

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

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ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

BEFORE

THE SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ON

THE ARMY CIVIL WORKS PROGRAM

FISCAL YEAR 2007

APRIL 5, 2006

Mr. Chairman and distinguished members of the Subcommittee:

Thank you for the opportunity to testify before the Subcommittee, and to present the President's budget for the Civil Works program of the Army Corps of Engineers for Fiscal Year (FY) 2007.

OVERVIEW OF FY 2007 ARMY CIVIL WORKS BUDGET

The FY 2007 budget for Army Civil Works provides funding for development and restoration of the Nation's water and related resources within the three main Civil Works program areas, namely, commercial navigation, flood and coastal storm damage reduction, and aquatic ecosystem restoration. The budget also supports hydropower, recreation, environmental stewardship, and water supply services at existing water resources projects owned or operated by the Corps of Engineers. Finally, the budget provides for protection of the Nation's regulated waters and wetlands; cleanup of sites contaminated as a result of the Nation's early efforts to develop atomic weapons; and preparedness, response, and recovery activities related to flood and coastal storm emergencies.

The budget does not fund work that should be the responsibility of non-Federal interests or other Federal agencies, such as wastewater treatment, irrigation water supply, and municipal and industrial water supply treatment and distribution.

The FY 2007 budget includes new discretionary funding of \$4.733 billion, the highest civil works budget transmitted to Congress by any President. The estimate for Fiscal Year 2007 outlays is \$5.846 billion. Enclosure 1 displays the current estimate for the distribution of new discretionary funding among eight appropriation accounts, eight program areas, plus executive direction and management, and five sources including the general fund of the Treasury and trust funds. Enclosure 2 is a crosscut between appropriation accounts and program areas.

A five-year budget development plan (FYDP) is being provided, as called for in the FY 2006 Energy and Water Development Appropriations Act Conference Report. The FYDP includes three scenarios or projections -- one based on the President's proposed FY 2007 budget, one above that level, and one below that level. The projections are formula driven. They do

not represent budget decisions or budget policy beyond FY 2007 but they can provide perspective on the Army Civil Works program and budget.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

To date, the Corps has received \$3.3 billion in emergency supplemental appropriations to address the impacts of the 2005 hurricane season. In addition, on February 16th of this year the President transmitted to Congress his request for \$1.46 billion in additional emergency supplemental appropriations to strengthen and improve hurricane and storm protection in the greater New Orleans metropolitan area.

PERFORMANCE-BASED BUDGETING

The FY 2007 Budget builds upon lessons learned from the 2005 hurricane season, one of which is the importance of setting spending priorities to meet water resources needs that are the most compelling from a national perspective.

One of my priorities for the Army Civil Works program is to develop the Civil Works budget and manage the program based on objective performance measures. The FY 2007 budget reflects significant progress toward this goal, by focusing funding those activities that are expected to provide the highest net returns to the Nation.

The FY 2007 Budget also supports performance-based budgeting by funding ongoing efforts to develop better risk-based facility condition indices and asset management systems. These analytical tools will improve our ability in the future to develop long-term asset management strategies and establish priorities for the operation, maintenance and management of Civil Works assets. Our goal is to begin using these improved analytical tools within two years.

The focus on Civil Works program performance has a number of foundations. First, the Civil Works Strategic Plan, which was updated in 2004, provides goals, objectives, and performance measures that are specific to program areas as well as some that are crosscutting. Second, each program area is assessed using the Program Assessment Rating

Tool (PART). Both the Civil Works Strategic Plan and the PART-based program evaluations are works in progress and will continue to be updated.

The Environmental Stewardship sub-program and the Formerly Utilized Sites Remedial action Program were assessed in the most recent assessment period (2005). Based upon the findings of these program assessments, the Corps is taking follow-up actions to address identified problems. Summaries of all completed civil works program assessments can be found on the Administration's new website, www.ExpectMore.gov.

Budget decisions link to performance in a number of ways. First, alternative funding levels relate to alternative performance targets, or levels of outputs and outcomes, as measured by the program area metrics. Second, related metrics and decision guidelines (see "Construction," below) are used to rank work within each account or within each program area.

CIVIL WORKS PROGRAM IMPROVEMENTS

The FY 2007 Civil Works budget proposes five program improvements, as discussed below.

Funding Activities in the Operation and Maintenance Account

In addition to introducing the concept of watershed and system budgeting for operation and maintenance, described in detail below, the budget proposes to fund four types of operation and maintenance-related activities in the Operation and Maintenance account, rather than in the Construction account as has been the case in the recent past. It is appropriate to assign responsibility for these activities to the Operation and Maintenance program, both because of the nature of the work and because of its integral connection to operation and maintenance. This reassignment improves accountability and oversight, reflects the full cost of operation and maintenance, and supports an integrated funding strategy for existing projects. Total FY 2007 funding for the activities being reassigned to the Operation and Maintenance program is about \$340 million. The four types of activities are described in greater detail below.

First, the Operation and Maintenance account would fund activities to comply with Biological Opinions at existing projects pursuant to the Endangered Species Act. These activities facilitate the Corps continuing to operate its existing multi-purpose projects, principally in the Columbia and Missouri River Basins. The compliance costs would be allocated among the project purposes of the operating projects.

Second, the account would fund rehabilitation of existing projects. Rehabilitation work would compete for funding on a level playing field with other operation and maintenance activities. The O&M program would consider each potential investment and develop recommendations based on a long-term strategy for maintaining the existing infrastructure. Fifty percent of the costs of rehabilitations for inland waterway projects would be derived from the Inland Waterways Trust Fund, just as was the case when they were funded in the Construction account.

Third, the account would fund the construction of facilities, projects or features that use maintenance dredging material. These include beneficial uses of dredged material for island and marsh creation, shore protection, and other environmental purposes pursuant to the Section 204 / 207 / 933 Continuing Authority Program and specific authorizations (such as for the Poplar Island, Maryland, project). These also include dredged material disposal facilities for material from maintenance dredging (including Indiana Harbor, Indiana, which had been line-item budgeted in the Construction account). Funding for the dredged material disposal facilities would be derived from the Harbor Maintenance Trust Fund, just as was the case when they were funded in the Construction account.

Fourth and finally, funding in the account would be used to replace sand lost from shores due to the operation of Federal navigation projects (navigation mitigation). This activity would be carried out pursuant to specific authorizations for shore protection projects that involve navigation mitigation, and pursuant to the Section 111 Continuing Authority Program. The budget proposes that funding for navigation mitigation be derived from the Harbor Maintenance Trust Fund. The estimated amount for FY 2007 that would be derived from the trust fund for this purpose is \$27 million.

Accompanying the budget is proposed appropriations language that would clarify that these activities are to be funded in the Operation and Maintenance account. For example, the budget proposal includes a

provision, which the Congress adopted in the FY 2005 Energy and Water Development Appropriations Act, indicating that among the purposes for which funding is provided is “for the benefit of federally listed species to address the effects of civil works projects owned or operated by the Corps”. The budget language also provides that funding for “eligible operations and maintenance” is to be derived from the Harbor Maintenance Trust Fund. Consistent with section 201 of the Water Resources Development Act of 1996, eligible operations and maintenance activities include not only harbor dredging but also the dredged material disposal facilities and navigation mitigation discussed above.

Watershed and System Budgeting for Operation and Maintenance

Although the concept of watershed and system budgeting and program execution for operation and maintenance (O&M) was adopted too late in the budget cycle to be fully implemented in formulating the FY 2007 budget, the O&M budget is presented on a watershed/system basis and, if Congress concurs on the benefit of planning and carrying out the O&M program in accordance with system-wide priorities, then during FY 2007 the O&M program would be managed by watershed and business program, rather than primarily project-by-project.

Proposed FY 2007 funding is consolidated according to Civil Works program areas, such as commercial navigation and flood and storm damage reduction, for each of the 21 major river basins in the United States, as established by the U.S. Geological Survey. The specific projects that would receive funding in each basin also are identified by name. For future fiscal years, the budget not only will be presented by basin or system, but also will be developed in the first place based on basins and systems. Should operation and maintenance work be funded in the manner presented, managers in the field would be better able to adapt to uncertainties and changed conditions throughout the fiscal year, consistent with budget and appropriations decisions.

Repayment of the Judgment Fund

We are proposing that funds that (1) were appropriated in Fiscal Year 2006 or a prior year, (2) are not needed for the purpose for which they were appropriated, and (3) are carried over unobligated to Fiscal Year 2007 be reprogrammed to begin to repay the Department of the Treasury’s

Judgment Fund. The repayments would be for judgments against the United States that were paid by the Fund on Civil Works projects. Currently over \$150 million is owed to the Judgment Fund for Civil Works projects.

Expenses Account

The Expenses account funds the management and executive direction expenses of the Army Corps of Engineers, both at its Headquarters and Major Subordinate Divisions, as well as support organizations such as the Humphreys Engineer Center Support Activity, the Institute for Water Resources, and the Finance Center. In addition, the FY 2007 budget proposes that, beginning in Fiscal Year 2007, the Office of the Assistant Secretary of the Army for Civil Works -- including some indirect and overhead costs not previously allocated to this office -- be funded in an expanded Expenses account, rather than in its own separate account or as part of the account funding the other Army Secretariat offices.

Reprogramming and Contracting

The budget proposes reauthorization of sections 101, 106, and 108 of the Energy and Water Development Appropriations Act, 2006, with certain changes. These sections established rules in law for FY 2006 on reprogramming and continuing contracts. I would like to emphasize the programmatic need for one of these changes, namely, that we would no longer require each partially funded contract for operation and maintenance to be a continuing contract, so that the Corps would have the flexibility to use other contracting tools in the O&M program, such as base-plus-options contracts.

STUDIES AND DESIGN

The FY 2007 budget concentrates funding on the 55 most promising studies and preconstruction engineering and design (PED) activities. For the navigation and flood and storm damage reduction studies, performance was assessed based primarily on likely economic benefits and costs. For PED activities for such projects, the estimated ratio of remaining benefits to remaining costs is known, and PED activities were funded for projects with ratios of 4.0 to 1 or greater at a 7 percent discount rate. For aquatic

ecosystem restoration studies and PED activities, performance was assessed based on the likelihood of projects that would meet the criteria in the construction guidelines.

The budget provides \$94 million for the Investigations account and \$1 million for investigations within the Mississippi River and Tributaries account. Among the \$95 million total, \$25 million is for the Louisiana Coastal Area study of coastal wetlands restoration; \$20 million is for a national inventory of flood and storm damage reduction projects; \$13 million is for other project-specific studies including a new study needed to support continued land acquisition to further reduce the risk of flood damage in the Atchafalaya Basin; \$4 million is for project-specific PED; \$15 million is for research and development; and \$18 million is for other coordination, data collection, and study activities.

One of my priorities is to improve analytical tools to support water resource planning and decision-making. The budget supports this with robust funding for the Navigation Economic Technologies research program and for the development of benefit evaluation methods for aquatic ecosystem restoration.

CONSTRUCTION

In recent years, many more construction projects have been authorized, initiated, and continued than can be constructed efficiently at any one time. This has led to the postponement of benefits from the most worthy projects, which has significantly reduced overall program performance. To remedy this situation and to achieve greater value to the Nation from the Civil Works construction program, the budget focuses significant funding on the projects that yield the greatest return to the Nation, based upon objective performance criteria.

The budget again proposes performance guidelines to allocate funds among construction projects, including significant refinements to the performance guidelines proposed in 2006. The most significant of these changes is the addition of a non-economic performance criterion covering flood and storm damage reduction projects that address a significant risk to human safety.

Under the guidelines, the budget allocates funds among construction projects based primarily on the remaining economic benefits of projects relative to their remaining costs, their contributions to reducing life-threatening inundation hazards, and the extent to which they cost-effectively contribute to the restoration of nationally or regionally significant aquatic ecosystems where the ecosystems have become degraded as a result of Civil Works projects or to a restoration effort for which the Corps is otherwise uniquely well suited. The 2007 performance guidelines are at Enclosure 3.

The funded construction projects include six considered to be national priorities; 14 projects in their final year of construction (including one dam safety project); 10 other dam safety, seepage, and static instability correction projects; one high priority newly funded project (Washington, D.C. and Vicinity, which will reduce the risk of flood damage to the museums on the National Mall, the Franklin Delano Roosevelt Memorial, and the World War II Memorial and eliminate the temporary closures at 23rd Street and Constitution Avenue, NW, and 2nd and P Streets, SW in downtown Washington D.C.); and 60 other ongoing projects. Ninety-one projects are funded altogether.

After adjusting for the work reassigned to the Operation and Maintenance account, the budget provides an increase in construction funding of about \$280 million compared to the Fiscal Year 2006 budget. This robust funding level enables work on most of the 91 projects, as well as on the ongoing projects reassigned from the construction program to the operation and maintenance program, to proceed at between 80 percent and 100 percent of the maximum rate that the Corps can efficiently spend funds in FY 2007.

For low priority projects that are scheduled to have a construction contract underway at the beginning of FY 2007, the budget provides funding either to complete each ongoing contract, or to terminate it and pay the Federal share of settled claims, whichever is estimated to be less costly. The budget includes \$50 million for this purpose, \$42 million in the Construction account and \$8 million in the Mississippi River and Tributaries account.

CIVIL WORKS PROGRAM AREAS

The Army Civil Works program includes eight program areas, plus oversight/executive direction and management. The eight program areas are commercial navigation, flood and coastal storm damage reduction, aquatic ecosystem restoration, recreation, hydropower, water supply, emergency management, and the regulatory program. Budget proposals for the eight program areas are discussed below.

Emergency Management and Flood and Coastal Storm Damage Reduction

The budget for Emergency Management and Flood and Coastal Storm Damage Reduction reflects a sharpened focus on flood and hurricane preparedness and damage reduction.

The budget provides \$20 million in the Investigations account for a national inventory and database of flood and storm damage reduction projects, and for developing and testing methods to assess the structural and operational integrity and the associated risks of such projects. This effort will dovetail with the Corps ongoing risk assessment for its portfolio of dams.

The budget provides \$81 million in the Flood Control and Coastal Emergencies account for planning, preparedness, and response to flood and storm emergencies, and for rehabilitation of damaged flood and storm damage reduction projects. This is an increase of \$11 million over the Fiscal Year 2006 budget. Our experience during the 2005 hurricane season underscores the need for securing funds in advance for such purposes, and we urge the Congress to include this funding in the annual Energy and Water Development Appropriations Act.

The Budget continues to support Federal participation in the initial phase of authorized beach nourishment projects for storm damage reduction and ecosystem restoration purposes. The Budget continues the policy of funding Federal involvement in long-term, follow-on periodic renourishment only to the extent that the operation and maintenance of Federal navigation projects is the reason for the sand loss on shorelines.

Commercial Navigation

The amount budgeted for the construction and rehabilitation of inland waterway projects, \$394 million, is the highest amount ever included in a Civil Works budget. This funding will help ensure the continued efficiency and reliability of our principal inland waterways. Work will begin on rehabilitation of Lock and Dam 27, Illinois and Missouri, and Markland Lock and Dam, Indiana and Kentucky. The budget focuses operation and maintenance funding for the inland waterways on those segments that support high volumes of commercial traffic, including the Mississippi, Ohio, and Illinois waterways.

The budget gives priority to the operation and maintenance of harbors with high volumes of commercial traffic. The budget also funds harbors that support significant commercial fishing, subsistence, public transportation, harbor of refuge, national security, or safety benefits.

As discussed earlier, the budget provides funding under the operation and maintenance program for authorized beach renourishment work to the extent needed to replace sand lost due to Federal navigation operation and maintenance. This work is now part of the commercial navigation program area.

Aquatic Ecosystem Restoration

The budget includes \$164 million for the Corps contribution to the Everglades restoration effort. Of this amount, \$35 million is for the Corps to continue to participate financially in the Modified Water Deliveries project, along with the National Park Service. Within this amount, the budget also includes funds to initiate additional work on the Kissimmee River, continue the pilot aquifer storage and recovery projects program, continue other planning and design work on the Comprehensive Everglades Restoration Plan, and examine flows in the vicinity of Lake Okeechobee.

The budget provides \$27 million for the Upper Mississippi Restoration Program, including \$3 million for a study needed to establish priorities for the next 10 year for this nationally significant effort. To address the continuing loss of wetlands along the Louisiana coast, the budget provides \$20 million to continue planning and design for the Louisiana Coastal Area

aquatic ecosystem restoration program and \$5 million for the science program supporting this effort.

As discussed above, the budget proposes that measures at operating projects to comply with Biological Opinions pursuant to the Endangered Species Act be funded from the Operation and Maintenance account and allocated among project purposes.

Regulatory Program

The President's budget provides \$173 million to the Corps Regulatory Program to protect wetlands and other waters of the United States. This represents a \$15 million increase compared to Fiscal Year 2006 appropriations, which would result in a total increase of 20 percent in funding over the last three years. One of my priorities for the Civil Works program is to improve the effectiveness of aquatic resource protection and the efficiency of permit reviews and decision-making. The added funds will be used to improve permit processing times, increase aquatic resource protection, and advance watershed-based approaches.

Investing in the Regulatory Program is a win-win proposition. The added funds will enable most public and private development to proceed with minimal delays, while ensuring that the environment is protected consistent with the nation's water quality laws.

Recreation

The FY 2007 budget proposes a recreation modernization initiative for Civil Works recreation facilities, based on a promising model now used by other major federal recreation providers such as the National Park Service and the Forest Service. The Administration has proposed legislation for the Corps to use additional fees and other revenues to upgrade and modernize recreation facilities at the sites where this money is collected.

Specifically, the legislation includes authority for the Corps to charge entrance fees and other types of user fees where appropriate, and to cooperate with non-Federal park authorities and districts. The Corps would use collections above a \$37 million per year baseline to provide facility modernizations and upgrades.

Hydropower

The budget provides funding for hydropower operation and maintenance costs, as well as funding for ongoing replacements at three hydropower projects. Unlike the budgets of recent years, the budget does not propose that Federal power marketing administrations directly fund the costs of hydropower operation and maintenance.

Environmental Stewardship

Corps of Engineers-administered lands and waters cover 11 million acres. That is equal in size to the area of the States of Vermont and New Hampshire. The budget proposes a total of \$89 million for environmental stewardship for these resources. Funded activities include shoreline management, protection of natural resources, continuation of mitigation activities, and protection of cultural and historic resources.

Oversight and Executive Direction and Management

The FY 2007 budget provides \$164 million for the Expenses account. This account funds executive direction and management activities of the Corps headquarters, the Corps division offices, and related support organizations that pertain to Civil Works.

In addition, \$6 million of the funding for the Expenses account is for the Office of the Assistant Secretary of the Army (Civil Works). This amount is needed to cover not only the Assistant Secretariat share of costs that are usually allocated among offices in the Headquarters, Department of Army, but also the appropriate share of centrally managed and ordinarily non-allocated costs. The inclusion of funding for these purposes is in accordance with the direction in the FY 2006 Conference Report.

The Budget proposes to finance audits through the Revolving Fund. The costs would be allocated among and then charged back to the benefiting accounts as a normal cost of doing business.

PRESIDENT'S MANAGEMENT AGENDA

The Army Civil Works program is pursuing five government-wide management initiatives, as are other Federal agencies. These are competitive sourcing, strategic management of human capital, financial management, e-government, and budget-performance integration. The Army Civil Works program also is participating in the initiative for real property asset management.

The Office of Management and Budget scores the status of each agency in implementing each initiative. Like most agencies, the Army Civil Works program started out with "red" stoplight scores across the board. On four initiatives -- all but competitive sourcing and human capital -- Civil Works status is still red. We are working to improve our progress and status and welcome your support of our efforts.

CONCLUSION

At \$4.733 billion, the FY 2007 Army Civil Works budget is the highest Civil Works budget in history.

The budget reflects progress in performance-based budgeting, as called for in the President's management agenda. In developing this Budget, we made explicit choices based on performance. The emphasis on the completion of high-performing construction projects, preparedness for and mitigation of flood and hurricane hazards, and improved execution of the Regulatory Program, for example, reflect a performance-based approach.

The Army Civil Works budget for FY 2007 will enable the Civil Works program to move ahead with more resources to pursue investments that will yield good returns for the Nation in the future. The budget represents the wise use of funding to advance worthy, mission-based objectives. I am proud to present it.

Thank you, Mr. Chairman and members of the Subcommittee, for this opportunity to testify on the President's Fiscal Year 2007 budget for the Civil Works program of the Army Corps of Engineers.

ENCLOSURE 1
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS – CIVIL WORKS BUDGET SUMMARY, FY 2007

Requested New Appropriations by Account:

Investigations	94,000,000
Construction	1,555,000,000
Operation and Maintenance	2,258,000,000
Regulatory Program	173,000,000
Flood Control, Mississippi River and Tributaries	278,000,000
Expenses	164,000,000
Flood Control and Coastal Emergencies	81,000,000
Formerly Utilized Sites Remedial Action Program	<u>130,000,000</u>
TOTAL	4,733,000,000

Requested New Appropriations by Program Area:

Commercial Navigation	1,926,000,000
Flood and Coastal Storm Damage Reduction	1,291,000,000
Environment	539,000,000
(Aquatic Ecosystem Restoration)	(320,000,000)
(FUSRAP)	(130,000,000)
(Natural Resources)	(89,000,000)
Hydropower	285,000,000
Recreation	267,000,000
Water Supply	2,000,000
Emergency Management	86,000,000
(Flood Control and Coastal Emergencies)	(81,000,000)
(National Emergency Preparedness)	(5,000,000)
Regulatory Program	173,000,000
Executive Direction and Management	<u>164,000,000</u>
TOTAL	4,733,000,000

Sources of New Appropriations:

General Fund	3,791,000,000
Harbor Maintenance Trust Fund	707,000,000
Inland Waterways Trust Fund	197,000,000
Special Recreation User Fees	37,000,000
Disposal Facilities User Fees	<u>1,000,000</u>
TOTAL	4,733,000,000

Additional New Resources:

Rivers and Harbors Contributed Funds	445,000,000
Coastal Wetlands Restoration Trust Fund	75,000,000
Permanent Appropriations	<u>18,000,000</u>
TOTAL	538,000,000

Total New Program Funding 5,271,000,000

ENCLOSURE 2
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS – CIVIL WORKS BUDGET, FY 2007

CROSSCUT BETWEEN APPROPRIATION ACCOUNTS AND PROGRAM AREAS

	Navi- gation	Flood/ Storm	Recre- ation	Aq. Eco. Rest	Env. Stewrd.	FUS- RAP	Hydro- Power	Water Supply	Emerg. Mgmt.	Reg. Prog.	ED&M	TOT
Investigations	23	34		37								94
Construction	596	653		278			28					1555
Operation / Maint.	1270	387	253		84		257	2	5			2258
MR&T – I		1										1
MR&T – C	14	111		5								130
MR&T – M	23	105	14		5							147
FUSRAP						130						130
FC&CE									81			81
Regulatory Expenses										173		173
											164	164
TOTAL	1926	1291	267	320	89	130	285	2	86	173	164	4733

ENCLOSURE 3
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS – CIVIL WORKS BUDGET, FY 2007

PERFORMANCE BUDGETING GUIDELINES FOR CIVIL WORKS CONSTRUCTION

The budget for the construction account allocates funds based on the following seven performance-based guidelines, which improve the overall performance of the construction program by redirecting funds to high-performing projects and limiting new construction starts.

1. *Project rankings within mission areas.* All ongoing, specifically authorized construction projects, including projects funded in the Mississippi River and Tributaries account, will be assigned based upon their primary purpose to one of the main mission areas of the Corps (flood and storm damage reduction; commercial navigation; aquatic ecosystem restorations) or to hydropower. Projects, except for aquatic ecosystem restoration projects, will be ranked by their remaining benefits divided by their remaining costs (RBRC), calculated at a seven percent real discount rate. Aquatic ecosystem restoration projects will be ranked by the extent to which they cost effectively contribute to the restoration of a nationally or regionally significant aquatic ecosystem that has become degraded as a result of a Civil Works project, or to a restoration effort for which the Corps is otherwise uniquely well-suited (e.g., because the solution requires complex alternations to the hydrology and hydraulics of a river system).

2. *Project completions.* Each project with an RBRC of 3.0 or greater that can be completed in the budget year with a final increment of funding will receive the balance of funding needed to complete construction and related administrative activities. Likewise, each aquatic ecosystem restoration project that cost-effectively contributes to the restoration of a nationally or regionally significant aquatic ecosystem that has become degraded as a result of a civil works project, or to a restoration effort for which the Corps is otherwise uniquely well-suited, and that can be completed in the budget year with a final increment of funding will receive the balance of funding needed to complete construction and related administrative activities.

3. *Projects with very high economic and environmental returns.* The projects with the highest RBRCs (or that are the most cost-effective in contributing to the restoration of a nationally or regionally significant aquatic ecosystem that has become degraded as a result of a Corps project, for aquatic ecosystem restoration) will receive not less than 80 percent of the maximum level of funding that the Corps can spend efficiently in each fiscal year.

4. *Projects with a low priority.* All ongoing flood and storm damage reduction, commercial navigation, and hydropower constructions projects that have RBRCs below 3.0, except for flood and storm damage reduction projects that are funded in the budget to address significant risk to human safety, will be considered for deferral. All ongoing aquatic ecosystem restoration projects that do not cost-effectively contribute to the restoration of a nationally or regionally significant aquatic ecosystem restoration that has become degraded as a result of a Civil Works project, and do not cost-effectively address a problem for which the Corps is otherwise uniquely well-suited, and are less than 50 percent complete will be

considered for deferral. Where a project considered for deferral was previously budgeted, the budget will include funding to cover the cost of terminating or completing each ongoing contract, whichever is less. Budget year and future year savings from project suspensions (after covering the cost of terminating or completing ongoing contracts) will be used to accelerate the projects with the highest net economic and environmental returns.

5. *New starts and resumptions.* The budget will provide funds to start up new construction projects, and to resume work on ongoing construction projects on which the Corps has not performed any physical work under a construction contract during the past three consecutive fiscal years, only if the project would be ranked in the top 20 percent of the ongoing construction projects in its mission area that year.

The term “physical work under a construction contract” does not include activities related to project planning, engineering and design, relocation, or the acquisition of lands, easements, or rights-of-way. For non-structural flood damage reduction projects, construction begins in the first fiscal year in which the Corps acquires lands, easements, or rights-of-way primarily to relocate structures, or performs physical work under a construction contract for non-structural project-related measures. For aquatic ecosystem restoration projects, construction begins in the first fiscal year in which the Corps acquires lands, easements, or rights-of-way primarily to facilitate the restoration of degraded aquatic ecosystems including wetlands, riparian areas, and adjacent floodplains, or performs physical work under a construction contract to modify existing project facilities primarily to restore the aquatic ecosystem. For all other water resources projects, construction begins in the first fiscal year in which the Corps performs physical work under a construction contract.

6. *Other cases.* All other ongoing construction projects will receive not more than the amount needed to meet earnings permitted under ongoing multi-year contracts and related costs, except for flood and storm damage reduction projects that are funded in the budget to address significant risk to human safety, which will receive at least the funding needed to pay contractor earnings and related costs.

Dam safety assurance, seepage control, and static instability correction projects that are funded in the budget for construction will receive the maximum level of funding that the Corps can spend efficiently in each fiscal year.

Projects that are funded in the budget for construction will receive the amount needed to ensure that they comply with treaties and with biological opinions pursuant to the Endangered Species Act, and meet authorized mitigation requirements.

7. *Ten percent rule.* Up to a total of 10 percent of the funding available for construction may be allocated to ongoing construction projects regardless of the guidelines above. However, this may not be used to start up or resume any project.

The Budget proposes that the Administration and the Congress apply these guidelines to the Corps construction account and to the construction activities in the Mississippi River and Tributaries account.