



**Ecological Restoration Business Association**  
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March 3, 2022

Candace Vahlsing  
Associate Director for Climate, Energy, Environment, and Science  
Office of Management & Budget  
Eisenhower Executive Office Building  
Washington, D.C.

Dear Ms. Vahlsing:

On behalf of the Ecological Restoration Business Association (ERBA), which represents the nation's leading ecological restoration and mitigation providers, I write to respectfully request that the President's Fiscal Year 2023 budget include \$235 million for the Regulatory Program of the U.S. Army Corps of Engineers (Corps).

ERBA members' projects facilitate the accountable resolution of permittees' environmental liabilities, allowing infrastructure projects to move forward in an efficient, cost-effective manner. When all players can operate efficiently – the Corps, permittees, and mitigation providers – the public benefits from timely environmental restoration, permittees move forward with their projects expeditiously, and the private sector delivers high quality, durable restoration solutions at a fair cost.

In the last decade, the Corps' 404 mitigation program has seen exponential growth in the number of mitigation projects submitted for Corps Districts' review and ongoing oversight, while the Regulatory Program budget has remained static at roughly \$200 million (\$210 million in FY21). If the Corps' Regulatory budget had simply been adjusted for inflation on an annual basis to maintain staffing levels, their budget would now be upwards of \$235 million. But, to cope with a static Regulatory budget, the Corps has shrunk staffing levels and limited training for their existing staff implementing the mitigation program.

Consequently, the time it takes for mitigation to be reviewed, approved, and utilized has increased dramatically. These regulatory delays also hinder the ecological benefits of mitigation and the economic benefits of timely infrastructure development. In some instances, Corps Districts that previously processed mitigation bank approvals in two to three years are now so staffing challenged that bank approvals are taking an average of six years and counting. The Corps' own data tracking Mission Success Criteria 5.1 on initial mitigation approvals reveals Districts' national compliance with the metric is at a failing 35%, indicative of the underlying staffing problem.

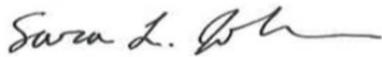
Additionally, there are a multitude of other mitigation decisions that the Corps must make after a mitigation bank is approved (e.g., monitoring plans, bank credit releases, financial assurance releases). ERBA members' experiences indicate that the Corps does not have sufficient staffing or training resources to fulfill these ongoing oversight obligations in a timely manner, which further complicates and delays mitigation availability for infrastructure.

Corps' Districts with trained, dedicated mitigation staff and resources for their Regulatory Programs are best able to facilitate "shovel ready" infrastructure in a manner that accounts for climate resiliency goals and environmentally responsible development. Considering our national infrastructure goals, it makes sense to substantially increase the Corps' Regulatory budget for more efficient project and permit approvals.

We recommend an increase in funding to at least \$235 million, while appreciating that the Corps received significant funding for its Regulatory budget from the passage of the Infrastructure Investment and Jobs Act (IIJA). This additional IIJA funding may certainly increase the level of mitigation processing and approvals, but only if base agency budgets are maintained, and increased to counteract inflationary pressures. The base budget pays the necessary salaries and overhead of Corps full-time employee Regulatory staff, and thus is critical regardless of additional funding provided by IIJA.

Thank you for your consideration of ERBA's request. I reiterate ERBA's strong support for \$235 million for the Corps' Regulatory Program in the President's FY23 budget request. Please do not hesitate to contact me if I can answer any questions on this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sara L. Johnson".

Sara Johnson Executive Director  
Ecological Restoration Business Association