STATEMENT BY

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BEFORE

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REGARDING

PROPOSALS FOR A WATER RESOURCES DEVELOPMENT ACT OF 2008

ON

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Thank you, Chairwoman Johnson, Ranking Member Boozman and distinguished Subcommittee members for the opportunity to submit the following testimony.

My name is Richard N. Brown. I serve as the National President of the National Federation of Federal Employees, an affiliate of the IAMAW. I am here today on behalf of a union coalition, which includes our union, the IBEW and the IFPTE. Each of our unions represents a significant number of federal lock and dam employees. We have been working together to address a wasteful and unnecessary reorganization of the lock and dam function of the Army Corps of Engineers. We believe this reorganization is nothing more than a continuation of an ill-advised A-76 study that Congress has shut down in years past. In my testimony I will discuss our concerns with the Corps' locks and dams reorganization and also make some recommendations for the Water Resources Development Act (WRDA) of 2008.

Background

In 2005, the Army Corps of Engineers began planning what would have been one of the largest and most expensive A-76 privatization studies ever conducted. In fact, it would have been the second biggest ever in terms of FTEs. Under review would have been approximately 2,000 full-time positions located at over 230 locks and dams across the country. The study would likely have cost tens of millions of dollars to conduct, and would not have ensured any promise of savings.

At stake in this study would have been an absolutely critical piece of our national infrastructure. Our economy is dependent on being able to utilize the 12,000 miles of

commercially navigable channels across the U.S., and the proper functioning of the federal locks and dams are a key component of that capability. The Midwest is particularly dependent on our waterways for the transport of energy resources and the export of agricultural commodities.

The federal locks and dams are also an essential component of our homeland security and defense operations. The navigability of our inland waterways allows the option of rapidly shipping military goods to coastal and inland ports using our nation's rivers. An accident at a lock along one of our river systems could jeopardize our rapid response capability.

Regarding this potential A-76 study, our position has always been that the lock and dam function is too important to our national infrastructure to risk moving this function to government contractors. We also maintain that the work lock and dam employees perform should be classified as "inherently governmental," and therefore improper for a privatization review.

Thankfully, Congress agreed that a privatization study was a bad idea and has defunded the lock and dam A-76 study in the Appropriations process for Fiscal Years 2006 - 2008. In 2006, the Army Corps announced they were no longer actively pursuing an A-76 privatization study of federal lock and dam workers.

While we considered this a good thing for the agency and our nation, the satisfaction was short-lived. The Corps shortly thereafter announced that they would be conducting a High Performing Organization (HPO) reorganization study in lieu of a standard A-76 review. At the current moment, the Corps is in the process of developing,

their HPO plan despite being stripped of all funding to implement an HPO reorganization in the Consolidated Appropriations Act for Fiscal Year 2008.

HPO Reorganizations and the Locks and Dams HPO

Before I even begin to discuss the merits of the lock and dam HPO itself, I first feel compelled to ask whether it makes any sense to spend millions of dollars to develop a plan the agency is prohibited from implementing today and possibly for years to come. To me, this seems like a waste of tax-payers' dollars. This money is being spent on consulting fees in Washington, D.C. when it would be better spent going to the districts to start addressing the $1 billion plus operation and maintenance backlog at the agency.

I want to talk a little bit about HPOs. An HPO is a specific kind of reorganization that agencies are increasingly conducting as an alternative to standard A-76 studies. We are not arguing today that the federal government should avoid high performing organizations in the general sense. We are arguing that this specific alternative to A-76, which is termed a "High Performing Organization" by the Administration, is being used as an end-run around the intentions of Congress to carry out the non-strategic privatization agenda of the Office of Management and Budget (OMB) at great cost to the American taxpayer. The most wasteful example of this is the lock and dam HPO currently being planned at the Army Corps of Engineers.

The first thing you should know about HPOs is that there is practically no guidance for agencies to follow in devising their HPO reorganization plans. As much as unions sometimes object to A-76 studies, there is at least an established process in place that Congress is informed about and agency employees can count on. For HPOs no such process or guidance exists. There is no paper trail or Congressional reporting requirement for committees or affected federal employees to follow. In fact, we have been told by the top competitive sourcing officers at the Corps that their entire guidance for the locks and dams HPO is a set of bullet points that fit on one side of a single 8.5 x 11" sheet of paper. This agency is conducting a multi-million dollar reorganization of our critical waterways infrastructure, and yet neither we, nor Congress, know anything about the process they are using. We don't know if their process has a track record of success or even what objectives the reorganization model is designed to meet. We don't know anything, and in our opinion it is wasteful and imprudent to be implementing reorganization models we know nothing about.

The second important thing to know about HPOs is that they are being conducted for all the wrong reasons. OMB gives agencies credit on their management scorecard for competitive sourcing when they conduct an HPO study. These HPO reorganizations are not being used in a strategic sense as they should be. Rather, agencies are arbitrarily conducting HPO studies on functions that have enough FTEs to meet their OMB quota. The only reason agencies appear to be doing HPOs at all is that some agencies can't conduct standard A-76 studies, often because of a limitation placed on them by Congress. Although Congress has repeatedly and emphatically opposed OMB imposing numerical quotas on agencies, it is clear that OMB pressure is

the catalyst for the rise in popularity of HPOs. The locks and dams HPO is a perfect example of this. It is incredibly transparent to us that the locks and dams HPO is the agency's attempt to circumvent the A-76 limitations imposed by Congress and meet arbitrary OMB quotas imposed on the agency.

Another concern about HPOs is the vast size and cost of these reorganizations. Because HPO studies, as internal reorganization efforts, can involve all employees (both commercial and inherently governmental), they are usually larger and more extensive than A-76 studies, and thus can have far more wide-ranging consequences for the delivery of services. Again, the locks and dams HPO is a good example of this. The Corps of Engineers, as stated before, was prevented from doing an A-76 of 2,000 locks and dams employees. After being directed by OMB to conduct an HPO instead, the affected workforce has grown to 3,500 employees and now includes district offices and fleet maintenance personnel as well. By way of comparison, this HPO reorganization now dwarfs the largest A-76 study ever conducted, study of flight service workers, by 1,000 FTEs. The Corps has indicated the locks and dams HPO will take 18 months to develop and five years to implement. These are not mere reorganizations. These are some of the most enormous reforms our government has attempted in decades. And again, they are being conducted non-strategically, using a reorganization model with no track record of success, and they are being paid for out of the existing budgets of the agencies on which they are being imposed.

Recommendations

For all the reasons stated, we would like to see language included in the WRDA of 2008 that would put a permanent end to OMB's attempts to downsize or otherwise alter the locks and dams function of the Army Corps of Engineers. The last three years have indicated that OMB has targeted this function, and we believe they will continue to devise new ways to get around the limitations put on them by Congress, and use agency resources to plan for studies that may never be implemented, if the language is at all ambiguous. Such language is not unprecedented in addressing costly and ill-advised HPO reorganizations. Last year, language was passed in the fiscal year 2007 supplemental appropriations bill (HR 2206) that permanently shut down a major HPO reorganization plan for the Civil Engineering Program of the Coast Guard, a unit of nearly 600 FTEs.

While permanent authorizing language addressing the reshaping of the locks and dams function would be the best solution in our opinion, our coalition would also be supportive of more incremental progress as well. At the bare minimum, we would like to see language in the WRDA of 2008 that would require the Corps to disclose how much money they are spending on HPO reorganizations. In addition, we believe that Congress should have to authorize each HPO before it is implemented. This would give the Congress an opportunity to examine HPOs before they go into effect. If these reorganizations have merit and can withstand scrutiny, then surely they will be swiftly approved.

Finally, in lieu of permanent authorizing language previously suggested, we would like to see language making lock and dam workers "inherently governmental," which would make these positions ineligible for A-76 review. In the 109th Congress, a bipartisan cohort of 55 lawmakers wrote a letter to then-Secretary of the Army Francis Harvey asking him to reclassify lock and dam tasks as inherently governmental. H.R. 5204, the Evans/LaHood bill, was also introduced to address this concern. The Federal Activities Inventory Reform (FAIR) Act statutorily defines "inherently governmental" functions as those that are "so intimately related to the public interest as to require performance by Federal Government employees." These functions include "the interpretation and execution of laws" that significantly affect "the life, liberty or property of private persons." The Department of Army classifies lockmasters as inherently governmental because they make locking decisions and direct lock traffic, thereby significantly affecting the life, liberty and property of private persons. However, even though virtually all lock and dam workers make these same decisions, the agency has refused to classify lock and dam workers appropriately as inherently governmental. Since the Corps has dropped their immediate plans to do an A-76 privatization review of lock and dam workers, this important issue has lost some sense of urgency. Again, the HPO reorganization impacts inherently governmental positions and those classified as commercial alike. However, if the Corps were to renew their plans to do an A-76 study of lock and dam workers, this appropriate reclassification of lock and dam workers would be of the highest priority. We encourage you to consider reclassifying lock and dam workers as inherently governmental in the WRDA of 2008.

This concludes my statement. Once again I thank the Subcommittee for the opportunity to give testimony. I will be happy to answer any questions you may have.