



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Sam Graves
Chair

Rick Larsen
Ranking Member

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March 15, 2023

The Honorable Michael L. Connor
Assistant Secretary of the Army
for Civil Works
Department of the Army
108 Army Pentagon
Washington, D.C. 20310-0108

Lieutenant General Scott A. Spellmon
Chief of Engineers and
Commanding General
U.S. Army Corps of Engineers
441 G Street NW
Washington D.C. 20314

Dear Assistant Secretary Connor and Lieutenant General Spellmon:

As you implement the Water Resources Development Act of 2022 (WRDA 2022), we write to highlight several priority provisions in the Act on which we urge quick implementation. These items will improve the function and flexibility of the U.S. Army Corps of Engineers (Corps) and ensure continued success and effectiveness of the Corps' work to address the water resources needs of local and Tribal communities nationwide.

On December 23, 2022, President Biden enacted WRDA 2022 as Division H, Title LXXXI of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263). Enactment of WRDA 2022 marks the fifth consecutive biennial, bipartisan, and bicameral Water Resources Development Act and maintains the commitment of Congress to invest in our communities, our water resources infrastructure, and our environment.

Attached is a list of provisions that address priorities identified by Members of the Committee on Transportation and Infrastructure that were enacted in this legislation. These priorities include confronting the challenges of climate change; addressing the water supply and water conservation needs of the nation; meeting the ongoing needs of tribal and disadvantaged communities; and supporting critical Corps responsibilities for dredging and maintenance at our ports, harbors, and inland waterways.

As the Democratic leaders of the House Committee and Subcommittee charged with responsibility for oversight of the Corps, we urge you to focus your implementation efforts on these areas. Further, we ask you to provide us with regular updates on the implementation status of each of these provisions, and updates on provisions from previous bills that still await full

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implementation. Many of these policies are essential to the Corps' decision-making and effectiveness across the country.

Thank you for your attention and for your service to addressing the water resource needs of this nation.

Sincerely,



Rick Larsen
Ranking Member
Committee on Transportation
and Infrastructure



Grace F. Napolitano
Ranking Member
Subcommittee on Water Resources
and Environment

Attachment

Meeting the Challenge of Climate Change:

WRDA 2022 includes several provisions to ensure that Corps projects meet the challenge of climate change and make communities more resilient to stronger storms, higher seas and longer droughts. Implementing these provisions ensures smart investment and enables the Corps to be comprehensive and forward-thinking in its project design and problem solving.

- **Sections 8101 and 8102** enable the Corps to protect our coastlines from stronger storms, sea-level rise and storm surge. Section 8101, entitled Federal Breakwaters and Jetties, clarifies Corps authority to repair federal jetties and breakwaters beyond their authorized dimensions to meet their authorized purposes, including to address projected increases in wave action or height over the life of the project. Similarly, Section 8102, entitled Emergency Response to Natural Disasters, allows the Corps to repair hurricane and storm protection projects to higher design levels that will ensure resiliency and effectiveness in light of increasing wave action, height or storm surge.
- **Section 8104**, entitled Floodplain Management Services, authorizes the Corps to identify areas that may flood because of snags and debris and also increases the Corps' outreach in addressing flood hazards. Stronger and smarter floodplain management increases resiliency and helps communities better prepare for future storm events.
- **Section 8130**, entitled Beneficial Use of Dredged Material; Management Plans, requires the Corps to develop a strategic plan to fully implement existing authority on the beneficial use of dredged material. Congress has repeatedly emphasized its support for beneficial use projects and their potential for cost savings and efficiencies. Developing this strategic plan will ensure better coordination and smarter investment decisions across Corps projects.
- **Section 8232**, entitled Report on Solar Energy Opportunities, directs the Corps to look for opportunities to integrate solar panels or floating solar panels in Corps projects. The integration of solar panels into existing and new water resources development projects will provide sustainable energy while limiting water evaporation, a win-win that could be particularly effective in arid areas. Developing this report is an important first step.
- **Section 8304**, entitled Lakes Program, authorizes several new projects under an existing Corps program. This program can help communities improve their lake usability and water quality, which can expand opportunities for recreational activities and economic benefits.
- **Section 8305**, entitled Invasive Species, modifies various programs to address invasive species and harmful algal blooms. Both threaten to devastate local environments and economies through degradation of ecosystem services or impacts to the native species and habitats. Implementing section 8305 will keep these programs effective and prepared for addressing communities' latest challenges.

- **Section 8315**, entitled Storm Damage Prevention and Reduction, Coastal Erosion, and Ice and Glacial Damage, Alaska, establishes a program to carry out projects for storm damage and reduction, coastal erosion and ice and glacial damage in Alaska. This section will help Alaska meet the unique challenges the state faces, including climate change and global warming in its arctic region.

Addressing Water Supply and Water Conservation Needs:

WRDA 2022 includes several provisions that continue to augment the Corps' authority to address the water supply and water conservation needs of the nation, especially in regions of the country experiencing periods of prolonged drought. Full and timely implementation of these provisions is critical to ensuring that local communities are adequately prepared to face current and future water scarcity challenges.

- **Section 8107**, entitled Water Supply Conservation, broadens an existing authority which allows the Corps to evaluate and undertake water supply conservation measures at Corps' projects for the purposes of augmenting water supply in regions experiencing drought. This section is critical to allow non-Federal interests to undertake water supply conservation measures to augment local water supplies and to reduce future drought risk.
- **Section 8108**, entitled Managed Aquifer Recharge Study and Working Group, directs the Corps to conduct a national assessment of managed aquifer recharge (MAR) projects that can be utilized to address drought and aquifer depletion at Corps' projects. This section authorizes the Corps to carry out 10 feasibility studies for incorporating MAR into Corps' projects in areas with prolonged drought conditions or water supply scarcity.
- **Section 8109**, entitled Updates to Certain Water Control Manuals, directs the Corps to prioritize the update of water control manuals for Corps' projects that include water supply or water conservation as authorized purposes.
- **Section 8208**, entitled Western Infrastructure Study, directs the Corps to conduct a comprehensive study of the effectiveness of carrying out additional measures at or upstream of Corps' reservoirs. This section could identify ways to increase water supply, support aquatic ecosystems or better prepare for drought, any of which would increase the functioning and effectiveness of Corps' reservoirs. This is an active step towards ensuring Corps' operations are meeting current and future challenges, especially in arid areas.

Addressing the Needs of Underserved Communities:

WRDA 2022 contains several provisions to further address the ongoing needs of Tribal and disadvantaged communities—building on several similar provisions from WRDA 2020 (Pub. L. 116-260). Full implementation and robust funding of these provisions from both bills is critical

to address legacy challenges faced by Tribal and disadvantaged communities in seeking assistance from or partnering with the Corps to address local water resources challenges.

- **Section 8112**, entitled Tribal Liaison, directs the Secretary to ensure that every Corps district office containing a Tribal community have on staff a Tribal liaison to serve as a direct line of communication between the Corps and Tribal communities (including Native Hawaiian communities), as well as to ensure consistency in government-to-government relations. Further, this section outlines the responsibilities of the Corps' Tribal liaisons, including seeking to improve communication, outreach and engagement between the Corps and Tribal communities, as well as acting as the point of contact for coordinating and implementing all relevant Tribal consultation policies and associated guidelines, including those required by section 112 of the WRDA 2020 (33 U.S.C. 2356). Section 8112 specifically states that the funding for the position of Tribal liaison be allocated from the Corps' general expenses accounts and not be funded from specific project allocations, as well as ensures that filling the position not be dependent on a specific increase in the Corps budget.
- **Sections 8111 and 8114** amend two existing authorities—namely the Tribal Partnership Program and the cost-sharing authority for projects on Tribal lands—to enhance the utility of these authorities for Tribal communities. Further, the amendments to section 1156 of WRDA 1986 (33 U.S.C. 2310) clarify that Native Hawaiian organizations are explicitly eligible to participate under these authorities.
- **Sections 8117, 8118, and 8119** provide increased authority and resources for the Corps to provide outreach and technical assistance to economically disadvantaged communities. Specifically, section 8117 establishes a policy of the United States for the Corps to strive to understand, accommodate, and address the water resources development needs of all communities in the United States. This administration has been a leader in addressing many Tribal and environmental injustices of the past; yet Tribal and disadvantaged communities continue to have concerns in working with the Corps to address local water resources needs. To respond to these concerns, the last two WRDA bills have included several provisions to allow the Corps to work directly with these communities to better understand and address their local water resources challenges—including enhanced authority under the Corps' Floodplain Management Services program¹ and Planning Assistance to the States program². We urge the Corps to fully implement and fund these critical programs which can provide a lifeline of assistance to communities that often struggle to address local water resources challenges due to a lack of financial or technical capability.
- **Section 8156**, entitled Federal Interest Determination, expands the Corps' authority to study potential water resources development projects at federal cost. This will help non-federal project sponsors understand potential costs and project options before committing to a full feasibility study. The Corps may identify alternative options for addressing a community's needs, such as smaller-scale solutions or other assistance

¹ Section 206 of the Flood Control Act of 1960 (33 U.S.C. 709a)

² Section 22 of WRDA 1972 (42 U.S.C. 1962d-16).

programs for which these communities might be eligible. All communities deserve access to the Corps' expertise, but not all communities are aware of their options or have the upfront capital to pursue them.

- **Section 8383**, entitled Transfer of Excess Credit, allows the Corps to extend credit authority to projects with multiple non-federal sponsors and allows excess credit to be carried over to other projects under certain circumstances. This flexibility can be an important tool for addressing affordability needs and ensuring Corps' projects can benefit all communities, including disadvantaged communities.

Maintaining Our Economic Edge:

WRDA 2022 builds upon the Corps' critical responsibilities for dredging and maintenance at our ports, harbors and inland waterways. This work is critical to supporting our economy and alleviating supply chain issues. WRDA 2022 included several provisions to ensure this core work is as successful as possible.

- **Section 8128**, entitled Assessment of Regional Confined Aquatic Disposal Facilities, directs the Corps to look at opportunities and demand for disposal facilities in the northeastern United States. These facilities can be co-utilized by small and local harbors for their dredging needs, while ensuring that any contaminated dredged material does not impact the waterways and water quality.
- **Section 8205**, entitled Report and Recommendations on Dredge Capacity, is of particular importance in addressing latent supply chain issues. Our ports and harbors need to be readily accessible by the ships, shippers and businesses that rely on them. Recent WRDAs have authorized significant increases in the availability of maintenance dredging resources, including funds from the Harbor Maintenance Trust Fund. However, equally important is transparency on how these funds are being utilized, and whether there is sufficient public and private dredging capacity to efficiently and effectively utilize these resources to meet current and future demands on our ports. The report included in this section, and any resulting recommendations, should be acted upon immediately to ensure longevity of Corps' operations and maintenance and the efficiency of harbor maintenance activities.
- **Section 8207**, entitled Maintenance Dredging Data, is a key transparency measure in the Corps' data collection. The changes by this section require the inclusion of the cost of dredged material disposal in the maintenance dredging database, which will assist in quantifying the benefits of reusing dredged materials. Data and transparency will help inform and improve decision-making in federal actions.