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

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June 11, 2009

**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Subcommittee on Water Resources and Environment

**FROM:** Subcommittee on Water Resources and Environment Staff

**SUBJECT:** Hearing on "Agency Budgets and Priorities for FY 2010, Part 2"

## PURPOSE OF THE HEARING

The Subcommittee on Water Resources and Environment will hold two hearings on the President's budget request and agency priorities for fiscal year (FY) 2010 in 2167 Rayburn House Office Building. The first hearing, on Wednesday, June 3, 2009, at 10:00 a.m., will include testimony from the Environmental Protection Agency (EPA), the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), the National Oceanic and Atmospheric Administration (NOAA), the Saint Lawrence Seaway Development Corporation (SLSDC), and the Tennessee Valley Authority (TVA). The second hearing, on Tuesday, June 16, 2009, at 2:00 p.m., will include testimony from the U.S. Army Corps of Engineers (Corps), the United States Sector of the International Boundary and Water Commission (USIBWC), and the Agency for Toxic Substances and Disease Registry (ATSDR) at the Centers for Disease Control and Prevention.

## ENVIRONMENTAL PROTECTION AGENCY

The Administration's FY 2010 budget request for the EPA totals $10.5 billion, including $5.2 billion for State and Tribal Assistance Grants, $2.9 billion for Environmental Programs and Management, and $1.3 billion for the Hazardous Substance Superfund program. The FY 2010 budget request represents the highest level of funding for EPA in its 39-year history, representing an increase of $2.9 billion from the FY 2009 appropriations of $7.6 billion.

**Summary of FY 2010 Budget Request:**

(in millions)

| Program | FY2009 Enacted | FY2010 President's Budget | Diff. of FY2010 Pres. Budget and FY2009 | |
|---|---|---|---|---|
| | | | $ | % |
| Science and Technology | 790.1 | 842.3 | 52.2 | 6.6% |
| Environmental Programs and Management | 2,392.1 | 2,940.6 | 548.5 | 22.9% |
| State and Tribal Assistance Grants | 2,968.5 | 5,191.3 | 2,222.8 | 74.9% |
| Clean Water SRF *(non-add)* | 689.1 | 2,400.0 | 1,710.9 | 248.3% |
| Drinking Water SRF *(non-add)* | 829.0 | 1,500.0 | 671.0 | 80.9% |
| Hazardous Substance Superfund | 1,285.0 | 1,308.5 | 23.5 | 1.8% |
| Others | 210.1 | 213.3 | 3.2 | 1.5% |
| **Total** | **7,645.7** | **10,496.0** | **2,850.3** | **37.3%** |

**Clean Water**

EPA's water programs are designed to provide improvements in the quality of surface waters and drinking water. The Committee on Transportation and Infrastructure has jurisdiction over programs aimed at protecting the nation's water quality. EPA, through its own programs and in combination with states and tribes, seeks to improve water quality in rivers, lakes, and coastal waters through investment in wastewater infrastructure, water quality standards, permitting programs, water quality monitoring, and research, among other activities. EPA's Office of Water operates the agency's water quality protection programs.

**Clean Water State Revolving Fund:** The FY 2009 budget request provides $2.4 billion for the Clean Water State Revolving Fund (Clean Water SRF), the largest budget request of any Presidential administration for the program since its creation in 1987. This request is an increase of $1.7 billion over the FY 2009 appropriation for this program. The Clean Water SRF is the primary federal vehicle for funding wastewater infrastructure programs throughout the nation. Clean Water SRF funds are used for capitalization grants for state Clean Water programs and infrastructure.

**Other Wastewater Infrastructure Funding:** The FY 2010 appropriations contained funding for 301 targeted drinking water and wastewater infrastructure projects, totaling $145 million. The FY 2010 budget request contains no funding for targeted infrastructure grants.

The FY 2010 budget requests $10 million for water infrastructure along the United States-Mexico border. This request is a $10 million reduction from the FY 2009 appropriation for this program. The FY 2010 request for water infrastructure assistance for Alaska Native Villages is $10 million, a reduction of $8.5 million from the FY 2009 appropriation for this program.

**Nonpoint Source Water Pollution:** The FY 2010 budget request provides $200.9 million for Clean Water Act section 319 Nonpoint Source Grants. This request is consistent with the FY 2009 appropriation for this program. Grants under section 319 of the Clean Water Act are provided to states, territories, and tribes to help with implementation of EPA-approved nonpoint source management programs.

**Regional Programs:** EPA's regional programs provide an opportunity to target regionally specific environmental problems and to work closely with state and local partners. The FY 2010 budget request provides $35.1 million for the Chesapeake Bay program – an increase of $4.1 million over the FY 2009 appropriation. The budget request for the Gulf of Mexico program is $4.6 million – an increase of $60,000 over the FY 2009 appropriation. The budget request for the Long Island Sound program is $3.0 million, which is consistent with the FY 2009 appropriation for this program. Funding for the San Francisco Bay program[1] in the FY 2010 budget request is $5 million, and funding for the Puget Sound program is $20 million. Both amounts are consistent with the FY 2009 appropriations for the respective programs.

**2010 Great Lakes Restoration Initiative:** In the FY 2010 budget request, the Administration has proposed a new $475 million Great Lakes Restoration Initiative (Initiative). Through this Initiative, EPA, in partnership with eleven agencies and cabinet organizations, including the Corps of Engineers, the Department of Agriculture, and the Department of Transportation, will lead the development and implementation of programs and projects that target "the most significant problems in the Great Lakes ecosystem and ... demonstrate measurable results." The Initiative plans to target five areas: (1) toxic substances and areas of concern; (2) invasive species; (3) near-shore health and nonpoint source pollution; (4) habitat and wildlife protection and restoration; and (5) accountability, monitoring, evaluation, communication, and partnerships. The Initiative includes programs funded under specific line-items in previous years' budgets, including the Great Lakes Legacy Act, and funding for the Great Lakes National Program Office. According to EPA staff, the budget request for the Great Lakes Legacy Act (contained as part of the Initiative) is $60 million, which is an increase of $23 million over the FY 2009 appropriation for this program. The budget proposal includes legislative authority for the Initiative to transfer funding among the Federal agencies and cabinet organizations, as well as authority for the EPA Administrator to make grants to "governmental entities, nonprofit organizations, institutions, and individuals for planning, research, monitoring, outreach, and implementation" in furtherance of the Initiative.

The Administration is requesting $27 million for the National Estuaries Program in its FY 2010 budget request. This is a $410,000 increase from FY 2009 appropriation for this program. The National Estuary Program consists of 28 individual estuary programs located across the country and is focused on environmental restoration of approved estuary management plans.

[1] The San Francisco Bay program and the Puget Sound program are not free-standing program offices with the Environmental Protection Agency, but are part of the larger National Estuaries Program (section 320 of the Clean Water Act).

**Other Water Programs:** The FY 2010 budget request for EPA's Clean Water Act section 106 Water Pollution Control grant program is $229.3 million – an increase of $10.8 million over the FY 2009 appropriation for this program. The request for the Tribal General Assistance Program (GAP) grants is $62.9 million (an increase of $5 million), and the requests for Wetlands Program Development grants ($17 million) and Beaches Protection program grants ($10 million) are consistent with the FY 2009 appropriations.

## Superfund and Brownfields

**Superfund Program:** The Comprehensive Environmental Response, Compensation, and Liability Act established the Superfund program in 1980. Superfund is the Federal government's program to clean up the nation's uncontrolled and/or abandoned hazardous waste sites. EPA addresses the highest priority sites by listing them on the Superfund National Priorities List (NPL). EPA's Office of Solid Waste and Emergency Response (OSWER) runs the Superfund program.

The Administration's FY 2010 budget request for Superfund totals $1.3 billion. This amount is an increase of $23.5 million over the FY 2009 appropriation for this program. Of this amount, $202.8 million is for Superfund removal actions, $605.0 million is for Superfund remedial actions, $32.2 million is for response activities at Federal facilities, and $183.6 million is for Superfund enforcement activities ($173.2 at non-Federal sites, and $10.4 million at Federal sites).

The Administration's stated FY 2010 priorities for the Superfund program are to continue listing and remediation at the most highly contaminated hazardous waste sites and to complete remedy construction at 22 non-Federal Superfund sites, and 4 Federal sites.

The Administration's FY 2010 budget request proposes to reinstate, beginning in FY 2011, the taxes on petroleum, chemical feed stocks, and corporate income that traditionally funded a significant portion of hazardous waste cleanups under the Superfund program.[2] The EPA currently spends approximately $1.3 billion annually to investigate and remediate the nation's hazardous waste sites under the Superfund program. The majority of current spending for the Superfund program is from the General Fund (or $1.16 billion out of a $1.3 billion program for FY 2010). The balance of the Superfund program, or $198 million for FY 2010, is derived from cleanup cost recoveries, interest or profits from investment of the Superfund trust fund, or fines and penalties.

When the Superfund program was enacted in 1980, a significant portion of the cleanup funds were generated from taxes on petroleum, chemical feed stocks, and, later, corporate income. These taxes provided to the Superfund trust fund an average of $1.45 billion in revenue annually and accounted for approximately 65 percent of annual expenditures for the Superfund program. The additional 35 percent of expenditures were derived from annual trust fund balance carry-overs, cleanup cost recoveries, interest or profits from investments, and fines and penalties. The authority for these Superfund taxes expired in 1995. The Administration is proposing to reinstate the Superfund taxes to fund future cleanup efforts and reduce General Fund expenditures.

**Brownfields Program:** Brownfields consist of property for which the expansion, redevelopment or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. These sites can consist, for example, of former industrial

[2] Additional cleanup activities are funded by responsible parties and cost recoveries.

properties, gas stations, or dry cleaners. Estimates of the number of brownfields sites, nationally, range from 450,000 to one million. EPA established the Brownfields Initiative in 1995 to better enable the Federal government, states, and communities to work together to address, cleanup, and reuse brownfields sites. The Small Business Liability Relief and Brownfields Revitalization Act authorized increased funding for EPA to award brownfields assessment, cleanup, and revolving loan fund grants, as well as provided limited Superfund liability protections for certain innocent landowners and bona fide prospective purchasers. EPA's OSWER manages the Brownfields program.

The Administration's FY 2010 budget request for Brownfields totals $174.7 million. This is an increase of $5 million over the FY 2009 appropriation. Of this number, the Administration's budget requests $100 million for brownfields site assessment and cleanup grants ($200 million authorized), $49.5 million for State voluntary cleanup programs ($50 million authorized), and $25.2 million for EPA's administration of the brownfields program.

## NATURAL RESOURCES CONSERVATION SERVICE

**Summary of FY 2010 Budget Request:**

(in millions)

| Program | FY2009 Enacted | FY2010 President's Budget | Diff. of FY2010 Pres. Budget and FY2009 | |
|---|---|---|---|---|
| | | | $ | % |
| Watershed Surveys and Planning[3] | 0.0 | 0.0 | 0.0 | N/A |
| Watershed and Flood Prevention Operations | 24.3 | 0.0 | -24.3 | -100.0% |
| Watershed Rehabilitation Program | 40.0 | 40.1 | 0.1 | 0.25% |
| **Total** | **64.3** | **40.1** | **-24.2** | **-37.6%** |

The Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service, small watershed protection program has faced declining requests in recent

[3] The NRCS Watershed Surveys and Planning program last received Federal appropriations in FY 2006.

budgets, despite its role in protecting and restoring watersheds damaged by erosion, flood water, and other natural occurrences.

The Administration's budget request for NRCS eliminates funding for the Watershed Surveys and Planning program, and the Watershed and Flood Prevention Operations program, and provides a slight increase in funding ($0.1 million) for the Watershed Rehabilitation Program from the FY 2009 appropriation.

**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), and no funds were appropriated for this program in FY 2009.

**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 4,000 acre feet of storage capacity) or the Transportation and Infrastructure Committee (projects with a structure over 4,000 acre feet of storage capacity) and comparable Senate committees. There are more than 11,000 such structures under the NRCS authority nationwide.

**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. The FY 2009 appropriation for the watershed and flood prevention operations account was $24.3 million.

**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 Administration's FY 2010 budget request for the watershed rehabilitation program is $40.1 million, which is an increase from the FY 2009 appropriation of $40 million for this program.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

**Summary of FY 2010 Budget Request:**

(in millions)

| Program | FY2009 Enacted | FY2010 President's Budget | Diff. of FY2010 Pres. Budget and FY2009 $ | % |
|---|---|---|---|---|
| National Ocean Service | 558.8 | 502.7 | -56.1 | -10% |
| Coastal Non-point Program (§ 6217 CZARA) | 3.9 | 0.0 | -3.9 | 100% |
| Office of Oceanic and Atmospheric Research | 408.3 | 404.6 | -3.7 | -0.9% |
| **Total**[4] | **4,374.0** | **4,484.0** | **110.0** | **2.5%** |

The Subcommittee has jurisdiction over various NOAA programs and activities, including responsibilities under the Clean Water Act, the Coastal Zone Act Reauthorization Amendments, the Marine Protection, Research and Sanctuaries Act, Superfund, the Oil Pollution Act, the Nonindigenous Aquatic Nuisance Prevention and Control Act, the Harmful Algal Bloom and Hypoxia Research and Control Act, and the Estuary Habitat Restoration and Partnership Act of 2000. Issues involving the National Ocean Service, such as coastal water pollution and natural resource damages, are of particular interest.

The President's budget requests $502.7 million for the National Ocean Service for FY 2010, $56.1 million less than the FY 2009 enacted level of $558.8 million. Of that amount, no funding is requested for implementation of coastal nonpoint pollution programs under section 6217 of the Coastal Zone Act Reauthorization Amendments, which was funded at $3.9 million in FY 2009; $19.1 million is requested to fund natural resource trustee and other activities under Superfund and the Oil Pollution Act – a decrease from the enacted level of $19.2 million in FY 2009; and $36.1 for the National Centers for Coastal Ocean Science, which will fund activities under the Harmful Algal Bloom and Hypoxia Research and Control Act – an increase of $2.7 million for harmful algal bloom research.

The President's budget request also includes $999,000 for the Office of Oceanic and Atmospheric Research for activities under its Aquatic Invasive Species Program, including activities under the National Invasive Species Act of 1996. The FY 2009 enacted level included $988,000. This funding is for the purpose of addressing the proliferation of exotic species in marine environments in the North Pacific, funding ballast water demonstration projects, and for invasive species prevention and control.

[4] Table does not highlight accounts outside the jurisdiction of the Committee on Transportation and Infrastructure.

## SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

**Summary of FY 2010 Budget Request:**

(in millions)

| Program | FY2009 Enacted | FY2010 President's Budget | Diff. of FY2010 Pres. Budget and FY2009 $ | % |
|---|---|---|---|---|
| Operation & Maintenance | 31.8 | 32.3 | 0.5 | 0.04% |
| **Total** | **31.8** | **32.3** | **0.5** | **0.04%** |

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 Saint 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 SLSDC, an agency within the United States 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 has 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 United States 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 request for FY 2010 proposes $32.3 million for operations and maintenance of the Seaway – an increase from the FY 2009 appropriation of $31.8 million for these activities. This funding would be for the daily operation and maintenance of the Seaway, as well as Year Two projects of the Seaway's ten-year capital asset renewal program, authorized in the Water Resources Development Act of 2007. The SLSDC spending plan includes $16.9 million for agency operations and $16.3 million for the asset renewal program.

The $16.3 million request for the asset renewal program will complete an estimated 20 capital and maintenance infrastructure projects, and will address various needs for the two U.S.

Seaway locks, the Seaway International Bridge connecting Ontario and New York, operational systems, and SLSDC facilities and equipment.

Operation, maintenance, and capital asset renewal needs for the U.S. portion of the Saint Lawrence Seaway are derived from appropriations from the Harbor Maintenance Trust Fund, and revenues from other non-Federal sources.

## TENNESSEE VALLEY AUTHORITY

**Summary of FY 2010 Budget Request:**

(in millions)

| Program[5] | FY2009 Enacted | FY2010 President's Budget | Diff. of FY2010 Pres. Budget and FY2009 $ | % |
|---|---|---|---|---|
| Total | 0.0 | 0.0 | 0.0 | n/a |

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 the State of 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.

Since FY 2001, the entirety of TVA's power and non-power programs has been funded through its power revenues. TVA receives no appropriated funds. TVA's expected power revenues for FY 2010 are $13.6 billion and its operating expenses are expected to be approximately $11.3 billion. This compares to FY 2009 expected revenues of $13.5 billion and expenses of $11.3 billion.

The outstanding balance of TVA's bonds, notes, and other evidences of indebtedness is limited by statute and cannot exceed $30 billion. The FY 2010 budget assumes TVA will increase its debt and debt-like obligations by $32 million in 2010 primarily from new capital spending for the Watts Bar Unit 2 project ($681 million) and new generating capacity ($773 million). TVA's outstanding debt and debt-like obligations were $25.1 billion at the beginning of 2009, and are estimated to decrease to $24.9 billion by the end of 2010.

In 2000, the TVA 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 beginning in FY 2010. 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.

[5] Since FY 2001, TVA has not received Federal appropriations, but has funded its power and non-power program through its power revenues.

On December 22, 2008, a retaining wall surrounding a coal-ash wet storage facility for TVA's Kingston Fossil Plant failed, allowing approximately 5.4 million gallons of coal ash to be released onto land adjacent to the plant, as well as into the nearby Clinch and Emory Rivers. Because this failure occurred after the submission of TVA's budget to the Office of Management and Budget, there is no information on the potential environmental cleanup costs for the spill and later recover efforts. However, TVA is required by law to submit financial disclosure statements to the Securities and Exchange Commission. In the most recent submission (10-Q), dated May 1, 2009, TVA acknowledges that the total estimated cleanup costs for the Kingston release range between $675 million to approximately $975 million. This estimate does not include the potential costs for additional regulatory actions, litigation, fines, or penalties that may be assessed against or settled by TVA. These costs will either be addressed through TVA's insurance coverage or through TVA's annual operating budget.

## ARMY CORPS OF ENGINEERS

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

**Summary of FY 2010 Budget Request:**

(in millions)

| Program | FY2009 Enacted | FY2010 President's Budget | Diff. of FY2010 Pres. Budget and FY2009 $ | % |
|---|---|---|---|---|
| Investigations | 168.1 | 100.0 | -68.1 | -40.5% |
| Construction | 2,141.7 | 1,718.0 | -423.7 | -19.8% |
| Operation & Maintenance | 2,201.9 | 2,504.0 | 302.1 | 13.7% |
| Regulatory Program | 183.0 | 190.0 | 7.0 | 3.8% |
| General Expenses | 179.4 | 184.0 | 4.6 | 2.6% |
| Office of Ass't. Sec. of Army (CW) *(non-add)* | 4.5 | 6.0 | 1.5 | 33.3% |
| Mississippi River and Tributaries | 383.8 | 248.0 | -135.8 | -35.4% |
| FUSRAP (hazardous site cleanup) | 140.0 | 134.0 | -6.0 | -4.3% |
| **Total**[6] | **5,402.4** | **5,084.0** | **-318.4** | **-5.9%** |

[6] Total does not include funding for the Flood Control and Coastal Emergencies (FCCE) account. The FY 2010 request for the FCCE account is $41.0 million.

The water infrastructure and programs of the Corps 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 and property, ensuring reliable waterborne transportation of goods, and restoring of valuable natural resources.

The Administration's FY 2010 request for the Corps of $5.1 billion represents a reduction of $318.4 million from the FY 2009 appropriations for the agency. These cuts will negatively impact the agency's ability to study, design, and construct necessary new water infrastructure projects. However, the Administration's FY 2010 budget request does recognize the importance of increased operation and maintenance funding by providing an increase of $302.1 million for the operation and maintenance account to address the long term viability of water infrastructure projects.

**Investigations:** The Administration's FY 2010 budget request proposes to reduce the investigations account to $100 million, a decline of $68.1 million from FY 2009 appropriation for this account.

The investigations account is used to fund the study of potential projects related to river and harbor navigation, flood control, shore protection, environmental restoration, and related purposes. This account also funds the restudy of authorized projects, miscellaneous investigations, and plans and specifications of projects prior to construction. The Administration's FY 2009 budget proposes three project specific studies, and two programmatic studies funded under this account: Green River Watershed, KY; Ocmulgee River Watershed, GA; St. Louis Watershed, MO; Access to Water Data; and Water Resources Priorities Study.

The Administration's FY 2010 budget request continues to underfund the Corps' capability to undertake future water resources projects, by including little funding for projects that have completed the feasibility study phase and are ready for preconstruction, engineering, and design. This would continue the practice of forcing projects to abruptly start and stop, dependant on appropriations, and prevent seamless funding of projects that promotes timely completion of projects. If enacted at the levels proposed, the FY 2010 investigations budget could have a negative effect on staffing levels of Corps district offices because the salaries of Corps employees are paid from project funds, and in part from funds for project studies. In addition, the need for new projects is increasing and it is critical to maintain and enhance the capability of the Corps planning mission.

**Construction:** The Administration's FY 2010 budget request for the construction account of $1.7 billion represents a reduction of $423.7 million from the FY 2009 appropriation for this account. These funds are used for the construction of river and harbor, flood control, shore protection, environmental restoration, and related projects specifically authorized or made available for selection by law.

The Administration has assembled its budget based on "performance-based guidelines," which it believes will "improve the overall performance of the construction program by directing funds to high-performing ongoing projects and high-performing new construction starts," focusing on investments on the three main mission areas of the Corps – commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. Typically, more than 240 projects are in some state of construction in any given fiscal year. The FY 2010 budget request contains funding

for only 86 construction projects. Under the Administration's budget proposal, 8 projects should be completed in FY 2010.

The Administration's FY 2010 budget request for the construction account includes five new starts: Napa River, Salt Marsh Restoration, CA; Kansas Cities, MO and KS; Washington, DC & Vicinity; Atlantic Intracoastal Waterway (AIWW), Bridges and Deep Creek, VA; and Norfolk Harbor & Channels, Craney Island, VA. All of these projects, with the exception of the Washington DC & Vicinity project, were authorized in the Water Resources Development Act of 2007.

**Operations and Maintenance:** The Administration's fiscal year 2010 budget proposes to increase funding in the Operations and Maintenance (O&M) account by $302.1 million over the FY 2009 appropriation for this account. These funds are necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood damage reduction, environmental restoration, and related projects. The requested level recognizes the importance of operations and maintenance needs and restores the commitment to reliable and efficient operations of our nation's vast water infrastructure.

The Administration's FY 2010 budget request for the O&M account is based on six objective performance criteria that "consider both the condition of the project and the potential consequences for project performance if the O&M activity is not undertaken…" The criteria are:

1. Cost effective measures to increase or maintain asset availability;
2. Cost effective measures to maintain or increase asset reliability;
3. High economic return for the nation;
4. Provide an acceptable level of public safety and health;
5. Cost effective measures to address a significant environmental concern; and
6. Legal requirements.

The Administration's budget request includes $5.0 million from the O&M account for the "Response to Climate Change at Corps Projects," which is described as a broad assessment of "how and where climate change may affect the management of Civil Works projects to identify options such as changes in operation or other modifications in response to climate change."

**Recreation:** 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. The Administration is proposing to spend $283.0 million on recreation activities in FY 2010, funded through both the O&M account and the Mississippi River and Tributaries account.

**Water Trust Funds:** The Harbor Maintenance Trust Fund is supported by an ad valorem tax paid by the shippers (not including exporters) of cargo loaded or unloaded at a U.S. port. The funds are used to do maintenance dredging of harbors and to provide for disposal facilities for dredged material. The budget would use $793 million from the Harbor Maintenance Trust Fund resulting in an increase in the balance of the trust fund to $5.41 billion at the end of FY 2010. The balance in the Harbor Maintenance Trust Fund has been growing significantly in recent years.

The Inland Waterways Trust Fund is supported by a 20-cent per gallon tax on commercial fuel used on specified inland waterways. The fund is used to pay for half of the federal cost of constructing navigation improvements on those waterways; the remaining half is paid from general revenues. In recent years, the Corps has been steadily spending down the Inland Waterways Trust Fund. The Administration's budget request notes that it will propose to "phase out the current excise tax on diesel fuel for the inland waterways and replace it with a lock usage fee." If the Administration's proposal is enacted, the budget forecasts additional receipts of $75 million for the Inland Waterways Trust Fund for FY 2010. Together with the $88 million in estimated receipts from the current excise tax and interest income, total receipts for the Inland Waterways Trust Fund would be $163 million in FY 2010 under the Administration's budget request. The budget does not include the actual text of the lock usage fee proposal, but the Corps expects to transmit the proposal in the near future.

**Regulatory Program:** The Administration's FY 2010 budget request for the Corps' Regulatory Program is $190 million. This is an increase of $7 million over the FY 2009 appropriation for this account. 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.

Under the Administration's budget request of $190 million for the Regulatory Program, the Corps expects to meet the following performance objectives:

- ***Individual Permit Compliance Inspections:*** Completed compliance inspections of 10 percent of all individual permits issued and constructed within the preceding fiscal year;
- ***General Permit Compliance Inspections:*** Completed compliance inspections of 5 percent of all general permits issues and constructed within the preceding fiscal year;
- ***Mitigation Site Compliance Inspections:*** Completed mitigation compliance inspections of 5 percent of active mitigation sites each fiscal year;
- ***Mitigation bank/In-lieu fee Compliance Inspections:*** Completed compliance inspections and audits on 20 percent of active mitigation banks and in-lieu fee programs annually;
- ***Resolution of Non-compliance Issues:*** Resolution on non-compliance with permit conditions and/or mitigation requirements on 20 percent of activities determined to be non-compliant at the end of the previous fiscal year and are determined to be non-compliant during the current fiscal year;
- ***Resolution of Enforcement Actions:*** Resolution of 20 percent of all pending enforcement actions, such as unauthorized activities, that are unresolved at the end of the previous fiscal year and have been received during the current fiscal year;
- ***General Permit Decisions:*** Corps' permit decisions on 75 percent of all general permit applications within 90 days; and
- ***Individual Permit Decisions:*** Corps' permit decisions on 50 percent of all individual permit applications within 120 days (not including individual permits with formal Endangered Species Act consultations).

**Formerly Utilized Sites Remedial Action Program (FUSRAP):** The Administration's budget requests $134 million for the FUSRAP program, down $6.0 million from the FY 2009 appropriation for this account. 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 (MR&T):** The Administration's FY 2010 budget request for the MR&T account is $248 million – a reduction of $135.8 million from the FY 2009 appropriation for this account. The MR&T account provides for the planning, construction, and operation and maintenance activities associated with Mississippi River and Tributaries water resources projects located in the lower Mississippi River Valley from Cape Girardeau, Missouri to the Gulf of Mexico. The FY 2010 budget request contains no new starts for studies or construction projects under the MR&T account.

**Flood Control and Coastal Emergencies (FCCE):** The Administration's FY 2010 budget request proposed $41.0 million for the Corps's FCCE account. The Corps has authority under P.L. 84-99 for emergency management activities, including disaster preparedness, emergency operations (flood response and post-flood response), rehabilitation of flood control works threatened or destroyed by floods, protection or repair of federally-authorized shore protection works threatened or damaged by coastal storms, and the provision of emergency water due to drought or contaminated sources. Funds for the FCCE account are typically provided on an emergency basis through supplemental appropriations acts. In FY 2009, the Corps received a supplemental appropriation of $2.9 billion for FCCE activities relating to the consequences of Hurricane Katrina and other hurricanes of the 2005 season.

## UNITED STATES SECTOR OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION

**Summary of FY 2010 Budget Request:**

(in millions)

| Program | FY2009 Enacted | FY2010 President's Budget | Diff. of FY2010 Pres. Budget and FY2009 $ | % |
|---|---|---|---|---|
| Salaries and Expenses | 32.3 | 33.0 | 0.7 | 2.2% |
| Construction | 43.3 | 43.3 | 0.0 | 0.0% |
| **Total** | **75.6** | **76.3** | **0.7** | **0.9%** |

First established in 1889, the International Boundary and Water Commission (IBWC) has responsibility for applying the boundary and water treaties between the United States and Mexico, and settling differences that may arise along the 1,952 mile common border. The IBWC is an international body, composed of a United States sector and a Mexican sector, each headed by an Engineer-Commissioner appointed by the respective president. The USIBWC receives its policy guidance from the U.S. Department of State and the Mexican sector of the IBWC received its policy guidance from Mexico's Secretariat of Foreign Relations. The USIBWC is headquartered in El Paso, Texas, and the Mexican IBWC has its headquarters across the Rio Grande River in Ciudad Juarez, Chihuaha.

The IBWC's mission is to apply the rights and obligations that the governments of the United States and Mexico assume under the numerous boundary and water treaties and related agreements. These rights and obligations include flood control and protection, water diversions and supply, border sanitation, and other border water quality concerns.

The Administration's FY 2010 budget request for the USIBWC is $75.6 million, which is an increase of $0.7 million over the FY 2009 appropriation for the Commission.

The Administration's request for USIBWC Salaries and Expenses is $33.0 million, which is an increase of $0.7 million over the FY 2009 appropriation for this account. The Salaries and Expenses account includes funding for USIBWC administration activities ($6.8 million), for engineering ($2.6 million), and for operation and maintenance activities ($23.6 million).

The Administration's request for USIBWC constriction activities is $43.3 million, which is consistent with the FY 2009 appropriation for this account. Included within this budget request is funding for the following projects:

- Rio Grande Flood Control System Rehabilitation ($21.4 million);
- Safety of Dams Rehabilitation ($5 million);
- Colorado River Boundary and Capacity Preservation ($400,000);
- Reconstruction of the American Canal ($3.0 million);
- Secondary Treatment of Tijuana Sewage ($6.0 million);
- Nogales International Outfall Interceptor ($750,000); and
- Resource and Asset Management Program ($6.7 million).

In recent years, the Committee closely examined the rights and obligations of the United States and Mexico related to border sanitation along the Tijuana River and the impacts of cross-boundary sanitation issues on the communities of San Diego, California, and Tijuana, Mexico. The Committee has twice moved legislation (Title VIII of Public Law 106-457, the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000, and Public Law 108-245, the Tijuana River Valley Estuary and Beach Sewage Cleanup Act Amendment) to address issues surrounding sewage treatment in the San Diego – Tijuana border region, and conducted an oversight hearing in July 2007 on the construction of a wastewater treatment facility in Mexico that would address the need for additional treatment capacity. The President's FY 2010 budget request includes $6.0 million for the construction of new wastewater treatment facilities in the United States to address secondary treatment of Tijuana sewage.

## AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

The ATSDR is the nation's public health agency for chemical safety. The agency's mission is to use the best science, take responsive action, and provide trustworthy health information to prevent and mitigate harmful exposures and related disease.

First organized in 1985, ATSDR was created by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, more commonly known as the Superfund law.

Under its CERCLA mandate, the agency's work falls into four functional areas: (1) protecting the public from hazardous exposures; (2) increasing knowledge about toxic substances; (3) educating health care providers and the public about toxic chemicals; and (4) maintaining health registries. In recent years, ATSDR has focused on pathways of potential exposure to toxic chemicals, including food, water, air, and consumer goods.

**Summary of FY 2010 Budget Request:**

(in millions)

| Program | FY2009 Enacted | FY2010 President's Budget | Diff. of FY2010 Pres. Budget and FY2009 $ | % |
|---|---|---|---|---|
| ATSDR | 74.0 | 76.8 | 2.8 | 3.8% |
| **Total** | **74.0** | **76.8** | **2.8** | **3.8%** |

The Administration's FY 2010 budget request for ATSDR is $76.8 million, which is an increase of $2.8 million over the FY 2009 appropriation for the agency. This reflects $753,000 for pay increases and $2,000,000 to conduct epidemiologic studies of health conditions caused by non-occupational exposures to uranium released from past mining and milling operations on the Navajo Nation.

FY 2010 funds will support public health activities to identify and evaluate exposures to hazardous substances and to take appropriate actions to prevent and mitigate future exposures. Findings of these investigations will be documented through:

- Public health assessments of waste sites;
- Public health consultations concerning specific exposure scenarios and hazardous substances;
- Health surveillance and registries;
- Responses to emergency releases of hazardous substances;
- Applied research in support of public health assessment activities;
- Information development and dissemination;
- Education and training concerning exposure and hazardous substances, and

- Support of approximately 30 cooperative agreement programs to states and other partners who work in concert with ATSDR to protect the public health of impacted communities.

Prior to FY 2004, the agency received a portion of its funding from the Hazardous Substance Superfund trust fund, which was financed by taxes on petroleum, chemical feed stocks, and corporate income. The taxes that funded the Superfund trust fund expired in 1995. For FY 2010, the Administration's budget request for the agency comes entirely from general revenues; however, the Administration's budget request also calls for the reinstatement of the historic taxes that funded the Superfund trust fund.

## WITNESSES

### Panel I

**Mr. Terrance C. Salt**
Acting Assistant Secretary of the Army for Civil Works
U.S. Army Corps of Engineers

**Lieutenant General Robert L. "Van" Van Antwerp**
Chief of Engineers
U.S. Army Corps of Engineers

**Commissioner C.W. "Bill" Ruth**
International Boundary and Water Commission, U.S. Section

**Dr. Howard Frumkin**
Director
National Center for Environmental Health
Agency for Toxic Substances and Disease Registry
Centers for Disease Control and Prevention