

**DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
(CIVIL WORKS)**

COMPLETE STATEMENT

OF

**THE HONORABLE JOHN PAUL WOODLEY, JR.
ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)**

BEFORE

**THE SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE**

ON

**THE ROLE OF THE U.S. ARMY CORPS OF ENGINEERS IN MEETING
THE NATION'S WATER RESOURCES NEEDS**

MARCH 31, 2004

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MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am John Paul Woodley, Jr., Assistant Secretary of the Army for Civil Works. Accompanying me is Lieutenant General Robert B. Flowers, Chief of the Army Corps of Engineers. We are here today to discuss the role of the Corps of Engineers in meeting the Nation's water resources needs. We appreciate the opportunity to work with the Committee on this important topic.

HISTORY AND MISSION OVERVIEW

I've learned a lot about the Corps and its civil works responsibilities in the seven months I have been the Assistant Secretary. A piece of history that was interesting to me is how the Army got into civil works and water. After the War of 1812, both commercial development and national defense in the country required more reliable transportation arteries. Federal assistance, however, was slow in coming and was a "product of contentious congressional factions" and an Administration that did not want to meddle in the states' affairs. In the 1824 case of Gibbons vs. Ogden, however, the Supreme Court ruled that federal authority covered interstate commerce including riverine navigation. Shortly thereafter, the General Survey Act authorized the President to conduct a survey of nationally important roads and canals from a commercial, military and mail transportation point of view. The President gave that responsibility to the Army Corps of Engineers. About a month later, a second act appropriated \$75,000 for improving navigation along the Ohio and Mississippi Rivers by removing sandbars,

snags and other obstacles. The Corps was also tasked with that work, and so began the Corps of Engineers' continuous involvement in civil works and our Nation's water resources.

As areas along the Nation's rivers and deltas were developed for agriculture and commerce, flooding and associated flood damages became a major concern. The Mississippi River Commission was formed in 1879 primarily to promote navigation, but also in acknowledgment of the need for flood control. Major floods in the Mississippi River basin in the early 1900's resulted in a new role for the Corps of Engineers – flood control. The Flood Control Act of 1936 led to numerous flood control projects such as dams, levees, and channels through the 1960's. Many of these projects, particularly the dams and their reservoirs, were multipurpose, providing flood control, hydropower, water supply, navigation, recreation, and fish and wildlife enhancement. The success of flood control projects resulted in extensive development in the floodplains, often placing more people and development at risk. In the 1970's and 80's, as numerous floods exceeded the capacity of some flood control projects and caused extensive damage, it became apparent that better management of the floodplains and a comprehensive strategy for flood control reduction or mitigation was necessary. Today, the Corps now focuses its efforts on reducing flood damages and, where appropriate, moving people out of harm's way.

More recently, the Corps has become involved in environmental protection and restoration. The National Environmental Policy Act of 1969, which requires each federal agency to assess fully its actions affecting the environment, and the Federal Water Pollution Control Act of 1972, which gave the Corps responsibility for regulating the discharge of dredged or fill material into all of the Nation's waters, including wetlands, provide basic authority for our work in this area. In addition, specific authorizations for aquatic ecosystem restoration now account for a significant portion of our construction program.

Since the early years of our country, the Corps has always been a dedicated servant of the American people. For 200 years, the Nation has relied on the Corps to help resolve some of our difficult problems. In addition to its water resources responsibilities, the Corps has supported our military forces in time of war. The Corps provided the technical expertise for the Manhattan Project. Army engineers oversaw the building of the Panama Canal. The Kennedy Space Center and the Johnson Manned Spacecraft Center in Houston are products of Corps efforts. When a disaster strikes, Corps personnel in red jackets are there to help.

The distinguished history of the Army Corps of Engineers is the history of our Nation. As the Nation has changed its priorities and values, the Corps has also changed as it brought these priorities to reality.

Given today's world affairs, I believe it's appropriate to say a few words about the Corps' role in the Global War on Terrorism. LTG Flowers will provide additional information about the support by the civilian employees of the Corps, as well as the

military, to the fight against terrorism. I would like to acknowledge the important contributions of these fine professionals and their families. I can tell you with absolute certainty that the Administration recognizes the role of the Civil Works Program in winning the war against terrorism.

I would like to discuss each of the three primary missions - commercial navigation, flood damage and storm damage reduction, and aquatic ecosystem restoration – in more detail.

COMMERCIAL NAVIGATION

The commercial navigation mission of the Corps was established in the Survey Act of 1824. Since that time, the Corps has supported navigation needs through the construction and maintenance of ports and waterways across the Nation. The ports and waterways the Corps constructed and now maintains serve the people in 41 States. The system includes 926 coastal, Great Lakes and inland ports; nearly 12,000 miles of channels; and 240 lock chambers at 195 sites. In 2001, nearly 2.4 billion tons of cargo moved through these ports and on the waterway systems. Many components of the waterways system are old, with 145 locks in operation for more than 50 years. The two oldest that the Corps operates are on the Kentucky River, and were opened in 1839. We continue to study and research ways to set priorities, effectively and efficiently maintain, our key facilities, and implement further improvements that will provide a very high return to society relative to their cost.

International trade is a growing part of the Nation's economy, and involves all elements of the Nation's intermodal transportation system. The Nation's ports and waterways can provide reliable and economic alternatives to address projected growth in international trade. Future economic growth in the United States depends on an efficient and effective integration of the various modes of surface transportation, and the Corps' role in these aspects of the Nation's economic development is significant.

Today, our major focus is on protecting this system—in terms of maintaining what we have, and investing in what we will need for the 21st century, and also in terms of security from attack. America's ports and waterways are our link to world markets, conveying more than 2 billion tons of commerce each year, and creating 13 million jobs. Increasingly, shippers are using larger vessels to lower costs. Consequently, we're now seeing container ships that require channel depths greater than 45 feet. As you know, only a few U.S. ports have such depths. We currently have about 30 harbor improvement projects underway throughout the nation. Of these, some are proposed to involve construction to depths greater than 45 feet. Altogether they represent an investment of some \$4 billion, funded jointly between the Federal government and our project sponsors.

We also operate 12,000 miles of inland and intercoastal waterway channel and about 200 locks. The inland and intracoastal waterways move over 600 million tons of cargo annually. Coal is the largest commodity by volume, with the waterways moving more than 20% of the coal destined for U.S. power plants. And nearly three quarters of

all corn and soybean exports move by inland waterway. Unfortunately, much of our inland navigation infrastructure is aging and in need of repair. Over 50% of Corps locks exceed their 50-year design lives. We are striving to maintain and improve this phenomenal system while we protect and restore habitat. This is the 21st Century challenge of smart growth we are committed to addressing this challenge responsibly and effectively.

FLOOD DAMAGE AND STORM DAMAGE REDUCTION

Flooding is the most destructive and costly natural disaster in the United States, accounting for 85% of all natural disasters that occur annually. Nearly 400 major reservoirs and 8,500 miles of levees and dikes are under the Corps' jurisdiction. The Corps estimates that, since 1950, this infrastructure has prevented nearly \$500 billion in riverine and coastal flood damage.

Despite its considerable success in flood and storm damage reduction, costs of floods (emergency assistance costs plus property losses) still average over \$4 billion annually. This is due largely to continued development both to flood plains and in urbanizing, upland areas, as well as along our coasts. News coverage of recent flood disasters, including hurricane Isabel, have shown the enormous economic costs of flooding. Unquantifiable social costs include injury and loss of life in some cases, and stress on individuals and families caused by disruption, evacuation, and life in temporary quarters. It also includes loss of irreplaceable property, and destruction of entire communities.

AQUATIC ECOSYSTEM RESTORATION

Our Nation has more than 3.6 million miles of rivers and streams that comprise corridors of great economic, social, and environmental value. These corridors are complex ecosystems that perform vital environmental functions, including modulating stream flow, storing water, removing harmful materials from water, and providing habitat for aquatic and terrestrial plants and animals. The National Environmental Policy Act (NEPA) of 1969, as amended, prescribed integration of environmental protection and social goals with economic ones in the development of water and related land resource management projects. Environmental restoration and protection is the fastest growing portion of the Corps mission portfolio, particularly for riparian and tidal wetlands.

The Corps is an active partner in environmental restoration and protection, and ecosystem restoration is a high priority purpose equivalent to the flood protection and navigation missions. Working with non-Federal sponsors, the Corps implements single purpose ecosystem restoration projects, multi-purpose projects with ecosystem restoration components, or projects for flood protection or navigation that incorporate environmental features as good engineering. The Corps has restored, created, and protected over 500,000 acres of wetland and other habitats since about 1988. In some cases, existing water resources projects are modified to achieve restoration benefits. Dredged material, which used to be considered "spoil", is now considered "soil", and used as a resource to construct or reconstruct aquatic habitats of various kinds. In the

Florida Everglades, the Corps, in partnership with the Department of the Interior, the State, and two Indian Nations, will restore and protect over 2,700,000 acres of habitat over the next 30 years. Over 100,000 acres of habitat enhancement and restoration projects are being restored on the Upper Mississippi River System in partnership with five States and the U.S. Fish and Wildlife Service. These are just a few examples. Finally, the Corps has jurisdiction over 12 million acres of land and water resources at over 500 water resources projects across the country and environmental stewardship is a priority. A healthy environment contributes to our economic and national security.

REGULATORY PROGRAM

The Army's Regulatory Program administers permitting under the Rivers and Harbors (Section 10) and Clean Water (Section 404) Acts.

Sections 10/404 permitting, with 100,000 jurisdictional determinations and 86,000 written authorizations annually, and associated complex legal and policy issues (e.g., SWANCC, Tulloch Ditching, wind energy projects in the Northeast, shellfish aquaculture, mountaintop surface coal mining, and phosphate mining in the Everglades) constitutes the bulk of the Regulatory Program's work and is, in fact, its primary function. These permits, approving diverse activities such as construction of roads, ports, houses, schools, commercial development, energy pipelines, and coal/phosphate/peat/sand/gravel mining, generally require mitigation to offset impacts to aquatic resources.

A staff of about 1,200 people, distributed among 38 districts, 8 divisions, and the Corps Headquarters, carries out this important work. Administering the permitting aspects of the program is labor intensive. Congress appropriated \$139 million in fiscal year 2004 to support the administration of the section 404 program; \$150 million has been requested in the President's budget for fiscal year 2005. These resources are required to process individual and general permit authorizations while protecting aquatic resources, accomplish jurisdictional determinations, conduct appeals of permit denials and jurisdictional determinations, perform compliance activities for mitigation projects, support watershed planning efforts in sensitive environmental areas in accordance with States and local communities, work on various national initiatives involving policy and consistency studies, including initiatives to improve program efficiency and data collection, and to develop proposed regulations and guidance concerning the Clean Water Act.

PRIORITIES OF THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

We face many challenges as we work with our stakeholders to accomplish the missions of the Corps of Engineers. To move forward, I am focusing my priorities in 3 areas during my tenure in this office. They are:

1. Develop the Civil works budget and manage the program based on objective performance measures. This will greatly help us support goal setting and decision-making. I am a strong believer in performance measurement, and clear programmatic goals will allow us to refine the metrics we rely upon to make the best possible decisions regarding our infrastructure investments.
2. Improve analytic tools to support water resource planning and decision-making. While analytic tools must have wide acceptance in the community to be persuasive, the Corps should strive to develop and use the most advanced analytics possible to model the environmental and economic effects of programs and projects.
3. Improve effectiveness of aquatic resource protection and the efficiency of our wetland regulatory program. We need to make the permit reviews and decision-making of the regulatory process more efficient and predictable while maintaining the flexibility to deal effectively with different physical conditions throughout the Nation.

PERFORMANCE-BASED BUDGETING

Performance-based budgeting is one of the President's Management Initiatives. For the Army Civil Works program, performance planning in preparation of the FY 2005 Budget was built around eight program areas: Navigation (including inland waterway navigation and coastal channels and harbors); Flood and Storm Damage Reduction (including damage from riverine flooding and coastal storms); Environment (including aquatic ecosystem restoration, stewardship of natural resources at operating projects, and the Formerly Utilized Sites Remedial Action Program); Hydropower; Recreation; the Regulatory Program; Emergency Management; and Water Supply (storage at existing reservoirs).

The first element in our performance planning is a strategic plan, which is required by the Government Performance and Results Act (GPRA). I am happy to announce that on March 22, 2004, I provided our strategic plan to the committees and subcommittees of Congress responsible for water development authorizations and appropriations, including this subcommittee and committee. The plan is a work in progress. We will continue to work with the Office of Management and Budget to establish program goals, objectives, and performance measures that provide a sound basis for setting performance targets and building future budgets.

Another element in our performance planning is to develop the Civil Works budget and manage the program based on objective performance measures. The FY 2005 budget for Army Civil Works focuses funding on the most productive investments. This is reflected, for instance, in the allocation of funding to the most productive design activities, construction projects, and maintenance activities. At the same time, I recognize that we can do a better job of performance-based budgeting, and one of my priorities is to improve our capabilities in this area. I have placed a priority on making

significant progress on refining our program categories and subcategories in the development of sound performance measures for each of them, and on using the measures to build our FY 2006 budget. A great deal of hard work is in store for us as we transition to this approach, but the advantages are enormous, and the Army is fully committed to this effort.

IMPROVING THE CORPS OF ENGINEERS

Finally, Mr. Chairman, I would like to mention the issue of improving the functioning of the Corps of Engineers.

The Administration looks forward to working with this Committee on authorizing activities of the Corps. We ask that you bear in mind five broad principles to guide future authorizations.

- The Corps should evaluate proposed water resources investments using analytically sound, modern methods, current data and, where appropriate, external review. The Corps should only pursue authorized federal water projects that meet current economic and environmental standards and that address contemporary needs.
- Until the federal government has reduced the construction backlog substantially, the federal government should only proceed with those new projects that provide a very high net economic or environmental return to society relative to their cost.
- In each of its three main missions (flood and storm damage reduction, commercial navigation, and aquatic ecosystem restoration), the Corps should establish priorities across and within watersheds based on the comparative net economic or environmental return that a given level of further investment would bring to the nation.
- In order to focus on the backlog of projects actively under construction in the three main mission areas, the Congress should adopt legislation to de-authorize or disallow funding for: 1) inactive projects automatically; 2) navigation projects for harbors and river segments that have extremely low commercial use; and 3) projects whose main purpose does not fall within the three main mission areas.
- The non-federal cost-share should reflect the extent to which a water resources project economically benefits commercial interests, property owners, or other identifiable private parties.

This Administration supports the goal of improving the manner in which the Corps plans, designs, implements, and operates and maintains projects and pursues its authorized program. We want to work with the Committee to focus on our three main missions, to pursue only those projects and programs that meet current economic and environmental standards and address contemporary needs, are justified and to improve the ways in which we implement and fund them. I therefore would propose that we

focus our attention on the question that lies perhaps on a higher strategic plane: How should the Federal Government's role in water resources policy evolve as we begin a new century? Our continued understanding of this question is critical to setting the future direction of the Corps.

The people of America increasingly understand that our Nation's water resources are finite. The debate over its use classically centers around this question: Where should we give priority to the development of water resources for social and economic benefit and where should we give priority to the restoration of these resources to their natural state? Sometimes we must choose one over the other. Sometimes we struggle to do both. As science and engineering evolve, we can enhance our opportunity to find more balance between these options and, working together, make the right choices for the Nation.

We all agree that the Corps can and should modernize its approach to water resources. But modernization of the Corps needs to be in accordance with the future direction of our national policy.

With your permission, I would like to give you my perspective on the water policy issue. Here are just a few of the facets of the issue. Our society is growing more complex. We have competing interests and disputes in many watersheds—in the Everglades, along the Missouri River, the Mississippi River, the Columbia River, and many others. These interests and disputes are intensified when we experience drought conditions as severe as we have now over much of the country.

As members of this important committee, you are more aware than most that many Corps navigation projects have extensive maintenance and repair backlogs.

While advances in science and technology can move us toward a new paradigm of more environmentally sustainable projects and integrated water resources management, we must develop more effective public policies built on a new public consensus for building and constructing our projects.

The concept of requiring a peer review is something that should be addressed. We are supportive of requiring outside independent peer review of certain Corps projects. Peer review, where appropriate, would be a very useful tool and add significant credibility to the Corps project analyses and to our ability to judge the merits of a project.

In terms of our Nation's priorities, the war on terrorism is, and should be a primary focus. We must prioritize our resources to ensure that we win this war. We must also ensure that we are looking out for the Nation's long-term economic and environmental future. Corps investments have helped to make our country's economy strong. At the same time, we also need to protect and sustain our Nation's natural resources. Our financial resources are not unlimited. We therefore must address the

following questions: What water resources investments do we most need to make now? To what extent should these be a Federal responsibility? To what extent should the Corps have this responsibility? Which investments should we not undertake until later? What can we do without? Can we afford to build all on-going projects simultaneously? Should we continue current cost sharing practices? If not, how should we revise current law? Should we continue to operate, maintain, and rehabilitate every investment that we have made in navigation?

This Administration has insisted on strong coordination, collaboration, and cooperation among agencies within the Executive Branch and wants to work closely with you on the plans and policies we should put in place to address these long-term needs. The Corps professionals' body of knowledge on water resources is unparalleled. They stand ready, with that knowledge and associated skills, to ensure that the Federal government can continue to meet the needs of its citizens.

CONCLUSION

I appreciate the opportunity you have given me to testify before this distinguished committee, recognizing that your knowledge of these subjects far exceeds what I have been able to learn in these past few months. I believe we have an opportunity, working together, to help shape the Nation's future. As you know better than I, these are serious times and it is often hard to concentrate on the long term when the more immediate becomes urgent. I pledge to work with you on these important issues to achieve a national water policy that serves the best interest of all our citizens.

Mr. Chairman, this concludes my statement, and I would be pleased to address any questions that you or the committee may have.