



## TESTIMONY

SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
-  
IMPLEMENTATION OF CORPS OF ENGINEERS WATER RESOURCES POLICIES

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### INTRODUCTION

Chairman Boxer, Ranking Member Vitter and Members of the Committee, my name is Rick Johnson and I am Executive Director of the Sacramento Area Flood Control Agency (or SAFCA). On behalf of the SAFCA Board of Directors, I am pleased to appear before you today to discuss the Army Corps of Engineers water resources policies and SAFCA's initiatives with the Corps and our State partners in implementing the Sacramento region's comprehensive program for flood risk management.

First, let me congratulate you on moving forward on a Water Resources Development Act (or WRDA). The Nation desperately needs the public safety, economic and jobs creation benefits that this water infrastructure legislation will provide. We are very encouraged and appreciative of the bipartisan efforts and commitment to move a bill this year.

The Sacramento region is one of the most at-risk areas in the country from the standpoint of potentially devastating flooding. Over the years, we have been very fortunate that this vulnerability has been recognized and acted on responsibly by our congressional delegation and by the Executive Branch. Our House delegation, lead by Congresswoman Doris Matsui and Senator Feinstein and you, Madam Chair, have provided consistently strong support and leadership in the development of national water resources policy generally and the needs of the Sacramento region specifically. We thank you for that strong support.

### EVOLVING CORPS POLICIES

In my testimony today, I would like to touch briefly on SAFCA's efforts to advance the cause of flood damage reduction in Sacramento, working with the Corps of

Engineers, the Central Valley Flood Protection Board and the California Department of Water Resources. We are indeed fortunate to have capable and committed Federal and State partners. And, of course, without the active involvement and financial commitment by the Sacramento community, the Federal/State team could accomplish little.

In recent years, the Corps has reviewed its various civil works policies regarding flood protection to assure they are current and responsive to changing conditions. These policies include (1) design criteria for formulating flood protection projects; (2) procedures for allowing non-Federal work at completed Federal projects (the so-called "408" approval process); (3) policies affecting the presence of vegetation and encroachments on flood control works such as levees; and (4) the approach to approving "credit" for non-Federal work on projects. The latter two topics, vegetation and credits, are specifically addressed in Chairman Boxer's "Discussion Draft" WRDA bill and will be addressed in my testimony today.

We applaud the Corps for their efforts to modernize water resources policies and its responsiveness to the needs of its non-Federal partners. Having said that, we have some thoughts on how certain of these policies can be made even more responsive to the needs of its partners, make more efficient use of limited financial resources and, in effect, result in greater public safety.

## **LEVEE VEGETATION**

One of the more contentious issues emerging over the past few years is the Corps' implementation of policies relating to woody vegetation on or adjacent to flood control levees. This is an especially important topic in the Sacramento-San Joaquin Valley of central California, though the issue applies equally elsewhere. Due to the nature of and circumstances surrounding development in the region over time, in many areas virtually the only remaining vegetation (certainly some of the most significant vegetation) is adjacent to ...and sometimes integral to...levees built for flood protection. This will surprise some people, who are accustomed to relatively bare, well-manicured levees common in many areas of the country.

We could discuss the history, reasons for and advisability of this practice in retrospect, but the fact remains that woody vegetation on and near levees is a fact of life in some areas that must be dealt with responsibly and in recognition of many complicating factors, such as the cost of vegetation removal and the environmental benefits provided by vegetation. Of course, the ultimate goal for all of us is public safety. The hard part is finding the right solution and SAFCA believes that the facts of each case must be weighed on its own merits.

## SACRAMENTO EXPERIENCE

We are very familiar with the Corps' reassessment of its policies regarding woody vegetation on levees and its procedures for allowing "variances". Our ongoing effort to strengthen and improve 42 miles of levees protecting the Natomas Basin in north Sacramento is an example of one approach to this. The levees were originally constructed immediately adjacent to the river channel. The only riverine vegetation that provides habitat for several endangered species of salmonoids fish has developed along the toe and in some cases, on the levees. Recognizing the immense complications associated with strict compliance with the Corps' vegetation policy, the State and SAFCA developed a plan, working with the Corps' Sacramento District, involving "adjacent set-back levees" in locations where there were minimal homes and structures to remove. This basically allowed valuable riverside vegetation to remain, though at significant additional cost. Of the 42 miles of levees, approximately 27 miles needed a variance from the vegetation policy. Of those, we were able to design adjacent set-back levees or oversized levees for 26 miles. That design was approved by the Corps. There was one mile of levee where we proposed a different design because we did not have the ability of proposing an adjacent levee or an overbuilt levee because there were too many structures adjacent to the levee. I should point out that this is more typical of many of the levees in Sacramento and elsewhere in California. This proposed variance was not approved by the Corps.

Looking forward, we face another challenge with the Corps' vegetation policy as we and the State work with the agency in preparing a General Reevaluation Report on the American River Common Features Project. This effort is currently underway and we are optimistic that the partners will be able to develop an alternative that is mutually supported, affordable and cost-efficient. The Corps' concept of addressing the "worst-first" risks will be essential in this effort and elsewhere in the State. This concept calls for the most vulnerable areas to be given higher priority for resolution, especially when funding is constrained, and takes into consideration such things as the physical characteristics of an area, the affected population and economic resources at risk and the degree of risk posed by the presence of vegetation. It also calls for addressing the most serious risk factors first. For example, when analyzing a levee there may be a number of risk factors that need to be addressed (i.e. underseepage, erosion, overtopping, access, encroachments, vegetation, etc). However, if for example, the overall risk is reduced by 95% by fixing one or two of the most serious risk factors at only half the cost of addressing all of them, it might make sense to spend the limited resources on the serious ones first. Thus the term "worst-first." This concept acknowledges that limited Federal, State and local financial resources should be spent first on those activities offering the greatest benefit to public safety. We believe that success in future challenges implementing vegetation policies depends heavily on wise application of the worst-first concept.

## VEGETATION MANAGEMENT POLICY IN WRDA

Section 2017 of the Chairman's WRDA Discussion Draft addresses Corps of Engineers policies on vegetation management. We support that section. This provision is similar to H.R. 399, introduced by Congresswoman Matsui and co-sponsored by twenty-five of her House colleagues. It requires the Corps to: conduct a review of its guidelines to evaluate whether they are appropriate for all regions of the country; consider various technical factors; consider regional or watershed variances; consult with stakeholders at every level; obtain peer review; revise national guidelines based on the activities that are undertaken; and submit a report to Congress. We believe this is a positive step in assuring a flexible and collaborative process. We especially applaud efforts to take regional characteristics and the relative cost of vegetation removal into consideration.

### **CREDITS FOR NON-FEDERAL WORK**

Another important challenge facing the Corps, and one of great importance to its non-Federal partners, is the notion of "credits" for work accomplished by State and local interests. In today's fiscally-constrained environment, State and local governments can often do advance work on a project thereby accelerating its schedule and lowering its cost. We should not be penalized for our efforts. Restricting our ability to receive credit for legitimate work is a disincentive to initiative, delays public safety benefits and often results in higher ultimate cost.

### **SACRAMENTO EXPERIENCE**

As with levee vegetation matters, we also have experience with the Corps' policies regarding credit allowed non-Federal interests for work done on flood protection projects. I am pleased to say that the Corps has been supportive and reasonable in its negotiations with us on past projects. An example is our work on the Natomas Levee Project. In 2006, the Corps established new standards for urban levees and reevaluated the 42 miles of levees protecting the Natomas portion of Sacramento. Based on these new levee standards, the Corps determined that the basin had less than a 33-year level of protection (compared a level of protection of more than 100 years). With more than 100,000 people at such a severe risk, SAFCA and the State decided to initiate construction while the Corps did the studies necessary to satisfy Federal water planning criteria and the criteria normally required for Congressional authorization. The Corps approved four applications granting credit under its authority of Section 104 of the Water Resources Development Act of 1986. As result, SAFCA, with funding from the State of California and funds raised locally, has been able to complete reconstruction of the worst 18 miles of the 42 miles of levees protecting Natomas while the Corps completed their efforts on a Chief's report on the overall Natomas project. This program allowed immediate risk reduction to 100,000 people while the requisite Federal studies were completed.

Though our experience regarding credits was favorable at Natomas, the Corps has recently revised its policies, increasing the challenge that non-Federal partners face in obtaining credit for their work. We believe that additional legislative recognition of non-Federal efforts and flexibility in applying those credits is a worthy topic for discussion.

### CREDITING PROVISIONS IN WRDA

Sections 2008 through 2011 of the Chairman's WRDA Discussion Draft address various aspects of Corps "crediting" policy, including clarification of in-kind credit eligibility, transferability of "excess" credits and eligible categories of work. We support the positive steps taken in these provisions to assure that reasonable work and expenditures by non-Federal partners are fairly considered and allowed. We are especially supportive of language that allows credits that are in excess of required cost-sharing amounts for a project to be transferred to other project elements and that adequate time be allowed for credit provisions to be effective before their authority expires. It is important to us, and we believe many others, that sufficient flexibility be allowed where excess credits can be applied. We have provided input to your staff on this.

### OTHER PROVISIONS

There are many other important and necessary provisions in the Chairman Boxer's Discussion Draft; too many to mention here. However, I would like to briefly mention two other sections of particular interest to SAFCA.

### PROJECT AUTHORIZATIONS

Section. 1002 (Project Authorizations) is vital to the continuity of a Corps of Engineers water resources program and we commend the Committee for its creative approach to generically authorizing projects that have fully satisfied the Federal water project review and vetting process. As the Chair is well aware, we in Sacramento have a very strong interest in this provision.

While on this topic, I would also like to express our sincere appreciation to Senator Feinstein and you, Chairman Boxer, for recently introducing S. 197, the "Natomas Basin Flood Protection Improvements Act of 2013." This legislation, and, Congresswoman Matsui's bills, H.R. 135 and H.R. 136, are important acknowledgments of the flood control needs in Sacramento.

### LEVEE SAFETY

Title VI (Levee Safety) is an important complement to the Federal Dam Safety program. By establishing a national Levee Safety Program, the Committee is helping assure public safety by including provisions requiring that the Nation's levees are

inventoried, inspected and given adequate supporting research and by providing for technical guidelines, educational support and technical assistance. We suggest that the same flexibility, collaboration and holistic approach required in the Levee Vegetation language of Section 2017 be equally applied in Title VI regarding such matters as levee safety "standards" and "guidelines" and "consistent approaches" so the desirable aspects of Sec. 2017 are not inadvertently negated by Title VI.

## **CONCLUSION**

In closing, Madam Chair, Senator Vitter and Members of the Committee, thank you for allowing me to appear before you today. The Committee has embarked on a vital effort on behalf of the Nation. We also appreciate the professionalism and courtesy of your respective staffs.

We look forward to reviewing the Committee's bipartisan WRDA legislation and to providing additional views. Furthermore, we understand that others are very interested in the Committee's initiative and the Corps' policies on levee vegetation, credits and related topics. This includes, the State of California and communities and other water agencies in the State. Their views and recommendations should also be given serious consideration as you move forward.

I'll be happy to respond to your questions. THANK YOU.