



**Committee on Transportation and Infrastructure  
U.S. House of Representatives**

**Bill Shuster**  
**Chairman**

**Washington, DC 20515**

**Nick J. Rahall, III**  
**Ranking Member**

April 12, 2013

Christopher P. Bertram, Staff Director

James H. Zoia, Democrat Staff Director

**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 "The Foundations for a New Water Resources Development Act"

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**PURPOSE**

On April 16, 2013 at 10:00 a.m. in 2167 Rayburn House Office Building, the Water Resources and Environment Subcommittee will hold a hearing on the water resources projects and programs of the Army Corps of Engineers and priorities for a new Water Resources Development Act. The Subcommittee will hear from representatives of organizations that have an interest in civil works projects and programs of the Army Corps of Engineers.

**BACKGROUND**

**In General**

The Subcommittee has jurisdiction over the Army Corps of Engineers' (Corps) civil works program, which is the Nation's largest water resources program. The Corps' responsibilities include navigation, flood control, shoreline protection, hydropower, dam safety, water supply, recreation, aquatic environmental restoration and protection, and disaster response and recovery. In addition to oversight of Corps' programs and projects, the Committee places a priority on enactment of a Water Resources Development Act (WRDA). This legislation usually contains project authorizations, modifications and deauthorizations, program revisions, policy initiatives, and related provisions involving Corps activities. Traditionally a WRDA bill is authorized every two years, though there has been a gap of time since the last bill was enacted in 2007 as P.L. 110-114. All past WRDA bills have consisted primarily of project specific authorizations.

**Army Corps of Engineers Water Resources Program**

The Army Corps of Engineers studies, designs, and constructs projects for the primary purposes of navigation, flood damage reduction, and aquatic ecosystem restoration.

Multipurpose projects may include hydropower, recreation, and water supply. The Corps studies the potential for water resources development and recommends a project that is economically justified and environmentally sound. In the case of environmental restoration projects, project outputs are deemed to equal the costs.

The first step in a Corps water resources development project is a study of the project's feasibility. If the Corps has conducted a study in the area before, the new study was typically authorized by a resolution (known commonly as a "survey resolution") of either the House Committee on Transportation and Infrastructure or the Senate Committee on Environment and Public Works. If the Corps has not previously studied the area, then an Act of Congress is necessary to authorize the study. The majority of studies are authorized by survey resolutions of the Committee on Transportation and Infrastructure.

Once authorized, the study process consists of two parts. The Corps first performs a reconnaissance study at federal expense, usually taking 12-18 months to complete. This phase defines the water resources problems and opportunities; assesses the potential sponsor's level of interest and support for the identified potential solutions; and evaluates federal interest, economic costs and benefits, and environmental impacts of potential solutions.

If the reconnaissance study indicates that there may be a viable federal project and that a more detailed feasibility study should be undertaken, the Corps prepares a feasibility report, the cost of which is shared 50 percent by the federal government and 50 percent by the non-federal sponsor. The feasibility study examines project alternatives and recommends a project that is technically sound, environmentally acceptable, and economically justified. In accordance with cost-sharing formulas established by law, the study typically recommends a project that would be constructed on a cost-shared basis with a non-federal sponsor. After a full study is completed, the results and recommendations of the study are submitted to Congress in a final report of the Chief of Engineers.

Assuming the study recommendations are favorable, the next step is authorization. Project authorizations are traditionally contained in WRDA. The typical prerequisite for including a project authorization in WRDA is a favorable report from the Chief of Engineers.

The Corps of Engineers also has authorities to construct certain small projects without specific authorization by Congress. These authorities, known as the "continuing authorities program," include beach erosion, navigation, flood control, streambank and shoreline protection, snagging and clearing, modifications to existing projects for the benefit of the environment, and aquatic ecosystem restoration.

The Corps also has an emergency response mission that is activated in times of natural and man-made disasters. Under its own authorities and through mission assignments from the Federal Emergency Management Agency (FEMA), the Corps responds to floods, hurricanes, earthquakes, droughts, and terrorist attacks. The most recent example of this is after Hurricane Sandy where the Corps assisted in cleanup activities and rehabilitation of federal and non-federal projects in the Northeast.

Today the Corps maintains more than 12,000 miles of channel for commercial navigation and operates and maintains 239 locks at 193 sites. Over half of the locks are 50 years old, with the average age of a lock being 59.1 years. The Corps also maintains 300 deep draft commercial harbors and 600 shallow coastal and inland harbors.

To address flood risks, there are 383 major lakes and reservoirs managed, 14,501 miles of federal levees, and more than 700 dams owned and operated by the Corps. Corps flood control projects prevent on average more than \$37 billion in flood damages annually. Every dollar invested in a Corps flood project prevents \$7.89 in damages.

### **Harbor Maintenance Tax and Harbor Maintenance Trust Fund**

The Harbor Maintenance Tax (HMT) and the Harbor Maintenance Trust Fund (HMTF) were established by the Water Resources Development Act of 1986. The HMT is applied as a 0.125 percent *ad valorem* fee on the value of commercial cargo loaded or unloaded on vessels using federally maintained harbor projects. HMT revenues collected by the U.S. Customs Service are transferred to the HMTF and subsequently transferred to the General Treasury in accordance with Congressional appropriations and agency expenditures. The HMTF is used to recover 100 percent of the Corps eligible operation and maintenance expenditures for commercial navigation, along with 100 percent of the operation and maintenance cost of the St. Lawrence Seaway by the St. Lawrence Seaway Development Corporation. Beginning in fiscal year 1998 the federal share for construction of Dredged Material Disposal Facilities (DMDFs) is also eligible for recovery from the HMTF in accordance with Section 201 of WRDA 1996.

Since 1987, the HMTF has supported the operation and maintenance of commercial harbor projects maintained by the federal government. The dredging of navigable channels and harbors is the primary operation and maintenance activity for which Corps expenditures are recovered from the HMTF. These operation and maintenance projects facilitate safe, reliable, and cost-effective conveyance of waterborne vessels on federal channels at coastal ports, Great Lakes ports, and inland harbors and channels and on the St. Lawrence Seaway.

In recent years the revenues into the HMTF have amounted to about \$1.5 billion. However, only about half of the collected amount is being appropriated each year. The result is that about \$7.5 billion collected for the HMTF has not been used for its intended purpose.

### **Inland Waterway Trust Fund**

The Inland Waterways Trust Fund was first authorized in the Inland Waterways Revenue Act of 1978 for the purpose of providing funds for the construction and rehabilitation of navigation projects on the designated Inland Waterways Transportation System. The 1978 Act created the Trust Fund by assessing a fuel tax on vessels that utilized the Inland Waterways Transportation System beginning in 1980 at a rate of \$0.04 per gallon and incrementally increased to the current level of \$0.20 per gallon in 1994.

However, it was not until passage of the Water Resources Development Act of 1986 that expenditures were authorized from the Inland Waterways Trust Fund. By then, the Trust Fund

had grown to \$260.2 million. Trust Fund expenditures pay for half of a given construction or rehabilitation project with the other half coming from the General Fund of the Treasury, while operation and maintenance activities are paid for in total from the General Fund of the Treasury.

The Inland Waterways Trust Fund is an invested fund in interest-bearing obligations and the Trust Funds revenues are a combination of tax receipts and interest earnings. The Treasury Department is responsible for the quarterly collection and investment of these receipts; while the United States Army Corps of Engineers in consultation with the Inland Waterways Users Board is responsible for recommending the timing and amount of the expenditures during its preparation of the annual budget submission to Congress. Congress is ultimately responsible for appropriating funds from the Trust Fund and General Fund in support of construction and rehabilitation activities on the Inland Waterways Transportation System.

The balance in the Trust Fund steadily declined between 2003 (a year-end balance of \$412.6 million) and 2009 (a year-end balance of \$57.7 million) as Congress dedicated increased amounts to modernize the Inland Waterways Transportation System. In fact, from 2000 to 2009, expenditures exceeded revenues. This resulted in a decline of the Trust Fund balance to the point that today; expenditures are limited to the amount of annual fuel tax revenue collected for that particular year. The increased costs and constrained Trust Fund have resulted in a backlog of authorized yet unconstructed projects.

#### WITNESSES

The Honorable Harry Simmons  
Mayor, Caswell Beach, NC  
President, American Shore and Beach Preservation Association

Mr. Warren D. Williams  
General Manager, Riverside County Flood Control and Water Conservation District  
President, National Association of Flood and Stormwater Management Agencies

Mr. Peter Stephaich  
Chairman, Campbell Transportation Company  
Secretary, Waterways Council, Inc.

Mr. Adolph N. Ojard  
Executive Director, Duluth Seaway Port Authority  
Chairman, U.S. Legislative Policy Council, American Association of Port Authorities

Dr. Christopher J. Gobler  
School of Marine and Atmospheric Sciences, Stony Brook University

Ms. Amy Larson  
President, National Waterways Conference, Inc.