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Re: USACE Agency Specific Procedures for water resources investments (docket COE–2023–0005)

Please accept the following comments on behalf of the [Resilient Coastal Communities Project](#) (RCCP), a partnership between the Columbia Climate School’s Center for Sustainable Urban Development and the [New York City Environmental Justice Alliance](#), submitted in response to the February 15th, 2024 proposed rule (“Proposed Rule”) establishing Agency Specific Procedures (“ASPs”) for the U.S Army Corps of Engineers (“USACE”) to implement the Principles, Requirements, and Guidelines (“PR&G”) for Federal investments in water resources.

Subject to the specific comments below, RCCP supports the general intent of Proposed Rule to provide equal consideration of economic, environmental and social benefits, rather than prioritizing just economic benefits, in connection with federal investments in water resources. RCCP also supports the intent of Proposed Rule to put frontline communities “front and center” in water resource investment project planning and design. In these regards, the Proposed Rule aligns with the environmental and climate justice goals enunciated in the Biden Administration’s 2021 Justice40 initiative, and could improve the manner in which USACE addresses the growing risks from climate-related disruption in frontline communities and repair the damage inflicted on them by systemic underrepresentation and legacies of disproportionate environmental burdens and harm. RCCP also supports the intent of the Proposed Rule to elevate the role of natural and nature based features in the design and implementation of federal water resource improvement projects.

Before turning to our specific comments in the three areas referred to above, it must be noted that, while the Proposed Rule promises to elevate community involvement and social and environmental values in water resource investment planning and design, those goals will not be achieved, even if this Proposed Rule goes into effect, unless the Army Corps commits to these changes fully and effectively by providing sufficient resources, training and other support for their successful implementation. Such implementation may also require changes in USACE’s

underlying approach to these issues at the staff level. If planners see community consultation as an obligation or if they doubt the value of collaborating with community members who are not as technically trained as themselves and their colleagues, and if that collaboration is not backed by the needed resources at both the agency and community level, the likelihood is that the new collaborative process described here will be toothless and functionally indistinguishable from the current process and will deepen mistrust and harm. However, if government planners are ready and fully equipped to join community leaders in a process based on dialogue, accountability, empowerment and power sharing, and provide funding support for community organizations, especially in disadvantaged communities where such participation would not otherwise be feasible, RCCP believes that community leaders will come to that table and share leadership with USACE in creating truly effective water resource improvement projects.

Turning to RCCP's specific suggestions regarding community engagement and shared leadership in water resource protection project planning, we believe that USACE must rebuild from the ground up in this area. Although the Corps holds public meetings and workshops, community leaders interviewed by RCCP expressed deep concern that such practices are not meaningful, not transparent, do not address their concerns and represent little more than box checking exercises (see [Designing Community-led Plans to Strengthen Social Cohesion: What Neighborhoods Facing Climate-driven Flood Risks Want From Resilience Planning](#)). In view of these concerns, we call on USACE to:

- Develop and make public a framework for a formal approach to including community members in decision making.
- Engage with communities through investments in dedicated staff members and assure that core project staff participate fully and effectively in such engagement.
- Establish formal partnerships with communities in coordination with the non-federal sponsor to lead engagement.
- Develop public facing procedures to display progress in implementing the ASPs and solicit feedback on its methodologies and frameworks for ASP implementation.
- Develop a framework for measuring the impact of the ASPs, share the results of all assessments under this framework and request comments on those assessments to foster ongoing process improvements.

With regard to achieving a better balance between social, environmental and economic goals in water resource improvement planning - the Proposed Rule must do more to foster greater equity. Currently, the Proposed Rule states that codification of a specific set of benefits-costs analysis standards for such evaluations would result in a lack of flexibility in an evolving scientific landscape. This presents an opportunity for confusion and inconsistent alignment with Office of Management and Budget (OMB) Circulars A-4 and A-94 as the rule specifies that this would occur "generally" and "in part".

- USACE should aim to codify a minimum level of standards of alignment of OMB guidance to ensure standardized application of a BCA that best equally considers economic, environmental, and social variables.
- USACE should continue to take steps to adopt OMB guidance on quantifying environmental and social variables, such as OMB's February 2024 Guidance
- USACE should require analysis of the distributional effects in evaluating costs and benefits that ensures proper weight to concerns of equity and environmental justice.

- USACE should make clear to the public the framework for evaluation on water resource projects and provide clarity on comparison of alternatives as well as comparison of quantitative and non-quantitative variables.

With regard to natural and nature based approaches to improving water resources and reducing flood risk: the Proposed Rule must be improved to ensure that USACE fully emphasizes and utilizes all feasible nature based solutions to water resource challenges. Unfortunately nature based solutions and NNBF have been underutilized in USACE projects, despite their capacity to effectively manage risk from multiple hazards, provide benefits to ecosystems and help cost effectiveness, because USACE has consistently demonstrated a preference for traditional gray infrastructure and structural solutions. Section 234.8(a)(3) of the Proposed Rule requires that the final array of alternatives include an alternative that focuses entirely on nature based solutions “if one exists”. This approach is concerning in that it may not be feasible to design projects that rely entirely on nature based solutions, even if such solutions are a central or valuable supporting component; the way the rule is written, such a hybrid approach would not be required to be included in the final array of alternatives. Like the Southern Environmental Law Center, whose support in formulating these comments we gratefully acknowledge, we offer the following recommendations:

- A hybrid alternative should be formally added to the proposed array of alternatives that does not exclude the possibility of structural measures but seeks to be substantially composed of NNBF.
- The use of nature based solutions should be expanded in all alternatives when feasible and an understanding of where NNBF are most feasible should begin with project initiation.
- USACE’s Engineering with Nature (EWN) should have a formal role in developing all alternatives in Proposed Rule so that their expertise is best leveraged on decision making for implementation of NNBF.

We call on USACE to make the modifications to the Proposed Rule suggested above, complete its adoption promptly and apply it fully. Doing so would significantly improve the chances that people throughout the United States will find themselves living in more equitable, vibrant, connected, and ecologically sound communities.

Respectfully submitted,

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