

additional public and private investment.¹⁹⁸ The revitalization effort includes the development of 49 rental townhomes, which were planned by the well-connected St. John Fruit Belt Development Corporation and were recently completed.¹⁹⁹

Since that earmark and the subsequent earmark ban, taxpayers have continued to be on the hook as this housing project still receives substantial support from the federal government. By November 2014, when the project was completed, federal funding doled out by the state of New York comprised \$12.4 million of a total of \$15 million spent on the project. This included \$10 million through the New York State Division of Homes and Community Renewal's Low Income Housing Tax Credits, in addition to \$2.4 million in funds through the New York State HOME program.²⁰⁰ The Federal Home Loan Bank of New York also awarded an \$857,500 grant to the project in January 2014.²⁰¹ The City of Buffalo also used \$2.7 million in HOME Investment Partnership grants from the Department of Housing and Urban Development for the project.²⁰²



Federal handouts are usually welcomed with open arms by the recipients and beneficiaries. That cannot be said about the Fruit Belt Redevelopment Plan. In fact, long-term residents of the area actually fear that the new townhouse units will drive up the prices, and therefore the property tax bills, of their homes, which could drive them out of the neighborhood.²⁰³ While this earmark was purportedly secured to help the residents of the Fruit Belt, it could actually end up doing the opposite.

It appears that, when it comes to this neighborhood, the time is always ripe for parochial spending on local priorities.

THE MONEY SPIGOT THAT NO BAN WILL TURN OFF *Corps Infrastructure Fund Keeps Parochial Dollars Flowing*

In 1992, two legendary bipartisan earmarkers, former House Transportation and Infrastructure Committee Chairman Bud Shuster (R-PA) and former appropriator John Murtha (D-PA), launched the U.S. Army Corps of Engineers' (USACE) environmental infrastructure program

¹⁹⁸ "Mayor Brown Hails Federal Delegation's Efforts to Support Funding for Buffalo Projects, City of Buffalo Office of the Mayor," July 2007, http://m.ci.buffalo.ny.us/Home/Leadership/Mayor/Archive_Press_Releases/2007Archives/July2007/MayorBrownHailsFederalDelegationsEffortstoSupportF.

¹⁹⁹ Deidre Williams, "In Fruit Belt, some have soured on developer's plan for townhouses," *The Buffalo News*, October 20, 2013;

<http://www.buffalonews.com/city-region/development/in-fruit-belt-some-have-soured-on-developer8217s-plan-for-townhouses-20131020>.

²⁰⁰ Governor Anthony Cuomo, "Governor Cuomo Announces Completion of Townhomes in Buffalo's Historic Fruit District," November 3, 2014; <https://www.governor.ny.gov/news/governor-cuomo-announces-completion-townhomes-buffalo-s-historic-fruit-district>.

²⁰¹ "FHLBNY Awards \$1.4 Million in Affordable Housing Frants in Buffalo, Lackawanna and Niagara County," Federal Home Loan Bank of New York, January 14, 2015; <http://www.fhlbny.com/community/housing-programs/ahp/grant-recipients/january-2014/buffalo-lackawanna-and-niagara-county.aspx>.

²⁰² "Governor Cuomo Announces Completion of Townhomes in Buffalo's Historic Fruit District," Governor Anthony Cuomo, November 3, 2014, <https://www.governor.ny.gov/news/governor-cuomo-announces-completion-townhomes-buffalo-s-historic-fruit-district>.

²⁰³ "Some in Fruit Belt Concerned about gentrification," *WGRZ.com News* May 4, 2015;

<http://www.wgrz.com/story/news/local/downtown/2015/05/04/fruit-belt-buffalo/26906473/>.

with a South Central Pennsylvania Environmental Infrastructure “pilot program.”²⁰⁴ The program allowed appropriators to funnel money to particular communities for municipal water supply, drinking water treatment, and wastewater treatment projects.²⁰⁵ This infrastructure is normally paid for by the communities that use it, supplemented by a combination of utility bills and municipal bonds. There is also an existing federal program – EPA’s Clean Water State Revolving Fund – that provides assistance in the form of low interest loans for water quality infrastructure programs. But, pork-loving lawmakers created another federal program to layer on top of these existing funding streams.

Despite the environmental infrastructure program’s duplication of other federal efforts, and the facts that it gave out grants instead of loans, was not part of the USACE’s primary mission, and was not subject to environmental and economic assessments, the program expanded. In the last spending bill before the earmark ban took effect in 2010, the initial “pilot program” had spawned earmarks for at least 21 similar programs throughout the United States, totaling over \$72 million. This funneling of money to USACE projects was hardly distributed evenly across the country. The 16 programs that were earmarked to the districts and states of party leadership and appropriators accounted for nearly all of the funds – just less than \$70 million in fiscal year 2010. In fact, the appropriators were so tied to these particular pipelines of pork that, following the redistricting resulting from the 2000 Census, the counties included in the South Central Pennsylvania Environmental Infrastructure fund were updated to match the new alignment of Representative Murtha’s district.²⁰⁶



Although the environmental infrastructure funds began as earmarks, the 2010 earmark ban certainly did not stop the funding flow. Because Congress could no longer earmark to a particular environmental infrastructure project, it created a number of “slush-y funds” that allow the USACE to direct funds without congressional oversight.²⁰⁷ One of these funds is designated for “environmental infrastructure projects.”²⁰⁸ No president has requested funding for environmental infrastructure projects – not Clinton, not Bush, not Obama – but Congress continues to appropriate millions of dollars for this fund. The fiscal year 2015 omnibus bill funding the federal government financed this environmental infrastructure fund to the tune of \$50 million.

The way that funds travel from these slush-y funds to a project is as murky as pond water. In the appropriations language, Congress provides that “the Corps retains complete control over project-specific allocations decisions,” but then goes on to list some criteria for the USACE to

²⁰⁴ “Crossroads: Congress, The Corps of Engineers and the Future of America’s Water Resources”, National Wildlife Federation and Taxpayers for Common Sense, pg. 65, March 2004; <http://www.taxpayer.net/images/uploads/downloads/Crossroads2004.pdf>.

²⁰⁵ Public Law 102-580, October 31, 1992, Section 313; <http://www.gpo.gov/fdsys/pkg/STATUTE-106/pdf/STATUTE-106-Pg4797.pdf>.

²⁰⁶ Public Law 110-114, November 8, 2007, Section 3143; <http://www.gpo.gov/fdsys/pkg/PLAW-110publ114/pdf/PLAW-110publ114.pdf>.

²⁰⁷ “Our Take: Congress Turns to Slush Fund Water Projects,” Taxpayers for Commons Sense, January 15, 2014;

<http://www.taxpayer.net/library/article/congress-turns-to-slush-to-fund-water-projects>

²⁰⁸ Public Law 113-76, January 15, 2014; <http://www.gpo.gov/fdsys/pkg/CREC-2014-12-11/pdf/CREC-2014-12-11.pdf>.

consider.²⁰⁹ These criteria include “the extent to which the work will enhance national, regional, or local economic development,” “number of jobs created directly by the funded activity,” “projects with the greater economic impact,” and “projects in counties or parishes with high poverty rates.”²¹⁰ Noticeably absent from the criteria is any mention of water quality, water needs, cost effectiveness, or existing water infrastructure.

Somehow the USACE decides which projects receive funds from the environmental infrastructure slush fund and produces a Civil Works Work Plan that specifies the projects and funding levels.²¹¹ Comparing the post-earmark ban fiscal year 2014 work plan²¹² to the pre-ban list of earmarks for fiscal year 2010 shows an uncanny level of similarity. For example, Patient Zero, a South Central Pennsylvania Environmental Infrastructure program, received \$540,000 in the USACE fiscal year 2014 work plan – more than half a million dollars to celebrate its 22nd birthday. As of fiscal year 2014, at least 21 other environmental infrastructure programs that began as earmarks continued to receive funds from the Environmental Infrastructure fund.

Because there are no longer earmark requests to show that a particular member of Congress asked for a particular project, it is impossible to definitively know why any single project was funded. But some of the projects that began as earmarks and have endured are in the states and districts of powerful members. The largest single environmental infrastructure project in the fiscal year 2014 work plan is \$4 million for rural Nevada, specifically to “complete the Searchlight project,” which happens to be located in the hometown of then-Senate Majority Leader Harry Reid (D-NV).²¹³ The South Central Pennsylvania Environmental Infrastructure program continues to be funded well after the departure of Representative Bud Shuster from Congress. This might have something to do with the fact that his son, Representative Bill Shuster (R-PA), is now the chairman of the House Transportation and Infrastructure Committee, which has oversight over the USACE.

The Environmental Infrastructure program is a microcosm of all that was wrong with earmarks. It began as a pet project to bypass existing federal programs and direct infrastructure funds that were outside the mission of the USACE into a powerful member’s district. Other members of Congress got into the action and were soon piping close to \$90 million per year into their districts. After the earmark ban, which was an attempt to control this kind of spending spree, it appears that Congress simply diverted the pork pipeline into a slush fund. It turns out that you can divert the pork pipeline, but you can’t shut it off.

²⁰⁹ Public Law 113-76, January 15, 2014; <http://www.gpo.gov/fdsys/pkg/CREC-2014-12-11/pdf/CREC-2014-12-11.pdf>.

²¹⁰ Public Law 113-76, January 15, 2014; <http://www.gpo.gov/fdsys/pkg/CREC-2014-12-11/pdf/CREC-2014-12-11.pdf>

²¹¹ “Civil Works Budget and Performance: Work Plan,” US Army Corps of Engineers;

<http://www.usace.army.mil/Missions/CivilWorks/Budget.aspx>

²¹² “Civil Works Budget and Performance: Work Plan (Fiscal year 2014),” US Army Corps of Engineers;

http://www.usace.army.mil/Portals/2/docs/civilworks/budget/workplan/fy14wp_cg_09feb2015.pdf

²¹³ “Civil Works Budget and Performance: Work Plan (Fiscal year 2014),” US Army Corps of Engineers;

http://www.usace.army.mil/Portals/2/docs/civilworks/budget/workplan/fy14wp_cg_09feb2015.pdf