

February 12, 2019

The Honorable R.D. James  
Assistant Secretary of the Army (Civil Works)  
Department of the Army  
108 Army Pentagon  
Washington, D.C. 20310

Dear Assistant Secretary James:

Thank you for the opportunity to provide comments on the Army Corps of Engineers' (Corps) development of implementation guidance for provisions in the America's Water Infrastructure Act (WRDA 2018), and revisions of implementation guidance for provisions in the Water Infrastructure Improvements Act (WRDA 2016) and Water Resources Reform and Development Act (WRRDA 2014).

My first comment pertains to Sections 1112 and 1158 that deal with hurricane and storm damage reduction. According to the National Oceanic and Atmospheric Administration, around 40 percent of the U.S. population lives in coastal counties, though these counties account for less than 10 percent of the country's land area.<sup>1</sup> These counties supported more than 60.5 million jobs and maintained an economy valued at over \$9.3 trillion in 2017.<sup>2</sup> As the consequences of climate change start rolling ashore on higher seas and stronger storms, these communities and businesses are under threat.

As you and I have discussed, I have long been concerned with the Corps' focus on inland versus coastal work, especially under its Flood and Coastal Storm Damage Reduction business line. This budget line, which includes investigations, construction, and operations and maintenance work, separates its funding into "inland" and "coastal." Over the past ten years, the Corps has spent between 19 (FY 2011) and 120 (FY2017) times more on inland versus coastal funding.

For years now, I have asked the Corps to explain to me why this disparity exists, including providing its definitions of "coastal" and "inland" under the Flood and Coastal Storm Damage Reduction business line. I brought up this issue with you in your confirmation process and in subsequent conversations and hearings in the Senate Environment and Public Works Committee. I have yet to receive an explanation from the Corps on this issue. Through its development of WRDA 2018 implementation guidance, the Corps should make it a priority to emphasize, where possible, parity between coastal and inland investments. If parity is not possible or appropriate, I request the Corps specifically justify why it continues to prioritize inland projects under this business line in light of the population and economic density in coastal areas.

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<sup>1</sup> <https://coast.noaa.gov/states/fast-facts/economics-and-demographics.html>

<sup>2</sup> <http://www.oceaneconomics.org/Market/coastal/coastalEcon.asp>

I also request the Corps develop implementation guidance for Sections 1208 (“Innovative materials and advanced technologies report”), 1210 (“Report on debris removal”), and 1218 (“North Atlantic Division report on hurricane barriers and harbors of refuge”). I authored these provisions in WRDA 2018, as well as corresponding provisions for the innovative materials and debris removal provisions in WRDA 2016. The Corps’ continuing refusal to author implementation guidance for these sections suggests an unwillingness to fulfill these directives.

- Hurricane Barriers/Harbors of Refuge Report: During your visit to Rhode Island last year, we toured the Fox Point Hurricane Barrier that protects Providence. We discussed how rising seas, strong storms, and other consequences of climate change threaten to overcome the level of protection the current hurricane barrier is intended to provide. Section 1218 of WRDA 2018 directs the Corps to analyze and report to Congress on the challenges facing protective infrastructure, like hurricane barriers and harbors of refuge, in the North Atlantic Division’s range as the ocean encroaches more and more. Timely completion of this report is necessary if we are to have a chance to give the Corps the tools it needs to ensure our coastal communities remain well served by these structures well into the future.
- Debris Removal: WRDA 2016 included a provision that expanded the Corps’ authority to remove debris from waterways, including in waters adjacent to navigation channels and for the purposes of recreation as well as navigational safety. The Corps decided the section “does not require implementation guidance and it is complete.”<sup>3</sup> However, I have yet to see evidence that the Corps has taken advantage of this expanded authority.

In WRDA 2018, I authored Section 1210 to request a report on how the Corps is implementing the WRDA 2016 provision. I urge the Corps to develop implementation guidance that would accelerate the Corps’ utilization of this authority and to submit the report required under Section 1210 of WRDA 2018 as soon as possible.

- Innovative Materials: I authored a section in WRDA 2016 that directed the Corps to work with the National Academy of Sciences (NAS) to study the current and potential use for innovative materials in water resources projects. The Corps did publish implementation guidance for this provision, but only to indicate it would not work with NAS absent a separate appropriation for the study. In WRDA 2018, Congress directed the Corps to report directly to Congress its current and potential use of innovative materials. I view the Corps’ failure to develop implementation guidance for this provision, or to provide other assurances that the report will be completed in a timely manner, as willfully ignoring two congressional directives.

I have been working on these issues with the Corps for a long time but have more remaining questions than answers after years of WRDA bills and conversations with the agency. I appreciate your willingness to speak with me on these and other issues facing Rhode Island, including visiting the state to see some of these concerns in-person. I hope conversations will culminate in meaningful engagement by the Corps on these and other issues important to my

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<sup>3</sup> <http://cdm16021.contentdm.oclc.org/utills/getfile/collection/p16021coll5/id/738>

constituents as soon as possible. Regrettably, I do not see evidence of that in the Corps' latest plans to develop implementation guidance.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sheldon Whitehouse". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Sheldon Whitehouse  
United States Senator