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

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MEMORANDUM

TO: Members of the Subcommittee on Water Resources and Environment

FROM: Subcommittee on Water Resources and Environment Staff

RE: **SUMMARY OF SUBJECT MATTER:** Hearing on "Agency Budgets and Priorities for FY 2008"

PURPOSE OF THE HEARING

On February 14, 2007, at 10 a.m., the Subcommittee on Water Resources and Environment will hold a hearing on the President's budget request for fiscal year 2008 in 2167 RHOB. Testimony will be received from the U.S. Army Corps of Engineers (Corps), Natural Resources Conservation Service, Tennessee Valley Authority, and St. Lawrence Seaway Development Corporation on their proposed budgets for fiscal year 2008. **For purposes of comparison, funding levels in the recently House-passed continuing resolution (H.J. Res. 20) are used to represent the fiscal year 2007 enacted levels.**

ARMY CORPS OF ENGINEERS

The Army Corps of Engineers provides water resources development projects for the nation, usually through cost-shared partnerships with nonfederal sponsors. Activities include navigation, flood control, shoreline protection, hydropower, dam safety, water supply, recreation, environmental restoration and protection, and disaster response and recovery.

The water infrastructure and programs of the Army Corps of Engineers support vital economic and environmental needs of this nation. These projects provide for continued economic growth, job creation, and economic stability while protecting human lives, ensuring reliable waterborne transport of goods, and important environmental restoration of valuable natural resources. This budget continues the longstanding trend of the administration requesting significant cuts in the Corps budget compared to Congressional appropriations. For fiscal year 2008, the administration requests a total of $4.871 billion, which is $459 million (-8.6%) less than the fiscal year 2007 enacted levels.

The funding level for construction projects included in the budget is 45% less than capability, and the investigations projects is 39% below full capability, limiting the effective advancement of these mission responsibilities. In addition, these funding levels continue to exacerbate problems by failing to fund the construction backlog, and curtailing the study and development of new projects.

Construction: The construction account continues to decline under the administration's fiscal year 2008 budget request of $1.5 billion, a reduction of $811.4 million (-34.8 %) from the fiscal year 2007 enacted level. This reduction is proposed despite the recognition that there is a backlog of projects needing funds. The administration has again assembled its budget under "construction budgeting principles" which is intended to direct funding to the highest performing projects while addressing human safety concerns. The principles require a benefit cost ratio better than 1.5 for a project to be considered for funding, and over 3.0 to receive full funding. Ecosystem restoration projects are not included in the benefit-cost ratio analysis and are reviewed based on cost effectiveness and national significance. The new criteria also limits new starts to those projects that rank in the top 20% of the construction projects—no projects qualified this year for a new start. Fourteen additional flood damage reduction projects were included in the budget outside of this benefit cost analysis to address significant risk of human safety. The administration's threshold for funding consideration results in no new starts, and has the effect of preventing the consideration of many important projects which are ready for construction.

Investigations: The administration's budget requests $90 million for investigations, a decline of $72.4 million (-$44.6%) from fiscal year 2007 enacted levels. The administration states this budget request is intended to limit development of new projects because the current construction backlog reduced the ability to fund new projects. This justification fails to recognize the importance of new projects. As a result, currently needed projects that protect human life and property, improve navigation, or restore vital environmental areas are sacrificed in favor of previously developed projects.

The administration's budget allocates $35.3 million (38.9% of total request) to project specific studies. The balance is directed to an array of Corps' watershed studies that are not specific to any particular project. The application of the benefit cost review to these studies puts important watershed studies at a disadvantage. These watershed studies do not study any one project but are designed to provide a comprehensive analysis of the overall needs of the affected watershed, including potential flood damage reduction, water supply, and ecosystem restoration needs. When properly conducted, these studies can provide valuable information to guide local development decisions. The administration did include one new start for a flood plain management study.

Operations and Maintenance: The administration's fiscal year 2008 budget requests $2.5 billion in the Operations and Maintenance account (O&M), which is an increase of $501.9 million (+25%) over fiscal year 2007 enacted levels. Due to inadequate funding in the O&M account, the Corps has been deferring maintenance on navigation and flood control projects for many years. Three years ago, the Corps' own estimate called for a 50% increase in operations and maintenance funding to address long delayed maintenance needs which will only become more costly with further delay. The increase in the fiscal year 2008 O&M account is an important, though small step, to ensure the reliable and efficient operations of our nation's vast water infrastructure.

The administration again proposes to shift several former Construction General responsibilities to the O&M account. These include: infrastructure rehabilitation for work that is not large enough to be considered a replacement; Endangered Species Act compliance where the Corps is implementing an alternative set forth in a biological opinion; the construction of facilities, projects or features (including islands and wetlands) to use materials dredged during Federal navigation operation and maintenance activities; and the mitigation of shoreline impacts resulting from Federal navigation operation and maintenance activities. The administration's budget proposes to consolidate funding for O&M activities by region, making it more difficult to track individual project spending in this account.

The administration's budget anticipates the Corps will resubmit its fiscal year 2007 proposal for the Corps to collect new fees at recreation sites. This proposal permits the Corps to retain entrance fees collections in excess of $37 million and is modeled on fee collection programs currently used by National Park Service and the Forest Service. The Corps is the largest federal provider of outdoor recreation services. It manages 4,300 recreation areas at 456 Corps' sites in 43 states. Many of the Corps' facilities were built 30-40 years ago, and were designed to meet the recreation needs of the public at that time. Today, Corps facilities serve millions of people per year. Under the administration's forthcoming proposal, beginning in fiscal year 2008, the Corps would be authorized to finance a portion of the cost of maintaining and upgrading recreational facilities through the collection of additional user fees, and from new planning, management, and financing arrangements with state and local government park authorities, and private sector concessionaires.

The President's budget request summary also notes that the administration is developing and will propose legislation to require new tolls for barge traffic on the inland waterway system. This proposal is intended to address declining revenues in the Inland Waterways Trust Fund (Trust Fund), which is derived from a 20 cent per gallon tax on diesel fuel for commercial vessels engaged in inland waterway transportation, plus investment income. The Trust Fund is used to pay one half the costs associated with the construction, replacement, expansion, and major rehabilitation of Federal inland waterways projects. At the end of fiscal year 2008, the administration's budget forecasts a balance of $4 million in the Trust Fund, down from $126 million at the start of the fiscal year.

The administration's budget again provides no funding for beach renourishment as part of a shoreline protection project. This continues the administration's policy of funding only initial beach nourishment and mitigation for impacts to shorelines caused by of federal navigation projects.

Regulatory Program: The Regulatory Program would receive $180 million in the administration's proposal, representing a $21.6 million increase (+13.6%) over fiscal year 2007 enacted levels. This program administers the laws pertaining to the regulation of activities affecting the waters of the United States, including wetlands, in accordance with the Rivers and Harbors Appropriation Act of 1899, the Clean Water Act, and the Marine Protection, Research and Sanctuaries Act of 1972. This additional funding is intended to improve permit processing and better assess wetlands and environmentally sensitive areas.

Formerly Utilized Sites Remedial Action Program (FUSRAP): The administration's budget requests $130 million, down $8.6 million (-6.2%) from fiscal year 2007 enacted levels. This program funds the cleanup of certain low-level radioactive materials and mixed wastes, located mostly at sites contaminated as a result of the nation's early efforts to develop atomic weapons.

Mississippi River and Tributaries: The administration's request of $260 million is a reduction of $136 million (-34.3%) from the fiscal year 2007 enacted levels. The budget funds one new start for planning, operation and maintenance activities associated with the projects to reduce flood damage in the lower Mississippi River alluvial valley below Cape Girardeau, MO.

Administration Proposals: The administration also includes six legislative proposals.

1. Reprogramming Rules: Proposed Sec. 101 reaffirms the reprogramming rules introduced in the fiscal year 2006 Energy and Water Appropriations bill. This provision limits reprogramming to $3 million for programs, projects or activities; and limits studies to 25% of base amount.

2. Convert Continuing Contracts to Multi-year contracts: Proposed Sec. 103 proposes to amend the Rivers and Harbors Appropriation Act of 1922 to convert the Corps use of continuing contracts to multi-year contracts. The authorization is required for contracts over $100 million with a notification and waiting period for any contingent liability over $20 million.

3. Missouri River Endangered Species: Proposed Sec. 104 authorizes the Corps to undertake endangered species recovery actions throughout the Missouri River and its tributaries for the survival and recovery of the least tern, piping plover, and pallid sturgeon.

4. Flood Inventory Project: Proposed Sec. 105 authorizes the Corps to continue the flood project inventory work that it began as a result of the levee failures in New Orleans during Hurricane Katrina. The authorization directs the Corps to continue the inventory and develop a methodology to assess the structural and operational integrity of such projects and associated risk. The administration also included $10 million in the fiscal year 2008 budget request for this project.
5. Chicago Sanitary and Ship Canal Dispersal Barrier Project: Proposed Sec. 106 authorizes $11.4 million to construct improvements to barrier 1 and authorization of $16.0 million for barrier 2. These projects are designed to prevent the movement of invasive fish species (e.g. asian carp) from the Upper Mississippi River system into the Great Lakes, and vice versa.

6. McAlpine Lock and Dam: Proposed Sec. 107 amends the authorized funding level for the McAlpine Lock and Dam from $219.6 million to an authorized level of $430.0 million.

NATURAL RESOURCES CONSERVATION SERVICE

The NRCS, formerly known as the Soil Conservation Service, small watershed protection program has faced declining requests in recent budgets, despite its role in protecting and restoring watershed damaged by erosion, flood water, and other natural occurrences.

The administration's budget request for the Natural Resources Conservation Service (NRCS) zeros out funding for the Watershed Surveys and Planning program, and the Watershed and Flood Prevention Operations program, and significantly reduces funding for the Watershed Rehabilitation Program from a fiscal year 2007 appropriation of $31.6 million to a request in the President's fiscal year 2008 budget of $5.8 million.

Small Watershed Program: Under authority of the small watershed program, authorized in the Watershed Protection and Flood Prevention Act of 1954 (P.L. 83-566) and the Act of December 22, 1944 (P.L. 78-534), NRCS provides technical and financial assistance to local organizations to install measures for watershed protection, flood prevention, agricultural water management, recreation, and fish and wildlife enhancement. Depending on its size and cost, a project may be carried out administratively or with Congressional approval by the House Agriculture Committee (projects with a structure up to 4000 acre feet of storage capacity) or the Transportation and Infrastructure Committee (projects with a structure over 4000 acre feet of storage capacity) and comparable Senate committees. There are more than 11,000 such structures under the NRCS authority nationwide.

Watershed Surveys and Planning: The watershed surveys and planning account funds the studies needed to carry out the small watershed program. The administration's budget requests no money for the Watershed Surveys and Planning Program (studies). Appropriations for this program in fiscal year 2007 were $6.02 million.

Watershed and Flood Prevention Operations: The Watershed and Flood Prevention Operations account funds both the Small Watershed Program, discussed above, and the Emergency Watershed Protection Program, which provides assistance to State and local governments after a flood or other emergency has taken place. The administration's budget requests no money for this account. In fiscal year 2007, $74.25 million was appropriated for the Small Watershed Program.

Watershed Rehabilitation Program: In 2000, Congress amended the Watershed Protection and Flood Prevention Act to allow NRCS to provide assistance to rehabilitate flood protection dams that had been built with assistance provided under that Act and have now reached the end of their useful lives, creating threats to property and lives. The budget request includes $5.8 million (-81.4 percent) for the Watershed Rehabilitation Program to provide technical and financial assistance for upgrading or removing aging dams. In fiscal year 2007, $31.2 million was appropriated for this account.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The St. Lawrence Seaway is a 328 nautical-mile deep-draft waterway between the Port of Montreal and Lake Erie. It connects the Great Lakes with the Atlantic Ocean via the lower St. Lawrence River. The Seaway includes a network of 15 locks and connecting channels located in Canada and the United States. Thirteen of the locks belong to Canada and the remaining two locks, located in Massena, NY, belong to the United States.

The U.S. portion of the Seaway was authorized in 1954, and is operated by the St. Lawrence Seaway Development Corporation, an agency within the U.S. Department of Transportation. The Canadian portion of the Seaway is operated by the St. Lawrence Seaway Management Corporation, a private corporation established in the 1990s and owned by the nine largest Canadian users of the Seaway.

The St. Lawrence Seaway was opened to traffic in April 1959. It experienced rapid growth in vessel and cargo traffic during its early years, but those trends went into decline in the late 1970s. However, since 1993, cargo traffic volume have shown signs of increasing. The mix of cargoes, however, has changed from one that was diverse during the Seaway's infancy to the current one that is composed largely of lower-value bulk commodities, such as iron ore, coal, and building materials.

Until 1994, tolls were collected for the use of Seaway facilities by U.S. and Canadian Seaway agencies. However, from April 1987 until October 1994, U.S. tolls were rebated under the authority of the Water Resources Development Act of 1986. Tolls collected by the United States were abolished altogether effective October 1994; however, the Canadian government continues to collect a toll for its portion of the Seaway. Since the 1986 Act, U.S. costs for Seaway operation and upkeep have been funded by annual appropriations out of the Harbor Maintenance Trust Fund.

The President's Budget for fiscal year 2008 proposes $17.0 million for operations and maintenance of the Seaway, compared to the fiscal year 2007 appropriation of $16.1 million (a 5.5 percent increase). This request would be funded from appropriations from the Harbor Maintenance Trust Fund.

The fiscal year 2008 budget *does not* continue a former administration proposal to change the way Seaway operation and maintenance are funded by creating new mandatory charges for using the Saint Lawrence Seaway. In the 109th Congress, this Committee strongly opposed the imposition of new tolls on users of the Saint Lawrence Seaway.

TENNESSEE VALLEY AUTHORITY

TVA is the nation's largest wholesale power producer and the fifth largest electric utility. TVA supplies power to nearly eight million people over an 80,000 square mile service area covering Tennessee, and parts of Mississippi, Alabama, Georgia, North Carolina, Virginia, and Kentucky. In addition, TVA's non-power program responsibilities include the multi-purpose management of land and water resources throughout the Tennessee Valley, and fostering economic development.

Since fiscal year 2001, 100 percent of TVA's power and non-power programs have been funded through its power revenues. TVA receives no appropriated funds. TVA's expected power revenues for fiscal year 2007 are $9.5 billion and its operating expenses are expected to be approximately $7.78 billion. This compares to fiscal year 2007 expected revenues of $9.03 billion and expenses of $7.49 billion.

Largely due to investments in nuclear power plants, TVA carries a debt load of $24.7 billion in total financial obligations (TFOs). TVA estimates that it will have $553 million for reduction of TFOs in FY 2007, $404 million of which will be net cash available for statutory debt reduction. The budget includes a debt reduction targets of $3.4 billion by 2012.

In 2000, the Inspector General (IG) became a Presidential appointed post. The IG currently is funded directly from TVA revenues, subject to TVA board approval. The President's budget proposes to appropriate funds for TVA's IG out of TVA revenues. Under the TVA Act, the TVA board may choose to deposit some power revenues into the U.S. Treasury, but absent Congressional action, TVA's revenues are not available for appropriation.

Beginning in the second quarters of fiscal year 2007, a fuel cost adjustment took affect that increased rates by 0.2 percent, related to the recovery of fuel and purchased power expense increases. TVA forecasts an additional fuel cost adjustment of 1.5 percent in the upcoming third quarter. However, with the scheduled start of Browns Ferry Unit 1 nuclear power plant in the spring of 2007, TVA forecasts two rate adjustments that will decrease rates by 1.3 percent and 2.4 percent, respectively in the last quarter of 2007 and the first quarter of 2008, mainly from the result of cheaper power production in the restarted nuclear reactor.

The restart of Browns Ferry Unit 1 nuclear power plant has been funded with existing revenues without incurring additional debt. As a result, the TVA anticipates enhanced revenues once the new unit becomes operational.