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Examining the Benefits of Investing in USACE Water Infrastructure Projects

Before the Committee on the Environment and Public Works
United States Senate

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Good morning Chairman Carper, Ranking Member Capito, and members of the Committee. It is a privilege for me to appear before you this morning to testify on the benefits of investing in U.S. Army Corps of Engineers water resources infrastructure projects.

My name is Amy Larson. I am currently a consultant, but previously served for twelve years as the president of the National Waterways Conference, Inc. (NWC or Conference), an association whose membership includes nonfederal sponsors of Corps Civil Works projects as well as stakeholders who rely upon those projects and the multiple benefits they bring to this nation. In that capacity, I was deeply involved in water resources legislation dating back to the Water Resources Reform and Development Act of 2014 and the subsequent WRDAs in 2016, 2018 and 2020. I am pleased to see the continuation of this Committee’s longstanding cooperation and collaboration in addressing our nation’s critical water resources needs.

This morning I would like to address the importance of flood control and flood risk management measures to small and rural communities. I’ll touch upon the opportunities those communities may have as well as the impediments they face, and offer suggestions for more effective planning and investment strategies going forward.

The Project Planning Process

In recent years, there’s been a heightened scrutiny of the benefit-cost ratio, with an increasing degree of frustration about how projects are both authorized and funded. To address these issues, it’s helpful to start with how projects are developed to begin with.

The Corps formulates and evaluates studies for major water resources projects under the 1983 Economic and Environmental Principles for Water and Related Land Resources Implementation Studies, known as the Principles and Guidelines, or the P&G. Intended to establish consistent and replicable planning criteria, the P&G provide that the “Federal objective” for project

planning is to contribute to national economic development, referred to a N-E-D, consistent with protecting the environment.

Through the study phase, alternative approaches are evaluated through four accounts:

- The NED, which looks to the economic value of the national output of goods and services,
- Environmental quality (EQ), which looks at non-monetary effects on ecological, cultural and aesthetic resources,
- Regional economic development (RED) – looks at income, employment, output and population, and
- Other social effects (OSE) – considers such things as community impact, health and safety, displacement, and energy conservation

The P&G provides that a discount rate is to be used to convert future monetary values to present values. It is set annually using data from the Department of the Treasury, and it is currently 2.75%.

WRDA 2007 directed the Corps to update the 1983 P&G, contemplating planning founded upon multiple national objectives: economic, environmental, and social well-being, including a public safety objective. Additionally, WRDA 2007 emphasized a watershed approach to planning, recognizing the importance of collaborative planning and implementation. After a protracted process, the result was the issuance of the final Principles and Requirements and draft Implementing Guidelines in 2013. At a hearing this Committee held last month to consider the role of natural and nature-based features in water resources projects, you received testimony from General Galloway who provided a detailed overview of the P&G, noting that concerns limited the Corps from implementing the 2013 effort. Without belaboring those concerns, which I shared at the time, I think it's important to recognize them in order to provide a clear path forward. In a nutshell, first, the 2013 Principles, Requirements and Guidelines did not establish a predictable, consistent and replicable framework to guide the review of potential projects, and second, the proposal did not provide for a balanced approach to the planning, development and management of water resources, and by that I mean balancing environmental and ecological considerations with human and economic uses. These concerns were also identified by the National Research Council's Water Science and Technology Board in a review of the proposed principles, which were not rectified in the final document. These concerns are still relevant today as we as a nation consider how to invest significant funds by the Federal government and nonfederal sponsors alike in our critical water resources infrastructure. As the Corps carries out the directives in the FY21 Energy and Water bill and WRDA 2020, both included in the omnibus enacted in December, to promulgate agency guidance to implement the 2013 Principles and Requirements, it is important to note that notice and an opportunity to comment on the draft guidance must be provided to stakeholders before any guidance is finalized.

Turning to the BCR, generally the recommended plan for projects formulated under the P&G is the one with the greatest net economic benefit consistent with protecting the environment. However, there is a major disconnect when it comes to funding authorized projects. In establishing the Administration's budget priorities, OMB uses a BCR of 2.5 to 1, with a 7% discount rate. In practical terms, that means many authorized projects won't be included in the President's budget.

The Administration's FY22 budget would lower the OMB new start criterion to 2.0 to 1, keeping the 7% discount rate. While this might be viewed as a modest step to allowing economically depressed communities to compete for funding, addressing long-standing concerns and criticisms that wealthier communities with higher home values had a better chance to secure federal funding, the unrealistic 7% rate remains a significant hurdle for many projects. Moreover, recent attempts by OMB to tie new start authorizations to a nonfederal sponsor's willingness to pay higher than the required cost share have been rejected by Congress as "pay to play" attempts.

An additional challenge arises when nonfederal sponsors seek to incorporate multiple benefits in a project. You heard in detail about the challenges in considering multiple benefits at last month's hearing in the testimony provided by Rick Johnson from the Sacramento Area Flood Control Agency about improving the Yolo Bypass. This issue is being addressed at the Corps, based on a directive from the previous Assistant Secretary of the Army for Civil Works, who required the Corps to "identify, analyze, and maximize all benefits" in the different accounts mentioned above.

It is encouraging that efforts are ongoing both to evaluate and quantify benefits beyond the scope of the traditional benefit cost ratio used in project formation, and to capture multiple benefits that can be yielded by these projects. This includes better quantification and demonstration of all benefits accruing from these projects; improved quantification of multi-purpose benefits, as well as improved quantification of flood protection benefits, including in economically distressed areas. A particular challenge in this area is that the BCR considers the value of real estate in the proposed project area. That measure is a clear detriment to regions with lower property values and clearly, in view of this Administration's emphasis on equity and environmental justice, points to the need for a more focused response to flood risks in disadvantaged communities. An alternative approach could be to consider the number of homes, structures, and most significantly lives at stake, rather than simply economic benefits. Consideration of life-safety should be paramount, derived from the Corps' focus on risk-informed decision making, rather than a straight economic analysis.

A couple words of caution: while incorporating multiple benefits may in some instances elevate the BCR to better position that project to compete for federal funds, requiring all projects to "maximize" all benefits could in fact set up a red herring and undermine the planning process by setting up unachievable goals and imposing additional financial obligations on the nonfederal sponsor. Additionally, it is unclear how OMB will make funding decisions with enhanced project benefits. Would OMB decline to fund single purpose projects? Conversely, would too many benefits dilute the federal interest, and unwittingly give OMB an opportunity to choke federal participation in all water projects?

Thus far, I've focused on the traditional planning and project development process. Now I'd like to turn to other opportunities for small and rural communities to address their flood protection needs.

The Corps' Continuing Authorities Program (CAP) is a group of nine legislative authorities under which the Corps can plan, design, and implement certain types of water resources projects without additional project-specific congressional authorization. The purpose of the CAP is to plan and implement projects of limited size, cost, scope and complexity.

Typically, the feasibility study and design phase are covered at federal expense up to \$100,000, with the nonfederal sponsor required to cover costs above that amount. Thereafter, if a decision is made to proceed with construction, there are cost-share obligations on the nonfederal sponsor, detailed in the project partnership agreement (PPA). Cost shares vary based on the specific authority utilized. For example, section 205, which establishes the authority to construct small flood control projects, requires that construction costs are 65 percent federal and 35 percent non-federal.

Despite the authorities in place, there are nonetheless challenges to overcome in order to energize this program. It is estimated that after the initial federally-funded study phase, only 20 percent of those studies move forward to construction. Anecdotally, there seems to be two primary reasons for this. First, small communities do not have funds to go forward with their cost share obligations. Second, many do not have the technical expertise to manage their end of the project. For instance, a small community may have one person responsible for public works, or indeed, one person managing multiple departments, one of which is public works. As a consequence, the local flood protection project may not get the attention it needs. I would offer a few suggestions to address these issues. First, in terms of funding, Congress has taken a significant step by funding CAP in FY 21 at \$69.5 million, compared to the \$3 million budget request. That funding has not been allocated yet as the Corps awaits Administration approval. (The FY22 budget would only fund this program at \$3.53 million, with \$1 million each for Section 206, aquatic ecosystem restoration, and Section 205, small flood control projects, and \$1.53 million for Section 1135, project modifications for improvement of the environment. Hence, Congress will again need to bolster this program with more robust funding).

WRDA 2020 increased the authorization levels for each program, and established a pilot program under the Continuing Authorities Programs for small and disadvantaged communities, with a federal cost share at 100% for projects selected in the pilot program. It is my understanding that guidance to implement this provision is under review, and thereafter funding will be required to implement.

In terms of educating small communities, I would respectfully suggest that members of this Committee, and your colleagues in both chambers, could play an essential role, letting your constituents know about these opportunities – both the increased CAP funding and the newly authorized pilot program. In general, for regular CAP funding, the process starts with a letter of interest from the local community to the Corps district. Your outreach to your constituents can effectively assist their efforts to secure the assistance they need.

Congress's continued support for the CAP authorities will also provide some certainty and stability for the Corps' execution of the program. With paltry budget requests in the \$3 million range, the Corps is hamstrung until the actual appropriations are agreed upon, such that staff efforts are directed towards authorized projects and ongoing operation and maintenance (O&M) activities. Regular, robust funding, such as that provided in FY21, will better enable the Corps to ensure that dedicated and experienced program managers are in place to manage the program in an efficient manner.

While the increased funding is certainly welcome in order to address the needs of small and rural communities, I would also add a word of caution. The CAP authorities address study, design and construction. Remember that the local communities are responsible for the long-term operation and maintenance. In order to develop and implement long-term sustainable solutions,

the O&M responsibilities cannot be overlooked. Local communities will need to prioritize this obligation at the local level. WRDA 2020 took a step in this direction requiring the Corps to prioritize technical assistance for resiliency planning to economically disadvantaged communities and communities subject to repetitive flooding.

A review of other funding opportunities may be instructive in developing ways to assist small and rural communities. The Corps “Tribal Partnership Program,” established in WRDA 2000, is a CAP-like program dedicated to carrying out the study, design and construction of various water resources projects for federally-recognized tribes. The Corps Water Infrastructure Financing Program (CWIFP), authorized in WRRDA 14 by the WIFIA title, enables local investments in critical infrastructure. That program received its first federal funding in the FY21 energy and water bill, targeted to provide financial assistance for projects to reduce flood damage, notably resulting from the failure of high-hazard dams. Rules to administer that program are forthcoming and could be instructive in setting up a similar program for small and rural communities. Similarly, the EPA’s WIFIA program and the TIFIA program may provide a model to establish low interest loans or grants. Other low-or-zero interest loan and grant programs, for instance those administered by the Departments of Agriculture and Housing and Urban Development, may serve as models for programs to assist small and rural communities to meet their cost-share obligations for construction and operation and maintenance in order to achieve the necessary level of flood protection their residents deserve.

Thank you for the opportunity to be here today and I look forward to any questions you might have.