

Congress of the United States
Washington, DC 20515

December 5, 2013

The Honorable Barbara Boxer
Chairwoman
Conference Committee on the Water
Resources Development Act
410 Dirksen Senate Office Building

The Honorable Bill Shuster
Vice Chairman
Conference Committee on the Water
Resources Development Act
2165 Rayburn House Office Building

The Honorable David Vitter
Ranking Member
Conference Committee on the Water
Resources Development Act
456 Dirksen Senate Office Building

The Honorable Nick J. Rahall, II
Ranking Member
Conference Committee on the Water
Resources Development Act
2163 Rayburn House Office Building

Dear Chairwoman Boxer, Vice Chairman Shuster, Ranking Member Vitter, and Ranking Member Rahall:

As House Conferees from California, we respectfully request that the following provisions be included in the Conference Report as they are vital to our great state. These provisions include levee vegetation policy, crediting authority, 408 permitting reform, water supply assistance, invasive species management, harbor maintenance trust fund utilization, and project authorizations.

Levee Vegetation

H.R. 3080 and S. 601 both include important language for California in that they call for a review of the current Corps policy guidelines for vegetation management on levees. However, differences exist between the two approaches and need to be reconciled in the final bill. First, each bill has a different list of factors to consider when reviewing the guidelines. We urge you to include a comprehensive list combining the factors from both bills. The full range of factors will ensure all pertinent issues and policy implications are considered as the review is completed.

Second, we urge you to adopt the Senate language, which would require the Secretary to solicit and consider the views of the National Academy of Engineering and the National Academy of Sciences, as part of the policy review process. This consultation will give appropriate consideration to the complex engineering and environmental issues associated with managing levee vegetation.

Finally, both bills include language prohibiting the removal of levee vegetation prior to the completion of the guideline review. An exception is made for vegetation that poses an "unacceptable risk" and we urge you to define "unacceptable risk" to mean vegetation that presents a clear and immediate threat to the public safety.

Crediting

In California, many local and state agencies take advantage of the opportunity to begin work on flood control projects prior to the allocation of federal funds because of their ability to receive credit for the work they complete. Both House and Senate bills included revisions to the current Section 221 crediting law and we commend both chambers for addressing this issue. However, we believe the Senate language is stronger and should be included in the final bill. It allows credit to be used on different separable elements on the same project, it requires new guidelines for crediting within a year and it requires the guidelines to provide guidance on whether work is "integral" to a Federal project. The overall crediting provisions are vital to our state and we urge the committee to carry the Senate language into the final bill.

408 Permitting

H.R. 3080 includes reforms to the approval process for projects completely funded by non-Federal funds. Section 408 permits are provided to non-Federal sponsors who are ready and willing to fund important flood control projects at their own expense. Often these projects face delays because they are prioritized lower than the projects being carried out directly by the Corps. We urge the Committee to adopt the streamlining provisions for non-Federal modifications found in Section 107 of H.R. 3080 and ensure these life-saving flood control projects can be completed as quickly as possible.

Water Supply

We request that the Conference Report include section 131 of the House bill and Sections 2001, 2014, and 2061 of the Senate bill that provide more water supply options to local communities. California is constantly facing drought conditions and is eager to pursue more water conservation opportunities. Water agencies across our state would like to work with the Corps to more effectively use their reservoirs to capture rainwater and replenish our groundwater basins.

Section 131 of the House bill requires the Corps to review and report on improving water supply practices at Corps dams in arid regions. Sections 2001, 2014, and 2061 of the Senate bill require the Corps to manage their dams more effectively for water supply purposes and work with local agencies on water supply projects. These much needed provisions would give our state more resources to address our water shortage challenges.

Invasive Species

The Conference Report should include Sections 137 and 145 of the House bill and Section 2052 of the Senate bill to address aquatic invasive species. California has a major problem with aquatic invasive species and aquatic invasive vegetation, including quagga mussels, shore crab, tamarisk, noxious algae and many more. Invasive species are clogging our water delivery systems, contaminating our water supply, and destroying our valuable habitat.

Section 137 of the House bill allows the Corps to use federal funds to prevent and manage invasive species on Corps projects. Section 145 would require the Comptroller General of the United States to conduct an assessment of the federal costs of, and spending on, aquatic invasive species. Section 2052 of the Senate bill provides for a Corps review of how invasive species are affecting its projects and requires recommendations on what changes should be made to address this problem. Section 5007 of the Senate bill creates an invasive species prevention and management program, but only for the Columbia River Basin. We request that the Conference Report expands the Section 5007 program to the entire country as this problem is widespread in all of our districts.

Full Utilization of HMTF

Since 2003, HMT collections have far exceeded funds appropriated for harbor maintenance, resulting in a large and growing “surplus” in the trust fund. In 2012, over \$1.5 billion was collected and symbolically placed in the Harbor Maintenance Trust Fund (HMTF), but only \$927 million was expended. The current overall surplus is close to \$9 billion. Rather than being used for their intended purpose, these user fees are instead used to balance the federal budget each year. California suffers disproportionately than other states from this imbalance, as its ports raise significantly more than they receive. In order to address this, both bills set annual targets to spend more HMTF receipts, with the House spending 80% of HMTF funds by 2020 and the Senate spending 100% by the same time. We request that the Conference Report include language that achieves full utilization by 2020 in order to ensure HMTF funds are being spent for their intended purpose.

Expanded Use for Harbor Maintenance Trust Fund

For many ocean ports in California, the current definition of “operations and maintenance” - the primary means for what HMTF funds can be used for - does not capture their needs. In order to ensure California utilizes as much HMTF funds as possible, the definition for what these ports can use their funding on must be expanded to include both birth dredging and sediment disposal. While the House bill sets aside 5% of HMTF funds for expanded use for any donor port, the Senate also addresses HMTF equity by prioritizing ports in donor states like California. Thus, we urge you to include language that expands the eligible use for HMTF funds to include birth dredging and sediment disposal as well as prioritizes expanded use funding for donor ports and states like California.

Updated Local Cost Share Requirements for the Harbor Maintenance Trust Fund

The current local cost share requirements for harbor maintenance trust fund expenditures are extremely unfair towards deep draft, donor ports. One of the reasons California receives only 15% back of what our ports pay into the HMTF is because some of our ports are statutorily prohibited from receiving full federal funding for O&M, while ports that pay nothing into the HMTF are allowed full federal funding. Section 8004 of the Senate bill tries to remedy this situation by providing full federal funding to harbors as deep as 50 feet, but this does not assist all of our California ports. We request that the Conference

Report includes language that allows for full federal funding of harbor maintenance to the “authorized depth” of the harbor.

Project Authorizations in California

Section 401 of the House bill and section 1002 of the Senate bill both authorize the two California projects that currently have chief’s reports. These projects are:

1. American River Watershed (Common Features) Project, Natomas Basin, Sacramento and Sutter Counties – Flood Risk Management - \$943 Million
2. San Clemente Shoreline – Storm Damage Risk Reduction - \$50.9 Million

We request that the Conference Report continue to include these projects.

LA County Drainage Area in Compton Creek

The original 1990 authorization of the LA County Drainage Area (LACDA) involved the construction of 21 miles of levee improvements that increased the flood carrying capacity of the LA River, including Compton Creek. However, since then development has adversely impacted the capacity of Compton Creek, requiring greater authority for the Corps to improve flood protection. Sec. 3015 of the Senate Bill provides a technical correction to the original authorization that includes all of Compton Creek within the sphere of LACDA to improve flood protection for thousands of nearby residents and businesses. We request that the Conference Report retain Sec. 3015 of the Senate bill and ensure these communities are fully protected from potential floods.

LA River Revitalization Project

After seven years of study, the Army Corps recently recommended in September a plan to revitalize the LA River. The plan would restore an 11 mile stretch of the LA River as well as hundreds of acres of habitat along several key points of the river from Griffith Park to downtown. It would remove concrete from the river bottom; restore a historic wash at Piggyback Yard near Union Station; and widen the river to providing terracing along its eastern banks. In order to create more vibrant communities through greater open space and enhanced green infrastructure, we request that the Conference Report include language authorizing this project.

We greatly appreciate the work you have done on this bill and we continue to offer our strong support in the conference. We urge you and our fellow conferees to support these provisions that are important to our state and our country.

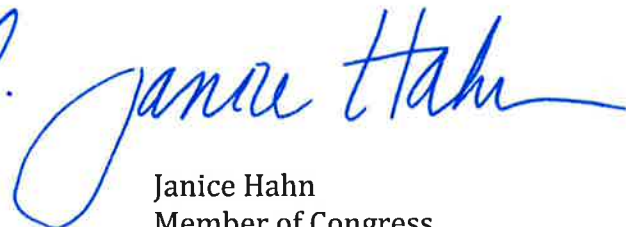
Sincerely,



Grace F. Napolitano
Member of Congress



John Garamendi
Member of Congress



Janice Hahn
Member of Congress