submitting

questions last year. I have tried to do this by letter to you, and I have never gotten a satisfactory answer. That is the Bunnatine Greenhouse issue and the Rio contracts.

I have as a result of magazine reports of what has happened at the Corps of Engineers, I have held policy committee hearings. Ms. Greenhouse has testified. She has been demoted, perhaps for that testimony or perhaps for other reasons, but she has been demoted. And she has said that—let me read her quote—“I can unequivocally state that the abuse related to the contracts awarded to KBR, a subsidiary of Halliburton, represents the most blatant, improper contract abuse I have witnessed during the course of my professional career.”

It takes a lot of guts for somebody to say that. She was given excellent recommendations all along the way during her career, a remarkable public servant. People outside of your agency who know about contractors tell me that she is a first-rate contract official in the Corps of Engineers. And for this candor she has lost her job, been demoted.

I know there are legal issues in the Pentagon. You probably cannot respond to the legal issues, but you could respond at least by letter to me, and you could respond to the questions that I propounded last year during the hearing about what is going on here.

I assume that you will probably want to say that she is wrong, there are no contracting abuses. I assume also that the inspector general is looking into all of this. What has been appearing in the popular literature, magazines and others, about this situation is deeply troubling to me—the RIO contract, the LOGCAP contracting, substantial evidence of abuse, waste, and even fraud in sole source no-bid contracts in Iraq.

I have tried, both in letters and in submitted questions, to get candid responses from you and have been unsuccessful. Can you tell me why?

General STROCK. Sir, first of all I need to make sure that we have responded in a timely way to your questions, and I will have to go back and look at those responses. There are limits to what we can talk about in this and one of the most important aspects of this entire thing—and this may sound somewhat contradictory to the situation you just laid out—is that we have an obligation to respect the rights of the individuals and privacy of the individuals here. So my ability to talk about specific reasons for actions we took is very, very limited.

Therefore I must simply say that we have a process that is very important to us. We followed the appropriate process in disposition of Ms. Greenhouse’s case. And I think that has been reviewed on multiple times. She has been—

Senator DORGAN. If Ms. Greenhouse would waive those provisions, if she would waive that and allow you to say whatever you wish, would you be willing to do that?

General STROCK. If that is possible, sir, and it was done in the right kind of way and I was cleared to do that, yes, sir, absolutely. I would be happy to do that. But it is all about protecting her privacy.

Sir, in terms of the allegations, I can talk about those a bit. I was personally involved in many of those decisions and can look

you right in the eye and say that we followed the rules that were in existence at the time to make all those calls. The Government Accountability Office has reviewed the award of those contracts and has found that they were done in a proper fashion. The Army Inspector General has also conducted an investigation. The DOD Inspector General has also conducted investigations. And to date we have not had any indication that things were not done properly in the award of those contracts.

There have been many questions about the actual delivery of products and services under those contracts and in most cases I think the Government has shown to have acted in a reasonable and appropriate manner in adjudicating claims paid and all that sort of thing.

So this entire thing has been looked at in many, many ways and many times and so far the results are that we did things in the proper way.

Senator DORGAN. Well, General, I also have looked at some of them and had whistleblowers come and testify and it contradicts that answer. Food service, water quality. I will give you an example. I do not know whether you had these, the water quality contracts, on the bases. Was that yours?

General STROCK. Sir, I did not. This particular contractor has a number of contracts. One of them is the LOGCAP contract, which is managed by the Army Materiel Command, which provides for sustainment on military bases. Our contracts had to do with the reconstruction of the oil industry, so the food and water issues that you cite were not part of our contracts.

Senator DORGAN. Yours were the RIO contracts?

General STROCK. Yes, sir, ours was RIO.

Senator DORGAN. I just observe on the LOGCAP contracts that both the Department of Defense and Halliburton have been dishonest publicly about that. We now have internal documents from Halliburton that show that the responses by DOD and Halliburton were not honest.

General STROCK. And I cannot speak to that, sir.

Senator DORGAN. My understanding from the inspector general on the issues surrounding the allegations Ms. Greenhouse made is that there has been a referral to the Department of Justice for a criminal investigation. Is that not accurate?

General STROCK. Sir, I do not know that. I know that there are a number of proceedings related to her case that are going on right now and I am involved in some of those. But I do not know if they have risen to the level of the Department of Justice.

Senator DORGAN. I believe the inspector general has told us that in a letter.

My point is not to badger you about this, except that there are questions that demand answers. The American people demand answers.

General STROCK. Yes, sir.

Senator DORGAN. We are spending an enormous amount of money on these projects, contracts, the RIO contracts, LOGCAP projects, feeding troops, providing water to troops, equipment to troops, oil. The fact is there is a substantial amount of evidence there has been dramatic waste and abuse and in my judgment

fraud. The Custer Battles issue comes to mind. I am not going to lay all this on your shoulders, but I am telling you it makes me sick when you take a look at what is going on and the waste of money, and nobody seems to care very much.

All I am asking is that, with respect to those issues under your jurisdiction, that you respond fully to the questions we are asking. And if you cannot answer, I will ask Ms. Greenhouse if she will provide a waiver so that you can give us all the information.

I know that you are going to leave this room and mutter things that I probably should not say out loud under your breath, because this is not what you want to hear at this hearing.

General STROCK. Sir, not at all. If I might, not at all. I share the same concerns you do. We have to treat people in the right ways, and I think we have done that. So no, sir, I am not going to mutter anything on the way out of the room.

Senator DORGAN. One other question. The person that has been noticed in at least one publication to replace Ms. Greenhouse it appears to me has no contracting experience.

General STROCK. Sir, her replacement is Ms. Sandra Riley, who has come to us after about 40 years of Government experience. She did serve as a head of contracting agency, which is the same level of responsibility that I have within the Corps of Engineers, and she managed all the affairs for the Department of the Army and the Pentagon related to that.

It is true that she is not an acquisition certified professional under the Defense Acquisition Improvement Work Force Act. But she has been given a waiver for some of the criteria and she has gone to school and is currently being brought up to speed on what it is she needs to know as a contracting official.

She is really coming to us as a change agent, sir, which she has a reputation for in the Army, and she brings us leadership. It is part of the Army's intent that, like our general officers that can serve in many capacities, our senior civilians are expected to be true corporate leaders as well and do not necessarily need the specific experience and credentials of the particular area of the government that they are working, that they have oversight for.

Senator DORGAN. General, with due respect, that seems illogical to me, to have to bring her up to speed with respect to knowledge. My colleague here from Louisiana has just experienced FEMA's failures. Seven of the top eleven positions in FEMA were staffed by cronies, I am sure who had good management experience, but did not know a thing about emergency response. So you put cronies in positions for emergency response, they did not know how to respond to an emergency.

I am just making a point that Ms. Greenhouse, fairly or unfairly—I guess ultimately the facts will judge this—lost her job, was demoted, for speaking out about what she perceived to be abuses. She regularly had excellent recommendations, excellent performance evaluations, year after year, but has now been demoted and replaced by someone who has no experience or no substantial knowledge in contracting. That just seems unbelievable to me.

General STROCK. Yes, sir, I would not characterize her as having no experience, no substantial knowledge, but she is not certified as an acquisition professional at this point, that is true.

Senator DORGAN. Well, we have more to exchange on that and I will do that by letter, General Strock. I hope and expect we want the same thing, that we want accountability and we want facts to speak for themselves.

Let me close then on a positive note so that I can tell you again, we have—we are a semi-arid State. North Dakota would hold ten Massachusetts in land mass. We are a big, big State, and 642,000 people spread out. We have got a big Missouri River running in one part of it and we have got a Red River running north.

We have a lot of water issues. We have got a flood in Devil's Lake that came and stayed, and it is a huge problem. We have got the need to move water from western North Dakota to replenish the Red River in times when it does not have enough water. At the moment it is busting out of its banks and flooding in three large communities.

So having watched the Corps of Engineers in 1997 in action, I can tell you that the performance of the Corps to do well is critical to our surviving during floods and surviving during droughts. I have not talked at great length about the management of the Missouri River today, but that also is a significant part of our angst.

But you have men and women working for the Corps of Engineers that work day and night at times when we are in crisis, and I hope you and the Secretary will communicate to them our appreciation for that. I know they are doing that now up and down the entire Red River valley and we want you to tell them thank you on behalf of a grateful citizenry.

General STROCK. Sir, thank you very much.

Senator DORGAN. Senator Landrieu.

Senator LANDRIEU [presiding]. Thank you, Senator Dorgan.

Mr. Secretary and General Strock and others, I want to begin by acknowledging that you have been down to Louisiana, Mississippi, and the gulf coast many times since Katrina and Rita and the multiple levee breaks that ensued, and you have sent extra support and been attentive to our requests. So I say that just to acknowledge that in my view you personally have done what you can.

But my questions will be about the constraints that you are operating under, which I think are very serious and actually in fact put the Nation at risk. I want to start with you, Secretary Woodley, if I could. Could you just for the record before this Appropriations Committee that has the task of funding critical civil works projects for energy and water for the country say again clearly for the record what we are going to be able to fund this year and what we are not, based on what is the backlog of authorizations? And if you do not have that, I think General Strock or others might.

What is our current backlog of authorized critical projects that is not going to get funded based on the budget that you have submitted?

Mr. WOODLEY. Senator, I want to preface what I say, I think I understand what you mean by the backlog. It is a term, it is a sort of a pejorative term for these, that I try to avoid because I regard those projects not as being projects in some kind of backlog, but

rather it being opportunities that exist for investment on the part of the Nation in water resource development.

Senator LANDRIEU. That is fine. Then what are the opportunities that we are not funding?

Mr. WOODLEY. I believe that we have something in excess of 400 different projects across the country that are eligible for Corps funding, and of those I believe that about 90 to 100 are actually receiving funding in the President's request.

Senator LANDRIEU. With the number about \$44 billion be about accurate, \$44 billion, opportunities that are not funded?

Mr. WOODLEY. That might—well, of course that would not be in any given year. That would be the total build-out for the entire amount.

Senator LANDRIEU. That is correct.

Mr. WOODLEY. But I cannot confirm the number, but it would not surprise me.

Senator LANDRIEU. Well, let me then try. I am going to say a number and if you disagree with me for the record then you can get back in writing. But basically our records reflect, my records reflect, that we have about \$44 billion in—let us use your word—opportunity to protect Americans from flooding, to promote navigation and economic development, and to protect wetlands, coastal restoration, et al., as described in the charge.

And the way that I look at it and many Members of Congress is we are about \$42 billion short, because in this budget we have approximately \$1.5 billion for new construction, then a few billion for operations and maintenance.

But I want to focus on, because all the hearings are, as you testified, we have 5 percent more money than last year. Since the last year number is irrelevant to the people that I represent, 1,200 of whom who have lost their lives because it was too low, 5 percent more does not have any relevance to me or to the people I represent or to the gulf coast. So I am going to try to focus us on what the real pending crisis is. That is that this budget is so far short of where this Nation needs to be in investments in civil works it is almost in my view not worth discussing.

For the record, I want to be clear that there is 44—before we pass the next WRDA bill, which 88 of us have signed on to get passed, which will add how much, \$10 billion to \$13 billion in new authorized projects which everyone is clamoring for, we have \$44 billion worth of projects that do not have a penny allocated to them in this budget.

Now, that is the first point. The second point I want to make is I want to show you a little chart of why this is of significance for the country. I am going to provide this to the members. This is a chart that I got from the National Civil Works—American Civil Works Society. You can see it goes back to 1929. This is 2004, I guess. This is where the levees broke in New Orleans, the bottom of this long, dangerous, nonsensical, irrational, irresponsible, funding level. This is where they broke.

You can see what happened in the early part of the century, and even just going back as recently as—this is a percentage of GDP. This is the investment gap in America today just on civil works. But it is not just civil works; it is all water projects, all flood con-

trol projects in the country. And this is a disgrace. This budget is a disgrace because of that.

The paragraph that introduces this budget I would like to read, is an insult to me and the people that I represent: "The fiscal year 2007 civil works budget is a performance-based budget which 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 risk to human safety." That is an insult to the people I represent because it is a lie, because it does not.

Now let me ask you this question. When the Corps conducts a feasibility study on hurricane protection projects, does the current law direct you or indicate to you that you have to conduct that feasibility study for life and property, or is it just for property? Do you take human life into your calculations, technically? Do you do, General Strock? To General Strock or really to the engineers. Go ahead.

General STROCK. Not per se, ma'am. We do not take that in as a factor. We use sort of a surrogate for that, which is we do consider economic development, and typically where there is economic development there are people. So the main driver is economics and tradeoffs there.

Senator LANDRIEU. I just want to call to the attention of this committee that that is something that we are going to have to take a look at, because this comment about human life, human safety, is a stretch based on the fact that it is just extrapolated from economic data. So some of us are looking very closely at asking for human life to be a calculation in these studies because it may have a direct impact then on whether some of this gets built or not.

But that is why I take issue with this, because it is not included right now—I know that for a fact—in your assumptions.

General STROCK. Ma'am, if I could just modify a bit. That is not our traditional method of valuing human life and human lives exposed, but this year we do have a criteria in the budget that for a given likelihood of an occurrence for a certain amount of flows, for the density of populations, we do consider projects as high-risk projects. It has to do with warning time, people in the flood plain, potential depth of flooding and velocities.

So this year in looking at high risk projects that should be supported, we have taken that into account.

Senator LANDRIEU. Well, I appreciate you taking that, that extra step, because in the current laws, which we are going to recommend be changed, that has not been in the past calculations. And besides these numbers being low, that is also a critical component, with populations moving closer and closer to water, whether they be coasts or along great rivers or lakes, et cetera. It becomes a real serious issue that makes these numbers that are pretty devastating even worse.

Let me ask for some clarification on the \$6 billion, and whoever can answer this the best. Last week our administration received what I consider a bombshell of an additional \$6 billion that is needed to meet the current authorization levels or the current safety levels or the certification, if you could explain which of those it is. How did you arrive at that figure and do you think it is accurate

for southeast Louisiana? And I do not know who wants to take that. Maybe General Strock. You conducted the—

Mr. WOODLEY. Actually, Senator, that figure had to do with the question that was raised to the Corps at the local level, at the district, on making assumptions with respect to the base flood elevation that may eventually be determined by the FEMA for the new flood maps. The question there was, can you give us a rough order of magnitude, a very-swiftly-arrived-at estimate of what the outside cost to raise those levees by a certain amount might be.

We have—the only thing I can tell you is that we answered that question. Those figures have been—are being refined even now, so I would not—

Senator LANDRIEU. So you are saying, you are saying that FEMA requested that information of you?

Mr. WOODLEY. Yes, ma'am.

Senator LANDRIEU. FEMA requested that information. How long did they give you to—when did they request it? And when you said you hurriedly put it together, did you put it together, General, in 2 weeks or 3 weeks or 5 weeks?

Mr. WOODLEY. I would say perhaps even less than that. I am not exactly sure of the precise chronology, but it was a very swift question. It was based on, as far as I understand the estimate—

Senator LANDRIEU. Did you take more than 48 hours to put it together? General, try to testify. How long did it take you to put that together—

General STROCK. Yes, ma'am. If I could just back up a bit and talk—

Senator LANDRIEU [continuing]. And is it accurate?

General STROCK [continuing]. About the process here. Mr. Woodley cited the base flood elevations, which determine the 100-year flood plain that is identified by FEMA. We participate and support FEMA with hydrologic studies to determine just what that flood plain should look like. So we are a supporting agency to FEMA in making that determination.

We all recognize that after a storm of the magnitude of Katrina that it would impact the base flood elevations that would be applied post-Katrina, because Katrina is such a massive storm that it really influenced the record which is used to determine that.

It was about the November time frame, I think, when we concluded what those base flood elevations should be, and in fact we have issued those advisory notices in all the counties and parishes along the coasts that were impacted except for the four in the New Orleans area. We did not at that time go forward because the initial feeling was that it was such a high elevation that it would make a dramatic impact. So what we asked is that we should delay the issue of those base flood elevations until we had time to really do some more refined analysis, and then also to consider the impacts.

In the process, we determined that, given the base flood elevations that we arrived at, we could not certify most of the levee system around New Orleans to a 100-year level. It was not an important question on the gulf coast in Mississippi because there are no levees to certify. It is what it is. But when you are behind a levee, if you can certify the levee to a 100-year it essentially takes

out the people and infrastructure behind that levee, it takes them out of the flood plain.

So our ability to certify levees was then an important question. As we did that analysis, we determined that in most cases we could not certify the levees to 100-year protection levels, which essentially puts everybody in the flood plain and they act like the levee is not even there. So it has tremendous implications.

As a result of that, we were asked what it would cost to raise the existing projects to 100-year level, and the number that Chairman Powell put out last week was a preliminary estimate which we are continuing to refine. I think that you will see at such point as a decision has been made on this that you will see that estimate should come down somewhat.

Senator LANDRIEU. Okay, I accept that and I know that this number can be refined. We are actually hoping that it is refined. It is hard to get any money around here, let alone \$6 billion, so we are hoping it can be refined.

But I just want to press this for just a minute. You said 1-in-a-100-year flood. Would that roughly equate to category 2, 3, 4, or 5 roughly? I know they do not match up, but if you had to chart it what would it be?

General STROCK. I cannot answer that. I am not sure there is a direct correlation between the flood plain and the categorization of storms. What that tells you is that in that area that there is a 1 percent chance in a given year that you will see a storm of that magnitude.

Senator LANDRIEU. What do we have now in the other parts of the city? Is that the same 1 percent in 100 years?

General STROCK. Ma'am, about—well, first of all, I think 70 or 80 percent of the city is already in the flood plain. This just adds more to that.

Senator LANDRIEU. That is not what I am asking, what is in the flood plain. I am trying to ask—I am trying to establish, so I can compare apples to apples—the \$6 billion which you have recommended, which will be refined, let us just say it is refined to \$4.5 billion. That number, whatever it ends up being, is going to build category 2, 3, 4, or 5 levees around the areas that you have proposed, just roughly? There is no way for you to say whether they are 2's, 3's, 4's, or 5's?

General STROCK. I truly cannot answer that. I think that we are wrong in trying to describe these systems in terms of the category of storms they can protect against. That has been one of the challenges throughout, that we simply do not build the category system for hurricanes—

Senator LANDRIEU. It may not be the accurate way, but I can tell you one of the things that I am going to press very hard as a Senator is to have some way. It does not have to be a category 1 through 5. It does not have to be 100 to 10,000. But I have to have some way to explain to people that the levees are going to be either 1 foot, 4 feet, 5 feet, or protect them from x .

So I suggest if you do not like the way we are doing it, General, we have to come up with a way that is clear to people, that is transparent, that everybody understands, like this is a \$1 bill, you know what a \$1 bill is; this is a \$10 bill, this is a \$100 bill. We

cannot give you a \$100 bill; we are giving you a \$1 bill. People are clear.

We need that, so it does not matter to me. So I am going to leave that there, but I have to come back to this question. But let me try, without having the benefit of any levels or any storms, just say, ask you this way. Whenever we get this dollar amount, if we do not get this dollar—let me just put it this way. If we do not get this dollar amount that will be refined, what happens to those areas in four parishes? They either have to build up to about what height or what? You said—you did not release the heights. I am not asking you to. But the general height, is it 13 feet or 20 feet or 25 feet?

General STROCK. I would have to get back with you, ma'am. It varies by where you are in the city.

Senator LANDRIEU. Could you give just a range of those four parishes that you looked at? I know you have it in your data. You had to have it.

General STROCK. Early on, I think in the November time frame, it was about 17 feet, something like that. The challenge here, ma'am, is that if the levees are not certified to a 100-year level then FEMA acts as if they are not there at all. The fact is there are levees providing protection and you are not going to be fully undated because there are levees there.

What we are trying to do to articulate the level of risk is to show levels of inundation in a Katrina-like event that would occur on June 1, 2006 when we complete our current work, what we would see on September 1, 2007, and then, if we certify it at 100-year and we build the levees to that, what people could expect in different parts of the area in terms of depth of the water.

That is how I think is the best way to articulate the risk associated with this.

Senator LANDRIEU. Well, that may make sense to you, General, but we are struggling with trying to make that sense to 3 million people that live in south Louisiana and just need to know whether the hurricane levees are going to be at a category 3, 4, or 5 or some equivalent of that and whether it will work or not.

But I am going to leave the testimony at: you are refining the number, it is a real need for these four parishes, and you have not requested it in the budget.

General STROCK. That is correct.

Senator LANDRIEU. Secretary, can I ask you, does the President have any intention of requesting this or what do you think the status of that is?

Mr. WOODLEY. I believe that that is a decision that has not yet been made by the President.

Senator LANDRIEU. So we still can remain hopeful that perhaps it might be forthcoming. I will just remain hopeful today.

Mr. WOODLEY. Yes, ma'am.

Senator LANDRIEU. Is there anything that you—I just wanted to—I have 100 questions I could ask, but I wanted to try to hone in on the \$6 billion, on the study, and on the general lack of funding, which I will conclude by saying that because of that chart I would suggest that Katrina and Rita have, I hope, ripped away the curtain of complacency, that we have had a false sense of security

in this country about the investments that we are making. They are not adequate, and if we do not find a whole other paradigm we just cannot not only protect the people along the gulf coast, but we are investing so little of our gross national product in what I would think are essential, essential civil works projects, for not just trade and commerce but for humans, safety of human life. And the safety and protection of billions of dollars of investments that we have made all along the coast and all along the great river systems and all along the great lakes systems of America are at great risk, because this line is about off the chart. You cannot get much lower than where it is. You literally cannot go any lower on the chart. You would be off the page, down to zero. Would you hold it up again?

There is nowhere down to go. And it represents less than, I think, one-tenth of what we spent in 1929 or 1930 and one-sixth of what we spent in the 1970's.

This is what our delegation, just in conclusion, has been looking at, this precipitous falloff, and thinking we have a coast that has to be saved, wetlands that are washing away at an alarming rate, levee systems that are underfunded and underdesigned, and systems that have to give added money.

So we have got to change this, and we have recommended for us a solution is getting revenue, offshore oil and gas revenue, to start investing in the gulf. We have even recommended sharing that with the other States to help them. Of course we have been rebuked. We cannot do that. So now we are down to just trying to find for Louisiana, Mississippi, Alabama, and Texas a new source of funding to help get these civil works, essential civil works projects, up.

Because I said, this is where the levees broke. It is just a matter of time until they break again some other place because we are not investing nearly the money that we need to. In all fairness to this administration that I have been very critical of, this did not start with the current administration. It has been going on quite a long time.

But I would say one final thing. The reason I am remaining somewhat critical is in these years we did not always have surpluses, but when we had surpluses we chose to do something else with them, and funding of civil works was not one of them.

So we have a lot of work to do on this budget. Senator Domenici has been very, very kind to let us go on. But the \$6 billion issue has to get resolved. The way we define levee protection, you pick a way, tell us what to do so people understand it. Then the overall budget number for this budget is something we are going to have to work on.

Do you want to add anything before we conclude?

General STROCK. Ma'am, the only thing I would add is, one of the ways that we can get at the business of articulating risk is using the money that you gave us in the third supplemental to create a national levee inventory and database, and this budget also requests additional funds for that. That would allow us to capture all the levees in this country from private through Federal and then to build a model that would allow us to articulate risk and reliability associated with those, and that will really frame the prob-

lem and the potential for investment and help us set priorities. So I think that is a wonderful step that needs to be done.

Senator LANDRIEU. I thank you, General, for raising that. I wanted to get a status report. I would just ask you to submit it in writing, not to take any more time. But I am glad we were able to get that study in for the Nation, because then you are given an opportunity to present to the Congress the real needs, and then it is up to Congress to decide and this administration, are we just going to not fulfill our responsibilities, pretend like it is not a real risk, hope we do not get any more hurricanes, pray no river goes over its boundaries?

I mean, this truly is a Nation at risk right here at home. And I know we have risk around the world and I am cognizant of what we are doing in Iraq, but I hope that the study—and you should be finished with that when? I think it was June?

General STROCK. There is a preliminary—

Senator LANDRIEU. A preliminary in June.

General STROCK. August.

Senator LANDRIEU. In August. Preliminary in June and then a final in August. That will help us. That will be very helpful to the country.

Our situation is more urgent, as you know, because hurricane season starts in 2 months. But we will continue to work on it.

General STROCK. Where the New Orleans levees are concerned, we are doing a study now for those areas that were not obviously impacted to make sure that they are still structurally intact, and that will be done certainly in June.

The preliminary report on the levee inventory will be in August, not the final report.

Senator LANDRIEU. Anything else, Mr. Secretary?

Mr. WOODLEY. Thank you, Senator. It has been a real privilege to work with you and the rest of the Louisiana delegation on these important response issues and we appreciate your continued support for the agency and assure you that we take your views very, very seriously.

ADDITIONAL COMMITTEE QUESTIONS

Senator LANDRIEU. Well, I appreciate that. You have worked very closely with our delegation. But this is just not—this current system does not work. It does not work, did not work for us, does not work for anyone. We have got to have some serious change.

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

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

REGULATORY ISSUES IN NEW MEXICO

Question. General Strock, I have had Colonel Wang in my office a couple of times this year concerning a couple of permitting issues with the city of Albuquerque. One of these concerned the Montano Bridge, which has since been resolved, the other was the Paseo Del Norte road extension.

The Paseo project involves crossing an arroyo and the issue had to do with the permitting required. I am simplifying the chain of events here for brevity. The city originally planned to cross the arroyo with a culvert. The permitting requirements became so onerous for the culvert, particularly with Corps' discretionary decisions

concerning historic preservation consultation, that the city has committed to me that they will build a bridge instead. A bridge will be considerably more expensive. I have not heard any status on this project lately.

General STROCK, do you know the current status of this project?

General STROCK. The Albuquerque district is processing the Paseo Del Norte as a Nationwide Permit 14 and 43 for a culvert crossing of Piedras Marcadas arroyo. The district made a finding of no adverse effect to historic properties. The Advisory Council on Historic Preservation (ACHP) objected to the district's determination. As required by the National Historic Preservation Act, the district is reevaluation their initial finding of no adverse effect and will provide their decision to the Advisory Council on Historic Preservation in accordance with the requirements of regulations 800.5(c)(3)(ii) and 800.5(c)(3)(B) in the Code of Federal Regulations, Title 33, Appendix C. This completes the Corps responsibilities under section 106 of the Historic Preservation Act.

Question. Can you comment on the Corps discretionary roles in the permitting process, particularly in the area of historic preservation?

General STROCK. Compliance with Section 106 is required for all Federal undertakings which include issuance of Federal Permits in jurisdictional waters of the United States. The Corps of Engineers uses nationwide general permits and individual permits to authorize activities in compliance with the applicable laws and regulations. The Corps of Engineers must ensure activities comply with the National Historic Preservation Act regardless of the type of undertaking. The Corps has responsibility for determining the appropriate scope of analysis and the effect of the undertaking, in this case the activity in waters of the United States, on historic properties, including the direct and indirect effects of these activities. The Corps must also afford the State Historic Preservation Office (SHPO) and the ACHP an opportunity to comment on its determination of effect. The Corps must document how it considered the opinion of the ACHP and SHPO in its administrative record for the permit decision. Once this is accomplished the Section 106 process is complete.

Question. Also in New Mexico, there is a railroad project called Abo Canyon. This canyon, which is about 4.5 miles long, has only a single track through it and, as a result, is a major railway constriction from the west coast to the Midwest and beyond.

To maintain efficient transit of goods, it's essential that a second track be constructed through the canyon. I'm told that, before the railroad can construct a second track parallel to the existing one, they have to have a permit from the Corps because a grand total of 0.1 acre of wetlands might be impacted.

Now, General, these so-called wetlands are normally very dry—this being New Mexico—but I do understand why the Corps would have to be involved, given its Clean Water Act responsibilities. However, I don't understand why the Corps is requiring an archaeological investigation of the entire canyon, rim-to-rim, just because of this one-tenth of an acre of dry wetlands.

Can you explain why the Corps has required this, and why it isn't over-reaching on the part of the Corps in defining its jurisdiction?

General STROCK. The Corps of Engineers is evaluating the second rail track for the Burlington Northern Santa Fe (BNSF) Railroad project in accordance with its regulations under the individual permit procedures because the project will impact a total of more than 0.5 acre of waters of the United States at 24 separate locations along the proposed 4.5 mile alignment. The permit process has been delayed by historic property issues.

Most of the landowners affected by the proposed track have cooperated with and sold their land to BNSF. The property owners of Dripping Springs Ranch have not sold their land and oppose the project. BNSF initiated the condemnation process for this parcel; however, the process is currently in abeyance pending a final decision on the 404 permit. Thus far, Dripping Springs Ranch has not allowed BNSF to complete a required survey for cultural properties on their property. This is not an insignificant survey as BNSF has already identified over 100 historic sites along the proposed alignment. The Corps and BNSF are meeting with the property owners to resolve this issue.

Due to potential impacts to at least 17 of the 125 sites already identified, the Corps has determined that the proposed activity will have an adverse effect on historic properties and has sent a letter to the New Mexico State Historic Preservation Officer (NM SHPO) in accordance with the National Historic Preservation Act. The Corps will work with the consulting parties (BNSF, NM SHPO, Bureau of Land Management (BLM), the owners of Dripping Springs Ranch) to develop an MOA to mitigate for the adverse effects to historic properties in accordance with the regula-

tions and law. BLM is involved in this process as BNSF must acquire a small piece of land from BLM to complete the project.

The district expects to conclude permit evaluation, including the MOA to address adverse effects on historic properties, in August 2006.

DROUGHT

Question. As you may be aware, we are facing significant drought issues in the Southwest and particularly New Mexico this year. I wanted to let you know that I am seeking \$5 million in the current Supplemental for the Corps to provide drought assistance.

Obviously this still has to be conferenced with the House before it becomes law, but can you describe some of the drought assistance measures that the Corps can provide under the Stafford Act?

General STROCK. The Corps is the Department of Defense Agent for Emergency Function 3 (public works and engineering) under the National Response Plan which is implemented pursuant to the Stafford Act. During a disaster, the Corps will do what is asked by Federal Emergency Management Agency under the Stafford Act pursuant to the National Response Plan.

Question. Are there any other programs within the Corps that would allow you to respond to drought?

General STROCK. There are several ways the Corps can help during droughts independent of the Stafford Act. These authorities are summarized below.

—*Emergency Provisions of Clean Water.*—Public Law 84–99, as amended. Water can be provided to a community that is confronted with a source of contaminated water.

—*Emergency Well Construction.*—Public Law 84–99, as amended. Authorizes the construction of wells or the transport of water.

—*Planning Assistance to States.*—Public Law 93–251, as amended. States may obtain Corps water resources planning expertise on 50/50 cost shared studies to develop plans related to the overall State water plan. This plan must be developed prior to any water shortage in order to be effective.

—*Drought Contingency Plans for Corps Reservoirs.*—Provides for release of water from Corps reservoirs during drought. Not in law, but is part of the operation of Corps reservoirs.

—*Drought Contingency Water.*—Section 6 of the 1944 FCA. When available, the Corps can sell surplus water to a State or political subdivision, which agrees to act as a wholesaler.

—*Reallocation of Storage.*—Public Law 85–500. This permits the reallocation of storage from an existing purpose to M&I water supply. This plan must also be developed prior to any water shortage in order to be effective.

—*Interim Use of M&I for Irrigation.*—Section 931, Public Law 99–662. This program is limited in that it is only applicable to certain projects.

KATRINA

Question. Hurricane Katrina was a terrible blow to this Nation. The costs in terms of human suffering are incalculable, and the costs of response and recovery have been staggering to the Nation's treasury.

General Strock, can you give us a quick status update of the current rebuilding efforts?

General STROCK. Task Force Guardian has awarded all of the 59 separate construction contracts identified as being needed to restore hurricane protection to southeast Louisiana. As of April 5, 2006, a total of 20 of the 59 construction contracts have been completed. Repairs to the Mississippi River levees (105 miles) have been completed and all vessels (155) have been removed from the levees and floodwalls. Of the 59 contracts, 54 (91 percent) were awarded to local businesses, 36 were awarded to small businesses, 15 were awarded to 8(a) firms, and 7 were awarded to HubZone firms. The total estimated cost of the repairs is \$800 million.

Question. General Strock, I have been told that the United States Geological Survey says that the storm surge from Hurricane Katrina, is the greatest recorded storm surge to ever hit the United States. Can you confirm this? This was, in fact a large hurricane that struck, contrary to what may have been said. Is that true?

General STROCK. To our knowledge, the statement made by the USGS is correct. The highest "storm-tide" (surge plus astronomical tide component) other than Katrina of which we are aware of was generated by Hurricane Camille, 1969. Camille's "storm-tide" is given by the National Oceanic and Atmospheric Administration's National Hurricane Center as 24.6 feet at Pass Christian, Mississippi. Dr. Andrew Garcia, of the Corps' Coastal and Hydraulics Laboratory, recalls others re-

ports of around 27 to 28 feet attributed to Camille, but Katrina's "storm-tide" at Waveland, Mississippi was right at or exceeded even these undocumented Camille values.

Question. Along with everyone else, I have read numerous articles, from various "experts" about the levee failures in New Orleans. Most of these "experts" have indicated that the Corps was aware of potential problems with the levees as designed and constructed. Further there has been considerable comment that these levees should have withstood the effects of Katrina. General Strock, I need to know from you what is the Corps' response? Is there any fire to go with all of this smoke? Or is this speculation from self-described experts without access to all relevant data?

General STROCK. The Federal storm damage reduction system is composed of multiple Federal projects, authorized and constructed over many years. Some features had not yet been completed at the time of the storm. Others were built by the local sponsors and incorporated into the system under specific authorization language enacted by the Congress for this purpose. The Corps was aware that some areas of the levees were no longer at design grade due to subsidence or settling. We now suspect that design deficiencies may also have played a role in the failure of some I-walls. On a larger scale, the design of the built system was significantly different from the design that the Corps initially identified for the Lake Pontchartrain waterfront. To what degree the Corps was aware of these or other problems, or of the potential for such problems, prior to Katrina is a matter currently being assessed. I can assure you, however, that the way in which the Corps recommends projects and deals with any known, suspected, or anticipated problems is a matter that I consider critical to our future.

Question. General Strock, can you give us a brief overview of the findings from the Interagency Performance Evaluation Team to date?

General STROCK. The Interagency Performance Evaluation Team, or IPET, is an outstanding group of experts from government, industry, and academia that are literally working around the clock to complete an in-depth analysis of the performance of the Hurricane Protection System. IPET is looking at how the system was designed and constructed, the forces it experienced during Katrina, how the system performed, and what mechanisms caused the catastrophic breaching. IPET has done everything from putting boots on the ground to collect data and eyewitness accounts to pushing the modeling envelope with supercomputer model runs of Katrina's storm surge.

The IPET draft final report is scheduled for release on June 1. I expect both the consequence and risk analyses in that report will be invaluable tools to evaluate additional hurricane protection measures in the near term and for future higher levels of protection.

But IPET has already made great contributions from its findings to date.

IPET determined the failure mechanisms for structures that breached prior to reaching their design levels, such as the 17th Street and London Avenue Canals. This knowledge of "how and why" is being used to assess the integrity of all other similar sections of floodwalls in the system. These results also helped in the development of specific strategies to strengthen I-wall sections that are outside the outfall canals, including stability berms, relief wells, deeper sheet piles and limiting wall cutoff heights to significantly increase the stability of these structures.

IPET determined why levee sections failed because of overtopping and scour, such as those along the Inner Harbor Navigation Canal. This information has fueled repairs that include substituting T-walls for I-walls to increase resistance to scour from overtopping and resistance to failure from lateral forces, such as surge and waves.

IPET found levee sections that were overwhelmed by surge and waves with damages that related to the levee elevations and the strength of the levee materials. IPET lessons learned are being used to select the types of materials used in the levee reconstruction and the height of their construction in areas such as St. Bernard Parish.

IPET also found sections of floodwalls and levees that performed very well during Katrina, such as the Orleans Outfall Canal. IPET is providing these equally important lessons learned to the repair and reconstruction efforts.

Every lesson learned that IPET has provided has received immediate attention in the repair efforts. In some cases, repair design activities were halted and changed to take advantage of IPET knowledge. IPET work also helped validate significant temporary measures, such as the temporary gates and pumping capabilities at the Lake Pontchartrain end of the outfall canals.

IPET input is also being used in design guidance for enhanced protection projects to ensure the New Orleans area protection system is better and stronger than before. We feel strongly that the IPET contributions will help us achieve this goal.

Question. As I understand the current situation concerning levee rebuilding situation, funding provided through enacted supplemental appropriations will complete the levee system as currently authorized. This includes rebuilding levees to the authorized levels of protection as well as repairing non-Federal levees and pump stations. This system was not completed before Katrina. Is that correct?

General STROCK. That is correct, although cost increases are possible. Funding was provided in the enacted supplemental appropriations to repair the system to pre-Katrina conditions, to accelerate completion of the system and to rebuild those parts of the system that were below design height due to subsidence. Funding was also provided to repair non-Federal levees and pump stations. The money provided was based on the best information available at the time and it is possible that the cost for some of this work may increase. For example, at the time of the third supplemental, the IPET findings concerning floodwall stability were not known. Further, long-term subsidence will require that additional levee lifts be constructed for some of the levees in the protection system. These lifts must be constructed on average every 4–5 years until the subsurface soils stabilize. Funds provided through the supplemental appropriations do not cover these costs.

The system was not completed before Hurricane Katrina.

Question. Further, the President's latest supplemental takes the first steps to improve this system beyond the project originally authorized by authorizing and appropriating funding to remove many of the now obvious weaknesses in the system. This includes closing off the interior drainage canals and providing navigable closures on the Industrial Canal and the Gulf Intracoastal Waterway, raising and hardening interior pumping stations and armoring levees where appropriate. These seem to be a reasonably measured approach to improving the system, based on current information. Are you aware of additional work that we should be considering as a part of this supplemental?

General STROCK. The President's supplemental provided appropriate funding for these measures to improve the New Orleans hurricane systems. Additional work has been considered but we are not prepared to recommend these projects for funding at this time. Three of these include a more costly plan (\$190 million) to deal with the interior canals that, if proven to be technically feasible, may be a more reliable method of providing interior drainage; a plan to incorporate into the system non-Federal levees on the East Bank in Plaquemines Parish (\$94 million); and a plan to repair some non-Federal levees in western areas.

Question. Director Powell has recently indicated to the Congress that it could cost as much as \$6 billion just to restore the levees in the New Orleans metro area to provide 100-year level of protection. Why has the 100-year level of protection changed so drastically? What is your confidence level in the cost estimates that compose this \$6 billion figure?

General STROCK. Restoring 100-year certification is now a much different task than simply restoring the current levees, primarily because of the new storm data and new abilities to better predict storm impacts. Quite simply, the 100-year storm is now calculated to be a much larger storm than envisioned in the past. Also, we now realize that in some areas the generated storm surge, even from a smaller storm, can be significantly larger than was indicated by models in the past. Because of this new data, our task is not a matter of simply restoring or rebuilding the current levees. Based on analysis of an extended historical period of storm data including the Katrina and Rita events and utilization of more refined modeling technology now available, which considers such factors as losses in wetlands and natural lines of defense that may limit attack during major storms, land subsidence and other coastal area changes, the currently authorized grade of levees would not be high enough to prevent overtopping during occurrence of the revised 100-year frequency storm surge. In many places the levees will have to be significantly higher and stronger than they were before Katrina in order to provide protection from the newly calculated 100-year hurricane.

The \$6 billion figure for the cost to complete the system to provide 100-year level of protection was a preliminary rough order of magnitude estimate at a point of time, and further analysis is needed.

Question. We have requested the Corps to undertake studies for improving protection to the New Orleans area to "Category 5". The interim report for this study is due in June 2006. Where would 100-year level of protection fall in improving levees to this new "Category 5" level? Is it possible that work undertaken to get to this 100-year standard would be incompatible with the "Category 5" level?

General STROCK. The revised 100-year level of levee protection for the New Orleans area would be at a lower grade than the grade required to protect the area from a major Category 5 storm using a single line of levee protection along the existing alignment. However, the 100-year levees along the basic "footprint" of the existing

levee system currently being repaired would function as a “useable increment” in a system of hurricane protection that utilizes multiple or redundant lines of protection.

Question. How does coastal restoration rank as a means of providing immediate hurricane protection? Long range hurricane protection?

General STROCK. The lessons of Hurricane Katrina show the dangers of depending upon a single line of levee defenses. The presence of coastal features, such as wetlands, cheniers, swamp forests, and barrier islands, prevent inland hurricane protection structures from being directly exposed to open gulf conditions during storms. Hurricane protection systems having direct exposure to the Gulf have greater potential for performance problems during storms, and will also likely have higher construction, operations, and maintenance life cycle costs. Protecting existing coastal features that provide this buffering function to current hurricane protection systems has short-term benefit, insuring against decreased system performance reliability and increased systems operations and maintenance costs over the project life cycle. Restoring coastal features is a long-term measure that should increase reliability of the existing and future hurricane protection systems that may be installed, as well as likely minimize their construction, operations, and maintenance costs over a life cycle.

Question. What do you see as the next steps in rebuilding the New Orleans levees?

Mr. WOODLEY. By June 1, we will be restoring the level of protection to pre-Katrina conditions. We have already begun the work to accelerate construction on some of the uncompleted features of the system and to rebuild subsided levees to design height and repair non-Federal levees and pump stations. The next steps are providing a better and stronger system, ensuring that floodwalls are reliable, building the system high enough to provide 100-year protection, and evaluating even higher levels of protection.

Question. As a result of Katrina, what have you learned about how flood control and hurricane protection projects should be evaluated? That is, how should we go about considering the possibility of serious risks to human life as opposed to evaluating projects strictly on the basis of economic losses prevented?

Mr. WOODLEY. Based on the lessons learned from Katrina, we need to take a hard look at our policies for establishing levels of protection. When risk to life is possible during events exceeding given levels of protection, this loss of life risk must be addressed as a part of the decision process on level of protection, along with the economics, that is, net benefits of each level of protection. Formulation considerations include minimizing catastrophic potential in areas where large populations are at risk or evacuations are not easily accomplished when emergencies occur. These technical considerations are currently imposed only for design of high hazard dams, and similar considerations need to be evaluated for high hazard levee and flood protection systems. For instance, we are using risk and reliability analysis concepts in the evaluation of alternatives for the South Louisiana Hurricane Protection report. It should be noted that selection of a plan that includes life safety considerations is permitted under the Principles and Guidelines for water resources planning, in that the agency head may recommend a plan that does not maximize net national economic development benefits.

As an interim measure, the fiscal year 2007 budget proposes funding for already authorized projects that provide significant reductions in life risks. I expect that future budgets also will address life risk considerations.

CONTINUING CONTRACTS AND REPROGRAMMING

Question. In the fiscal year 2006 E&WD appropriations act, the Congress made significant changes in how funds are to be spent, which will result in similarly significant changes in how the Corps manages its program.

General Strock, has the Corps assessed the impact of these changes on program execution and, if so, what are they?

General STROCK. The guidelines for reprogramming and the use of continuing contracts as set forth in the fiscal year 2006 E&WD appropriations act and accompanying conference report have brought about many significant changes in how we manage our Civil Works Program. We no longer emphasize expenditures as a measure of success. The volume of reprogrammings is significantly reduced. Reprogrammings that exceed the dollar and percentage thresholds established in the fiscal year 2006 act now require more coordination. We anticipate an increase of carry-over funds in the short-term as we realign our budgeting, planning, and execution practices.

Question. For many years, the Corps carried a fairly significant amount of its available construction funds unobligated from one year into the next. This unobligated carryover afforded the Corps flexibility in meeting unforecasted needs and was a practice generally supported by this committee.

Several years ago however, it became apparent to us that this practice must be changed and, at the urging of this committee, the Corps increased its execution performance and eliminated the carryover.

With the new program management practices required by the fiscal year 2006 E&WD act, will this carryover reappear? If so, how much will it be, approximately, by the end of the year? After next year, assuming a constant appropriation level?

General STROCK. As stated earlier, execution performance will no longer be measured simply by the percentage of funds obligated or expended and an increase in carried-over funds is expected. Our estimate of unobligated funds to be carried over at the end of fiscal year 2006, according to the execution schedules developed after the appropriation of fiscal year 2006 Energy and Water funds, is as follows. Dollars in are in thousands. Funds provided in supplemental appropriations as of April 5, 2006 are included and account for the majority of the total unobligated carryover.

Appropriation	Unobligated Carryover \$1,000	
	E&W	Supplemental
Investigations	\$49,495	\$2,311
Construction	345,702	7,406
O&M	164,345	10,384
MR&T	92,618	46,889
FCCE		800,000
Expenses		
Regulatory	16	
FUSRAP	974	

Since the fiscal year 2006 appropriations were not enacted until last November, adjustments had to be made in the scheduling of funds during the Continuing Resolution. In addition, in fiscal year 2006 we received substantial hurricane-related supplemental appropriations. Therefore, the amount carried over from fiscal year 2006 may not be a good indicator of what to expect at the end of the following year.

Question. What changes to the requirements contained in the fiscal year 2006 act would you recommend to assist you in better use of the funds appropriated to the program?

Mr. WOODLEY. The fiscal year 2006 Energy and Water Appropriations Act includes language that has enabled the Corps to limit the use of continuing contracts and thereby increase the use of other kinds of contracts (such as fully-funded contracts and base bid-plus-options contracts) for projects authorized for construction. The fiscal year 2007 budget proposed to amend this language for fiscal year 2007 to enable the Corps to limit the use of continuing contracts and thereby expand the use of other kinds of contracting instruments for operation and maintenance activities as well.

Question. If these changes remain unchanged for several years, will you be able to award and carry out as many construction contracts as you have under the previous rules? Can you estimate or characterize the differences for us?

General STROCK. The fiscal year 2006 Energy and Water Appropriations Act has enabled the Corps to expand the use of contracting instruments other than continuing contracts in its construction program. The Corps recently issued guidance to ensure that the construction program is using continuing contracts only where they are the most appropriate contracting instrument. The fiscal year 2006 act did not, however, include a further reform proposed in the fiscal year 2006 budget, which would have provided the Corps with the kind of multi-year contracting authority used by other Federal agencies. In the absence of such authority, efforts to reduce reliance on continuing contracts could affect the number of awarded contracts during a transition period of up to a few years.

Question. The Corps has been awarding so-called continuing contracts for many years . . . since 1922, I'm told. This is where you award a contract that will take more than a year to execute and where you depend on appropriations in future years to fund the contract earnings expected in those future years.

General Strock, what is the Corps' experience with that type of contract? That is, have they presented great challenges or otherwise not served the Nation well in the years you've been using them?

General STROCK. Continuing contracts, like the multi-year contracts used by other Federal agencies, enable the Corps to incrementally fund work on any water resources project (studies, design, construction, or operation and maintenance) that the Congress has not fully funded up front. However, unlike the multi-year contracting authority of other Federal agencies, the continuing contract authority of the Corps has few constraints and allows the Corps to legally bind the Federal Government to pay future costs in advance of appropriations. The use of our continuing contract authority has resulted over the years in a large number of long-term contracts with high out-year funding commitments to one provider, and limited the ability of the Executive Branch and the Congress to set priorities in the civil works program. Obviously, there are other challenges as well, particularly when the contractor's earning rate is greater than anticipated and significant reprogramming from other projects is required.

Question. How do you plan to manage your contracting in light of the guidance on continuing contracts contained in the fiscal year 2006 act? That is, will you award fewer contracts? If so, how many fewer contracts in the current fiscal year would you expect to award than if you didn't have this guidance?

General STROCK. Generally, the Corps is issuing a continuing contract in the construction program only when other contracting options such as fully-funded contracts, incremental contracts, or other contracts are not appropriate, and only with reasonable assurance that the continuing contract will be funded in the out years. In the short-term, fewer contracts are being awarded. However, I cannot make a numerical projection of the difference. In the long-term, we would expect the number of contracts to be as much or more than in previous years, assuming the same overall funding level.

Question. What is the long-term impact on the number of projects you will have underway at any given point in time? That is, will you then be able to have fewer projects underway at any given time?

General STROCK. Because we are waiting for sufficient funds to fully fund some contracts, there will be a deferral of these contracts in the short-term. In the long-term, at any given out-year funding level, the number of projects underway at a given time would be the same.

CONTINUING CONTRACTS

Question. How many continuing contracts has the Corps awarded in fiscal year 2006 since fiscal year 2006 Energy and Water Development Appropriations Act was passed?

General STROCK. There have been a total of 12 continuing contracts awarded as of the end of the second quarter of fiscal year 2006.

Question. How many continuing contracts have you disapproved and why?

Mr. WOODLEY. There are three continuing contracts that have been disapproved and/or sent back for reevaluation, because either the proposal did not satisfy the criteria laid out in the Corps fiscal year 2006 program execution guidance, or the analysis of whether another contracting mechanism would be efficient and effective in the circumstances was inconclusive.

Question. What are your criteria for determining to award a continuing contract?

Mr. WOODLEY. The Corps uses several criteria. In accordance with the fiscal year 2006 Program Management EC, several questions must be answered during evaluation. These questions include whether the amounts available and that have been identified for reprogramming in fiscal year 2006 are sufficient to fully fund the contract, and, if the amount available in fiscal year 2006 is not sufficient to fully fund the contract, whether the scope and schedule of the contract are appropriate for the features of the project to be constructed. If the amount available is insufficient and the scope and schedule are appropriate, then different contracting vehicles are explored and analyzed. If other relevant contracting options are not appropriate, and delay of the contract to fiscal year 2007 or later would result in significant consequences, a continuing contract may be recommended. My office also assesses whether future appropriations to support the contract are likely, based on recent funding history, the fiscal year 2007 President's budget, and the House, Senate, and Conference Reports when available.

Question. Have the directions in the fiscal year 2006 Energy and Water Development Appropriations Act caused any difficulties for the Corps?

General STROCK. The new guidelines have encouraged improved discipline in the system, but they also have introduced some delays in part by requiring elevation to the Washington level of day-to-day operational decisions that previously were made in the district offices.

With respect to reprogramming, we face the challenge of transitioning our budgeting and execution practices to an environment with limited reprogramming, including the challenge of funding previously incurred payback commitments and the challenge of addressing pressing or emergency situations and situations with strong business cases.

With respect to contracting, the limited use of continuing contracts will result in the delay of some contracts during a transition period until funding and contracting decisions are aligned.

All told, these changes have not caused significant difficulties. Carryover will increase in the short-term. These changes have also provided an opportunity to look for ways to improve the overall performance of the civil works program.

REPROGRAMMING

Question. How many reprogrammings have been approved within the Corps authority?

General STROCK. Such reprogrammings are an ongoing process throughout the fiscal year and tend to become more frequent as the year goes on. However, the following snapshot at the end of the second quarter should give a reasonable estimate as to the rate of reprogrammings within the appropriation accounts:

- Investigations—6 gainers, 2 sources;
- Construction—13 gainers, 14 sources;
- O&M—7 gainers, 5 sources;
- MR&T—7 gainers, 5 sources.

Question. How many reprogrammings that require prior notification to Congress have been proposed and how many have been approved?

General STROCK. As of the date of the hearing, the Army recently has submitted ten requests for reprogramming to OMB. OMB has cleared two of them already and is reviewing the others.

Question. To what do you attribute the failure to approve proposed reprogrammings in a timely manner?

General STROCK. Few reprogrammings are proposed due to the difficulty in finding suitable sources. One type of suitable source would be one for which the funds are excess to the total needs of the source project due to savings, such as from a low bid or changed site conditions; however, such situations are relatively rare. In the past, another fairly reliable source was slipped earnings due to delayed awards; but the expectation was that the revoked funds would be restored when needed. The guidance in the fiscal year 2006 conference report that there be no expectation of such payback commitments has nearly eliminated sources with slippages.

Question. Have the directions regarding reprogramming in the fiscal year 2006 Energy and Water Development Appropriations Act caused any difficulties for the Corps and do you have any recommendations as to how the directions in the fiscal year 2006 Appropriations bill might be improved?

General STROCK. The new guidelines have encouraged improved discipline in the program. We face the challenge of transitioning our budgeting and execution practices to an environment with limited reprogramming, including the challenge of funding previously incurred payback commitments and the challenge of addressing pressing or emergency situations and situations with strong business cases.

The administration's proposals for fiscal year 2007 are reflected in proposed bill language in the Budget Appendix. We would like to move toward a system that retains the benefits of this discipline, but that returns day-to-day operational decisions to the district level, perhaps in combination with periodic reporting to the Appropriations Committees on actions taken the prior quarter, to give them the opportunity to assess whether the committee's guidance and the Corps' own policies have been followed.

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

HOPPER DREDGE MCFARLAND

Question. Significant and timely maintenance, repair and replacement of systems and equipment in the amount of \$25 million have been accomplished onboard the McFarland in the past 10 years. These include:

- Complete replacement of riveted seams (both port and starboard sides) resulting in all welded steel hull with estimated hull life extension of an additional 25 years;
- Phased renewal of all 12 hopper door frames;
- Phased overhaul of all 12 hopper door operating gear;

- Replacement of Steering Gear Control System;
- New propeller shafts;
- Complete replacement of propulsion control system from pneumatic system control to electronic controls; and
- Phased overhaul of all engines and generator.

In its November 2005 report to Congress regarding the future operation and configuration of the Federal hopper dredge fleet, the Corps states that an additional \$20 million in major overhaul and repair activities must be expended to keep the Hopper Dredge McFarland operational.

It is my understanding that a one-time expenditure of this magnitude would be required only if the decision were made to transition the McFarland to ready reserve status, and that the McFarland can continue to work without this \$20 million overhaul.

On what grounds was the assertion made that the McFarland requires \$20 million in overhaul and repair work?

General STROCK. The \$20 million overhaul and repair would be needed in either case, whether the McFarland were to be placed in ready reserve or if it were to work a full schedule.

Question. What specific repairs in the amount of \$20 million are needed to keep the McFarland operational?

General STROCK. The current engine room, with 11 engines, is not the optimal configuration, nor the safest means of powering the McFarland. The majority of the repair costs would be used to repower the dredge with modern low emission engines, reduce the number of engines, and substantially improve the efficiency of operating the McFarland. The current manner of controlling the drag arms on the dredge is also not the optimal manner in which to perform this operational activity on the McFarland. Costs were included in the estimate to reconfigure the dual drag tender stations into a modern central drag tender station, thus reducing the crew requirements and improving the operational efficiency of the dredge. Additional items include removal of all asbestos on the dredge for the safety of the crew and other improvements.

Question. Port stakeholders were not invited to be members of the Industry/Corps Hopper Dredge Management Group (ICHDMG), formed by the Corps and Dredging Contractors of America. The port and waterway stakeholders, and the customers they serve, are the ultimate end users of the any federally contracted dredging contracts.

Failure to adequately respond to emergency dredging requirements, and the increasing cost of dredging, ultimately affects the competitiveness of the Nation's ports and waterways transportation system.

General STROCK. The ICHDMG was formed in response to Section 237 of WRDA 96. The purpose of the ICHDMG is to maximize the effectiveness and efficiency of our Nation's hopper dredging resources, to enhance the viability and competitiveness of our ports and waterways by maintaining communication between the Corps and the hopper dredging industry and to ensure procedures are in place and sufficient hopper dredges are available to respond to urgent and emergency dredging while meeting needed routine dredging requirements. The ICHDMG is a working group that is focused on identifying hopper dredging problems and crafting solutions, sharing information, diffusing potential problems, and coordinating schedules on a national basis. In the past some of the shipping stakeholders and ports have participated in ICHDMG meetings. In addition, the Corps district offices work directly with the many ports throughout the Nation to ensure that these important stakeholders are fully engaged in all aspects of the Corps dredging program that affects their interests.

Question. Should port stakeholders be included in the ICHDMG to ensure their participation in the decision-making process regarding Federal hopper dredging?

General STROCK. Any interested port stakeholders would be most welcome to participate in ICHDMG.

QUESTION SUBMITTED BY SENATOR MARK DAYTON

POWDER RIVER BASIN EXPANSION PROJECT

Question. What steps is the Army Corps of Engineers taking to ensure that a complete and thorough review is conducted prior to issuing permits under Sec. 404 of the Clean Water Act and Sec. 10 of the Rivers and Harbors Act for the proposed construction of the Powder River Basin Expansion Project, also known as the Dakota, Minnesota & Eastern (DM&E) Railroad project?

General STROCK. The Omaha District began coordination (pre-application meeting) with the Dakota, Minnesota and Eastern (DM&E) Railroad relative to the Powder River Basin Expansion Project in November 6, 1997. The Omaha District participated as a cooperating agency under the National Environmental Policy Act (NEPA) with the Surface Transportation Board (STB) in the formulation of an Environmental Impact Statement to ensure that requirements of Section 404 of the Clean Water Act were addressed concurrently with the STB's review process.

The Omaha District received two Section 404 permit applications for the Wyoming and South Dakota portions September 15, 2000. A Section 10 permit application was submitted to the U.S. Coast Guard for a bridge replacement on the Missouri River at approximately the same time since that agency is responsible for that action.

The STB rendered a decision to authorize the project under its program responsibilities January 28, 2002 which was the subject of litigation (*Mid States Coalition for Progress v. STB*). The 8th Circuit Court of Appeals remanded the decision and required that additional study and analysis be completed in four specific areas of the EIS. A supplemental EIS was formulated, which the Omaha District participated in as a cooperating agency. The supplemental EIS was released January 6, 2006. The STB issued a new decision authorizing the project and is the subject of current litigation (*Mayo Foundation v. United States of America and STB*) in the 8th Circuit Court of Appeals.

The Omaha District has ensured that the information formulated in the EIS addresses our information and data needs. Omaha has also continued coordination with DM&E on the permit applications in an attempt to address outstanding information needs that were identified since December 4, 2001. Action on these applications since 2002 was minimal due to DM&E's focus on litigation and addressing direction from the court. A meeting with Omaha District staff in Cheyenne, Wyoming, is scheduled to address outstanding information needs and administrative processes to allow final permit decisions to be rendered.

SUBCOMMITTEE RECESS

Senator LANDRIEU. Thank you so much and the hearing is recessed.

[Whereupon, at 3:53 p.m., Wednesday, April 5, the subcommittee was recessed, to reconvene subject to the call of the Chair.]