

December 2022

## MEMORANDUM

RE: Bipartisan Agreement on Water Resources Development Act of 2022

### Summary

Our nation's water resources systems are crucial to our economy, public safety, and the preservation and enhancement of our environmental resources. Our levees, dams, inland waterways, and ports protect hundreds of communities, support millions of American jobs, and generate trillions in economic activity. However, many of these infrastructure assets have reached the end of their design life, and the investment gap must be closed if we hope to both repair and modernize our water resources systems to be competitive in the 21<sup>st</sup> Century.

ASCE's [2021 Report Card for America's Infrastructure](#) gives the nation's infrastructure an overall grade of "C-". While this represents the first time the nation's overall GPA has reached the "C" range since ASCE started grading the nation's infrastructure in 1998, the nation's water infrastructure systems continue to see significant challenges and the nation's [dams](#) and [levees](#) each received a grade of "D" in 2021. According to the Association of State Dam Safety Officials, the nation's more than 92,000 dams require more than \$70 billion worth of repairs, while the nearly 30,000 miles of levees nationwide will require approximately \$80 billion for maintenance and rehabilitation over the next decade. [Inland waterways](#) received a grade of "D+" with a project backlog of approximately \$6.8 billion, causing shipping delays which cost about \$44 million per year. The nation's [ports](#) fared better than most infrastructure categories with an overall grade of "B+". However, there remains a \$12 billion funding gap over the next decade for waterside infrastructure activity such as dredging, and billions is also needed for landside infrastructure.

Ideally, every two years, Congress passes the Water Resources Development Act (WRDA). WRDA legislation is drafted and debated by the [Senate Environment and Public Works \(EPW\) Committee](#) and the [House Transportation & Infrastructure \(T&I\) Committee](#). Congress has kept this biennial schedule and passed WRDA on a bipartisan basis since 2014.

This year, Congress has maintained that schedule by passing a [bipartisan agreement on WRDA](#). The agreement was incorporated into the National Defense Authorization Act for FY 2023, which passed in the House on December 8, 2022, and in the Senate on December 15, 2022.

This past summer, the [House](#) and the [Senate](#) passed their respective versions of WRDA on a bipartisan basis. Following passage of the Senate bill on July 28, 2022, House T&I and Senate EPW engaged in negotiations on a final bill to be considered by year's end and sent to President Biden's desk. The agreement that was produced includes the authorization of 25 new water infrastructure projects that have passed U.S. Army Corps of Engineers (USACE) technical reviews. It also includes several key policy provisions which were included in either the House or Senate bills, or in both. Notable provisions in the agreement include:

- Reauthorization of the National Levee Safety Program through FY 2028.
- Establishment of a National Low Head Dam Inventory.
- Providing USACE with greater authority to protect and restore the nation's shorelines and riverbanks through studies and projects.
- Making permanent the current cost share formula for the Inland Waterways Trust Fund (IWTF) projects.
- Authorizing dredging activity in underserved community harbors.
- Authorizing USACE to more actively recruit individuals for careers in science, technology, engineering, and math (STEM).
- Enhancing infrastructure resilience, such as allowing USACE to incorporate resilience measures into federally authorized hurricane or shore protection projects when performing emergency repairs, and expressing a sense of Congress that USACE should repair assets damaged by disasters to project design levels at or above the original design.
- Requires assessment of USACE levees.
- Expanding dam and levee safety programs to increase safety and improve resilience.

For additional background on specific provisions in the agreement, please see this [section-by-section summary](#) prepared by the House T&I and Senate EPW Committees.

## **Water Resources Development Act 2022**

### ***Shoreline and Riverbank Restoration Mission***

WRDA 2022 authorizes USACE to carry out shoreline and riverbank protection and restoration projects to address flood damage and the effects of hurricanes and storms. It also allows for such projects to be carried out at a reduced non-Federal cost share of ten percent for projects implemented in economically disadvantaged communities. USACE will also be authorized to cover up to \$200,000 in initial costs to study such projects.

**ASCE Position:** ASCE supports conservation of habitat, wetlands, and other coastal resources within coastal zones and effective USACE restoration projects. Activities ASCE supports include those carried out by USACE's Federal Shore Protection Program, which provides design guidance and authorizes federal participation in shore protection studies, restoration projects, and cost sharing. Furthermore, [ASCE supports](#) government policies that anticipate and prepare for the impacts of climate change on the built environment. ASCE also supports informing policy

makers that the impacts of climate change for historically disadvantaged communities should consider social and economic equity and not be based solely on economic benefit to cost ratio.

#### *Permanent Cost Share Formula for Inland Waterways Trust Fund*

The bipartisan WRDA agreement includes a provision to make the current cost share formula for the Inland Waterways Trust Fund (IWTF) of 65%-35% permanent. This formula was adjusted in WRDA 2020 from a previous 50-50 percent split, a change for which ASCE advocated. The cost share is currently due to expire in 2030. Inland waterways construction and rehabilitation costs are shared by the federal government through general funds and by users through the IWTF. Operation and maintenance costs for inland waterways are covered in full by the federal government. The IWTF is supported by a 29 cents per gallon tax on barge fuel and cannot exceed expenditures in a given year. In April 2015, this user tax was increased by 9 cents for the first time since 1995 upon the urging of the Inland Waterways Users Board, in order to increase investment in the system.

**ASCE Position:** ASCE supports making the IWTF cost share formula permanent to provide greater certainty for future rehabilitation projects. Doing so will also help to reduce the inland waterways project backlog. While the agreement does not include the cost share adjustment of 75%-25% which was in the Senate passed bill, and for which ASCE advocated, making the current formula permanent is a positive step in supporting future construction efforts.

#### *Authorizes Increased Dredging Activity*

WRDA 2022 includes provisions to expand USACE dredging activities. The bill authorizes dredging projects in underserved community harbors and authorizes a five-year Inland Waterways Regional Dredge pilot program. The legislation also requires the USACE to develop criteria for the evaluation and ranking of maintenance dredging requirements for small, remote, and subsistence harbors and direct the Corp to develop a strategic dredged material management plan.

The agreement also includes a provision to authorize environmental dredging activity to remove contaminated sediment on certain projects. It also requests USACE submit a report to Congress on the current public and private dredge capacity and availability to meet the nation's dredging needs, as well as a report on the costs and effects of increasing the depths at which operation and maintenance at a harbor is a Federal responsibility.

**ASCE Position:** ASCE supports efforts to enhance investment in dredging activity, which will help to address the \$12 billion waterside infrastructure funding gap. Efforts to address further challenges in underserved harbor communities will also help to enhance economic activity, advance environmental justice, and create new job opportunities.

### STEM Workforce Recruiting

The WRDA agreement authorizes USACE to carry out activities to expand recruiting efforts to recruit individuals for careers in the science, technology, engineering, and math (STEM) fields and directs the Corps to prioritize recruitment of people located in economically disadvantaged communities, where appropriate.

**ASCE Position:** ASCE strongly supports the development of the next generation STEM workforce to design, build, and maintain infrastructure for the 21<sup>st</sup> century. The *2021 Report Card for America's Infrastructure* supports technical and career training for “green collar jobs” to recruit individuals to effectively manage modern infrastructure systems and develop new tools to improve management of these systems. With the influx of additional funding from the Infrastructure Investment and Jobs Act, it will be critical to grow the pipeline of engineers and address workforce gaps.

### Resilience

The WRDA agreement includes several provisions to enhance resilience of the nation's water resources infrastructure and emphasizes the importance of incorporating resilience into design models. These provisions include:

- A sense of Congress that post disaster repair and restoration activities should be aimed at repairing assets to the original project design level or above that level if the original project design is out of date.
- Authorizing feasibility studies for projects for flood risk management, coastal storm risk management, ecosystem restoration, navigation, water supply, and recreation, including studies for modifications to existing projects.
- Increasing the maximum additional period for beach nourishment for a water resources development project as a result of a feasibility study from 15 years to 50 years.
- Authorizing USACE to repair or restore a hurricane or shore protection project or structure beyond the original design level, which is something that ASCE has long advocated for.
- Requiring reports on infrastructure resiliency issues, including an assessment on coastal flooding mitigation modeling and testing capacity, a study on mitigation for water resources development projects by the U.S. Comptroller General, and a western infrastructure study to examine ways to improve water management and preparedness for changing hydrological conditions.

**ASCE Position:** As climate change continues to increase the intensity and frequency of powerful storms, the nation's infrastructure will come under increased strain to withstand harsher elements. This will ultimately lead to system failures, costly repairs, and more frequent replacement needs. WRDA 2022 supports and encourages increased investment in and focus on resilience measures by allowing them to be more easily incorporated into repair and restoration projects and emphasizing the importance of up-to-date project design levels. Enhancing the climate resilience of the nation's infrastructure is a top priority for ASCE.

## Dams and Levees

This year's WRDA agreement includes a five-year reauthorization of the National Levee Safety Program through FY 2028. It is similar to the provision in the House version of the bill, however that bill reauthorized the program through FY 2026. The reauthorization of the National Levee Safety Program was a top priority for ASCE during the 2022 WRDA process.

The agreement also establishes a National Low-Head Dam Inventory, which accounts for shorter, man-made dams which stretch across an entire river or stream and can create dangerous currents that force people underwater, threatening public safety. The bill authorizes a \$30 million appropriation for the inventory.

It also amends the Levee Rehabilitation Assistance Program to include an expanded definition of "rehabilitation" to now include improvements to reduce flood risk or increase climate resilience as eligible. The bill also increases the maximum amount of Federal funds a levee rehabilitation project can receive from \$10 million to \$25 million and prioritizes projects in underserved communities. Finally, the bill requires an assessment of levees that fall under USACE jurisdiction, and authorizes credit or reimbursement for the costs of carrying out mandated electronic levee inspections.

**ASCE Position:** ASCE strongly supports efforts to reauthorize critical safety programs like the National Levee Safety Program and strongly supports Congress taking action to reauthorize the program in this year's WRDA. This program supports the establishment of national levee safety guidelines to be used for levee systems nationwide, and assists state efforts to regulate levees, perform inspections, and identify rehabilitation needs.

Another key priority for which ASCE did advocate, but was not included in any iteration of WRDA in 2022, was reauthorization of the National Dam Safety Program which is set to expire at the end of FY 2023. The National Dam Safety Program is critical to supporting existing state dam safety programs by providing grant funding to support dam assessments, monitoring, and staffing needs. The Bipartisan Infrastructure Law provided more than \$200 million for state assistance grants and operations and support funding through the National Dam Safety Program. In order to build on this momentum, Congress must take action to reauthorize this critical program before it lapses next September.

While much work remains to be done, ASCE strongly supports efforts the agreement does make to enhance the safety and resilience of the nation's dams and levees. An accurate inventory of low-head dams nationwide will support public safety and ensure greater awareness of the hazard posed by these structures. Additionally, required assessments of Corps owned levees will allow for needed rehabilitation efforts to be properly catalogued, and referred to the appropriate lawmakers in Congress. ASCE also strongly supports efforts to incorporate resilience measures into the current law's definition of rehabilitation activity. This will help to ensure that levees throughout the country are built in a manner in which they can withstand higher sea and river levels, and provide greater flood protection to leveed communities.

## Research

The WRDA agreement contains provisions expanding the basic research and development capabilities of USACE to better support the mission of the agency. This expansion includes pathways to establish research and development federal funding streams for USACE research activity, including the establishment of a separate research and development appropriations account.

**ASCE Position:** ASCE strongly supports basic and applied research and development along with demonstration and commercialization programs in civil engineering. Significant investment in research and development will facilitate a durable, secure, sustainable, and resilient infrastructure that will meet the needs of the 21<sup>st</sup> century.

## Further Action

ASCE is pleased with Congress's efforts to pass WRDA 2022 on schedule. The President is expected to sign NDAA, which includes the WRDA agreement, in the coming weeks prior to the end of the 117<sup>th</sup> Congress.

*For questions, please contact the ASCE Government Relations team.*

**Emily Feenstra**, Chief Policy & External Affairs Officer, [efeenstra@asce.org](mailto:efeenstra@asce.org)

**Caroline Sevier**, Director, Government Relations, [csevier@asce.org](mailto:csevier@asce.org)

**Matthew McGinn**, Energy, Environment, Water, & Parks, [mmcginn@asce.org](mailto:mmcginn@asce.org)

**Eleanor Lamb**, Transportation, Aviation, Ports, & Inland Waterways, [elamb@asce.org](mailto:elamb@asce.org)

**Martin Hight**, Resilience, Research & Development, STEM, [mhight@asce.org](mailto:mhight@asce.org)