

December 17, 2021

The Honorable Tom Carper
Chairman
Committee on Environment and Public Works
U.S. Senate
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
U.S. Senate
456 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Ben Cardin
Chairman
Subcommittee on Transportation & Infrastructure
United States Senate
509 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Kevin Cramer
Ranking Member
Subcommittee on Transportation & Infrastructure
United States Senate
330 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Carper, Chairman Cardin, Ranking Member Capito and Ranking Member Cramer:

The undersigned hunting, fishing, conservation, and outdoor recreation organizations write on behalf of more than 40 million sportsmen and women whose activities help sustain the \$887-billion outdoor recreation economy. We appreciate the task before your committee in developing legislation to manage and conserve our nation's vast water resources in your upcoming consideration of the Water Resources Development Act of 2022. Below are several key priorities that we urge you to consider for inclusion as the Committee develops this biennial legislation.

Increase Organizational Capacity through a Resilience Directorate

We recommend the Committee establish a Resilience Directorate within the Office of the Chief of Engineers tasked with ensuring that existing Corps programs, authorities, and operations take full advantage of natural infrastructure and adopt modern, comprehensive planning approaches.

The Army Corps of Engineers' vast authorities to plan, design, and implement water resources projects; manage and protect communities from floods; protect wetlands, estuaries, and other aquatic systems; advance ecosystem restoration; and implement nature-based solutions, among other purposes, places the agency in an ideal position to improve the nation's resilience and ability to adapt to a changing climate. Currently, the Army Corps' organizational structure limits and undermines resiliency planning by siloing different directorates, programs, business lines, divisions, and districts. Critically, the Directorate should have the resources and budgetary authority needed to work and coordinate across Corps business lines to infuse resilience into every aspect of the Corps' work. This will help the Corps take full advantage of its programs and authorities to improve community and water resources resilience, promote coordinated planning

The Honorable Tom Carper
The Honorable Ben Cardin
The Honorable Shelley Moore Capito
The Honorable Kevin Cramer
Page 2

across districts and Corps business lines, avoid piecemeal planning that can increase flood risks and recovery costs, and better leverage the benefits of natural infrastructure.

Properly Account for Project Costs and Benefits

We recommend the Committee direct the Corps to account for appropriate categories of project costs and benefits to improve the effectiveness of Corps projects, planning, budgeting, and prioritization. Congress should direct the Corps to, among other things: equitably account for costs and benefits to disadvantaged and low-income communities; count lost ecosystem services as project costs and increases in ecosystem services as project benefits; and include costs associated with addressing site-specific conditions, full life-cycle needs, and sub-optimal funding streams.

Thank you for the Committee's support for advancing language in WRDA 2018 and WRDA 2020 to clarify authorities to advance natural infrastructure solutions. Despite this recent clarification, the Corps' benefit-cost analyses continue in the majority of cases to disregard benefits provided by natural systems, leading to benefit-cost ratios (BCR) that do not provide a reliable assessment of whether or not a project is in the Federal interest and too often tilt the scales toward large-scale structural projects that benefit certain industry sectors while leaving others, including the outdoor economy, behind. Moreover, rather than using a BCR as just one of a number of decision-making tools, the Corps too often recommends projects for authorization and funding based solely on the project's BCR. Further, as climate risks increase and our nation works to advance community resilience, it will be imperative for the Corps to account for the public safety and social and economic costs created and preserved by utilizing natural and nature-based infrastructure measures, particularly for underserved communities.

Accounting for appropriate categories of costs and benefits will help protect taxpayers, non-federal sponsors, and the services provided by natural systems, including flood control, water purification, and wildlife habitat.

The Committee should also establish a process to improve the accuracy of Corps BCR analyses and reaffirm that BCR is just one of several decision tools that should be utilized by the Corps.

These changes would allow the Corps to more effectively fulfill its missions to reduce flood risk; ensure safe, reliable navigation of our nation's waterways; and conserve and restore the environment and outdoor economy and recreational opportunities that depend on healthy waters.

Ensure Compliance with Long-Standing Mitigation Requirements

We recommend the Committee ensure the Corps complies with long-standing Congressional mandates to properly mitigate environmental damage resulting from water resources projects.

The Honorable Tom Carper
The Honorable Ben Cardin
The Honorable Shelley Moore Capito
The Honorable Kevin Cramer
Page 3

Congress should reclarify its intent by clearly defining the types of project studies that trigger the civil works mitigation requirements.

Despite the plain language of the law and clear Congressional intent, the Corps has ignored important mitigation requirements when developing long-term operating plans, resulting in a failure to carry out mitigation for significant ecosystem-wide impacts documented in the Corps' own studies. Clearly defining the types of studies that trigger mitigation will help protect the nation's fish and wildlife, as long required by Congress, and increase resiliency.

Prioritize Levee Setbacks to Advance Floodplain Resilience

We recommend the Committee require the Corps to include information on repetitively damaged levees in the National Levee Database.

The National Levee Database (NLD), developed and administered by the Corps, is the primary resource for comprehensive information about federal and nonfederal levees. The database contains information related to flood risk, levee system evaluation for the National Flood Insurance Program (NFIP), and levee system inspections; however, Congress should require that the NLD include annual levee damages recorded by levee name, location, and extent of damages. This will help determine if any federal or nonfederal levees are becoming or have become susceptible to repetitive flood damages.

The Committee should also consider modification of the PL 84-99 Program to provide the Corps with acquisition authority.

Under authority of the PL 84-99 program, the Corps is required to identify an economically feasible least-cost alternative prior to initiating repairs to a damaged levee. Those repairs may consist of a levee setback if the existing levee has incurred significant damage. Program regulations require the levee sponsor to provide the real estate for levee repairs or a setback. While levee setbacks have been shown to reduce flood risk, improve resiliency, and increase environmental benefits, the ability of a project sponsor to raise the funds to provide compensation for the adjacent landowner whose property would be located riverward of the setback levee is often a major concern and obstacle to project implementation. The PL 84-99 program should be modified to provide the Corps with real estate authority to acquire or lease this property for conservation purposes.

The Honorable Tom Carper
The Honorable Ben Cardin
The Honorable Shelley Moore Capito
The Honorable Kevin Cramer
Page 4

We recommend the Committee ensure the Corps incorporates levee setbacks into the Levee Safety Program Risk Assessment.

The Corps Levee Safety Program Engineering Circular 1165-2-218, establishes the policies for implementing the Corps Levee Safety Program. Although the program includes activities (inspections, risk assessments, sharing information, inventorying data, operation, maintenance, and repair) which require the collaboration of the Corps and levee sponsor, there is no mention of levee setbacks, nor the potential for increasing resiliency and reducing flood risk via the implementation of levee setbacks. It is recommended that in conjunction with levee risk assessments, the Corps be directed to consider the feasibility of increasing resiliency by conducting levee setback analyses on levees susceptible to repetitive damage or failure from flooding.

We recommend the Committee direct funding toward support for setback assessments and design.

The Corps has the planning and engineering capabilities and expertise to evaluate the economic, environmental, and flood resiliency benefits of potential levee setbacks. As the administrating agency for the National Levee Database (NLD), the Corps maintains historical records (design, construction, annual inspections, and flood-related repairs) which are invaluable in the assessment of potential levee setbacks. Annual funding should be provided to the Corps for their collaboration with local, state, and other federal agencies in the identification and assessment of potential levee setback locations.

Improve the Corps' Ability to Redress Environmental Injustice

We recommend the Committee consider additional improvements in support of the Corps' ongoing efforts to redress environmental injustices and ensure accountability within the agency as it seeks to better serve the most vulnerable communities.

We encourage the Committee to ensure that the Corps has the tools and capacity it needs to carry out this critical task by increasing planning assistance to Tribes, economically disadvantaged communities, and communities of color; establishing a position of Senior Advisor for environmental justice and a federal advisory committee on environmental justice; advancing environmental justice innovation; incorporating toxics remediation into ecological restoration, navigation, and flood resilience projects; and supporting female- and minority-owned businesses. Further, we also support expansion of the WRDA 2020 Section 118 Pilot Program for Economically Disadvantaged Communities.

Better Utilize Federal and State Fish and Wildlife Expertise

We recommend the Committee ensure the Corps, and other federal agencies initiating water resources projects, utilize the recommendations made pursuant to mandatory Fish and Wildlife Coordination Act reviews, to the maximum extent practicable.

Fish and Wildlife Coordination Act (FWCA) reviews derive from the special expertise of federal and state fish and wildlife experts when planning projects (e.g., methods and metrics for assessing fish and wildlife impacts and mitigation opportunities). FWCA reviews are longstanding, mandatory, and critically important components of water resources planning. Unfortunately, the Corps and many other federal agencies subject to the Act often ignore the recommendations of state and federal fish and wildlife experts made pursuant to the FWCA during project planning, creating unnecessary, avoidable impacts and leading to inadequate mitigation plans.

Support Funding for Restoration and Resilience Projects with a Reduced or No Match Requirement

We recommend the Committee consider reducing or removing the match requirement under the Continuing Authorities Program for restoration and resilience projects which are essential in the face of a changing climate.

The Corps is often unable to carry out essential restoration and resilience projects for aquatic ecosystems because they are unable to find a non-federal cost-sharing partner. Rural and underserved communities are particularly impacted by federal match requirements for projects that have long-term societal, environmental, and economic benefits for local communities. We encourage the Committee to consider providing match relief for the Continuing Authorities Program for projects with restoration and resilience benefits. Further, we encourage the Committee to consider other opportunities to reduce or waive match for investigations and projects of critical import for climate resilience as well as projects that provide benefits to underserved populations and communities.

Support the Silver Jackets Program

We encourage the Committee to consider providing authorized funding to support the Silver Jackets Program through WRDA 2022 in support of the Corps' role in coordinating with all 50 states and U.S. Territories, Tribal governments, and key federal agencies to reduce risks from natural hazards with an emphasis toward projects that benefit underserved communities.

The Army Corps established the Silver Jackets Program under authorities provided by the Flood Control and Coastal Emergencies Act (P.L. 84-99), the Robert T. Stafford Act Disaster Relief and Emergency Assistance Act, the Water Resources Development Acts, National Dam Safety Act, and the National Levee Safety Act. Our organizations are strongly supportive of this

The Honorable Tom Carper
The Honorable Ben Cardin
The Honorable Shelley Moore Capito
The Honorable Kevin Cramer
Page 6

technical assistance program currently operating in all 50 U.S. states, Puerto Rico, the U.S. Virgin Islands, and Guam and consisting of state-led flood risk management teams working at a watershed-scale to advance aquatic ecosystem restoration, floodplain management, floodplain restoration, vulnerability assessments, and community planning. In addition to the Committee authorizing funding support for this program, we encourage the Committee to consider future opportunities to expand this program beyond flooding to encompass a full range of other natural disasters including drought.

Support Broad Expansion of Corps Technical Assistance Programs

We support the development of a USACE financial and technical assistance program to bridge current gaps and provide financial and technical assistance to support natural infrastructure project development.

Current Corps technical assistance programs, especially Section 22 Planning Assistance to States and the Flood Plain Management Services, are designed to assist States and Territories, Tribes, and communities to address water resources challenges, yet this technical assistance is not uniformly applied nor equitable. Especially in the context of smaller, economically disadvantaged, under-resourced and rural communities, these programs are poorly supported, cumbersome, and underutilized. A common and significant barrier to scaling natural and nature-based solutions on regional or local scales is often lack of expertise, needed data and analyses, and/or the lack of resource capacity to initiate natural infrastructure project development. USACE, through an enhanced assistance program, would provide technical assistance to state natural resource agencies, local governments, or non-profit organizations, and help to hire and train natural infrastructure project coordinators. The Corps of Engineers should be directed to designate at least one substantial or full-time staff person in each District to coordinate technical assistance to non-Federal interests. The Corps should also be given flexibility to identify and engage contract-type assistance and to accept and credit donated or in-kind assistance, where appropriate, through the technical assistance programs. Coordinators' roles would include developing stakeholder relationships to identify, design, and fund implementation of small-scale natural and nature-based restoration projects. Coordinators would also be tasked with other critical project management tasks such as helping secure state and local funds to leverage federal investments in natural infrastructure, monitoring ongoing project benefits, and educating the public on the co-benefits of natural and nature-based solutions.

Support to Enhance Western Water-Related Infrastructure Resiliency through Natural Infrastructure

We recommend the Committee authorize a Western Natural Infrastructure Resilience Demonstration Program.

Our organizations are strongly supportive of the Corps deploying natural infrastructure solutions, such as restoring forested headwater systems, to reduce natural hazard risks to western water supplies and infrastructure while enhancing environmental co-benefits. Drought and wildfires continue to cause significant impacts to western water infrastructure and ecosystems. Water storage capacity in some federal reservoirs is also decreasing due to sediment accumulation, requiring evaluation of expensive sediment removal and management options to reduce risk to water supply and other uses. Sediment accumulation may increase as well due to the impacts of severe wildfires, which can lead to flooding and erosion.

Our organizations recommend the inclusion of a new demonstration program directing the Corps to evaluate opportunities to utilize natural infrastructure approaches, such as the restoration of headwater wetland ecosystems, which have demonstrated success in enhancing the resilience of western water supplies to drought and wildfire risk. The demonstration program would also authorize the Corps to work in partnership with state and regional governments and Tribes to design, construct, and evaluate process-based restoration demonstration projects with the objective to monitor public benefits including water-quality improvements, flood attenuation, groundwater recharge, wildlife habitat enhancement, and changes in the volume and duration of annual baseflow of downstream river systems. This section would also direct the Corps to submit a report to Congress documenting any barriers to the deployment of process-based restoration techniques and the results of the demonstration projects.

We recommend the Committee authorize a Resilient Western Infrastructure Study.

We support the authorization of a comprehensive study directing the Corps to assess the feasibility and effectiveness of the strategic use of natural and nature-based approaches to reduce the vulnerability of federally-owned water-related infrastructure to natural hazard risks. Across the Western United States, federally-owned water-related infrastructure faces threats from a changing climate and natural hazards, including drought and post-wildfire sediment accumulation. The objective of the study would be to understand better the utilization of both natural features and nature-based techniques such as wetland restoration upstream of federally-owned infrastructure to enhance and sustain critical infrastructure functions such as water storage and delivery. The study should also inform the inclusion of natural infrastructure approaches through Corps programming, such as the development of regional sediment management strategies and drought contingency plans for Corps facilities facing extreme vulnerability to a changing climate.

The Honorable Tom Carper
The Honorable Ben Cardin
The Honorable Shelley Moore Capito
The Honorable Kevin Cramer
Page 8

Sincerely,

American Fly Fishing Trade Association
American Rivers
American Sportfishing Association
Angler Action Foundation
Archery Trade Association
Backcountry Hunters & Anglers
Bass Anglers Sportsman Society (B.A.S.S.)
Bonefish & Tarpon Trust
Coastal States Organization
Environmental Defense Fund
Fly Fishers International
National Audubon Society
National Marine Manufacturing Association
National Parks Conservation Association
National Wildlife Federation
Restore America's Estuaries
Theodore Roosevelt Conservation Partnership
Trout Unlimited
Wild Salmon Center
Wildlife Management Institute
Wildlife Mississippi