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Committee on Environment
and Public Works

Washington, D.C.

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HEARING ON WATER RESOURCES DEVELOPMENT ACT 2024: USACE WATER
INFRASTRUCTURE PROJECTS, PROGRAMS AND PRIORITIES

Wednesday, February 28, 2024

United States Senate

Committee on Environment and Public Works

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The committee met, pursuant to notice, at 10:02 a.m. in room 406, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Whitehouse, Merkley, Markey, Stabenow, Kelly, Padilla, Fetterman, Cramer, Mullin, Ricketts, Boozman, Wicker, Sullivan.

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Good morning, everyone. I am pleased to call today's hearing to order and to welcome our distinguished witnesses from the Army Corps of Engineers, Assistant Secretary Connor and General Spellmon. Navy salutes Army, welcome. Thank you for joining us, and thank you for your continued service to our Nation.

For a decade, this committee has led the effort to pass biennial Water Resources Development Act legislation, known as WRDA, with overwhelming bipartisan support. Last Congress, the Senate passed WRDA 2022, as you recall, by a vote of 93 to 1. We don't see margins like that every day in the U.S. Senate. They never see things like that in the U.S. House.

[Laughter.]

Senator Carper. I say that lovingly, as a former House member.

Having said that, that is a pattern that we want to continue to replicate: timely bipartisan reauthorization, resulting in sound policies to address our Nation's critical water resource needs in the face of increasingly powerful storms, devastating floods and more intense and frequent droughts. I am proud of the work done by all of our EPW colleagues and by our staffs in making this goal a reality.

I am especially grateful to Ranking Member Capito for the partnership we have forged with her and her talented team on all things WRDA. When it comes to this committee, WRDA is a shining example of the bipartisanship that is too often overlooked on Capitol Hill these days.

This past fall, Senator Capito and I received, at our request, more than 1,200 requests from our colleagues in the Senate from north to south and east to west for consideration in WRDA 2024. I believe that might set a new record. Since then, we have been diligently reviewing these priorities with the Corps, and we have identified some consistent themes.

First, communities are asking for Corps projects to be more affordable. Second, non-Federal sponsors are seeking more flexibility when working with the Corps. And third, communities are asking for Corps projects to do more to address extreme weather and climate change.

To many of us, these are all too familiar topics. That is because in the past several reauthorizations, we have made historic changes to Corps policy to address these very issues. We have made cost shares more favorable for underserved and for tribal communities. We have given the Corps authority to review their contracting procedures. And we have directed the Corps to consider the impacts of climate change in just about everything that you do.

So one might ask, why are we still seeing these WRDA requests in 2024, if we have already addressed these problems? Well, while the last three WRDA bills have been transformative, implementation of these laws is taking longer than expected, in some cases a good deal longer. We need to better understand how we can help the Corps implement these laws more expeditiously.

As many on this committee have heard me say, probably too often, everything I do, I know I can do better. I think that is true of all of us, even the Navy, even the Army. That same principle applies here with respect to this legislation.

To be fair, the Corps has begun to make some meaningful progress. Two weeks ago, I was pleased to learn that the Corps announced a regulatory proposal to revise its Principles, Requirements, and Guidelines. Historically, the Corps has relied too much on an oversimplified cost to benefit ratio in its decision-making process, which has sometimes undercut crucial community and ecosystem needs.

This new regulatory proposal makes major strides to elevate the best-available science throughout the Corps' decision-making processes and it goes a long way towards building community resilience to climate change. I hope to see that rulemaking process move forward as swiftly as possible.

I do recognize that implementation of Congress' recent WRDA bills, including the rulemaking for the Principles,

Requirements, and Guidelines takes time. But the clock is ticking. We are already feeling the acute impacts of climate change across our Nation, from the drought in the West, to sea level rise on the Gulf Coast, to floods from snowpack melt in the Midwest.

Without intervention, the National Oceanic and Atmospheric Administration estimates that the threat of sea level rise is going to accelerate, not diminish, in the next 30 years. According to the U.S. Census Bureau, approximately 40 percent of the U.S. population lives within 100 miles of a coastline.

That means more than 130 million people who live in coastal counties, including all of Delaware, much of Maryland, Virginia, the Carolinas, all the way down to Florida, and States to the north and south of us, frankly, just about everybody on this committee is included in those States, are included in the threats posed by rising sea levels.

So, we need to continue working with partners like the Corps in addressing the impacts of climate change.

While the slow progress we have seen from the Corps on this front is better than no progress, it is my hope that today's discussion will be an opportunity for us to learn more about what has caused the delays in WRDA implementation, and how we can make sure that these historic bills have the transformative impact that Congress intends. I think you want it as well.

Senator Capito and I are in agreement that WRDA 2024 will focus on individual project solutions. I will say that again: Senator Capito and our teams are in agreement that WRDA 2024 will focus on individual project solutions, giving the Corps the ability to dedicate more time and resources to fully implement the changes we have already made in past bills.

General Spellmon and Secretary Connor, we look forward to hearing your testimony and insights today. We always look forward to hearing your testimony and to working with you and your team.

Thank you for joining us. Thanks as well to the men and women you lead today. Some are in the room; most are not. They are spread out across the Country.

Before your testimony, though, I want to turn it over to our Ranking Member, Senator Capito, for any comments she would like to make. Senator Capito, welcome.

[The prepared statement of Senator Carper follows:]

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES
SENATOR FROM THE STATE OF WEST VIRGINIA

Senator Capito. Thank you, Chairman Carper, thanks for having the meeting. And we are working well, I think, towards keeping the record of reauthorizing WRDA every two years.

Secretary Connor and General Spellmon, wonderful to have you with us here today. You might recall the last time you both were before the Committee, we discussed a project that is incredibly exciting for my home State of West Virginia, and that is the Nucor steel plant in Mason County. Once the plant begins commercial operations it will employ hundreds of full-time employees in an area where jobs are desperately needed.

I want to take a moment to thank you, your staffs, and the team at the Huntington District for your assistance and personal attention to this project. I am pleased to say that Nucor broke ground on the site last October. This would not have been possible without your support and hard work.

I will say just for the audience listening and you all probably know this, at the groundbreaking a Guinness Book of World Records was broken. It was the largest groundbreaking ever, with 545 shovels. So, look it up in your Guinness book. It was very exciting for the community. Every high school senior was there with a shovel.

Since 2014, the committee has kept its biennial schedule of

passing bipartisan legislation that authorizes water resources studies and projects. WRDA, as we know it, also sets national policies for our Civil Works Program at the U.S. Army Corps of Engineers. I look forward to continuing that track record, as I stated earlier.

Last year, Chairman Carper and I, and he mentioned this in his opening statement, sent a letter to our Senate colleagues collecting their requests for WRDA 2024. I must say WRDA 2024 is becoming very popular. I am pleased to say that we received a significant number of requests, many more than last time, which demonstrates the strong interest but also the necessity of this legislation.

As the Chairman and I have both said repeatedly, WRDA 2024 will not be a policy-heavy bill. Instead, the legislation will focus on authorizing new or modifying existing studies and projects, as well as making much-needed technical changes to prior provisions in order to better reflect the intent of Congress.

This limited scope will enable the Corps to focus its energy and resources on fully implementing prior WRDA provisions, which will ensure that the agency continues to be responsive to water resource needs.

As I have previously stated, it is important that any WRDA bill supports the timely and efficient delivery of water

resources projects, while continuing to meet national priorities. Flexibility, we have heard this over and over again, is key to ensuring that the Corps can identify and carry out solutions that are tailored to needs of each individual community.

We must also continue to preserve the role of non-Federal sponsors in this project and maintain the Corps' focus on its primary mission of navigation, flood and coastal storm risk management, and ecosystem restoration.

I would like to extend my appreciation to the staff at the Corps, as the Chairman stated, some of them here and many of them all across the Country, for their engagement with the Committee as we oversee the implementation of WRDA 2022 and prior WRDAs.

However, I am concerned about the Corps' fulfillment of some of these provisions. As Ranking Member, one of my two priorities across the committee's jurisdiction is improving the environmental review and permitting processes for all types of infrastructure projects, while not sacrificing important environmental provisions.

These processes need to move forward in a timely and predictable manner so that communities can realize the benefits of these projects for a whole lot of reasons.

I am proud that WRDA 2022 contained a provision that

further this goal, which is NEPA reporting. Unfortunately, more than a year after enactment, this important provision is still not implemented.

Earlier this month, the Corps informed the Committee that it will need \$3 million to set up the reporting system and another system which WRDA 2014, that is 10 years ago, also needs another \$2.5 million a year to maintain these systems. Recent WRDAs have also included provisions designed to reduce the financial burden on non-Federal sponsors in economically disadvantaged communities. Much of my home state of West Virginia qualifies as economically disadvantaged and could benefit from these provisions.

Regrettably, some of these provisions have not been fully implemented, or even begun, which means critical projects are not moving forward. It was clear from my Senate colleagues' requests that many of the provisions in prior WRDAs are also facing delays and obstacles.

This hearing in part is part of the Committee's ongoing oversight of the Corps and the agency's efforts to carry out these laws. We will closely examine whether or not the Corps has made the implementation of certain provisions needlessly more complicated than Congress intended them to be. I look forward to discussing all of these issues in more detail with our witnesses.

Today, we will also learn about the Corps' priorities for WRDA 2024. I will be particularly interested in which priorities require legislative language and which can be carried out through existing authorities.

Secretary Connor and General Spellmon, again, thank you for your continued commitment to transparency and accountability, and accessibility, I need to add that, as well as your insights into these matters.

I also want to acknowledge and thank the staff across the Corps enterprise for their efforts to provide the Committee with technical assistance on the various WRDA requests that we received from our Senate colleagues. The technical assistance is a vital part of our legislative process and we greatly appreciate the responses.

The work of the Corps has and will continue to make a difference in communities all across the Country, and particularly in my State.

I would like to take a moment of personal privilege here to acknowledge a sad thing for our committee, certainly for my side of the aisle, but also for the chairman's as well. One of my great staff members, Travis Cone, who is my deputy staff director, this is his last meeting, his last week. He is easily identifiable because he is the one with the red hair and red beard who is sitting right behind me.

Travis has served on my staff for seven years, and leads the environment team on the committee's Republican staff. He will be leaving the committee later this week. He will really be missed, not only as a great talent, but also as a good friend to so many. His expertise and dedication have contributed to a number of legislative successes, especially the committee's historic drinking water legislation.

Travis, I want to thank you for your outstanding work for me. The only big negative about Travis, now, I am a Duke Blue Devil, and he is a Kentucky Wildcat. So we have had a few problems with that.

[Laughter.]

Senator Capito. I can declare which blue I think is superior, but we don't get into it much.

I would like to have a round of applause for Travis.

[Applause.]

[The prepared statement of Senator Capito follows:]

Senator Carper. I am Tom Carper, and I approve that message.

[Laughter.]

Senator Carper. Travis, we are going to miss you, buddy. Good luck, fair winds and following seas.

As some of you know, I go back and forth on the train. I live in Delaware and go back and forth on the train a lot. People are very kind to me, ever since I announced I wasn't going to run for re-election, people are so kind, and they ask me, how is your retirement going, and I say, well, I am not retired yet.

I don't retire until high noon on January 3rd, 2025. I am still in the saddle, and there is plenty to do. All the Senators who are here today and those who are not, we have a lot on our plates to work on to keep us busy until that date.

It is easy to introduce legislation. It is easy to introduce bipartisan legislation. It is fairly easy to get, in this committee, and eventually to move from hearings to bring the legislation to the Floor and maybe passing it in the Senate and maybe finding companion legislation in the House and finding a way to compromise, and the President to sign into law. That is regular order. We are pretty good at regular order; we are really good at it in this committee.

But another big part of our job is implementation. Between

now and high noon January 3rd, 2025, we are going to be focused as well on implementation, and we should be. And I look forward to doing that.

Now, I think I mentioned, I will say this again, Senator Capito and our agreement that WRDA 2024 will focus on individual project solutions, giving the Corps the ability to dedicate more time and resources to fully implement the changes we have already made in past bills. And again to our witnesses today, we look forward to hearing your testimony and look forward to working with you toward that end.

Now, let's turn to our witnesses. Assistant Secretary Connor has served in a variety of positions, I read this last night, and it is very impressive, a variety of positions in the Federal Government focusing on natural and water resources throughout much of your career. He was confirmed as the Assistant Secretary of the Army in 2021, in November as I recall. He advises the Secretary of the Army on all matters that pertain to the Army's Civil Works program.

With that having been said, Secretary Connor, you are recognized for your statement. Welcome, and thank you.

STATEMENT OF THE HONORABLE MICHAEL C. CONNOR, ASSISTANT
SECRETARY OF THE ARMY FOR CIVIL WORKS

Mr. Connor. Thank you very much, Mr. Chairman, Ranking Member Capito, and distinguished members. I very much appreciate the opportunity to discuss the Army's priorities for WRDA 2024. I very much appreciate the concept of a policy-light WRDA 2024, because we do need to catch up and implement the very good provisions that you have enacted.

My written statement has been submitted for the record, and identifies actions to implement the last two WRDAs, as well as priorities for the Army Corps of Engineers Civil Works Program. The testimony speaks for itself, so I will use my time to quickly describe a visit I made to Hawaii last week, which I think is relevant to a number of the issues we are going to discuss today.

My trip included reviewing a range of Civil Works missions being carried out in Hawaii, including disaster response, flood risk management, beneficial use of dredged material, and aquatic ecosystem restoration, all of which involved economically disadvantaged communities.

A few takeaways. Most significant, the Army Corps of Engineers continues to be at its best when called upon to work with FEMA and other agencies to respond to emergencies and disaster situations. In Maui, where the communities of Lahaina

and Kula were devastated by wildfire, the Corps, using tools and new direction provided in recent WRDAs, worked hard to understand cultural sensitivities and is now gaining trust with the Native Hawaiian community to more effectively carry out its debris removal mission, which will set the stage for rebuilding on the 1,600-plus properties damaged or devastated by the wildfires.

In addition, using local contractors and strong collaboration with local authorities, it moved quickly with remarkable focus and effort to carry out its responsibilities for critical infrastructure to construct, I have to tell you from a first-hand tour, a very impressive elementary school in 95 days, completed just last week to allow the local school district in Lahaina to return elementary school age children in this impacted community to some semblance of normalcy with classes starting in the new facility on April 1st.

Senator Carper. What grade levels did that include?

Mr. Connor. It is an elementary school, so it is K through 6.

Senator Carper. All right, thanks.

Mr. Connor. There are other response actions being carried out, and much more work to be done overall, but the bottom line is that the Corps continues to evolve and modernize how it works with different communities, which in Maui is resulting in our

team becoming integrated within the community and may ultimately lead to a transition from response to rebuilding and thus improving the resilience of Maui, using a number of tools and authorities provided in recent WRDAs.

Second, like elsewhere, the Corps is carrying out an increasing Civil Works workload in Hawaii, including a traditional large-scale flood risk project in Oahu. The Ala Wai project is as complicated as any flood risk management project in the Corps' portfolio, particularly where we are trying to retrofit modern flood risk management strategies into a highly developed area with little open and undeveloped land to work with.

These large, complicated projects with significant public interest and involvement and complex hydrology do not necessarily lend themselves to a standard 3x3x3 feasibility study, and we appreciate the dialogue with committee staff about how that process may need to evolve, particularly with new challenges and new tools such as Section 8106 of WRDA 2022.

Finally, I would note that I toured and met with local sponsors involved in two smaller CAP projects and a beneficial use of dredged material pilot. These types of projects are of increasing importance as they represent a scale that can yield good results with affordable levels of investment for non-Federal sponsors. They also represent innovations for

communities trying to maximize multiple benefits in each and every project no matter the size.

Moreover, in each of those situations, the sponsors stressed the incredible need for these projects given the increasing risks from a more dynamic climate, creating larger precipitation events as well as stronger storm surge and sea level rise. While small, each of these projects have challenges that the Army Corps is working through as anticipated with pilots and new authorities that are critical to deliver on the need and the expectations of these respective communities.

My overall point is that the work of this committee has been incredibly important in continuing to improve how the Corps can expand its reach to a broader set of communities, continue to innovate and develop unique new engineering solutions to new challenges. The Chief and I appreciate the ongoing opportunity to work closely with the committee in using these new authorities and the substantial resources now in hand through the Bipartisan Infrastructure Law, disaster supplementals and annual appropriations to advance the President's Investing in America agenda and the vision for an increasingly responsive Army Civil Works Program.

Looking forward, please know that we will continue to work closely with you and your staff in developing the next WRDA to ensure we have the tools, processes, and resources in place to

one, better assess risks and innovate our approach to effectively address those risks, two, improve our processes to appropriately and equitably serve a broader set of communities, and three, develop projects for consideration by Congress that provide multiple benefits, have community acceptance, and include well-developed cost estimates.

Thanks for the time, and I look forward to your questions.

[The prepared statement of Mr. Connor follows:]

Senator Carper. Thank you, Secretary Connor.

Now, to introduce General Spellmon, who has been here many times in the past. It is good to see you again.

I understand you have been serving as the 55th Chief of Engineers and the Commanding General of the Army Corps of Engineers since September of 2020. Is that right?

General Spellmon. Yes, sir.

Senator Carper. Before that, you served at the Deputy Commanding General for Civil and Emergency Operations. You are no stranger to us, and no stranger to the Corps Civil Works Program that is so important for this committee. We are grateful for your service and look forward to hearing from you today.

Please begin your statement. Thank you.

STATEMENT OF LIEUTENANT GENERAL SCOTT A. SPELLMON, 55TH CHIEF OF ENGINEERS AND COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

General Spellmon. Chairman Carper, Ranking Member Capito, and distinguished members of the committee, I am honored to testify before you today and thank you for the opportunity to discuss current implementation of recent Water Resource Development Acts, as well as future water resource legislation.

Before I do that, I do want to start out with a sincere thank-you. I have come before this committee several times over the past six years, and I have always shared that these are historic times for the Army Corps of Engineers. That is probably starting to sound rote to the committee members by now.

I keep repeating that phrase because they seem to get more historic as every week and month goes by for us. The Secretary just mentioned Maui, and I appreciate his kind words there. That is very hard and rewarding work for the team.

But our programs in disaster response, military construction for the Army and Air Force, the work we are doing for the Veterans Administration, the work we are doing for the combatant commanders in 110 countries around the globe, and some of our teams building the very difficult projects in combat zones today, and certainly the Civil Works Program here at home, we are seeing record levels of appropriation that we have not experienced in our 249-year history.

It is that record level of investment that has brought new workload challenges to my agency, some that we have just not encountered previously. I know we are going to talk about some of those challenges today. They are challenges that we are committed to working through. So an opening thank-you to the members of the committee and all the staff members sitting behind you who are helping us work our way through this massive workload.

Back to WRDA. In WRDA 2022, Congress authorized 25 new construction projects, 94 new feasibility studies, and 131 new environmental infrastructure projects. This legislation continued a trend of advancing our mission by enabling critical policy transformations to address the changing needs of the Nation's water resource infrastructure.

That legislation provided the Corps flexibility to design projects that respond to a wider suite of impacts associated with climate change, addressing the needs of our small, rural, and disadvantaged communities, as well as supporting our tribal partners with enhanced flexibilities.

One of our priorities, the Secretary and I, has been to expand the breadth of our research and development capabilities. So I want to thank this committee again for the authorization of a separate R&D account for the Corps in WRDA 2022, an R&D account like many other Federal agencies enjoy.

We have been working hard to enhance our knowledge in new and innovative technologies such as natural and nature-based solutions, crowd source bathymetry, achieving a better understanding of the sources and controls for challenges like sea level rise and harmful algal blooms, as well as many, many other initiatives. These R&D efforts bring new, powerful capabilities to the Corps and also enhance the Army's overall modernization efforts.

I take very seriously our responsibility to regulate the development of Waters of the United States, including wetlands. Today in our regulatory program we employ 1,300 staff members. In Fiscal Year 2023, these professionals processed 43,235 Section 404 and Section 10 permits. We rendered just over 31,000 of those permits within our on-time standards, or 70 percent.

While that figure is significant, we know it is not good enough. We are on a slightly better track with the 15,000-plus permits that we have processed to date this fiscal year, and we know we have more work to do.

We continue to seek ways to improve our timeliness with continued investments in our regulatory viewer, which is in the field now, and our regulatory request system which will go fully online at the end of March. These new tools are already helping our applicants better understand permitting requirements and

assisting our regulators' analyses so they can make more timely and efficient decisions in the field.

As mentioned, we remain laser-focused on executing record levels of regular and supplemental emergency funding that we have received over the past five years. In Fiscal Year 2023, the Corps obligated \$40.7 billion, \$18 billion in the Civil Works Program, and this is the second highest program delivery again in our 249-year history.

This progress could not have happened without the tools and authorities given to us by this committee and by Congress. So I believe we have good momentum in Fiscal Year 2024.

I will conclude by saying we do not accomplish any of this on our own. Delivering successful Civil Works projects is a shared responsibility, it is a team sport. I look forward to continuing our great collaboration as we face the challenges of today and tomorrow.

Thank you again, Chairman Carper, and Ranking Member Capito. We look forward to your questions.

[The prepared statement of General Spellmon follows:]

Senator Carper. Thank you both for your testimony. I am going to lead off then turn to Senator Capito.

As I mentioned a few minutes ago, we need to consider the status of implementing past WRDA bills while the committee develops WRDA 2024. Unfortunately, implementation is taking longer, in some cases much longer than Congress expected, sometimes spanning multiple administrations.

Of the more than 1,200 requests this committee received for the 2024 WRDA legislation, roughly half relate back to provisions from prior WRDAs that have not been fully implemented. There are multiple examples of provisions where implementation has not occurred, and that means Congressional direction has been ignored. This includes Federal interest determination studies for small, rural, and disadvantaged communities, changes to the Harbor Maintenance Trust Fund to support expanded uses, and numerous provisions supporting the use of natural infrastructure to make projects more resilient to climate change, among others.

A question, if I could. We will start, General Spellmon, with you, then with the Secretary. Both of you testified before this committee that WRDA implementation is a top priority. What is the current process for implementing WRDA legislation after passage? In your view, what is the cause for delays in implementing too many of the prior WRDA provisions? General?

General Spellmon. Yes, sir, thank you for the question. First of all, I concur with you; there are delays. I would disagree with the characterization that these provisions are being ignored.

The two primary causes for the delays, from my seat, first is one of timing. WRDA 2022 passed in December of 2022. I had already turned in my budget recommendation for Fiscal Year 2024 to the Secretary 90 days prior, in September of that year.

So when a WRDA bill passes in December, this next WRDA bill, it will be Fiscal Year 2026 before I can work those provisions into our budget.

The second challenge is making it all fit within a budget top line. Things like investigations, environmental infrastructure, ecosystem restoration, a lot of great provisions, but making all of that fit into a budget top line has been incredibly challenging for us. People like me just have to make a better recommendation to the Secretary when we take our budget recommendations forward.

I would tell you that we are using other sources of funds, where they are needed. I will give you a few examples: 8113, Columbia River Tribal Housing, we are moving out with funding that we received in great support from the three tribes out there, moving forward with that program. And 8116, Workforce Planning, not relying on Civil Works Funds. We received \$9

million in DOD to enable better retention and recruitment initiatives, and we are leading DOD in that effort.

Sir, you helped me personally on 8125, the ability to sign warrant officers and NCOs to our Civil Works projects. The Secretary is going to give us implementation guidance, how we will fund that. Right now, we have the Army's agreement until they fund them out of OMA funds. We have our first three Civil Works warrant officers on hydroelectric plants out in the Pacific Northwest today.

On 8141, the Harmful Algal Bloom Reporting, I sent my surgeon to Lake Okeechobee, Florida, that system is already in place. On 8303, we are moving our aggressively on FIRO for four projects out in California and Washington State. We are ready for more. Then 8351, another example of sturgeon habitat projects on the Missouri River, using existing funds to get those designs in. We want to get those in the river.

Again, you said it, sir, we are not perfect. There is a lot of work we can continue to do to get better. We will keep pressing. But we are committed to it.

Senator Carper. Good. Before I ask the Secretary to also share some thoughts as to the cause for delays in implementing the prior WRDA provisions, I would note that some of the delays we are talking about don't just date back to WRDA 2022, they date back as far as 2007, which is just not acceptable.

Secretary Connor, your thoughts, if you will, be fairly brief, but for the causes of delays in implementing prior WRDA provisions.

Mr. Connor. Yes, Mr. Chairman, thanks for the opportunity. Notwithstanding the distance between us, I can assure you, I subscribe completely to his comments. We talk about this on a daily and weekly basis and work very closely together. So I endorse everything General Spellmon just said.

I have a couple of other quick thoughts for you. When we have control of our own destiny with respect to implementing guidance to move forward with WRDA provisions, we have done so and we try to do so expeditiously. Once again, we could improve, absolutely.

I think we have done 31 of 35 from WRDA 2020, we have done 6 of the 12 guidance needs with respect to WRDA 2022. It is when we kind of move outside that area and have to go through something that is deemed significant guidance, Federal world and the public too, to move forward and fully implement.

A couple of examples from WRDA 2020. We defined economically disadvantaged communities, we had to go through significant guidance, notice and comment to do that. We completed that. Then we moved forward to try and use that definition to implement two pilot projects that you all authorized, which were 118, flood investigations at 100 percent

Federal cost, and 165, CAP projects.

We are moving forward with 165 and I hope can make announcements here in the next month or so. With 118, that was deemed significant guidance even after we already did significant guidance on the definition of economically disadvantaged communities.

So I am in a delay situation because of the processes that we set up. I didn't think that was significant. We argued against that; we lost. These are some of the processes we have to deal with, and we need to move more expeditiously through them.

The other thing I would say is, quite frankly, we may have relied too much on work plans to provide us resources. In this era, we don't even know right now what 2024 looks like. We have no work plan, we have no sense of whether there will be an appropriations bill, whether we will have a continuing resolution. This impacts our ability to move forward.

Then as General Spellmon noted, in our budget cycle, we are always going to be 18 months to 24 months behind any new authorizations appropriations. I probably went on a little too long, but thanks for the opportunity.

Senator Carper. Thanks for going a little too long.

Senator Capito?

Senator Capito. Thank you. I would like to go right to

the two provisions that I mentioned in my opening statement. Secretary Connor, WRDA 2022 contained a provision that requires the Corps to track and provide an annual report to Congress on the timelines for completing environmental reviews. It seems to me you would have that information anyway. But you have come back now, estimated that a considerable amount of funding is going to be needed to implement this provision.

My understanding is that Corps districts and divisions already utilize software that allows them to track and upward report key activities. What is the status of that, and can I have your commitment that your staff will work with mine to identify a path forward, so we can effectively implement this provision?

Mr. Connor. You absolutely have my commitment to work through it. There is a quicker way that we can get the relevant information up and available for the public, even if we move forward through data bases. I am happy to do that and look for alternative means. We want to be transparent; we want to get that information out.

So the status of implementation, I don't know if the Chief has other information on this particular area.

General Spellmon. Yes, ma'am, this is Section 8134 about NEPA reporting. I think there is a disconnect between our teams on what the requirements are. I think that just having a

session on this, unfortunately, it has taken this long to get this conversation, we believe we are being asked to report on 150 or so feasibility studies, and how they are working their way through 40 different environmental laws and regulations, and then have a public-facing website for that. If it is something less, that is a conversation we should have so we can get moving.

Senator Capito. Are you suggesting a meeting between our teams and your teams, is that the teams we are talking about?

General Spellmon. Yes, ma'am, our staffs, so we better understand the intent of that particular --

Senator Capito. Well, this has been two years in the making here, so we probably should have had those called to our attention. Isn't this what you are asking for, another \$3 million to implement this particular provision? Correct?

General Spellmon. Ma'am, if that is the requirement, to report on compliance with 40 environmental laws and regulations for those 150 studies and make it public facing, yes. We would need resources.

Senator Capito. Okay, so let me just ask a simple question. I am sure you have in your work plans or districts or whatever, they have steps and implementation steps, certainly they have some sort of flow chart that shows where they are. Is it the public-facing part of it that is causing the delay?

General Spellmon. I believe combining all that across 42 districts into one central data base would be the requirement, as we understand it.

Senator Capito. Okay. Let's go to the economically disadvantaged communities and the CAP. You mentioned the CAP projects that are delayed. So these are projects that need feasibility studies, Federal interest determinations.

I know that you have to use rulemaking. So you kept referring to they, we, this, on the guidance thing. If someone is actually watching this and trying to figure out who is telling him what to do, who is that?

Mr. Connor. I am going to be very judicious here.

[Laughter.]

Mr. Connor. Let's take 165. Fortunately, we were able to move forward and move through a notice and comment. We did go through an environmental assessment, we did make notice of funding available, and we took in applications from the public. Now we are in the last throes of evaluating that and moving forward. So once again, we are more in control.

With respect to 118, the pilot projects for economically disadvantaged communities, first we had to go through the guidance process to define economically disadvantaged communities. That took like a year and a half.

Senator Capito. Right.

Mr. Connor. Then, when we go through the process, when we think it might be significant or fall into that, we make our case as to why it is or why we think it is not.

Senator Capito. Who are you making your case to?

Mr. Connor. That is initially to the Department of Defense, we have to get cleared, our proposed guidance cleared through DOD, then it goes to OIRA within the White House. So there are two steps in that process which complicate things from the time perspective, and complicates things from people having different views than I do with respect to the significance of any particular action.

So those are the specific steps.

Senator Capito. So anybody listening says, that is bureaucracy with a capital B.

Let me ask you, on the 165 projects, when do you think those will come out? You said shortly. What is shortly?

Mr. Connor. I am proposing to make those decisions in the next couple of weeks, then we have to get that cleared to the Administration process. I am hoping, given the urgency, the need, and the fact that this is pretty straightforward stuff, that we can move out in end of March, end of April time frame.

Senator Capito. Okay. The Fiscal Responsibility Act contained various amendments to NEPA intended to improve the environmental process for all types of projects, including water

resource projects. In prior WRDAs, Congress has provided the Corps with specific authorities to improve this process.

Can you describe what actions the Corps has taken to ensure that the agency is compliant with these new statutory requirements? Have you identified any additions? I don't know who would be best to answer this question. General?

General Spellmon. Yes, ma'am. We certainly have taken advantage of the \$160 million in bill funding for our regulatory teams to help us with much of this environmental work. No one wants to get through NEPA within two years more than the Army Corps of Engineers.

Unfortunately, this is very litigious on a number of projects. We are not given the easy ones, and we are asked for a lot of decimal points in our analysis: social cost of carbon, greenhouse gas emissions, multiple options in each one of these. That level of effort simply takes time.

Senator Capito. Is the social cost of carbon a statutory part of NEPA?

General Spellmon. Ma'am, we could pick up a pipeline, and a typical analysis would be, okay, what is the social cost of carbon and greenhouse gas emissions for moving that product through a pipe. Then we will be asked to do the same, to compare that for the trucks that would haul those fossil fuels to market.

Senator Capito. I guess what I am asking, is that a statutory part, or is that just what the Administration is telling you to do?

General Spellmon. It is part of the NEPA regulations to do that.

Senator Capito. The CEQ came back with, right?

General Spellmon. Right.

Senator Capito. Which just elongates the projects, makes them more expensive, and in some ways, they are not getting done.

Mr. Connor. I understand your point, and it is complicated to figure out what lifecycle we are looking at with respect to greenhouse gases. We are working through that right now. But once we get that, then I think the social cost of carbon aspect of it is actually pretty straightforward to move forward.

As General Spellmon, we are fully committed to working through NEPA to using EAs as much as we can as opposed to full EISs. The reality is when we get into certain projects, and Senator Cramer is very familiar with one and would like me to move much quicker, we get 200,000 comments, 30,000 substantive comments, these are incredibly complicated. I am talking about Dakota Access. And we have to work through that to ensure that hopefully it is a longer process, and that is provided for with limited exceptions, even with the Debt Limitation Act. But we

have to do it to make sure we can survive any litigation, so we can make our decisions stick.

Senator Capito. Thank you.

Senator Carper. Thank you, Senator Capito. Senator Cramer?

Senator Cramer. Thank you, Mr. Chairman, and Ranking Member Capito. I am tempted to go right into DAPL, but since this is a WRDA hearing, we will start there, and maybe we will get to DAPL.

First of all, thank you to both of you. I don't know that we say it often enough. You are both generous with your time and your talent and you are always available to us collectively, and more impressively, Mr. Chairman, to each of us individually. We are grateful for that; I am grateful for that. So thank you.

I might as well get to everybody's favorite topic in the world, General, and that would be the Snake Creek Embankment, of course. You and I haven't talked for so long I feel like this is the first time I am getting caught up.

As you know, from what I am hearing out of Omaha, the sort of dealing with the approach to fixing Snake Creek, I am getting a little concerned. They are committed to removing the 43-foot difference at this time. But what about the structure? What can you tell me about actually fixing the structural problems? That has me a little nervous.

General Spellmon. Yes, sir, you are correct, the water control manual has been updated, and the 43-foot head differential has been removed. Just for everyone, this is an embankment that was designed to hold 54 feet of water. It holds less than that, 43. So we are about 11 feet off.

Sir, we are wrapping up the dam safety modification study. I want to take this out of the dam safety realm and put it into drought resiliency. So I have directed the Omaha District to come back with two structural solutions, seepage berms and an embankment.

If we receive a 2024 appropriation, we will take \$500,000 of dam safety wedge funds and we will do 30 percent designs on both of those structural solutions to restore the full capability of that embankment, and we will bring those to the Administration and to Congress for their consideration.

Senator Cramer. Thank you very much for the update. Just for people's knowledge, what this does is it allows the moving of Missouri River water to over 50 percent of North Dakota's population. I always say we don't have a water problem in North Dakota, we have a water distribution problem.

But anyway, this is an important part of that infrastructure. Thank you for that update.

Assistant Secretary Connor, in WRDA 2022, we included some language established in this Western Water Cooperative Committee

that allows the western States like North Dakota this opportunity to bring issues directly to the Corps. I am wondering what the status of establishing that is. I have been hearing from some of the States, including mine, that there has been a lot of activity.

Has it been established? DO you know what the status is of establishing the committee?

Mr. Connor. The process for establishing that committee is to get a Federal Advisory Committee Charter through the Department of Defense. I believe that has been completed on this one to designate a Federal officer, provide the correct training. We have done that.

So we have teed up the actions necessary to move forward with the committee, and then we need appropriations, or budgeted resources, one or the other, to move forward with the activity because this one in particular is going to be fairly expensive. We are paying for the travel, the logistics of getting folks together with respect to that.

Once again, we are going to lag on any budget resources with respect to post-WRDA authorization before, or we can use work plan, neither one which we have had the opportunity to move forward with. So we are teed up, ready to go, but we do need the resources to implement.

Senator Cramer. I hesitate to start this conversation

openly. Maybe you and I have talked about this before. But is there no way for States to absorb some of that cost, since they are the ones asking for this access? Near as I can tell, most States in the west have a better financial standing than the Federal Government does.

I know I am probably blowing everybody's mind here with some of this. But isn't there a way to do that, to share some of that cost burden with the States?

Mr. Connor. There probably is. When we have some resources available to start this activity up, it likely won't be sufficient to call everything that has been authorized with respect to those actions. So we can go to the States at that point in time and say, we need some help here so that we can do the core part of those activities, and you have to help with the rest of it. So I think that happens on every project that we do as well as probably with respect to standing up the committee.

Senator Cramer. Since you brought up DAPL, and I was going to anyway, just so you know. As you know, we are in week three of the Federal Tort Claims trial in North Dakota, trying to get some money from the Federal Government to pay for the damages and the policing of the violent protests that the Corps facilitated on Corps land. So it is sort of top of mind right now in North Dakota.

That brings me to the EIS issue, because this is a pipeline

that has been safely moving hundreds of thousands of barrels of oil a day to market for several years now, and we still don't have the EIS. It has been delayed multiple times.

You spoke a little while ago about what I would call an enduring solution, something that is durable. What is the status of the final EIS?

Mr. Connor. We issued the draft EIS last fall. I think we opened up with a 45-day comment period, extended it once. That is my reference to receiving 200,000 comments, 30,000 of which are unique and substantive that we have to refer to.

We are still on track for moving forward as quickly as we can to be in a position to issue a final EIS this fall with a record of decision somewhere in the 30 to 60 day timeframe after that. So we are proceeding.

I understand the frustration with how long it has taken. It is an example, though, of when we try and take shortcuts, and we do an environmental assessment as opposed to an EIS and then we get litigation, and we get setbacks and the overall long-term structure is that.

So we are trying to think this through, do it right, respond, do correct tribal consultation, integrate their concerns and our responses into the process, and get this product done so it can stand the test of time.

Senator Cramer. My wife often says haste makes waste to

me, for whatever it is worth.

Thank you, Mr. Chairman.

Senator Carper. Thanks for those words of wisdom from your wife.

[Laughter.]

Senator Carper. Our next colleague who is going to be recognized is Senator Padilla, and after that, Senator Wicker. Then we will see who else shows up. Senator Padilla, welcome.

Senator Padilla. Thank you, Mr. Chair. I would like to begin by associating myself with Senator Cramer's remarks that yes, our wives are full of wisdom.

[Laughter.]

Senator Padilla. Mr. Chairman, in the last five years, more than 100 million gallons of toxic sewage, garbage and other pollution have flowed over the United States-Mexico border, resulting in a public health and environmental crisis for southern California coastal communities.

This isn't a new problem, unfortunately. For decades, the underserved communities along San Diego's southern border, along with military personnel, Border Patrol agents, and the local environment and economy have all suffered impacts of waterborne and now increasingly airborne impacts of trans-boundary sewage floats. Our witnesses are very well aware of this situation.

Rehabilitating and expanding the international wastewater

treatment plants in San Diego is critical, again, for multiple reasons. I am talking about not just public health but national security, as well as environmental protection. Beyond more Federal funding, it is clear that Federal agencies need to act as one in order to comprehensively address this dire situation as soon as possible.

Secretary Connor, I applaud the Administration's efforts to reprioritize projects in historically underserved and overlooked communities. General Spellmon, the Corps has been a great partner to the International Boundary and Water Commission in contracting and the procurement process for this project.

I want to say, my colleagues I am working with our House colleagues also, to include new authorization in WRDA 2024 to leverage the Corps' environmental infrastructure and ecosystem expertise to mitigate pollution in the disadvantaged communities in the Tijuana River watershed.

Question for both Secretary Connor and General Spellmon. What efforts have you made to date to leverage the engineering and contracting expertise to help the Commission make these critical infrastructure upgrades as soon as possible?

Mr. Connor. Senator Padilla, I appreciate the question and the theme of it, which is Federal agencies need to act as one. Because when there are issues, it is an all hands on deck type of situation. We recognize that.

Other than that, I am aware of our work with the Internatinoal Boundary and Water Commission on the Rio Grande system and the work we do to support their dam safety efforts in other areas. I am not familiar with the specifics of what we may have done in the Tijuana River situation other than the fact that we have done similar work and I know in Mississippi and other places in evaluating drinking water systems, wastewater infrastructure needs. So engineering and consulting services that the Corps can do, I would think we would be able to find a way to do that there.

General Spellmon. Senator, I would just add, I do have a general understanding of this issue, and our South Pacific Division had early dialogue with the Boundary Water Commission. They wanted some advice on technical requirements for the solution as well as an acquisition approach. We shared all of that with them.

The Boundary Commission self-performed on this contract, letting that in December of 2023. I don't know the final scope of that work. But sir, that is where my knowledge ends, and we stand by to provide any additional technical support that they may require.

Senator Padilla. Okay, then consider this question in this hearing as my putting it now on your radar and on your plate. I know I have spoken with Secretary Connor about the urgency of

this situation. I can see how it may look from the point of view of my colleagues on the other side of the aisle, and frankly across the Country, both sides of the aisle. Not too much sympathy for coastal communities around San Diego, we are talking about disadvantaged communities in so many ways along the border. So we have this tricky jurisdictional concern.

We do have a partner, with the government of Mexico putting forward their expertise and resources on their side of the border. But with the impacts, it is not just more than a year and a half running of beach closures because of waste in the water, such as health impacts for surfers and tourists. We are talking Border Patrol personnel, military personnel that are in training that become significantly ill because of the condition of the water.

It is something that we can absolutely do something about. It is within our jurisdiction. It is within resources. There has been additional funding requested by the President in the supplemental package that morphed into what the Senate passed last week. So we know it is a priority of the White House. I am pleading with you all to work together, work with me, and work with others to address this situation as quickly as possible.

Thank you, Mr. Chair.

Senator Carper. Thank you, Senator Padilla.

Senator Wicker, and Senator Boozman has joined the on-deck circle.

Senator Wicker. Thank you very much.

Secretary Connor, thank you so much for visiting with me numerous times about a number of issues, including the Mississippi River and Tributaries System, specifically the dam at Arkabutla Reservoir that is threatened and how that might also affect Grenada, Enid and Sardis Reservoirs, the Pearl River flooding problem, the Mississippi Sound water intrusion along the Gulf Coast, and the Tennessee Tombigbee Waterway.

I hardly know where to begin, but let's talk about the Mississippi Sound. As you know, the opening of the Bonnet Carré Spillway along the Mississippi River had extremely detrimental impacts on our marine ecosystem. It injected fresh water from the Mississippi River into the salt water of the Gulf Coast, devastating our shrimp and oyster industry.

The Mississippi delegation sent a letter to Colonel Klein of the Vicksburg District requesting that members of the Mississippi Sound Coalition be included as stakeholders, the Mississippi Sound Coalition, and that the Mobile District be considered an equal participant.

We have not received a response to that letter from the Mississippi Congressional delegation. So help us on that, if you possibly can. Let's get that rectified quickly.

The Mississippi Sound Coalition includes mayors, elected county supervisors, business leaders, and commercial fishers from the Mississippi Gulf Coast community. My colleague, Congressman Ezell from the Fourth District of Mississippi, during a House T&I hearing last year, asked you if you would ensure that these community leaders and business owners are included in conversations about this study. You answered in the affirmative.

Somehow, the Mississippi Sound Coalition did not even receive notice about the most recent stakeholder meeting in January. Will you commit to formally recognizing the Mississippi Sound Coalition and will you commit to allowing the Mobile District to serve as an equal participant and support for the study?

Mr. Connor. Senator, I am going to follow up on the letter, I am going to follow up on the issues. There is no reason why we can't include the Mississippi Sound folks in the Lower Mississippi River comprehensive study. The whole point is to rethink and to look at the system we have right now, the new challenges, the changes in operations such as the more frequent use of the Bonnet Carré Spillway, and think what else we need to be doing to protect all the interests.

So we want all the interested parties and affected communities to be part of that discussion.

Senator Wicker. Do you have any idea why that fell through and why the Coalition was not notified?

Mr. Connor. I do not, sir, and we will follow up.

Senator Wicker. I would simply add to this question the fact that a Federal judge has ruled in a very important case that this, the opening of this spillway was done contrary to law. So I wanted to mention that.

Let's talk about the Tennessee-Tombigbee Waterway. This is another instance where direction was given, this was in WRDA 2020, direction to the Corps to expedite the completion of a feasibility study to deepen the Tennessee Tombigbee Waterway from 9 to 12 feet. Congress provided \$3 million in Congressionally directed spending to do this.

We have now been told that as a matter of fact, they are going to concentrate first on the Black Warrior Tombigbee Waterway deepening, and that will take precedence over the study to deepen the Ten-Tom. The Ten-Tom Authority was informed that waiver from USACE headquarters is needed to continue the study.

WRDA 2020 says the Secretary shall expedite the completion of a feasibility study for the Ten-Tom. So when do you expect the Corps to complete this expedited study to deepen the Ten-Tom?

General Spellmon. Sir, I will jump in first. I want to just make sure; we had our first public meeting on the Lower

Mississippi in Bay St. Louis, Mississippi yesterday, and heard from the Coalition loud and clear. So I was glad they were there and got all that great feedback from them.

Senator Wicker. Mississippi Sound?

General Spellmon. Mississippi Sound, yes, sir.

Senator Wicker. Thank you, sir.

General Spellmon. Sir, on the study, this hasn't gotten to Mr. Connor yet. It is on my desk. We are going to take to him next week a proposal to do both proposals. We are going to update him. We are going to look at both of these waterways and the deepening to 12 feet. I need some additional time and resources and I am going to outline that to Mr. Connor next week.

Senator Wicker. Will you be looking at them simultaneously?

General Spellmon. Yes, sir.

Senator Wicker. All right. Now, on the Ten-Tom, it is pretty much shut down below Demopolis and Coffeerville in Alabama now, because the lock broke. This is a critical problem, and what it does is it requires shippers above these two locks and dams to ship all the way up to Paducah, go down the Ohio and then the Mississippi.

What is our plan to expedite this and keep the Ten-Tom from being closed for some significant period of time?

General Spellmon. Yes, sir, I just want to credit the teams in the field; they saved those upper pools, and within four days. We have a 40 foot by 10 foot gap in the upper basin sill on this project. We will pour concrete beginning next month. That work will wrap up in May and then we will get the system reopened.

Senator Wicker. So the system will be able to reopen in May?

General Spellmon. We will have the sill repaired by May, yes, sir.

Senator Wicker. All right. Well, thank you. There may be some more questions for the record, but I do appreciate it. Again, we couldn't do it without you. But we just have so many problems that are grave and actually affecting the livelihood of people around in our area. Thank you very much.

Senator Carper. Thank you. Senator Boozman, thanks for joining us. Thanks for your patience. You are recognized.

Senator Boozman. Thank you, Mr. Chairman, very much. Thank you all for being here. We appreciate the great work that you do. It is such an important area.

Last year in front of this committee, I mentioned the Air Force selecting Ebbing Air Force Base in Fort Smith to serve as the home of the F-35 training mission. That is certainly important to our allies, but it is also so important to our own

national security. As you know, the Corps Little Rock District is responsible for construction for this mission, and will be tasked to meet tight turnarounds. Again, the Colonel is doing a great job.

I guess I just wanted to visit a little bit, can you provide us any updates regarding the execution of the project? Is everything going well with your relationship with the Air Force?

General Spellmon. Yes, sir, that part is going fine. The CRs have an impact. I certainly want to acknowledge the importance of this program. To date, we are responsible for six projects in this what will be eventually a \$485 million program. From the Air Force, we received \$10 million of that \$485 million to begin design. We are ready for the next installment of about \$3 million to wrap and get going on those first contracts.

Senator Boozman. Very good. Thank you very much.

General Spellmon, Assistant Secretary Connor, as you know, we are in a situation where phase two of Three Rivers on the MKARNS needs to be completed and thereby avoid any further construction delays and cost increases.

The MKARNS is a vital component of the economies of Arkansas, Oklahoma, as well as Kansas, in fact, the Nation. Losing navigation on the entire MKARNS would cost over 6,000 jobs and cost national GDP to decline by \$723 million. Critical

failure on the system could result in it being shut down for months, and even a temporary shutdown could put future use of the system at risk.

It is my understanding that there is unanimous support from industry and the delegation regarding the movement of 12-foot deepening project funds transferred to complete phase two of Three Rivers. If this is the case, can you tell us about the reallocation, why it hasn't occurred, or your concerns about that?

Mr. Connor. Senator, we have the opportunity to finish that project, and we want to do that and ensure we don't have any additional cost increases. So as of today, we have reallocated that money and made the necessary, informing Congress of the reallocation of \$83 million from the MKARNS 12-foot deepening project that can't be used any time soon over to the project that will allow us to initiate the contracting action to be done by the end of this year to make sure, I think it is \$113 million left to fully complete that project. We will find the additional resources to do that. But that action is effective as of today.

Senator Boozman. Thank you very much.

General Spellmon. Senator, I would just add, we have all the funding that we need this year to continue on with NEPA. We have a lot of NEPA work to do, and then also preliminary

engineering and design for this deepening. We have the funds we need right now to keep moving forward.

Senator Boozman. We appreciate it. You all have been so helpful in that regard. Again, thank you very, very much.

Material, labor, supply chain costs are impacting everyone, not just entities involved with construction. However, what we see too often with the Corps still is full funding being assigned to a project and then we find out that we are still tens or hundreds of millions of dollars short of completion.

General Spellmon, Assistant Secretary Connor, how can we collectively do a better job of forecasting future costs so we execute more projects on time and budget? I am more than familiar in the sense that I have the military construction part of the appropriations with Senator Murray, and we run into these problems all the time. Do you have any suggestions for us?

General Spellmon. Yes, sir. First, we are changing the way we report cost estimates, both to the Secretary and to Congress. You will see that in this next report of Chief's reports that come before you for WRDA 2024.

In the past, we have done a design through the midpoint of construction, and we come back and tell Congress and Secretary Connor with three decimal points what we think it is going to cost. We are going to continue to do that. The law requires it. But we are also going to give you a range of the potential

costs and the assumptions that go into our cost estimates.

Sir, we are doing a lot internally to the Corps to get after this. We are not the only construction agency dealing with this. But you have our commitment to continue to work.

Mr. Connor. Can I just add real quickly? I think one option, the Corps, as General Spellmon mentioned, is doing a lot of actions to improve the cost estimating process.

One of the things we can do is improve design maturity. That means applying more resources early on to do some of the in-depth work and design that we need, so we can go with, in the 3x3x3 processes or the 5x3x3, where we can do more work early on, get to 20 percent, 25 percent design maturity as opposed to 15 percent. That will help solidify cost estimates.

So we have been having good discussions with committee staff about that. I think that is an important item.

Senator Boozman. Let us know how we can help. I think that is something the entire committee agrees with, how we can be more effective. Thank you.

Senator Carper. Senator Boozman, thanks.

Senator Merkley, thanks for your patience and you are recognized. In the on-deck circle is Senator Mullin.

Senator Merkley. Thank you very much, Mr. Chairman. Secretary Connor, and General Spellmon, it is great to see you both.

Before I ask questions, I want to commend the work of the Corps in the Portland District Office in advancing the Portland Metro Levee System. It is a 27-mile levee system along the Columbia River.

General Spellmon, you were the commanding general of the Northwest Division when the project got underway. It would be great to see that project come full circle by getting into the construction phase. I look forward to working with you to see that happen. Thank you.

The Cole Rivers Hatchery, named for an individual, not for a river, the Cole Rivers Hatchery is on the Rogue River. It plays an absolutely critical role. Colonel Michael Helton, now retired, went down with me. When we came to the recognition of how many different Native fish populations and different rivers that it provide, and also rainbow trout for various lakes, and the hatchery is in great trouble because of the lack of clean water and disease that could shut down the hatchery, and just kind of 30 years of wear and tear.

Restoring that hatchery to its full functionality is incredibly important. The Army Corps, to do so, needs to identify significant need capability for this project.

Do you commit to working with the Portland District and my staff and with me in identifying as much capability as possible or restoring the Cole Rivers Hatchery?

General Spellmon. Yes, sir.

Senator Merkley. Thank you very much.

I want to turn to tribal housing on the Columbia River. When the dams were built on the Columbia River, the town for Caucasians that was inundated was rebuilt, but the villages, the Native villages, were never rebuilt.

So we have been working intensely to try to create, well, right that wrong, from now three quarters of a century ago. And the Army Corps released last month the implementation plan for the village development plans for the tribes.

What timeline do you expect to reach the implementation phase of the plan and begin construction on housing?

General Spellmon. Yes, sir. I would just start off my response by saying we are at a much better place than we were five or six years ago when we stopped off on this effort. We were trying to combine the tribes into one consolidated village.

The direction we are going now are separate sites for each of the tribes. We are in the process now of identifying the needs and the potential locations, which bank, what site, so that we can get on with the village development plans.

We are about six months into the real estate, culling down what the options are, and then we will be able to get into more meaningful discussions on the specifics of each one of those villages. Sir, we have the resources we need, and we are in a

much better place with the impacted tribes than we have ever been in the past.

Senator Merkley. I really appreciate that observation. All the easy-to-develop land has been developed along both sides of the north bank and the south bank of the river, which means it will never be easy to find these sites. They will be expensive; they will be difficult to provide infrastructure. But it is so important that we address this situation, the legacy wrong that we need to right.

By the way, the Confederated Tribes of the Warm Springs Reservation and the Confederated Tribes of the Umatilla Reservation have expressed optimism and appreciation for the level of engagement they have had with the Army Corps at this point. So you are all really doing a great job. I am very much impressed by what you have done and I understand you are planning to continue regular engagement with the tribes.

General Spellmon. Yes, sir, that is correct.

Senator Merkley. Thank you. In particular, the tribes have noted the Corps is further along on the displacement assessments for the Bonneville and Dalles Dam pools. Will you also work to expedite the displacement assessment for the John Day and McNary pools?

General Spellmon. Yes, sir.

Senator Merkley. Thank you very much. Thank you, Mr.

Chairman.

Senator Carper. I am struck by the range of issues that have been brought up here. I am glad you guys are doing your homework, and more questions to follow.

Next is Senator Mullin, and in the on-deck circle, Senator Fetterman, my neighbor in Pennsylvania.

Senator Mullin. Thank you, Mr. Chairman. Senator Boozman took most of my questions, talking about the MKARNS. It is both vitally important to our States. I just want to throw some fun facts out there. Because I get the MKARNS sometimes gets overlooked, because it is not a huge waterway, it is not as big as Ohio and Mississippi and people just honestly forget about it. When we tell people that we have an inland water port in Oklahoma, a few are like, what?

But when you really start talking about the facts, here you have a navigational channel that is 445 miles long, it is the largest and farthest inland water port in the United States. During the winter months, it contributes to over 50 percent of all ag products moving in and out of western States, Midwest. During the summer months, it operates over 50 percent of all the ag products leaving Kansas, Oklahoma, and 40 percent of Nebraska.

Just in Oklahoma alone, it employs 11,000 people just on the navigational channel. It creates \$1.6 billion of economic

impact yearly. And I say all this because we have 18 locks on that port, you heard Senator Boozman talk about the depth that we need increased, from 9 feet to 12 feet, which will be a 40 percent increase.

Right now we have so much barge traffic we can't increase it anymore. All the products that I just named would actually increase, if we just went from 9 feet to 12 feet, a 40 percent increase in products being brought up and down.

At the same time, when I first got into office, we had a \$60 million backlog of critical backlog needs. Today, sir, we are over \$600 million of critical backlogs needs. Let me explain what critical backlog means. It means it has a 50-50 chance of failing any time, any time it can shut down.

So we can lose those whole navigational channel, but priorities keep switching, and we keep getting farther and farther and farther behind. Every year, we are not catching up, we are getting behind.

And I just ask the question, what are we doing about the critical backlog need?

] General Spellmon. Sir, a great question, and those numbers are correct. Congress is helping us immensely. Of that \$600 million backlog, we received \$463 million in 2022 and 2023 to get after longstanding O&M, and we are in the President's budget for another \$112 million.

Sir, I will just throw some additional numbers at you.

Senator Mullin. That is across all your navigational channels.

General Spellmon. No, sir.

Senator Mullin. That is just for MKARNS?

General Spellmon. That is for MKARNS. But the numbers are, there are 18 locks and dams, but on those projects, sir, you have 225 miter gates that all need work, Tainter gates, 36 miter gates and we are working through what we call 110-foot stoplog conversations. That is a lot of money, that is a lot of effort. We appreciate the investment and are working hard through the qualified labor to get these projects in the ground.

Senator Mullin. Do you know how far behind we are on that, then? I mean, like, if we allotted the money, how long is it going to take you to get caught up?

General Spellmon. Sir, I would like to get with both districts, and I can come back to you with an accurate response.

Senator Mullin. Okay. I appreciate, I know we all have our own issues here, and I do appreciate that, I will say what the Chairman said, your depth of knowledge is quite remarkable, and the fact that you came that prepared really excites me.

So anything that I can do to be helpful. Have you been at MKARNS?

General Spellmon. Several times, yes, sir.

Senator Mullin. Next time you go, make sure that I get the opportunity to visit with you, because I would love to take a ride down that navigation channel and maybe one of the locks. It is remarkable what they are doing with an old system and how they are keeping it going. Those guys that work on those locks are absolutely impressive.

General Spellmon. Very innovative, yes, sir.

Senator Mullin. Very much. Thank you. I yield back.

Senator Carper. All right, thank you.

Next is Senator Fetterman. Senator Fetterman, welcome. Good to see you. And in the on-deck circle is Senator Sullivan.

Senator Fetterman. Thank you, Mr. Chairman.

Hello, welcome. There is no reason why you would know this, but I live in western Pennsylvania. One of the great things that your organization has done is the Braddock Locks and Dam. Perhaps you might be familiar with that.

The work that the Army Corps has done on the Mon and Ohio Rivers has really put things in motion for another 100 years of commerce in western Pennsylvania. I take every opportunity to praise your organization's work. I am grateful, so thank you.

Now I am excited to be working with Chair Carper and Ranking Member Capito to ensure that the WRDA bill includes priorities that are critical to Pennsylvania's infrastructure.

The first priority I want to ask you today is about acid

mine drainage. People may not know the term, but Pennsylvania sees that impact when their rivers might turn bright orange in a very shocking kind of shade. And it often will be fish kills.

One watershed in Pennsylvania, the Tioga River Watershed, has water acidic as vinegar. They will be needing the kind of investment of more than \$60 million to clean the drainage and to bring back life to that ecosystem.

This isn't just in Pennsylvania's problem. There are other States as well that have these kinds of challenges.

So, sir, if you had a pre-dedicated program for acid mine drainage, how could the Corps assist communities that need technical and financial help with this problem?

General Spellmon. Yes, sir, I will start. First, I want to acknowledge the water quality issues. Our teams are very familiar with that. In the past, we have been using public assistance to States or Section 206 in the CAP program. You run into some funding limits with each one of those, sir, so you are correct. I think a specific authority to actually get after this challenge would greatly enable the Corps to get after the scope of everything you have just described.

Senator Fetterman. Would you peg that amount of \$60 million, is that too much, too low, kind of Goldilocks?

General Spellmon. Sir, I don't know the value. I know the scope of the problem; I just can't monetize it.

Senator Fetterman. All right, thank you.

I am also working to ensure the commercial future of the Allegheny River. If we are going to make things happen in western Pennsylvania, we need the Allegheny River to be open for business.

Right now, there is a risk for operational hours being reduced. Along with my colleague and friend, Senator Casey, I have proposed language to help us find a path forward for Allegheny County to keep lockage levels and service steady until we do.

So Lieutenant General Spellmon, you affirmed to my office that you would evaluate the economic impacts before considering a decrease on these service levels. Would that evaluation include the long-term to current commerce in the region if the lock hours were threatened or reduced?

General Spellmon. Yes, sir, you are correct. This is in regard to the eight locks and dams that we have on the Allegheny River. The economic analysis that I mentioned in the previous hearing, that is based on a three-year average of both commercial and recreation lockage that we do at each of those eight facilities. In other words, we let the commerce dictate the level of service that we have at each one of those locks, not vice versa.

So today, Lock and Dam 2 and the C.W. Bill Young Lock and

Dam, they are the busiest, and we have two 10-hour shifts per day passing that traffic. Lock and Dam 4 and 5, a little bit less traffic, so they have one 10-hour shift. And Locks 6 through 9, those upper 4, much, much less commercial traffic, so we operate those by appointment only.

Sir, we will increase that level of service. It is all based on the traffic that we are seeing.

Senator Fetterman. Finally, is it fair to say that you are willing to commit to work with my office to increase utilization and maintenance of service?

General Spellmon. Yes, sir.

Senator Fetterman. All right, thank you. And I cede the remaining time back to the Chair.

Senator Carper. Thanks, Senator Fetterman.

Senator Sullivan, I said you were in the on-deck circle, but we have two colleagues who got here earlier today and had to leave. So under the rules I need to recognize them first. Bear with us, please.

Senator Kelly, you are recognized first.

Senator Kelly. Mr. Chairman, I did not check in.

Senator Carper. Senator Ricketts, you are recognized.

Pardon me.

Senator Ricketts. Thank you, Chairman Carper, and thank you, Ranking Member Capito, for holding today's hearing. I want

to thank Lieutenant General Spellmon and Mr. Connor for joining us here as well.

I am grateful for the improving partnership between my State and the Corps, and am hopeful of projects that we can complete moving forward to be able to serve Nebraskans. This March marks the five years since the blizzard and flooding that was the most widespread natural disaster in our State's history. As Governor at the time, I saw first-hand how this once in a 500-year flood claimed lives and caused billions of dollars in damages across my State.

That is why for me the number one priority with the Army Corps is flood prevention. Last year 10 months ago, you were here and we were discussing the permitting timelines and the outliers. I want to make sure that Nebraskans impacted by mistakes in the past get answers and that we don't make the same mistakes again.

I know the permitting delay which led to the flooding at Offutt Air Force Base involved many circumstances, and I appreciate your office getting back to us with some of the information around that, and certainly demonstrated there was plenty of opportunity all around to be able to improve that. I think the Army Corps itself admitted that this was an outlier project.

When we spoke last year, you pointed to the fact that Corps

districts are given discretion to expedite reviews where appropriate.

General Spellmon, what steps have you taken to prioritize and ensure the completion of some of these outlier projects? The one I just referenced, Offutt Air Force Base, took six years to get the permit. What steps have you taken to be able to address some of those outlier projects?

General Spellmon. Sir, I think, if I can come back to that, outlier. I don't believe that one was an outlier. I would disagree with that characterization of it.

We are, and I mentioned earlier in the hearing that we are taking advantage of funding that you in Congress have given us, particularly in the Bipartisan Infrastructure Law. We have hired an additional 160 regulators for our districts, and we are on our way to 200.

Sir, we have new tools in place, a regulatory viewer system that allows our regulators to make more efficient decisions in the field, when they are out there with their partners walking the ground on these respective projects. As I said, we have done 15,000 Section 404 and Section 10 permits to date this fiscal year. We are up to about 78 percent on time. That is a slight increase from last year, but we will take that, and we are going to continue to push on this very important program.

Senator Ricketts. I am curious, you said you disagree with

the notion that it was an outlier project. My recollection is you said that most of your permits get down to like 18 months, isn't that right?

General Spellmon. No, sir. This was a Section 408 request. We typically turn those around within 90 days. The project you mentioned, I am sorry, we do tens of thousands of these each year, so I don't have them all committed to memory. This one started in 2010.

The applicant brought in an engineering firm; we didn't actually have an application until 2013 in the Omaha District. We received the application; it had a number of technical shortcomings. We received it in May, and we gave it back to the applicant in August. Senator, we didn't hear from that applicant again for two years. Then when we got it back, we were able to get it --

Senator Ricketts. Well, that is kind of my point, is that it is an outlier, because it is one that took longer than your normal process. Is that not accurate?

General Spellmon. An outlier because five years of the six years you described were with the applicant, not with the Corps.

Senator Ricketts. Right, but okay, so isn't that an opportunity to be able to get back to the applicant and say, hey, what is taking so long to close this out? That is why I say this took an extraordinarily long time. And like I said,

there is an opportunity on everybody to be able to improve.

I think one of the areas that Army Corps could improve is by saying, hey, two years is a long time. Are you guys going to respond back to us or not so we can close this case?

General Spellmon. No, sir, you gave it wrong. We were waiting on the applicant to get back to us on the technical questions.

Senator Ricketts. That is what I am saying, getting back to the applicant and saying, why haven't you responded back to us? You asked for this permit, do you want it done or not?

General Spellmon. We did. We got it in May. We returned it around August. So they did hear back from us, and then they went dry for two years.

Senator Ricketts. That is my point. When you have somebody who is in your process, flagging that they haven't responded back for two years and maybe circling back.

General Spellmon. Sure. We can potentially look at that, Senator. Absolutely.

Senator Ricketts. That would be one, or shutting down the process and saying, hey, we are actually not going forward, then you can actually take it off your books. That would help you out as well, right?

General Spellmon. Absolutely.

Senator Ricketts. All right, well, let me shift views on

you just a moment. Following the issue of the final WOTUS Rule, did your headquarters give an internal guidance to Corps districts in September of 2023 on implementing the rule, which includes issues on assessing whether certain features like arid west drainages are relatively permanent?

General Spellmon. Sir, there has been a series of guidance that has gone out to the field following the 8 September of 2023 rule from Sackett.

Senator Ricketts. So is this one where you instructed them not to make that guidance public?

General Spellmon. I am not familiar with not making things public, sir. We are working hard to be open and transparent, Senator.

Mr. Connor. That is more on my office.

Senator Ricketts. Can you enlighten me on this one?

Mr. Connor. Yes, absolutely. The guidance we provided in September post the Sackett decisions was merely to represent how we were going to work through processes of making jurisdictional determinations with our counterparts at EPA. So that is an elevation memo to describe the process, because we knew there would be questions coming down.

We haven't issued any guidance specifically in more detailed interpretation than what we did in the conforming rule that got published on September 8th.

Senator Ricketts. So help me understand this. So you issued this as internal guidance, is that accurate?

Mr. Connor. Internal guidance, but it is out there, it is available for anybody to see. It is published.

Senator Ricketts. So you have published this? So it is public, you have published it?

Mr. Connor. That is correct.

Senator Ricketts. So applicants would have access to this guidance from September 2023 with regard to their application?

Mr. Connor. It is procedural guidance, but we are happy to share it with anybody. I believe it is on the websites.

Senator Ricketts. Great. Thank you very much. Thank you, Mr. Chairman.

Senator Carper. Senator Capito has to leave, and she has asked to ask another question. Go right ahead, please.

Senator Capito. One question, apologies to those I am jumping in front of.

General Spellmon, you mentioned the challenges posed by the social cost of carbon to project development. Has the interagency working group consulted you in the development of those figures? Have you had any input or conversations with them about this?

General Spellmon. Ma'am, I could follow up specifically, at what level in the field where we are doing many of these

pipeline EISs, to what level we are engaging with that group. I have not had any personal interaction.

Senator Capito. Okay. We have been trying to find out how these costs are calculated and what the cost is. So while you are looking at that, could you find out what figures you are using? Are they the same ones that the EPA is using in these regulations? And have you committed to the interagency working group that the social cost of carbon is hindering your ability to meet your statutory guidelines under the NEPA process that we put into effect?

General Spellmon. I think I understand the question, ma'am. All of our calculations are in the draft EISs and all the regulatory products that we produce when we go through the NEPA process. It is all there for the public to see.

Senator Capito. Okay, so you have a cost assigned there? Do you know what dollar figure they are using as a social cost of carbon? There is a dollar figure associated with this, right?

Mr. Connor. There is a dollar figure.

Senator Capito. What is that? Do you know?

Mr. Connor. I don't have that. I would be happy to respond about our interactions with the interagency group as well as the specifics.

Senator Capito. Okay. And then last thing, questions for

the record, I want to submit a question on the hold and save clause. Thank you both.

Senator Carper. Without objection.

[The referenced material follows:]

Senator Carper. All right, Senator Stabenow was here at the beginning of the hearing, and she has come back. I am going to let her go ahead of you, Senator Sullivan, if you will bear with us. You will get to go ahead of Senator Kelly. It is kind of interesting, we have a Marine over here, just retired as a full colonel, great career, and we have a Navy captain over here and one there and the Army out here. Any Air Force out there? The services are represented.

Senator Stabenow, you are recognized. Thanks for coming back.

Senator Stabenow. Thank you, Mr. Chair. As we all do, I am attempting to be in two hearings at the same time this morning. Checking into both, and I am glad to be back. I appreciate it so much, and appreciate our witnesses today. Good morning. It is good to see you.

Not surprising, the issues I want to talk about. I appreciate so much partnering with you.

Let me start with the big ongoing issue, Mr. Connor and Lieutenant General Spellmon, that we have been working on together, which is the Soo Locks. As you know, in the last WRDA, we secured the authorization necessary to complete the Soo Locks project.

Let me just say to my colleagues, this is a major infrastructure project that is key to moving raw materials,

agriculture products, finished goods through the St. Lawrence Seaway into the Great Lakes and throughout our Country. So it is a critical, critical infrastructure project.

And we know from the Department of Homeland Security economic impact statement that a six-month unscheduled shutdown of the locks, heaven forbid, we have one lock that is working, would cost 11 million jobs, 11 million jobs and reduce our GDP by \$1.1 trillion. So this is a big project.

We got the authorization, but we have to have the funding, which is what we have been working on, to match it. We worked together last year, we programmed our Army Corps dollars to ensure that we had the funding necessary for the next steps. I am so incredibly grateful for your partnership on this, because we have kept it going, now the stakes are even higher. Keeping the project on track starts with the President's budget, meet the Soo's full 2025 funding capability.

So to both of you, Mr. Connor, General Spellmon, can I count on you continued support to get this over the finish line, starting with the President's 2025 budget request?

Mr. Connor. Senator, thank you very much. For all the reasons you just mentioned, it is a high priority, as you know, as we went through the process to ensure in a continuing resolution that we could still make a contract option so that we can keep the project moving forward and try and minimize

additional cost increases, we are fully committed to moving forward.

The good news is on discussions about Soo Locks, we engage everybody at the highest level of this government, not just in the Army Civil Works Program, but at the White House and OMB. So we are committed to working through all these issues and continue to support the project.

Senator Stabenow. Terrific.

General Spellmon. And you have our commitment. This is a project of national significance, for everything Mr. Connor just said. We have great momentum, and we have \$235 million in the President's budget. We are looking forward to getting that so we can keep that momentum going.

Senator Stabenow. That is music to my ears. It is so important to be able to get that done.

Let me also ask, on another topic, Mr. Connor, you and I talk about a lot, which is Brandon Road. There is this thing called invasive carp that wants to get into our Great Lakes, Mr. Chairman.

Senator Carper. One of my relatives.

Senator Stabenow. Yes, right, invasive Tom Carp.

[Laughter.]

Senator Stabenow. We have these fish that we have been looking for every way possible technically to hold these fish

out of the Great Lakes who are destroying the fishing ecosystems and basically the economy in many ways, and have found technically how to do that.

Now it is taking years to get to the point, how do you allow barges up the river without the fish coming up the river? So here we are right now in a situation where we are at a critical point, as you know. We have the technology, we have actually got the funding, but we are in a step-by-step, day-to-day step right now because of a project partnership agreement that has not been signed.

And I am asking you this, even though I know that our friends in Illinois, the State of Illinois needs to do this, and the State of Michigan is working with them now to get this now.

Do I have your commitment to do everything in your power to make sure that we can get this PPA signed as soon as possible to get the construction going?

Mr. Connor. Senator, you absolutely have my commitment. Everything within our power to try and move this forward, to accommodate the issues raised by the State of Illinois, we are willing to do. If I thought going to Springfield and sitting in the office and working through issues would be helpful, I would do that, because the project is as important as you reference.

There are issues that have been raised, and of course, those discussions that are outside of our authority. Congress

has already adjusted cost share. We can't unilaterally go any further than what Congress has already gone.

But I appreciate the need to move forward. I do also appreciate that. It is my understanding the State of Michigan is now actively working with the State of Illinois.

Senator Stabenow. Yes.

Mr. Connor. Anything I can do or the Chief can do to facilitate those discussions and get us to a PPA so that we can use the \$250 million that we have available to start that project, we are willing to do.

Senator Stabenow. Terrific. And let me just say that cost shares and the issue, I know Senator Duckworth, a great member of this committee, and I are both interested in the next WRDA bill to be addressing that for the States.

But quickly, I know I am out of time, Mr. Chairman, but one idea that the State partners raised that I just wanted to get a quick response on was expediting the project timeline by our allowing that remediation work be carried out at the same time of construction.

What makes sense to me for remediating something in terms of, we think there are going to be some issues on some land, doing that while we are doing construction, if it saves money, if it saves time, does that makes sense for us to make sure you can do that?

General Spellmon. Senator, it makes absolute sense. We run into this on many Civil Works projects. We believe there is some potential legislation that could help us, even in this upcoming WRDA, to help us get after that.

Senator Stabenow. I think it is really important, Mr. Chairman. I hope we can do that. Thank you.

Senator Carper. Good. Thank you, Senator Stabenow.

Senator Sullivan, thank you for your patience. You are recognized.

Senator Sullivan. Thank you, Mr. Chairman.

I want to compliment both the witnesses today, Mr. Secretary, General. I think you guys are doing a great job. I think your responsiveness and understanding of all the different questions here has been very impressive. Thanks very much.

I want to dig into some of the big projects in the great State of Alaska. As I like to say, we are a resource rich but infrastructure poor State. Alaska has less road miles than Connecticut, and we are almost 120 times bigger than Connecticut. Mr. Chairman, just for your information, we have about twice as many roads than Delaware has, but we are 264 times bigger than Delaware.

So we have a lot of catching up to do.

Senator Carper. I would like to say we are still growing,

but actually, as sea level rises, it is not looking good.

Senator Sullivan. So the first one won't surprise either of you. Mr. Secretary, you have been great on this. This is the Donlin 404 permits. I just literally had a great meeting in D.C. with the leaders from the Calista Native Corporation, what we call the YK Delta region, Yukon Kuskokwim region. By the way, this is one of the poorest regions in the world, I am sorry, in America. Great Americans there, of course, our Alaska Native people principally.

But as usual, we have what our Native people, what we refer to as the eco-colonialists. These are Lower 48 environmental groups that don't give a damn about the Native people. They come up, they file lawsuits trying to tell the Native people what is good for them. Eco-colonialists. We have a lot of eco-colonialists coming trying to hurt these communities.

And as you know, this one is now fronted by Earth Justice, the latest eco-colonialists trying to harm Native people in Alaska. They have worked on this, going after this 404 permit that is now almost six years old that you guys have provided. I just want to once again get your commitment, of course you have to meet with these eco-colonialists, I understand, but not to reopen the Donlin 404 permit, and if there is litigation, to defend it. Six years, coming back and trying to reopen something after six years, to me doesn't, that is not the rule

of law. That turns us into like a banana republic, like Venezuela or something like that.

So can I get both of your commitments? Mr. Secretary, you have given me this commitment a million times, I literally was asked by the great people of the region, when they heard I had this hearing tomorrow, to ask once again. So I said I will.

By the way, the EPA Administrator has been great on this, too. He said we are not reopening it. Can I get your commitment once again?

Mr. Connor. Senator, I always appreciate the opportunity to have a conversation with you to reiterate my commitment. I know there are Alaska Natives on both sides of the issue.

Senator Sullivan. Not many on the other side, trust me. I represent them. This has been driven by the eco-colonialists. I represent the Alaska Native people; the vast majority are supportive.

Mr. Connor. We have no basis to revisit that permit right now.

Senator Sullivan. General?

General Spellmon. Sir, General Gibbs and Colonel Palazzini talked to all of these groups. There is no intention to revisit any of the permits that have been made.

Senator Sullivan. Thank you. Let me just go to two other projects, big ones, that you guys have just done a great job on.

We had this district partnership, project partnership agreement that I actually went to the signing of, the North Slope Borough for the Barrow, now called Utqiavik Coastal Erosion Project.

And then the project partnership agreement for the Port of Nome, Nome Expansion Project. These are funded, significantly, thanks to all of you and the Congress. But they are still going to likely need continued funding.

Can I get both of your commitments to not just, to make sure that once we get two-thirds of the way through, that we continue to get that funding? We will work on it. They are both very strategic. The Port of Nome, as you know, General, is really strategic. I was just down in an Armed Services hearing, you had this joint Russian-Chinese Naval Task Force off the coast of Alaska again this summer, 12 ships, probing our territory, America's territory. We need a place where we can put Navy ships, ice breakers, in the Arctic, and the Port of Nome is going to be able to do that.

Can I get your commitment on both of those? They are good projects coming along well. And the partnership, the project partnership agreements that you guys have signed with the North Slope Borough, with the community of Nome, have just been great. I want to compliment you both again.

Mr. Connor. Senator, you are correct, they are good projects. I think it is instructive that we know so much about

where The Rock is in Alaska, to try and manage the cost of these projects. Yes, you have our commitment.

Senator Sullivan. And The Rock, as you know, could be local. And that is going to reduce the cost.

General?

General Spellmon. Yes, sir. I have been to both of these projects, and you have our commitment. These are important and we want to finish what we start.

Senator Sullivan. Great. Let me ask, Mr. Chairman, real quick, it actually relates to Senator Kelly, since I know he is next. Senator Kelly and I are going to be introducing legislation soon, our staffs are working together, on this issue of contaminated lands for Native Americans.

It is a little bit different in Arizona than it is in Alaska, but as both of you know, the Alaska Native Claims Settlement Act, the Federal Government gave Congress, or Congress provided 44 million acres of land to the Native people, set up our regional corporations. Biggest indigenous peoples settlement probably in the history of the world, certainly in the history of America. And Mr. Chairman, you have been a great champion of this.

A lot of that land was contaminated. So the Federal Government was like, here you go, Alaska Natives, here is your land. Oh, by the way, it is all polluted. Pretty bad. The

Chairman was great on a bill of mine a couple of years ago where we said, hey, at a minimum, CERCLA doesn't require, you know, you can't sue these Native corporations under the Federal Government. Because the Federal Government actually gave them polluted land. So we fixed that idea and liability, which of course made sense.

But we are working on some innovative cleanup ideas. And I just want to continue to work with your offices on the technical assistance that we need to bring our bill forward, hopefully get it into the WRDA bill, that would provide remediation efforts outside of the usual wetlands mitigation bank idea.

This would be the idea of hey, go to clean up Alaska Native or Arizona tribal lands as part of a mitigation effort that is innovative. Because look, in terms of the pollution in Alaska, the Federal Government is unlikely to be able to clean all that up. It is literally in the billions.

So we are trying to find innovative solutions. This committee has done a really good job on addressing this in a bipartisan way. Senator Kelly and I, like I said, are working on it.

Can I get your commitment to continue to work with my office, Senator Kelly's office, on some of these innovative solutions, to do what we all want, which is clean up the lands of our first peoples in this Country? By the way, great

patriotic Americans. They serve at higher rates in the military than any other ethnic group in the Country.

Mr. Connor. Absolutely, you have my commitment. We need innovative ideas, and when we can restore the environment and take care of Native American issues, all the better.

General Spellmon. Senator, we do a lot of cleanup, 1950 Area Atomic Energy Commission Nuclear Waste Cleanup across the Country, a lot of work on formerly utilized defense sites. A lot of experienced staff in this area, and we are looking forward to working with you on the text.

Senator Sullivan. Great. Thank you. Thank you, Mr. Chairman.

Senator Carper. You are welcome.

Senator Kelly?

Senator Kelly. Thank you, Mr. Chairman, thank you, Senator Sullivan. To expand a little bit on that, in Alaska and Arizona, clearly different, we have a lot of the same issues, though. Ours happen to be like arsenic in the water. I had a Hopi tribal member in my office just this morning, and he was talking specifically about the water he has access to has arsenic in it.

We have over 500 abandoned uranium mines on the Navajo Nation. The Havasupai Tribe's water is under threat of being contaminated. So we have multiple issues, and this legislation

can go a long way to helping solve those.

On a separate topic, I want to talk to you about managed aquifer recharge. I don't easily get frustrated. But more than a year after WRDA 2022 was signed into law, the Corps still hasn't issued guidance to explain how non-Federal sponsors can partner with the Corps to carry out managed aquifer recharge projects. This was authorized under Section 8108 of WRDA 2022.

As both of you may recall, this provision authorized three things. One, it required that the Corps carry out a national assessment on how to carry out aquifer recharge projects. Number two, it required the Corps to establish a working group on managed aquifer recharge best practices. And three, it authorized the Corps to carry out managed aquifer recharge projects with non-Federal sponsors.

Now, as somebody who has championed these provisions, I want to note that all three of these are important, but the provisions aren't intended to be implemented independently. Mr. Connor, I noted you said in your testimony that the working group would take longer to stand up because it will be considered an advisory committee.

But that does not explain why the Corps hasn't issued implementation guidance explaining how Army Corps districts can partner with local sponsors to carry out managed aquifer recharge projects as required in WRDA.

This delay is having real consequences. In Arizona, the City of Tucson reached out to the L.A. District nearly six months ago. They have identified a project that would be a perfect match for this program. It would construct new groundwater recharge facilities and expand riparian habitat protection at the base of what is called A Mountain in the City of Tucson.

Once constructed, this project could help the City of Tucson save 4,000 acre-feet of water a year. And look, time is of the essence here for Arizona. We are in a drought that has gone on for 20 years, it is the worst drought in 1,200 years. We had a good snow pack on the Colorado River last winter, so we had a wet winter. And it has been wet in Tucson. Last winter, it was looking pretty good this winter.

If we stand up groundwater recharge facilities quickly, we can build more resilience in what will certainly be a dry year next year or the year after. So it is critical to get this guidance and begin work on these groundwater recharge projects, especially in drought-stricken cities.

Mr. Connor, when do you expect implementation guidance will be issued for the feasibility study portion of the Managed Aquifer Recharge Program, which is Section 8108(b)? Why is this taking so long?

Mr. Connor. Senator, two quick points. The implementation

guidance is still being drafted at this point in time. I will commit to you to go and personally see what I can do to move it as quickly as possible, so that we can move forward with that project. I agree with you, we want to be assisting these communities with respect to managed aquifer recharge.

The second point I would make is we are not waiting, though, to look for opportunities to support managed aquifer recharge. We are funding it through EI programs, Kyrene in your State, southern California, we are doing the same thing. We are also managing facilities differently such as Prado Dam in southern California, where we are making releases differently of floodwater so it can be picked up by the local water district and put into their managed aquifer recharge system.

Any opportunities, and I think we are doing the same thing at Lake Roosevelt now, trying to finish an EA to work with your water program in your State. So we want to move forward, notwithstanding the guidance. But I understand the guidance is important. I will personally go back and see how quickly we can get that.

Senator Kelly. I appreciate your doing that. When you say, as soon as possible, what do you think that means? When can we get that implementation guidance? Or maybe, General, you could add to that.

General Spellmon. Sir, we are not waiting on

implementation guidance. We are already implementing this in the field. I will follow up on the projects in Arizona.

We need three things. At the Corps project, we need a water supply or water conservation authority. Our non-Federal sponsors typically will conduct a retention basin below the dam. The most important thing we need is the water.

The first time we saw this in California, it was early 2023, and we were able to make this use. We can move out with the guidance that we have, and I will follow up with my team on the projects you mentioned in Arizona.

Senator Kelly. Thank you. Thank you, Mr. Chairman.

Senator Carper. Thank you, Senator Kelly.

Senator Markey, welcome back. We are glad you are here.

Senator Markey. Full attendance today at this committee, so you can see how this seniority system works. You have to get in line.

Our flood management policy has historically failed to protect Black, Brown and low-income communities. Instead, we have prioritized communities with the most expensive real estate and the highest incomes. This injustice is particularly worrisome at this moment with climate change increasing, the risks of extreme storms and flooding, in the very communities that have been ignored and unprotected over the past century.

Many communities in my home State of Massachusetts are

facing these very same risks today. Leominster, for example, experienced weeks' worth of rain in just a few hours last September. Along the coast, communities like Dorchester, Chelsea, East Boston, and Revere have high annual flood risks that are increasing each and every year.

In the Merrimack Valley, extreme rain events have increased the likelihood of combined sewer overflows, which sends untreated stormwater and wastewater through gateway cities like Lowell, Lawrence, and Haverhill into the Merrimack River.

So in other words, the communities that are already most vulnerable will see a sea at their doorstep first. So Secretary Connor, by the way, thank you for your great work, thank you, sir, for your great work as well. Do you agree that the Army Corps must ensure that Black, Brown and low-income communities receive equitable investment from the Corps?

Mr. Connor. Senator, great question. Yes, I absolutely agree, and we are taking a number of actions that I can articulate if you would like me to.

Senator Markey. If you can in maybe a minute, give us the highlights.

Mr. Connor. Highlights, as the Chairman just mentioned, we are moving forward with the rulemaking to implement the principles, requirements and guidelines. This is going to significantly change the Corps' planning process so that we look

at maximizing benefits, public benefits, and we look at not just financial, but economic and social benefits, and treat communities more fairly and equitably. This will benefit rural communities, inner-city communities, as well as tribal communities.

We need to broaden the reach of the Corps. It is God-awful to say agency-specific procedures to implement PRNGs, but it is probably the most important institutionalizing approach that we will take here in the near term.

There is also a number of pilot projects for economically disadvantaged communities to move forward to flood studies and 100 percent Federal cost share to do smaller CAP, continuing authorities projects, for economically disadvantaged communities.

Senator Markey. Thank you. I just want to highlight here that you have an environmental justice policy that you issued in March of 2022. I want to congratulate you on that. Thank you for continuing that great work.

In 2023, it was a devastating year for flooding along the Connecticut River in Massachusetts. Flooding impacted some of the poorest communities, gateway cities, many vulnerable farmers who keep us all fed, inspiring coalition of towns along the Connecticut River banding together to find a regional solution to this threat. But they would greatly benefit from Federal

support.

In this upcoming Water Resources Development Act, which the Chairman and the Ranking Member are putting together, I am working to advance several Army Corps Connecticut River flood mitigation projects in communities like East Hampton and North Hampton, as well as a broader flood mitigation strategy for all the communities impacted by the flooding.

So, General Spellmon, do you agree the Army Corps has an important role to play here to mitigate this regional flood risk posed by the Connecticut River?

General Spellmon. Senator, yes. I would just acknowledge the incredible precipitation that your State has been receiving. Section 216, Review of Completed Civil Works Projects, would be the appropriate authority here. This system is 80 years old. It deserves a re-look. We have a provision already, 8156 in WRDA 2022, that allows us to move out on the Federal interest determination, Federal expense for the first \$200,000, and we will seek those funds when we receive an appropriation in 2024, sir.

Senator Markey. And General, you know our rains have been biblical, just absolutely unbelievable.

Secretary Connor, thank you for all your work on the Cape Cod bridges. I want to note that in the hearing. Much appreciated.

Mr. Connor. Thank you for your leadership, sir.

Senator Connor. Thank you, sir.

Finally, quickly, I would also like to highlight an important project in North Adams, Massachusetts. In the 2022 Water Resources Development Act, we successfully authorized a study to improve flood management of the Hoosic River. The river cuts through the center of this small city, North Adams, and endangers both lives and property. So I would just encourage the Army Corps to dedicate the necessary funding to complete it.

That is a request that I make to both of you. Thank you both. Thank you, Mr. Chairman.

Senator Carper. Thanks for coming back and joining us, and for your persistence.

Senator Cardin is recognized, and in the on-deck circle right now is Senator Whitehouse. Welcome. He is I think the 16th member of our committee to be here. This might be a high water mark.

Senator Cardin. This is one of our favorite hearings, I want you to know that. We all look forward to this. I apologize; I chair the Senate Foreign Relations Committee, and we had to deal with Iran. I much prefer to deal with the Army Corps issues than Iran. So thank you for this hearing going on as long as it has gone on.

This is really an opportunity for us to deal with some of the important issues. First, thank you. Mid-Bay is well underway as you all know, following up on Poplar Island, the environmental restoration. It is incredible how Poplar Island has been received, not just in our region, but around, I think literally the world, as a successful environmental restoration of a previously habitable island in the Chesapeake Bay that now has been restored, and the use of dredged materials. So it is a beneficial use.

The next is Mid-Bay. The good news is Mid-Bay, last year we got the funding to get it started. Thank you very much for the strong support that we had. Now we need to make sure that we follow up with the construction dollars, because it is a multi-year effort.

I thank again the Army Corps for all of its work in making this a reality. It is one of the great legacies of Senator Sarbanes in establishing this program. And it is now being copied. So thank you very much.

I want to go to one that we do need WRDA authorization on, and that is the Seagirt Loop Channel. That is critically important. I have watched as vessels try to maneuver getting in and out of the piers, and they are getting larger. It is a safety issue; it is a time issue.

So General Spellmon, could you just comment on the

importance of the Seagirt Loop Channel to the commerce of our Port of Baltimore?

General Spellmon. Yes, sir, it is incredibly important. We signed the Chief's report and it is up for Congress' consideration in WRDA 2024. This is a 50-foot deepening. What that is going to allow us to do is avoid these three-point turns that these large, post-Panamax vessels have to do, very risky to do.

So it is a very important project. In fact, we went there to roll out our 2023 budget. Secretary Connor and I go to different projects that are important to the Nation. We rolled out our 2023 budget from Seagirt. We look forward to getting into construction on that one, sir.

Senator Cardin. Secretary Connor, welcome back any time. We will make sure if we get the loop fixed, we will be able to get our vessels in faster and we will be able to show you more action. So please come back and visit us.

Thank you for that. I appreciate that very much.

Mr. Connor. Absolutely, Senator. I look forward to that. I really want to get out to Poplar and the mid-Chesapeake.

Senator Cardin. It is becoming somewhat of a tourist attraction. I understand it is incredible for bird watching. So it is a popular spot now.

I want to mention one other issue. In WRDA 2022, we got an

authorization for environmental infrastructure projects for the State of Maryland. There is now a lot of interest in moving forward on that. I am going to ask your cooperation as we try to develop a strategy to implement that authorization in a way consistent with Congressional authority and appropriations, but in a meaningful way to carry out WRDA 2022. Will you all help us doing that?

General Spellmon. Yes, sir, absolutely. Colonel Pinchasin, as you know, has been going to the Association of Counties meeting for the 24 counties, and there is a lot of interest. I believe we have letters of intent on about \$53 million worth of work. It is just one of those cases where there is absolutely more need than space in the budget. That is something we have to work on.

Mr. Connor. Absolutely committed to the program. As you know, the appropriations process is going to be key, as it has been with all environmental infrastructure. We are taxing the limits of that program now. But this is really good work that has been done.

Senator Cardin. Let me put in a good word for Colonel Pinchasin. She does a fabulous job on behalf of the Army Corps, and she is so engaged with the community, which makes our jobs as members of the Senate a lot easier. Thank you very much for all your service.

Senator Carper. Senator Cardin, thanks for getting over here and joining us.

Senator Whitehouse, for our witnesses, we have 19 members who serve on this committee. So far, 16 have arrived here and asked questions and participated.

Senator Cardin. For the ones who didn't show up, can we have their money?

[Laughter.]

Senator Carper. You can't have their money, but you can have their time.

Sheldon, welcome.

Senator Whitehouse. Thank you, Chairman. Thank you both for being here. I think I will take my time to go through a punch list of Rhode Island related projects that I would like to keep focus on, from very small to very, very large.

The small one is industrial-era pilings around India Point, along the Providence and East Providence shore, which we have been trying to clear out for many, many years. A few have been pulled out in relation to a small, defunct bridge removal that took place. But we would like to get the rest of it going. So there is one.

The second is, there is a sunken tugboat not far south from where those pilings are, and the Department of Environmental Management has been requesting information from the Corps for

several months now about the permit to remove that sunken tugboat. I would like to get attention to that, so that they have an answer and can plan accordingly.

Providence, our capital city, sits in a sort of shallow declivity, and is extremely vulnerable to flooding, particularly as we face increasing threats of sea level rise. I think we are a trillion tons off of the Greenland ice sheet, which has consequences. At the moment, you all are looking at the Fox Point hurricane barrier to, among other things, see if it is adequate to meet the new risks that climate change and global warming and fossil fuel emissions have caused.

Stacked right behind that in terms of our Rhode Island needs is the prospect of potentially having to move south further to the Fields Point area to construct a larger, more survivable hurricane barrier there. We are going to need to have some pretty serious thinking. It would be an enormous public works project, not on the scale of protecting Boston by having to build an entire dike around the area through the islands and the harbor and all. We are narrower, you can kind of put a barrier across.

But it is going to be a complicated project, and it has to allow for, it has to be able to move a little bit, because there is flow back and forth, tidal flow and river flow, and flow of sea creatures and all of that. We really need to move that

along. It is pretty important.

While the Fox Point thing is important to get done, the really important one is probably going to be the Fields Point Barrier, because it looks like the sea level rise projections are going to make the Fox Point barrier have a fairly short effective further period of life, even if it is improved.

So that is another important project to us in Rhode Island, because we don't want our capital city flooded, and we certainly don't want it flooded because the Army Corps of Engineers didn't prepare in time to have the studies in place so that we could do the work to get the protection built.

The last thing is, I have been badgering the Army Corps for a long time about the discrepancy between what the coastal and inland flooding accounts spend on coastal versus inland flooding. In a good year, it is 20 times on inland flooding what it is on coastal funding. In a bad year for us coastal States, it is 100 times on inland flooding than what it spends on coastal flooding. When you look again at sea level rise and what is happening, the idea that 100 to 1 or 20 to 1 discrepancy persists I think completely misses the risk profile of our oceans and coasts.

So I would urge your eager, willing, and forthcoming cooperation with the GAO study that is trying to quantify all of that.

So there is my punch list. I have 12 seconds left.

General Spellmon. Sir, I will be really quick. On the first, India Point Bridge, we will complete work on the pilings by the end of next month.

Senator Whitehouse. I am not saying that is a narrow little set of pilings compared to the work that we want to accomplish. Those are only the ones in the immediate vicinity of the turn-down bridge.

General Spellmon. Sir, that is correct, and that is where we believe the authority takes us.

The second one, the sunken tugboat, I am not familiar with. I will follow up with Colonel Pabis right after this meeting.

Sir, the coast, the Rhode Island Coastline Study, that is a Chief's report. I signed that in September; it is ready for Congress' consideration in this WRDA bill. That will work to get after some of the challenges that you mentioned. We want to incorporate natural and nature-based features but also the hard concrete and steel that you mentioned at Fox Point, the hurricane barrier, which I have been to. I have not been to Fields Point Barrier.

Senator Whitehouse. There isn't one yet. That is where we need to go, and we still need to do the bathymetric surveys and make sure we know the geology that is down below, so when we start to plan, we are planning off of a known physical

geography.

General Spellmon. Yes, sir. And this last answer won't be sufficient, it won't satisfy you, we do have 60 coastal storm risk management projects ongoing in the Corps right now that you have funded, Congress has funded to the tune of about just under \$8 billion. So we are looking forward to getting that work in the ground. I know that is just a start.

Senator Whitehouse. Great. And we have a very good relationship with your local office. We will keep banging away to get these things done. But I wanted to take the opportunity while I have you both here to put a pin on each one of those, so that you are aware of their importance to my State and to me.

Thank you.

Senator Carper. Senator Whitehouse, thanks for joining us.

We have 19 members of our committee in all, we are just about equally divided, Democrats and Republicans. They have shown up in numbers. A number of them lead major committees, including Senator Whitehouse and Senator Cardin. They found time to come here.

I must say, I am as always impressed by the depth of their knowledge of the needs of their respective States that fall under the purview of the Army Corps of Engineers. It is pretty amazing, given the breadth of the issues that we are charged with staying on top of here in the Senate.

The other thing that really impresses me is the depth of your knowledge and the whole range of issues that have been asked from east to west, north to south, all the way up to Alaska. All very encouraging and frankly impressive.

So I thank you for that.

I am going to ask a question for the record. We have a vote underway and they want me to come and vote on the Floor. So I had better go, or they will take away my membership. Maybe not. But maybe on January 5th they will take it away or something like that.

Anyway, I am going to ask a question for the record. The question is, we would appreciate hearing both of your perspectives on the Corps' priorities for WRDA 2024. I would like to have that in writing rather than verbally.

Any last words you would like to include? We don't always give our witnesses a closing statement, but just something fairly brief, both of you, please. General?

General Spellmon. Sir, on the WRDA priorities, first of all, I want to say thanks for all the tools that you have given us. You have our commitment to work hard to get those more efficiently in the ground and be applied in the field.

Sir, I would just offer, too, for this next WRDA, that I think would help us immensely, I think Section 1001 of WRDA 2014 that brought us 3x3, and a lot of that has done a lot of good

for my agency, I would just respectfully ask Congress to reconsider the \$3 million aspect of that. The buying power is not the same as it was a decade ago.

And sir, the second one, some of it came up today, on Brandon Road, but there are other projects. I think all of us would benefit, and the ability for the Army Corps of Engineers to assist our non-Federal sponsors with HGRW cleanup. This happens in many, many Civil Works projects.

But we would like to do that in a way that does not incur Federal liability on these projects as we do that work. There are just many applications out there that I think would help delivery of some pretty complicated projects.

Senator Carper. All right, thank you.

Mr. Secretary?

Mr. Connor. Mr. Chairman, I will respond for the record with those priorities. I am happy to have a discussion with your staff any time.

Mostly, I want to say thank you very much for your leadership and your service here in charge of this committee and everything you have done in the Bipartisan Infrastructure Law to the ability to work and magically get WRDA authorization legislation through in a timely manner. It is incredibly important.

We try and identify impediments as General Spellmon just

did with respect to being successful in implementing projects. Every two years getting those provisions, which helps us clean up and move forward because of lessons learned is incredibly important. Thank you very much to you, Ranking Member Capito and the staff on both sides of the aisle. We are available any time for your needs.

Senator Carper. Thank you for that. I think they are calling me to come ASAP to vote. There is a saying, all politics is local. That was, I think, Tip O'Neill. Another is all politics is personal. And that is from Joe Biden. Both of them are all right.

Again, the breadth of the issues here and the kind of focus on a lot of important points, but some that are rather obscure, and to hear how knowledgeable my colleagues are and frankly, the both of you, your teams, is quite impressive.

In closing, I want to thank our witnesses for joining us today for what I think is really important work the Army Corps of Engineers is doing in conjunction with us and the Administration. We deeply appreciate your insights and testimony this morning.

WRDA 2024 will continue to advance the Army Corps' critical work. As we continue to develop this legislation, we also look forward to continuing the conversation about improving implementation of past WRDAs.

With that, some final housekeeping to close our hearing. Senators will be allowed to submit questions for the record through the close of business on Wednesday, March 13. We will compile those question and send them on to our witnesses, and ask for our witnesses to reply by Wednesday, March 27th.

In closing, I would be remiss if I didn't say a special thanks and shout-out to our teams, the folks who sit behind us, the folks who are part of the majority and the minority on the Environment and Public Works Committee. We couldn't do this without the great support that you are providing us.

With that, this hearing is adjourned.

[Whereupon, at 12:13 p.m., the hearing was adjourned.]