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

Bill Shuster
Chairman

Christopher P. Bertram, Staff Director

Peter A. DeFazio
Ranking Member

Katherine W. Dedrick, Democratic Staff Director

September 12, 2016

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Water Resources and Environment
FROM: Staff, Subcommittee on Water Resources and Environment
RE: Water Resources and Environment Subcommittee Hearing on "A Review of Recently Completed United States Army Corps of Engineers Chief's Reports"

PURPOSE

The Subcommittee on Water Resources and Environment will meet on Thursday, September 15, 2016, at 9:30 a.m. in 2167 Rayburn House Office Building to receive testimony from the United States Army Corps of Engineers (Corps) on recently completed Chief's Reports.

This hearing will provide Members with an opportunity to review the two Chief's Report and two Post-Authorization Change Reports that have been submitted to Congress since the Subcommittee's May 17, 2016 hearing also entitled "A Review of Recently Completed United States Army Corps of Engineers Chief's Reports."

BACKGROUND

The Corps is the federal government's largest water resources development and management agency. The Corps began its water resources program in 1824 when Congress, for the first time, appropriated funds for improving river navigation. Since then, the Corps' primary missions have expanded to address river and coastal navigation, reducing flood damage risks along rivers, lakes, and the coastline, and projects to restore and protect the environment. Along with these missions, the Corps generates hydropower, provides water storage opportunities to cities and industry, regulates development in navigable waters, assists in national emergencies, and manages a recreation program. Today, the Corps is comprised of 38 District offices within eight Divisions and manages nearly 1,500 water resources projects.

The Corps plans, designs, and constructs projects for the purposes of navigation, flood control, beach erosion control and shoreline protection, hydroelectric power, recreation, water supply, environmental protection, restoration and enhancement, and to mitigate for fish and wildlife impacts. The Corps planning process seeks to balance economic development and

environmental considerations as it addresses water resources challenges. This process is intended to approach the Nation's water resources needs from a systems perspective and evaluate a full range of alternatives in developing solutions.

The first step in the Corps water resources development process is a study of a potential project. If the Corps has previously conducted an evaluation in the geographic area, the new study can be authorized by a resolution of either the House Committee on Transportation and Infrastructure or the Senate Committee on Environment and Public Works. Generally, studies are authorized by Committee resolution, although the Committee on Transportation and Infrastructure has not approved a new study by resolution since 2010. The Committee authority to carry out study resolutions is vested in Section 4 of the Rivers and Harbors Act of 1913. If the area has not been previously studied by the Corps, then an Act of Congress is necessary to authorize the study.

Typically, the Corps enters into a cost-sharing agreement with the non-federal project sponsor to initiate the feasibility study process. The cost of a feasibility study is shared 50 percent by the federal government, subject to appropriations, and 50 percent by the non-federal project sponsor.

During the feasibility study phase, the appropriate Corps District Office prepares a draft study report containing a detailed analysis on the economic costs and benefits of carrying out the project and identifies any associated environmental, social, or cultural impacts. In some cases, dozens of project alternatives are identified and reviewed. The feasibility study typically describes with reasonable certainty the economic, social, and environmental benefits and detriments of each of the alternatives, and identifies the engineering features, public acceptability, and the purposes, scope, and scale of each. The feasibility study includes any associated environmental impact statement and a mitigation plan.

The feasibility study also contains the views of other federal and non-federal agencies on the project alternatives, a description of non-structural alternatives to the recommended plans, and a description of the anticipated federal and non-federal participation in the project.

Following completion of the feasibility study phase, the document is transmitted to the appropriate Corps Division for review, and, if approved, is then transmitted to the headquarters of the Corps for final policy and technical review. After a full feasibility study is completed, the results and recommendations of the study are submitted to Congress, usually in the form of a report approved by the Chief of Engineers (commonly referred to as a "Chief's Report.") If the results and recommendations are favorable, the final step is Congressional authorization of the project. Project authorizations are contained in Water Resources Development Acts (WRDA's), the most recent of which was enacted in 2014.

The Corps is subject to all federal statutes, including the National Environmental Policy Act (NEPA), the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, previous Water Resources Development Acts, Flood Control Acts, and Rivers and Harbors Acts. These laws and associated regulations and guidance provide the legal basis for the Corps of Engineers planning process.

For instance, when carrying out a feasibility study, NEPA requires the Corps to include: identification of significant environmental resources likely to be impacted by the proposed project; an assessment of the project impacts; a full disclosure of likely impacts; and a consideration of a full range of alternatives, including a No Action Alternative. Importantly, NEPA also requires a 30-day public review of any draft document and a 30-day public review of any final document produced by the Corps.

Additionally, when carrying out a feasibility study, the Clean Water Act requires an evaluation of the potential impacts of a proposed project or action and requires a letter from a state agency certifying the proposed project or action complies with state water quality standards.

The Corps also has to adhere to the "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies" (P&G) developed in 1983 by the United States Water Resources Council. The Principles and Guidelines were updated in 2013, with the intention that water resources projects reflect national priorities, encourage economic development, and protect the environment. No funds have been provided through the appropriations process for the Corps to carry out the updated P&G. The P&G is intended to ensure proper and consistent planning by all federal agencies engaged in the formulation and evaluation of federal water resources development projects and activities, and has defined federal objectives for pursuing water resources development projects, including contributions to national economic development consistent with protection of the environment. Typically, the plan recommended by the Corps is the plan with the greatest net economic benefit consistent with protecting the Nation's environment. For projects that have multiple purposes, the P&G recommends that such projects maximize, to the greatest extent practicable, economic development and ecosystem restoration outputs. Additionally, the Secretary of the Army has the discretion to recommend an alternative if there are overriding reasons based on other federal, state, or local concerns.

Consistent with NEPA requirements, the P&G requires the formulation of alternative plans to ensure all reasonable alternatives are evaluated, including plans that maximize net national economic development benefits, and incorporate federal, state, and local concerns. Mitigation for adverse project impacts is to be included in each of the alternative plans reviewed in the study. The Corps is responsible for identifying areas of risk and uncertainty in the study, with the goal that decisions can be made with a degree of reliability on the estimated costs and benefits of each alternative plan.

On February 24, 2016, the Subcommittee held a hearing on 24 Chief's Reports that had been submitted to Congress since enactment of WRRDA 2014. On May 17, 2016 the Subcommittee held a hearing on four additional Chief's Reports. Since the date of that hearing, Congress has received two additional Chief's Reports; a storm damage reduction project in Southwest Coastal Louisiana and a navigation improvements project in the Upper Ohio River. The Committee has also received two Post-Authorization Change Reports since the May 17, 2016 hearing, a flood damage reduction project for Swope Park, Missouri, and an ecosystem restoration project for Picayune Strand, Florida. All Chief's Reports and Post-Authorization Change Reports that have been submitted to Congress may be reviewed at the link below:

http://transportation.house.gov/UploadedFiles/Chief_Reports-9.9.16.pdf
http://transportation.house.gov/uploadedfiles/pacrs.pdf

CONCLUSION

As the Committee on Transportation and Infrastructure moves ahead with WRDA legislation, this hearing is intended to provide Members with an opportunity to review the recently completed Chief's Reports that were not included in the Subcommittee's previous hearings.

Witness

Major General Donald "Ed" Jackson
Deputy Commanding General – Civil and Emergency Operations
United States Army Corps of Engineers