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April 30, 2020

The Honorable Peter A. DeFazio
Chair
Committee on Transportation and Infrastructure
Washington, DC 20515

The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
Washington, DC 20515

The Honorable Grace F. Napolitano
Chair
Subcommittee on Water Resources and Environment
Washington, DC 20515

The Honorable Bruce Westerman
Ranking Member
Subcommittee on Water Resources and Environment
Washington, DC 20515

Dear Chairman DeFazio, Ranking Member Graves, Subcommitee Chair Napolitano, and Ranking Subcommittee Member Westerman:

Thank you for all of your work to gather feedback and submissions requests from House members on project, study, and policy requests for the Water Resources Development Act (WRDA) of 2020.

As you work to finalize WRDA authorizations, we urge you to make two critical environmental reforms to remove arbitrary barriers to natural infrastructure, and to make it easier for low income and underserved communities to engage in effective flood risk management planning for their communities.

Natural infrastructure can be a highly effective, and cost-effective, tool for protecting communities and increasing the resilience of the nation's water resources infrastructure. It makes communities safer and more resilient by absorbing floodwaters and buffering storm surges, and provides an extra line of defense that improves the effectiveness and resilience of levees and other infrastructure. Projects that restore natural infrastructure are also a significant creator of jobs that by necessity are local and cannot be exported.

Protecting and restoring natural infrastructure leads to healthy rivers, floodplains, wetlands, and shorelines and increases the many benefits those systems provide for public health and well-being. The diverse environmental benefits provided by sustainable and cost-effective natural infrastructure can be particularly valuable for underserved communities that suffer from flooding in combination with environmental health challenges.

Removing Barriers to Natural infrastructure

Despite the many important benefits provided by natural infrastructure, it remains an underused tool for reducing flood risks. We must ensure that U.S. Army Corps of Engineers projects and operations take full advantage of natural infrastructure and enhance rather than harm these vital natural systems.

Unfortunately, the Corps treats natural infrastructure and nonstructural measures differently when assessing the non-Federal cost share, with significant implications for communities. The non-federal cost share for nonstructural flood projects is 35% of total project costs, including the costs of all lands, easements, rights of way, and disposal sites. In contrast, the non-federal cost share for natural infrastructure projects can be as high as 50% of total project costs. This is because the Corps typically accounts for natural infrastructure as a structural project, which requires the non-federal sponsor to pay 35% of project costs plus the cost of land, easements, rights of way, and disposal sites, up to a combined maximum of 50% of project costs.

To address this disparity, Congress should clarify that natural infrastructure projects are subject to the same cost share requirements as nonstructural projects. This would be consistent with 33 U.S.C. § 701n(a)(4), which defines the term "nonstructural alternatives" for the purpose of the PL 84-99 program to include "efforts to restore or protect natural resources, including streams, rivers, floodplains, wetlands, or coasts, if those efforts will reduce flood risk."

Facilitate Flood Risk Management Planning for Underserved Communities

Non-Federal sponsors pay 50% of the cost of feasibility studies for flood and hurricane and storm damage reduction projects. While this study cost-share provides an important safeguard for taxpayers, it can be a significant barrier to evaluating opportunities for addressing flooding that disproportionately impacts minority, low-income, and/or indigenous populations.

To assist undeserved communities, Congress should establish targeted criteria for waiving the non- federal cost share for flood and storm damage reduction feasibility studies and require that such studies fully evaluate natural infrastructure solutions. Natural infrastructure can provide sustainable, environmentally protective, and less expensive solutions for avoiding and reducing risks while also improving public health and well-being.

Recommended legislative language to achieve both of these proposed improvements is appended to this letter.

We appreciate your consideration of this request and urge you to ensure that natural infrastructure is a critical resilience strategy for our nation's water resources infrastructure, and to increase access of flood risk management planning for underserved communities.

Sincerely,

Nanette Diaz Barragán
Member of Congress

/s/ Jared Huffman
Member of Congress

/s/ Gwen Moore
Member of Congress

/s/ Debbie Mucarsel-Powell
Member of Congress

/s/ Alcee L. Hastings
Member of Congress

/s/ Pramila Jayapal
Member of Congress

/s/ Yvette D. Clarke
Member of Congress

/s/ Brian Fitzpatrick
Member of Congress

/s/ Alan Lowenthal
Member of Congress

/s/ Eleanor Holmes Norton
Member of Congress

/s/ Cedric Richmond
Member of Congress

/s/ Filemon Vela
Member of Congress

/s/ Jimmy Gomez
Member of Congress

/s/ Betty McCollum
Member of Congress

/s/ Darren Soto
Member of Congress

/s/ Barbara Lee
Member of Congress

/s/ Sharice Davids
Member of Congress

/s/ Deb Haaland
Member of Congress

/s/ Vicente Gonzalez
Member of Congress

/s/ Linda T. Sanchez
Member of Congress

/s/ Jan Schakowsky
Member of Congress

Removing Barriers to Natural Infrastructure

Proposed Language: *Amend 33 U.S.C. § 2213(b) by adding "and natural infrastructure" after "nonstructural" each time it appears in 33 U.S.C. § 2213(b), and by adding "and storm and hurricane damage reduction" after "flood control" each time it appears in 33 U.S.C. § 2213(b).*

The revised text would read as follows:

(b) Nonstructural and natural infrastructure flood control and storm and hurricane damage reduction projects

(1) In general

The non-Federal share of the cost of nonstructural ***and natural infrastructure*** *flood control* ***and storm and hurricane damage reduction*** *measures shall be 35 percent of the cost of such measures. The non-Federal interests for any such measures shall be required to provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the project, but shall not be required to contribute any amount in cash during construction of the project.*

(2) Non-Federal contribution in excess of 35 percent

At any time during construction of a project, if the Secretary determines that the costs of land, easements, rights-of-way, dredged material disposal areas, and relocations for the project, in combination with other costs contributed by the non-Federal interests, will exceed 35 percent, any additional costs for the project (not to exceed 65 percent of the total costs of the project) shall be a Federal responsibility and shall be contributed during construction as part of the Federal share.

Facilitate Flood Risk Management Planning for Underserved Communities

Proposed Language: *Amend 33 USC 2215 (Feasibility studies; planning, engineering, and design) by adding a new subsection (a)(1)(4) as follows:*

(4) Community Protection

(A) Exemption. Notwithstanding the study cost sharing requirements established by 2215(a)(1)(A), there shall be no non-Federal cost share requirement for flood or storm damage reduction feasibility studies that meet two of the following criteria as of the date the project study is authorized:

1. *(i) The percentage of people living in poverty in the county or counties in which the project is located is above the percentage of people living in poverty in the state, based on U.S. Census Bureau Data;*
2. *(ii) The percentage of families whose incomes fall above the poverty threshold but below the average household income in the county or counties in which the project is located is above the percentage of the same for the state, based on U.S. Census Bureau Data;*
3. *(iii) The percentage of minority or indigenous peoples in the county or counties in which the project is located is above the average percentage in the state, based on U.S. Census Bureau Data; or*
4. *(iv) The project is addressing impacts that have a disproportionate impact on minority populations, low-income populations, and/or indigenous peoples.*

(B) Study Requirements. Feasibility studies carried out under this subsection shall: (i) prioritize the avoidance of damages and residual risk; and (ii) incorporate natural infrastructure, or a combination of natural infrastructure and nonstructural features, that avoid and/or reduce at least 50 percent of flood or storm damages in one or more of the alternatives included in the final array of alternatives evaluated. The benefits of natural infrastructure features and/or nonstructural measures that avoid damages and minimize residual risk shall be deemed to be at least equal to the cost of those measures.