



1299 Pennsylvania Ave., NW
Suite 800 West
Washington, DC 20004
T: (202) 218-4122
F: (202) 842-0621
www.nafsma.org

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NATIONAL OFFICE

Executive Director

Susan Gilson
gilsons@carmengroup.com

Testimony of the National Association of Flood and Stormwater Management Agencies

Submitted for the Hearing on the
Water Resources Development Act of 2002

U.S. Senate
Environment and Public Works Committee

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The National Association of Flood and Stormwater Management Agencies is very pleased to have the opportunity to submit this testimony to the committee for consideration on an issue of importance to the NAFSMA membership.

Background on NAFSMA

NAFSMA represents more than 100 local and state flood control and stormwater management agencies serving a total of more than 76 million citizens and has a strong interest in this important legislation.

NAFSMA's members are public agencies whose function is the protection of lives, property and economic activity from the adverse impacts of storm and flood waters. NAFSMA member activities are also focused on the improvement of the health and quality of our nation's waters.

The mission of the association is to advocate public policy, encourage technologies and conduct education programs to facilitate and enhance the achievement of the public service functions of its members. Many of NAFSMA's members are currently involved in ongoing water resources projects with the Corps of Engineers, including flood management and environmental restoration projects.

Since the organization was formed in 1979, NAFSMA has worked closely with the U.S. Army Corps of Engineers and other federal agencies, including the U.S. Environmental Protection Agency and the Federal Emergency Management Agency in numerous efforts. Our members have supported the concept of cost sharing as first authorized in WRDA 86 and a group of our members worked closely with the Corps to redesign what is now the Project Cooperation Agreement in the early 1990s.

We have supported new initiatives such as the Corps Challenge 21 riverine restoration and other environmental restorations initiatives as a necessary complement and vital tool to add to the Corps ability to meet environmental challenges in their traditional water resource projects.

NAFSMA very much appreciates the Committee's commitment to hold hearings to keep WRDA on its biennial renewal process. NAFSMA members are on the front line protecting their communities from loss of life and property and therefore the organization is keenly aware that flood management measures are a necessary investment required to prevent loss of life and damages to people's homes and businesses. Flood management is a wise investment that will pay for itself by preserving life and property and reducing the probability of repeatedly asking the federal government for disaster assistance.

NAFSMA Relationship With The Corps

Over the past twenty years of NAFSMA's existence, our relationship and the role of our agencies and the Corps of Engineers has changed. Our members are dedicated to looking at both non-structural and structural approaches to flood management. Environmental restoration is a key focus of our member agency missions as well as the Corps. Urban stream restoration and other similar projects have been undertaken and have been quite successful.

We are proud of the commitment of our member agencies to protect and restore the environment. The Corps is an important partner to state and local agencies in carrying out these environmental restoration initiatives.

NAFSMA firmly believes that the Corps has the technical capabilities and expertise to carry out its stated missions. The Corps must have the funding resources to maximize the public benefits that can be obtained from the Corps capabilities and expertise.

The Corps has strengthened and improved its partnership with the non-federal sponsors over recent years. This partnership can continue to be strengthened and improved with some new policy initiatives. Changes in the Water Resources Development Act this year will help our member agencies better carry out their evolving missions and responsibilities. I would like to describe some of those issues for you today.

Policy Initiatives for WRDA 2002

It is important to preface comments about WRDA with NAFSMA's position that the organization encourages Congress to make sufficient annual appropriations that support those projects and programs previously authorized and those yet to be authorized. As non-federal sponsors, it is often difficult to keep project costs down and ensure the continuation of the local cost share funding while project costs escalate due to lack of matching federal appropriations.

Cost Sharing For Federally-Partnered Flood Control Projects

NAFSMA supports the current federal project cost sharing for flood control activities of sixty-five percent federal/thirty-five percent non-federal. We also support the development of incentives to implement floodplain management measures above the minimum measures, allowing the project cost sharing to be modified upwards to seventy-five percent federal/twenty-five percent local. Decisions as to whether local communities would qualify for

improved cost sharing could be based on the community's rating under the National Flood Insurance Program Community Rating System or submission of a floodplain management plan that substantially exceeds minimum requirements.

Such an approach has already been passed by the California state legislature and is currently implemented at the State level for State participation with local agencies in Corps-partnered projects.

We know that in the past, a number of interests have proposed that this cost sharing be reduced to a 50/50 federal/non-federal approach. NAFSMA is strongly opposed to such a move. This type of change would keep critical public safety projects from moving forward.

Credit for In-Kind Services

NAFSMA supports that local cost sharing requirements be allowed to be met in its entirety by local in-kind services. We also urge that credit toward the non-federal share of the cost of authorized flood control, ecosystem restoration projects, or other Corps-partnered projects include all work that is determined to be an integral part of the project (such as the cost of design and construction) for work undertaken before the signing of the Project Cooperation Agreement (PCA).

Encourage Multi-Objective Initiatives Within WRDA

Within the Water Resources Development Act, NAFSMA urges the Committee to include language that would encourage multi-objective efforts, to include flood management, river restoration, recreation, environmental preservation and enhancements. Such an approach would produce long-lasting multiple benefit projects for communities throughout the nation.

Although we can currently do combined flood damage reduction and environmental restoration, with some difficulty, under the Corps General Investigation Program, multiple objective projects cannot be done through the more efficient Continuing Authorities Program for small projects, such as flood control projects (Section 205), environmental restoration (Section 1135) or, aquatic restoration (Section 206).

NAFSMA recommends combining all the continuing authority programs into a single program that allows inclusion of any of the benefits presently provided for in the individual continuing authority programs, or establishing a new continuing authority program for multi-objective projects. We are learning that single purpose projects do not meet the demands of today's society and are less efficient to implement.

Revision of Current NED Policies

NAFSMA recommends the review and revision of current National Economic Development (NED) policies to encourage more environmentally sensitive, multi-objective flood management projects.

NAFSMA supports the Corps movement in this direction through their development and use of the National Ecosystem Restoration (NER) plan process for project formulation of ecosystem restoration projects. NAFSMA encourages the melding of NED and NER approaches to achieve multi-objective projects.

Continued Support for Section 211 Initiatives

NAFSMA supports policies and programs, such as Section 211 of WRDA 1996, that allow local implementation of federal projects where advantages and effectiveness can be demonstrated and provide for reimbursement.

Maximize the Benefit of the Use of Federal Funds

NAFSMA is concerned about some of the approaches suggested for Corps reform. NAFSMA encourages a process and funding mechanism to maximize the benefit of the use of federal funds for federally authorized projects. The following items address this issue.

Independent Peer Review

NAFSMA opposes efforts to add external independent peer review to the approval process for federally partnered flood control or environmental restoration projects. Corps projects presently go through an extensive review process that includes review and involvement by the U.S. Environmental Protection Agency, Fish and Wildlife and others. While there are constituencies promoting such reviews under the umbrella of cost savings and better use of federal tax dollars, the addition of such a review process would only serve to slow down the process for much-needed flood management projects and increase the cost of such projects at both the non-federal and federal levels.

A logical sequence of events is to consider this issue after a thorough review of the congressionally-requested National Academy of Sciences study on the feasibility of independent review panel. The study is expected to be released in July.

We understand that independent review panels are being recommended because the Corps feasibility study and project authorization process is believed by some not to fulfill the program's intent. That being the situation, NAFSMA suggests that first consideration be given to a review and correction of the existing feasibility and authorization process before

adding an additional process such as independent review.

NAFSMA would be supportive of language to encourage partnerships that are formed early and amongst all parties, including the regulatory agencies, whose goal is to seek participant consensus on the recommended flood management and watershed enhancement projects.

Benefit Cost Ratio

NAFSMA opposes increasing the current benefit cost ratio for water resources projects subject to benefit cost analyses. The benefit cost ratio should not be the sole criteria for project screening. Non-federal sponsors and the Corps are moving toward multi objective environmentally sensitive projects to better address public needs and maximize the use of federal funds. Increasing the benefit cost would hinder that approach. We are also concerned that disadvantaged areas would be discriminated against with this higher benefit cost ratio. Non-federal sponsors need to be involved in any effort to examine changes to the current benefit cost ratios.

NAFSMA supports review of all laws, regulations, policies, procedures, and guidance to determine what changes are required to expedite implementation of flood management and/or watershed enhancement projects, without the project suffering in quality. An example would be the elimination of the Preconstruction, Engineering and Design (PED) agreement.

NAFSMA urges Congress to authorize a process and federal funding mechanism for non-federal sponsor developed projects to maximize the benefit of the use of federal funds for federally authorized projects. This would include local sponsors taking the lead in design and/or construction in partnership with the Corps on federally authorized projects.

Deauthorization of Backlogged Projects

Deauthorization of projects in the backlog should occur only where the Non-federal sponsor no longer expresses desire to participate. NAFSMA believes that revocation of an authorization or commitment to the public without public support would be inappropriate. Deauthorization efforts shouldn't apply to projects where non-federal sponsors have expressed a desire to participate, such as having executed Preconstruction, Engineering and Design (PED) agreements, Project Cooperation Agreements (PCA's) or initiated actions on Lands, Easements, Rights-of-way, Relocations, Disposal Areas (LERRDS).

Review Of Corps Projects That Have Exhausted Their Project Life

NAFSMA encourages Congress to authorize the Corps to develop Guidance and Policy for reevaluation of Corps-constructed or federally authorized flood control projects that have reached or surpassed their project life.

The guidance and policy should include at a minimum, an option for de-authorizing all or portions of the project, cost shared implementation of alternatives, such as nonstructural approaches that provide the same benefits, or cost shared reconstruction without going through the rigors required of new projects. NAFSMA is prepared to assist in developing such guidance.

Early Attention to Environmental Issues and Potential Benefits and Impacts

NAFSMA supports and encourages the Corps of Engineers to make personnel available to participate early and throughout the planning, design and permitting phases of new civil works projects to address all environmental issues and regulations in order to obtain the necessary permitting in a timely and uncontested manner.

Assessment of “True Costs” During Feasibility

NAFSMA advocates the federal government to assure the true costs and benefits incurred by the local sponsor for Lands, Easements, Rights-of-way, Relocations, Disposal Areas, construction, environmental mitigation, operation and maintenance are considered during the feasibility phase of the project. The true costs include those costs mandated by laws, rules, and regulations of local, state, and federal governments.

Full-Credit for Project Related Expenses, Including CERCLA

NAFSMA supports non-federal sponsors receiving full credit for all legitimate project related expenses, similar to credit received by the Corps for project related expenses. NAFSMA members also urge Congress to make Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) activities necessary for project execution eligible for cost-sharing credit.

Conclusions

In closing, NAFSMA very much appreciates the technical capabilities, expertise and the commitment of the Corps representatives that we work with at the District, Division and Headquarters. We also appreciate the Committee’s commitment to move forward with a WRDA bill this year. We pledge to work with you and the Corps to improve the project review process, to use a multi-objective approach to the nation’s water resources activities, to keep the costs of projects down and maximize the benefits of federal, state and local tax dollars.

Thank you for your time and consideration. Please contact NAFSMA Executive Director Susan Gilson at 202-218-4133 with any questions that you may have.