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106TH CONGRESS, 2d Session | SENATE | REPORT 106–362

WATER RESOURCES DEVELOPMENT ACT OF 2000

REPORT

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

TO ACCOMPANY

S. 2796

JULY 27, 2000.—Ordered to be printed.

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106TH CONGRESS, 2d Session | SENATE | REPORT 106–362

WATER RESOURCES DEVELOPMENT ACT OF 2000

JULY 27, 2000.—Ordered to be printed.

Mr. SMITH, of New Hampshire from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2796]

The Committee on Environment and Public Works, to which was referred the bill (S. 2796) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

GENERAL STATEMENT

In reporting the Water Resources Development Act of 2000, the committee is adhering to the policies established in the Water Resources Development Act of 1986 (P.L. 99–662), and continued in subsequent Acts, regarding the authorization of projects within the civil works program of the Army Corps of Engineers. This bill includes authorization for 24 new construction projects for flood control, navigation, hurricane protection and beach erosion control, and environmental restoration.

The Water Resources Development Act of 1986, signed into law on November 17, 1986, marked the end of a 16-year deadlock between the Congress and the Executive Branch regarding authorization of the civil works program. In addition to authorizing numerous projects, the 1986 Act resolved longstanding disputes relating to cost sharing, user fees, and environmental requirements.

Prior to 1986, disagreements over these and other matters had prevented enactment of major civil works legislation since 1970. Between 1947 and 1970, civil works authorization bills were enacted every 2 to 3 years. This regular schedule had many advantages. It helped to avoid long delays between the planning and the

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execution of projects; assured that engineering work and economic analysis were applicable to current conditions; minimized the backlog of projects that have been considered but not authorized by Congress; and allowed the Public Works Committees of the Congress to review proposed projects, programs and agency policies on a regular schedule.

Nevertheless, this system broke down in the 1970's. There was no legislation enacted between 1970 and 1986 to authorize civil works projects for construction. The Water Resources Development Act of 1976 (P.L. 94–587) made some changes to Army Corps policies, but authorized no projects.

In 1986, a House-Senate Conference Committee produced a Conference Report (H. Rept. 99–1013) which was passed by the House and Senate and signed into law on November 17, 1986 (P.L. 99–662). The Water Resources Development Act of 1986 was the largest and most comprehensive authorization of the Army Corps' Civil Works Program since the Senate Public Works Committee was created in 1947.

Some of the major reforms included in the Water Resources Development Act of 1986 are listed below:

- Cost-sharing formulas were established for harbor dredging (section 101), flood control (section 103), shoreline protection (section 103), stream bank erosion control (section 603), and other projects. Project Cooperation Agreements were required for all such projects. Projects for mitigation of fish and wildlife resources were allowed to be carried out at up to 100 percent Federal expense under section 906 and modification of Army Corps projects in the interest of environmental quality were authorized to be carried out at 75 percent Federal expense under section 1135. The Water Resources Development Act of 1996 extended harbor cost sharing formulas to dredged material disposal facilities, increased the non-Federal cost share for flood control, and established cost sharing for environmental protection and restoration.
- The Harbor Maintenance Trust Fund, capitalized by a new Harbor Maintenance Fee, was established to pay 40 percent of the Federal cost of maintaining authorized deep draft navigation channels (sections 210, 1402 and 1403), and was subsequently increased to provide for 100 percent of the cost under the 1990 Water Resources Development Act.
- These policy changes applied to all projects contained in the Water Resources Development Acts of 1988 (P.L. 100–676); 1990 (P.L. 101–640); 1992 (P.L. 102–580); 1996 (P.L. 104–303); 1999 (P.L. 106–53); and will continue to apply to all projects contained in the Water Resources Development Act of 2000.

STATEMENT OF COMMITTEE POLICY

Since 1986, it has been the policy of the committee to authorize only those construction projects that conform with cost-sharing and other policies established in the Water Resources Development Act of 1986 and subsequent Water Resources Development Acts. In addition, it has been the policy of the committee to require projects to have undergone full and final engineering, economic and environmental review by the Chief of Engineers prior to project approvals by the committee.

The Army Corps of Engineers water resources project study process can be initiated when either of the two Public Works Committees of the Congress approves a committee resolution requesting that the study of a potential project area be undertaken. Once such a resolution is approved by either committee, the Army Corps is authorized to proceed with a reconnaissance study of the proposed project at 100 percent Federal cost. The purpose of a reconnaissance study is to determine whether or not there is a Federal interest in the project. Authorization of a reconnaissance study may also be provided by statute. Army Corps policy now requires all reconnaissance studies to be completed within 12 months and at a cost of no greater than $100,000.

If, after completion of the reconnaissance study, a project is deemed to be in the Federal interest, the Federal government and a non-Federal sponsor may enter into an equally cost-shared feasibility study. The feasibility study includes a more detailed set of engineering, economic and environmental analyses to determine whether a project is justified to advance to the construction phase. When the feasibility study is completed, the Army Corps District Engineer reviews the results and forwards a recommendation on the project to the Division Engineer. The Division Engineer issues a Division Engineer's notice and then submits the report to Army Corps Headquarters. Army Corps Headquarters performs a final review and submits the report for the mandatory (33 U.S.C. 701 1(a)) 30-day State and Federal agency review period. After these reviews are complete and the report is found favorable, a report is prepared for the final recommendation of the Chief of Engineers. The report of the Chief of Engineers is forwarded to the Assistant Secretary of the Army (Civil Works) for Administration review and submission to the Congress.

Many of the projects sent to the Assistant Secretary of the Army by the Chief of Engineers are forwarded to the Congress with a recommendation that construction be authorized. Such a recommendation only occurs after the project has been reviewed by the Office of Management and Budget. It is the prerogative of the Administration to make recommendations regarding the authorization of Army Corps projects. However, the committee is not bound by these recommendations. The decision to authorize a project rests with the two houses of Congress.

The policy of the committee limits contingent authorization of water resources projects to those projects that will have final reports of the Chief of Engineers in the same calendar year as the Water Resources Development Act under consideration.

THE 2000 WATER RESOURCES DEVELOPMENT ACT

S. 2796, the Water Resources Development Act of 2000, introduced on June 27, 2000, by Senators Voinovich, Smith, and Baucus, contains several of the provisions requested by the Administration. S. 2796, as reported by the committee, incorporates some of these provisions as outlined below.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Table of Contents

This section designates the title of the bill as "The Water Resources Development Act of 2000" and lists the table of contents.

Sec. 2. Definition of Secretary

This section defines the term "Secretary" for the purposes of the Act as the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

Section 101. Project Authorizations

This section provides authority for the Secretary to carry out 24 projects for water resources development, conservation, and other purposes substantially in accordance with the plans recommended in the reports referenced in the bill language. Descriptions of the projects are as follows:

(a). Projects with Chief's Report

Subsection (a) of Section 101 authorizes one project to be carried out by the Secretary substantially in accordance with the plan and subject to the conditions recommended in a final report of the Chief of Engineers.

NEW YORK-NEW JERSEY HARBOR

Location. New York and New Jersey.
Purpose. Navigation.
Problem. Existing channel depths are not sufficient for larger, more efficient ships. Channel deepening would reduce the number of required vessel trips and congestion-related delays.
Recommended Plan. The plan consists of deepening the Ambrose Channel to a depth of 53 feet mean low water (MLW) and deepening Anchorage, Port Jersey, Kill Van Kull, Newark Bay, Arthur Kill, and Bay Ridge Channels to a depth of 50 feet MLW.
Project Costs. Total cost $1,781,235,000. Federal cost $738,631,000; non-Federal cost $1,042,604,000.
Benefit/Cost Ratio. 1.6 to 1.

(b). Project Authorizations Subject to a Final Report

Subsection (b) of Section 101 authorizes the following 23 projects for water resources development, and conservation, and other purposes to be carried out by the Secretary substantially in accordance with the plan and subject to the conditions recommended in a final report of the Chief of Engineers as approved by the Secretary, if a favorable report of the Chief is completed not later than December 31, 2000.

FALSE PASS HARBOR, ALASKA

Location. False Pass, Alaska.
Purpose. Navigation.
Problem. Fishing vessels incur significant annual expenses at False Pass due to the shortage of moorage facilities.

Recommended Plan. The plan consists of a 10-acre basin constructed just north of the community of False Pass. The basin would accommodate a fleet of 86 vessels ranging in size from 18 feet to 100 feet. The basin would be dredged to depths of -12 feet and -19 feet.

Project Costs. Total cost $15,000,000. Federal cost $10,000,000; non-Federal cost $5,000,000.

Benefit/Cost Ratio. 1 to 1

UNALASKA HARBOR, ALASKA

Location. Unalaska, Alaska.

Purpose. Navigation.

Problem. There is limited long term and transient moorage space for large commercial and fishing vessels. Construction of a harbor for vessels in the 80- to 180-foot size range will allow savings in transportation costs for off season moorage to the Pacific Northwest and reduce damages and delays caused by rafting of vessels.

Recommended Plan. The plan consists of new moorage facilities in Unalaska, with wave protection features consisting of a short rubblemound breakwater on the south end of the harbor and a floating breakwater protecting the length of the harbor from waves in the channel between islands.

Project Costs. Total cost $20,000,000. Federal cost $12,000,000; non-Federal cost $8,000,000.

Benefit/Cost Ratio.

RIO DE FLAG, ARIZONA

Location. Rio de Flag, Arizona.

Purpose. Flood Damage Reduction.

Problem. The identified problem is flooding along the Rio de Flag and Clay Avenue Wash, which results in inundation damage to approximately 1,500 structures.

Recommended Plan. The plan consists of detention upstream on the Rio de Flag, a detention basin on the Clay Avenue Wash, and channel improvements downstream of each detention basin to convey flows through the west Flagstaff area.

Project Costs. Total cost $26,400,000. Federal cost $17,100,000; non-Federal cost $9,300,000.

Benefit/Cost Ratio. 1.3 to 1.

TRES RIOS, ARIZONA

Location. Tres Rios, Arizona.

Purpose. Environmental Restoration.

Problem. The natural riparian ecosystem has been degraded within the study area. The causes of this degradation include elimination of natural flow events due to upstream dams, minimization of base flows, variations in surface waters due to effluent, and exotic species. In addition, significant flood and water quality problems exist.

Recommended Plan. The plan includes a levee system, which will work in conjunction with the restoration features to provide 100-year flood protection. The restoration features include a pump station facility, constructed wetlands, pipelines to distribute water for

cottonwood-willow riparian corridors, and large open water marsh areas.

Project Costs. Total cost $90,000,000. Federal cost $58,000,000; non-Federal cost $32,000,000.

Benefit/Cost Ratio. 1.9 to 1.

LOS ANGELES HARBOR, CALIFORNIA

Location. Los Angeles, California.

Purpose. Navigation.

Problem. The use of larger, deeper-draft container ships has resulted in a need to provide deeper-draft channels and berths.

Recommended Plan. The plan consists of deepening the channels and turning basins to a depth of −53 feet mean low water and disposal of 6.2 million cubic yards of material at four designated locations.

Project Costs. Total cost $168,900,000. Federal cost $44,000,000; non-Federal cost $124,900,000.

Benefit/Cost Ratio. 2 to 1.

MURRIETA CREEK, CALIFORNIA

Location. Murrieta Creek, California.

Purpose. Flood Damage Prevention and Ecosystem Restoration.

Problem. Floodwater inundation is the most common water resource-related problem in the Murrieta Creek watershed. The potential for large flood events with high monetary damage remains a significant threat to the area.

Recommended Plan. The plan consists of an on-line detention basin along the eastern side of Murrieta Creek between Warm Springs and Santa Gertrudis Creeks in conjunction with channel modifications downstream of the detention basin. A flow control structure would be placed just upstream of the Santa Gertrudis confluence, thereby only capturing flows from Murrieta and Warm Springs Creeks and allowing Santa Gertrudis Creek to remain uncontrolled.

Project Costs. Total cost $43,100,000. Federal cost $27,800,000; non-Federal cost $15,300,000.

Benefit/Cost Ratio. The cost of the recommended plan for ecosystem restoration is justified by the restoration of valuable habitat. The benefit-to-cost ratio for the flood damage prevention component is 1.1 to 1.

PINE FLAT DAM, CALIFORNIA

Location. Pine Flat Dam, Kings River, California.

Purpose. Fish and Wildlife Restoration.

Problem. Due to the design and operation of Pine Flat Dam, a portion of the reservoir can experience a significant increase in water temperature at certain times of the year. When there is adequate water, water temperatures are well within the optimal range for the survival of both cold water and warm water fish; however, in low water years, the availability of coldwater habitat can decrease dramatically.

Recommended Plan. The plan includes construction of a multilevel intake structure consisting of three separate steel structures that extend from elevation 953.46 feet, mean sea level (msl), down-

ward to elevation 616.5 feet msl on the upstream face of the dam to allow the release of colder water throughout the year to sustain the trout fishery. The plan also consists of reestablishing 143.5 acres of riparian vegetation and wildlife habitat along the Kings River near the Friant-Kern Canal siphon.

Project Costs. Total cost $34,000,000. Federal cost $22,000,000; non-Federal cost $12,000,000.

Benefit/Cost Ratio. The cost of the recommended plan is justified by the restoration of valuable habitat.

RANCHOS PALOS VERDES, CALIFORNIA

Location. Ranchos Palos Verdes, California.

Purpose. Environmental Restoration.

Problem. The Portuguese Bend landslide along the coast of the city of Rancho Palos Verdes has deposited millions of cubic yards of material into the Pacific Ocean, burying the highly valuable rocky benthic habitat and kelp forest ecosystem. The material has also caused high levels of turbidity, which is degrading the downcoast kelp forest.

Recommended Plan. The plan consists of the construction of an 1800-foot containment dike approximately 400 feet offshore of the Portuguese Bend landslide to contain landslide material. The project will restore about 500 acres of valuable rocky habitat and kelp forest ecosystem that was buried or is continuing to be degraded.

Project Costs. Total cost $18,100,000. Federal cost $11,800,000; non-Federal cost $6,300,000.

Benefit/Cost Ratio. The cost of the recommended plan is justified by the restoration of valuable habitat.

SANTA BARBARA STREAMS, CALIFORNIA

Location. Santa Barbara Streams, Lower Mission Creek, Santa Barbara, California.

Purpose. Flood Damage Reduction.

Problem. The primary problem affecting the lower Mission Creek area is the continuing threat of flooding to property, which affects the health, safety, and well being of the residents of Santa Barbara. Secondary problems are the environmental impacts of flooding, urbanization, and the uncoordinated individual bank stabilization measures.

Recommended Plan. This plan will increase the channel capacity to 3,400 cfs and will provide approximately a 20-year level of flood protection. The new wider creek doubles the habitat for the Tidewater Gobi. The plan also restores the creek bottom, enhancing it's potential as a migratory corridor for the Southern California Steelhead.

Project Costs. Total cost $17,100,000. Federal cost $8,600,000; non-Federal cost $8,500,000.

Benefit/Cost Ratio. 1.2 to 1.

UPPER NEWPORT BAY HARBOR, CALIFORNIA

Location. Upper Newport Bay, Orange County, California.

Purpose. Environmental Restoration.

Problem. Rapid urbanization of the Newport Bay watershed has resulted in a significant increase in the amount of fine sediments depositing into the Bay. Sedimentation has filled in open water areas within the Upper Newport Bay Ecological Reserve, one of the last remaining southern California coastal wetlands that continues to play a significant role in providing critical habitat to a variety of species. Without continued maintenance of the sediment basins, sedimentation will result in significant changes to the balance of wetland habitats, adversely affecting resident and migratory species.

Recommended Plan. The plan consists of expanding and deepening two existing sediment basins and seven associated habitat restoration measures.

Project Costs. Total cost $28,280,000. Federal cost $18,390,000; non-Federal cost $9,890,000.

Benefit/Cost Ratio. The cost of the recommended plan is justified by the restoration of valuable habitat.

WHITEWATER RIVER BASIN, CALIFORNIA

Location. Whitewater River Basin, Coachella Valley, Riverside County, California.

Purpose. Flood Damage Reduction.

Problem. The main problem affecting the area is flooding from the alluvial fan below Indio Hills. Streams carry water and sediment into the Thousand Palms area forming numerous intersecting alluvial fans below the mouth of the canyon and during large storms, these areas are subject to flooding.

Recommended Plan. The plan consists of three levees and a floodway of approximately 700 acres.

Project Costs. Total cost $26,000,000. Federal cost $16,900,000; non-Federal cost $9,100,000.

Benefit/Cost Ratio. 1.4 to 1.

TAMPA HARBOR, FLORIDA

Location. Tampa Harbor, Port Sutton, Florida.

Purpose. Navigation.

Problem. The length of the authorized channel is not sufficient.

Recommended Plan. The original authorization was to deepen the channel from the existing 34 feet to 43 feet, over a length of 3,700 feet. Since that authorization, the non-Federal sponsor has requested that the deepening be considered for the entire length of 6,000 feet. A General Reevaluation Report will be completed in July 2000 on this additional authorization.

Project Costs. Total cost $7,245,000. Federal cost $4,709,000; non-Federal cost $2,536,000.

Benefit/Cost Ratio. 6.3 to 1 on the original authorization. 2.1 to 1 on the additional request.

BARBERS POINT HARBOR, OAHU, HAWAII

Location. Oahu, Hawaii.

Purpose. Navigation.

Problem. Significant changes have occurred in the shipping industry since the initiation of the Barbers Point Harbor project and service ships are larger than originally anticipated. The existing

harbor's depth limitations result in increased transportation costs to the shippers as they must either light-load their larger vessels or continue to use less efficient smaller ones.

Recommended Plan. The plan consists of improvements to a 450-foot long jetty adjacent to the entrance channel and deepening of the 92-acre inshore basin to a maximum depth of 45 feet and the entrance channel to 47 feet.

Project Costs. Total cost $51,000,000. Federal cost $21,000,000; non-Federal cost $30,000,000.

Benefit/Cost Ratio. 1.5 to 1.

JOHN T. MEYERS LOCK AND DAM, INDIANA AND KENTUCKY

Location. Ohio River, Indiana and Kentucky.

Purpose. Navigation.

Problem. The primary problem involves traffic delays during main chamber closures.

Recommended Plan. The plan consists of an extension of the auxiliary lock to provide an overall length of 1200 feet, extension of the lock approach walls, supplemental filling and emptying system improvements, Miter Gate Quick Changeout System improvements, and environmental mitigation measures.

Project Costs. Total cost $182,000,000. One-half of costs shall be paid from the general fund of the Treasury and one-half from the Inland Waterways Trust Fund.

Benefit/Cost Ratio. 1.8 to 1.

GREENUP LOCK AND DAM, KENTUCKY

Location. Ohio River, Greenup, Kentucky.

Purpose. Navigation.

Problem. The primary problems involve traffic delays during main chamber closures. Greenup is one of the most heavily used locks on the Ohio River and when the main chamber is closed due to maintenance or accidents, traffic must lock through the smaller auxiliary chamber, resulting in lengthy delays.

Recommended Plan. The plan consists of a 600-foot extension of the 600-foot auxiliary lock to provide an overall length of 1200 feet, extension of the lock approach walls, supplemental filling and emptying system improvements, Miter Gate Quick Changeout System improvements, and environmental mitigation measures.

Project Costs. $183,000,000 One-half of costs shall be paid from the general fund of the Treasury and one-half from the Inland Waterways Trust Fund.

Benefit/Cost Ratio. 2.5 to 1.

MORGANZA, LOUISIANA, TO GULF OF MEXICO

Location. Morganza, Louisiana.

Purpose. Hurricane Protection.

Problem. The area is significantly affected by tides and the impacts of storm surge inundation have increased, along with deterioration of coastal marshes. In addition, saltwater intrusion continues to plague the wetland habitat throughout the area.

Recommended Plan. The plan consists of floodgates, which will operate when water surface elevations reach a certain level or an impending storm event requires system closure. Otherwise, the

floodgates will remain in an open position most of the year and allow navigational passage. The Houma Navigational Canal Lock and Bayou Gram Caillou floodgate will be operated together approximately three months each year to reduce salinity intrusion. Additional drainage structures are built into the levee to maintain the ebb and flow of tides for wetland habitat enclosed by the protection levee.

Project Costs. Total cost $550,000,000. Federal cost $358,000,000; non-Federal cost $192,000,000.

Benefit/Cost Ratio. 1.09 to 1.

CHESTERFIELD, MISSOURI

Location. Chesterfield, Missouri.

Purpose. Flood Damage Reduction.

Problem. During the Great Flood of 1993, the levee system protecting 4,200 acres of the Chesterfield Valley failed and flooded its interior with up to eight feet of water. Subsequent repairs were made, but the levee system is still considered substandard.

Recommended Plan. The plan consists of levee improvements to provide flood protection to the Chesterfield Valley area, including landside seepage berms and relief wells to control underseepage, a new railroad closure structure and a small floodwall near Centaur Road, a closure structure and a floodwall at Airport Road, two closure structures and a floodwall at Long Road, four pump stations, and several gravity drains.

Project Costs. Total cost $63,000,000. Federal cost $40,950,000; non-Federal cost $22,050,000.

Benefit/Cost Ratio. 1.76 to 1.

Inclusion of this project on the contingent authorization list was an amendment by Smith and Bond.

BARNEGAT INLET TO LITTLE EGG INLET, NEW JERSEY

Location. Barnegat Inlet to Little Egg Inlet, New Jersey.

Purpose. Shore Protection.

Problem. Communities along the entire length of Long Beach Island are vulnerable to hurricanes, northeasters and other storm induced damages.

Recommended Plan. This plan consists of a combination of dune and berm restoration, with a berm width of 125 feet and a 30-foot side dune. Beachfill would be placed on various stretches of Long Beach Island where the existing berm and dune profiles are below the minimum measurements of the design profile. This plan also authorizes periodic nourishment for a 50-year period at an annual cost of $1,751,000, with a Federal cost of $1,138,000 and a non-Federal cost of $613,000.

Project Costs. Total cost $51,203,000. Federal cost $33,282,000; non-Federal cost $17,921,000

Benefit/Cost Ratio. 1.9 to 1.

RARITAN BAY AND SANDY HOOK BAY, CLIFFWOOD BEACH, NEW JERSEY.

Location. Raritan Bay and Sandy Hook Bay, Cliffwood Beach, New Jersey.

Purpose. Shore Protection.

Problem. Tidal flooding and beach erosion progressively threaten the protective beaches, a freshwater lake, and nearby residential areas at Cliffwood Beach.

Recommended Plan. The plan consists of seawall repair with a 60-foot wide berm. This plan also authorizes periodic nourishment for a 50-year period at an annual cost of $110,000, with a Federal cost of $55,000 and a non-Federal cost of $55,000.

Project Costs. Total cost $5,219,000. Federal cost $3,392,000; non-Federal cost $1,827,000.

Benefit/Cost Ratio. 1.2 to 1.

RARITAN BAY AND SANDY HOOK BAY, PORT MONMOUTH, NEW JERSEY

Location. Raritan Bay and Sandy Hook Bay, Port Monmouth, New Jersey.

Purpose. Shore Protection.

Problem. Nearly 1000 residential, commercial, and public structures and properties are affected by tidal inundation from coastal storm events. Storm waters surround the area from the overflow of tidal creeks which form at the eastern and western boundaries of the Port Monmouth community. Wave driven waters also overtop the thin, eroding beach and dune line along Raritan Bay and Sandy Hook Bay. Despite efforts by the State of New Jersey, the shoreline continues to erode. Long term erosion has resulted in a persistent reduction of hurricane and storm damage protection by reducing the height and width of the beachfront.

Recommended Plan. The plan consists of floodwalls, levees, and beach nourishment. This plan also includes dune grass, dune fencing, dune walk-overs and suitable beachfill, with periodic nourishment for a 50-year period at an annual cost of $2,468,000, with a Federal cost of $1,234,000 and a non-Federal cost of $1,234,000.

Project Costs. Total cost $30,081,000. Federal cost $19,553,000; non-Federal cost $10,528,000.

Benefit/Cost Ratio. 1.2 to 1.

MEMPHIS, TENNESSEE

Location. Wolf River, Memphis, Collierville, and Germantown, Tennessee.

Purpose. Ecosystem Restoration.

Problem. The Wolf River and Tributaries Project significantly reduced seasonal flooding, eliminated large amounts of riparian and fisheries habitat and initiated erosion, headcutting and long-term drying of wetlands. Erosion and headcutting continues to progress up the main channel and tributaries, clogging tributaries, reducing fish and wildlife habitat, filling wetlands, killing trees, and changing the hydraulic regime of the wetlands.

Recommended Plan. The plan consists of stabilization weirs, channel restoration, a waterfowl management area, wildlife corridors, trails, and three boat ramps for public access.

Project Costs. Total cost $10,933,000. Federal cost $7,106,000; non-Federal cost $3,827,000.

Benefit/Cost Ratio. The cost of the recommended plan is justified by the restoration of valuable habitat.

JACKSON HOLE, WYOMING

Location. Jackson Hole, Wyoming.

Purpose. Environmental Restoration.

Problem. River channel instability was identified as a major source of problems in the area, including reduced diversity of species and diminished production of vegetation in area habitats. The main river channel has a tendency to fill and shift. As the river changes its course, it can impinge on river island habitats, often resulting in complete destruction. With the loss of these island habitats, aquatic species can no longer survive.

Recommended Plan. The plan consists of restoration of the entire 22-mile reach of the Snake River, starting approximately 2 miles downstream of Moose, Wyoming, to Flat Creek at South Park Elk Feed grounds.

Project Costs. Total cost $66,500,000. Federal cost $43,225,000; non-Federal cost $23,275,000.

Benefit/Cost Ratio. The cost of the recommended plan is justified by the restoration of valuable habitat.

OHIO RIVER

Location. Ohio River Corridor, within the States of Illinois, Indiana, Kentucky, Ohio, West Virginia, and Pennsylvania.

Purpose. Fish and Wildlife Restoration.

Problem. Forest harvest, agriculture, industrialization, urbanization, water pollution, river impoundment, and a variety of other factors have affected the environmental quality of the Ohio River and its floodplain. Many habitats are in need of improvement for the benefit of a wide variety of species.

Recommended Plan. The plan consists of conducting an inventory of existing ecosystem resources; developing a comprehensive program implementation plan to establish the objectives and priorities for the restoration and protection of the ecosystem resources; conducting detailed planning and design and implementing site-specific projects to restore and protect aquatic, wetland, floodplain, and riparian areas; conducting detailed planning and design and implementing appropriate recreation features in conjunction with site-specific restoration projects; and monitoring of individual project performance as a basis for adaptive management of individual projects and periodic update of the comprehensive program implementation plan.

Project Costs. Total cost $200,000,000. Federal cost $130,000,000; non-Federal $70,000,000.

Benefit/Cost Ratio. The cost of the recommended plan is justified by the restoration of valuable habitat.

Sec. 102. Small Shore Protection Projects

This provision amends section 105 of the Water Resources Development Act of 1996 (P.L.104–303) by adding Lake Palourde, Louisiana and St. Bernard, Louisiana to the list of projects the Secretary is authorized to study, and, if feasible, carry out under section 3 of the Act of August 13, 1946 (33 U.S.C. 426g).

Sec. 103. Small Navigation Projects

This provision amends section 104 of the Water Resources Development Act of 1999 (P.L.106–53) by adding Houma Navigation Channel, Louisiana and Vidalia Port, Louisiana to the list of small navigation projects the Secretary is authorized to study, and, if feasible, carry out under section 107 of the River and Harbor Act of 1960.

Sec. 104. Removal of Snags and Clearing and Straightening of Channels in Navigable Waters

This provision adds Bayou Manchac, Louisiana, and Black Bayou and Hippolyte Coulee, Louisiana to the list of projects the Secretary is authorized to study, and, if feasible, carry out under section 3 of the Act of March 2, 1945 (33 U.S.C. 604).

Sec. 105. Small Bank Stabilization Projects

This provision amends section 103 of the Water Resources Development Act of 1999 (P.L.106–53) by adding Bayou Des Glaises, Louisiana; Bayou Plaquemine, Louisiana; Hammond, Louisiana; Iberville Parish, Louisiana; Lake Arthur. Louisiana; Lake Charles, Louisiana; Loggy Bayou, Louisiana; and Scotlandville Bluff, Louisiana to the list of small bank stabilization projects the Secretary is authorized to study, and, if feasible, carry out under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r).

Sec. 106. Small Flood Control Projects

This provision amends section 102 of the Water Resources Development Act of 1999 (P.L.106–53) by adding Weiser River, Idaho; Bayou Tete L'Ours; Louisiana, Bossier City, Louisiana; Braithwaite Park, Louisiana; Cane Bend Subdivision, Louisiana; Crown Point, Louisiana; Donaldsonville Canals, Louisiana; Goose Bayou, Louisiana; Gumby Dam, Louisiana; Hope Canal, Louisiana; Jean Lafitte, Louisiana; Lockport to Larose, Louisiana; Lower Lafitte Basin, Louisiana; Oakville to Lareussite, Louisiana; Pailet Basin, Louisiana; Pochitolawa Creek, Louisiana; Rosethorn Basin, Louisiana; Shreveport, Louisiana; Stephensville, Louisiana; St. John the Baptist Parish, Louisiana; Magby Creek and Vernon Branch, Mississippi; and Fritz Landing, Tennessee to the list of small flood control projects the Secretary is authorized to study, and, if feasible, carry out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s)

Sec. 107. Small Projects for the Improvement of the Quality of the Environment

This provision amends section 105 of the Water Resources Development Act of 1999 (P.L.106–53) by adding Bayou Sauvage National Wildlife Refuge, Louisiana; Gulf Intracoastal Waterway; Bayou Plaquemine, Louisiana; Gulf Intracoastal Waterway, Miles 220 to 222.5, Louisiana; Gulf Intracoastal Waterway, Weeks Bay, Louisiana; Lake Fausse Point, Louisiana; Lake Providence, Louisiana; New River, Louisiana; Erie County, Ohio; and Mushingum County, Ohio to the list of small projects of the improvement of the quality of the environment the Secretary is authorized to study,

and, if feasible, carry out under section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)).

Sec. 108. Beneficial Uses of Dredged Material

This provision adds Houma Navigation Canal, Louisiana; Mississippi River Gulf Outlet, Mile -3 to Mile -9, Louisiana; Mississippi River Gulf Outlet, Mile 11 to Mile 4, Louisiana; Plaquemines Parish, Louisiana; and Ottawa County, Ohio to the list of projects the Secretary is authorized to study, and, if feasible, carry out under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326).

Sec. 109. Small Aquatic Ecosystem Restoration Projects

This provision amends section 106 of the Water Resources Development Act of 1999 (P.L.106–53) by adding Braud Bayou, Louisiana; Buras Marina, Louisiana; Comite River, Louisiana; Department of Energy 21-Inch Pipeline Canal, Louisiana; Lake Borgne, Louisiana; Lake Martin, Louisiana; Luling, Louisiana; Mandeville, Louisiana; St. James, Louisiana; Mines Falls Park, New Hampshire; North Hampton, New Hampshire; Highland County, Ohio; Hocking County, Ohio; Tuscarawas County, Ohio; Central Amazon Creek, Oregon; Delta Ponds, Oregon; Eugene Millrace, Oregon; Medford, Oregon; and Roslyn Lake, Oregon to the list of projects the Secretary is authorized to study, and, if feasible, carry out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

Sec. 110. Flood Mitigation and Riverine Restoration

This provision amends section 212 of the Water Resources Development Act of 1999 (P.L.106–53) by adding Perry Creek, Iowa to the list of projects the Secretary is authorized to study, and if feasible, carry out under the authority provided by section 212 of the Water Resources Development Act of 1999 (33 U.S.C. 2322(e)).

Sec. 111. Disposal of Dredged Material on Beaches

This provision amends section 217 of the Water Resources Development Act of 1999 (P.L.106–53) by adding Fort Canby State Park, Benson Beach, Washington to the list of projects the Secretary is authorized to study, and if feasible, carry out under Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426(j)).

TITLE II—GENERAL PROVISIONS

Section 201. Cooperation Agreements with Counties

Section 201 amends the Flood Control Act of 1970 to provide local entities the same indemnification protections as State governments.

Section 202. Watershed and River Basin Assessments

This provision amends Section 729 of the Water Resources Development Act of 1986 (100 Stat. 4164) by enhancing the ability of the Army Corps to address complex water resource problems across large geographic areas with multiple governmental jurisdictions. The watershed and river basin assessments will be conducted in co-

operation with the Departments of the Interior and Agriculture, the Environmental Protection Agency, and other agencies such as the Departments of Commerce and Transportation, and the Federal Emergency Management Agency, as appropriate, and with Tribal, State, interstate, and local governmental entities.

The assessments will be conducted for a broad variety of water resources needs, including ecosystem protection and restoration, flood damage reduction, navigation, watershed protection, water supply, and drought preparedness. The assessments will be tailored to the specific situation in a river basin or watershed. To the extent practicable, the assessments will consider assessments already conducted by other Federal, State, and interstate agencies. This provision does not authorize the implementation of feasibility studies on specific projects or the projects themselves.

This provision will increase the total authorized appropriations from $5,000,000 to $15,000,000, and add a non-Federal cost sharing requirement. The non-Federal share of the cost of the assessments will be 50 percent. The Secretary is authorized to accept contributions of services, materials, supplies and cash from Federal, Tribal, State, interstate, and local governmental entities where such contributions will help complete the assessments and meet all or part of the non-Federal share.

Sec. 203. Tribal Partnership Program

This provision authorizes the Secretary to work with Federally recognized Tribal governments, including Alaskan Natives, and other Federal agencies, to plan and determine the feasibility of water resources development projects, including projects for flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources. The Secretary shall consider traditional cultural knowledge and values when formulating project studies and consider the applicability and value of in-kind contributions. The Secretary may utilize unique Tribal capabilities.

Projects to be studied will be located primarily within the boundaries of reservations, or within traditional communities, or substantially benefit tribal lands or resources, or preserve cultural values. Studies undertaken under this authority are subject to normal study cost sharing requirements. The Secretary shall give priority to studying the project along the upper Snake River within and adjacent to the Fort Hall Indian Reservation, Idaho, and the project for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington.

The Secretary shall develop ability-to-pay procedures to assist the non-Federal interest in funding studies conducted under this authority. The Secretary should use existing policy and regulatory flexibility to consider non-economic factors and unique tribal conditions when making recommendation under this authority.

The provision authorizes $5,000,000 for fiscal years 2002 through 2006, with a $1,000,000 limit for any tribe.

Sec. 204. Ability to Pay

This provision amends existing ability to pay authority by adding environmental protection and restoration navigation, storm damage

reduction, shoreline erosion, hurricane protection and recreation projects to the types of Army Corps projects which the ability to pay provision applies. Senator Warner offered an amendment to expand the provision from the proposal submitted by the Administration to include all these missions of the Army Corps. The amendment was adopted by unanimous consent.

Under existing law, the ability to pay procedures are only authorized for reducing the non-Federal share of the cost of constructing flood damage reduction and agricultural water supply projects. The provision further provides assistance to financially distressed communities by allowing ability to pay procedures to apply to the non-Federal cost of feasibility studies for the same types of projects.

Application of the ability to pay procedures to feasibility studies is needed because many communities do not have the financial ability to finance studies, let alone projects. The provision also allows the Secretary to consider additional criteria to account for the non-Federal sponsor's financial ability to carry out its cost-sharing responsibilities, or to account for additional financial assistance that may be available from other Federal agencies or the State or States in which the project is located.

The provision directs the Secretary to revise the ability to pay criteria and procedures not later than 18 months after the date of enactment.

Sec. 205. Property Protection Program

This provision authorizes the Secretary to carry out a program to reduce vandalism and destruction of property at Army Corps projects and allows rewards for information or evidence leading to the arrest and prosecution of individuals causing damages. An appropriation of $500,000 annually is authorized for this program.

Recently, recreation areas, natural resource sites, cultural/historical property, hydroelectric power plants and navigation locks and dams have been vandalized routinely, and the cost of this criminal activity to the taxpayer is great. For example, during the period 1986 through 1997, recreation areas sustained losses approximating $12.5 million due to vandalism, arson, and burglary. This provision is intended to reduce the potential for property damage from criminal activity at water resources projects under the jurisdiction of the Department of the Army.

Sec. 206. National Recreation Reservation Service.

This provision provides the statutory authority for the Army Corps to jointly fund an Interagency Contract Management Office for the National Recreation Reservation Service (NRRS) with the U.S. Forest Service. Section 611 of the Treasury and General Government Appropriations Act of 1999 (P.L. 105–277; 112 Stat. 2681–515) provides that no part of any appropriations shall be available for interagency financing of boards, commissions, councils, committees, or similar groups which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

In 1995, the U. S. Army Corps of Engineers and the U.S. Forest Service began discussions regarding the development of a reserva-

tion service for recreation sites and facilities operated by each agency. The agencies planned an easy, one-stop-shopping for the public for reservations to all participating agencies' recreation opportunities. The Forest Service advertised, awarded, and is currently administering the NRRS, a state-of-the-art reservation service for Federal recreation sites and facilities across the country.

The provision allows the Army Corps to participate on a day-to-day basis in the management of the reservation service for the Federal recreation sites and facilities held in the Army Corps' inventory. It allows the NRRS to become a joint agency venture receiving policy guidance and input from all participating agencies. The provision allows the NRRS to provide the public with a more efficient and user-friendly system of reserving Federal recreation sites and facilities by encouraging all agencies, such as the National Park Service and the Bureau of Land Management, which hold such sites in their inventory, to participate.

Sec. 207. Operation and Maintenance of Hydroelectric Facilities.

This provision authorizes the Secretary to determine which maintenance activities at Corps hydroelectric plants can be most cost effectively maintained by contract employees.

The Army Corps operates and maintains hydroelectric power plants with a total of nearly 21,000 megawatts of capacity, making it the largest hydropower owner in the United States. These large hydroelectric generating facilities require specially-trained craftsmen for their operation and maintenance. The skills that are required for the main power train of these hydroelectric facilities are not generally available in the private sector. There are, however, auxiliary support systems that can be maintained more cost efficiently by the private sector. Such systems include heating, ventilating and air conditioning, water systems, lighting, low to medium voltage power distribution, and fish by-pass equipment and facilities that are similar to those found in non-power industrial facilities. This provision allows the Secretary to contract for needed specialized skills for maintenance of hydroelectric plants.

Sec. 208. Interagency and International Support.

This provision increases the Interagency and International Support Authorization from $1,000,000 to $2,000,0000. Under current law, the Secretary is authorized to receive funds to support Federal agencies or international organizations (after consultation with the Secretary of State) to address problems of national significance to the United States, including problems related to water resources, infrastructure development, and environmental protection.

Sec. 209. Reburial and Conveyance Authority.

This provision authorizes the Secretary to identify areas at civil works projects that may be used to reinter Native American remains that have been discovered on project lands, and which have been rightfully claimed by a lineal descendant or an Indian tribe in accordance with applicable Federal law. The Secretary, in consultation and consent of the lineal descendant or tribe, is authorized to recover and rebury the remains at such sites at full Federal

expense. This provision is not intended to affect or limit rights under the Native American Graves and Repatriation Act.

The Secretary may transfer to the Department of the Interior the land identified by the Secretary used to reinter Native American remains to be held in trust for the benefit of respective Native American tribes. In this case, the Secretary shall retain any necessary rights-of-way, easements, or other property interests that is necessary to carry out the authorized project purpose.

Sec. 210. Approval of Construction of Dams and Dikes.

This provision amends Section 9 of the Act of March 3, 1899 to exempt dams and dikes that do not completely span a waterway used to transport interstate or foreign commerce from the requirements of the Act.

Obtaining authorization for dams or dikes under the Act of March 3, 1899 involves considerable time, effort, and expenditure of resources by the proponent of the structure, the Department of the Army, the Corps of Engineers, and either the U.S. Congress or the appropriate State legislature. The effort is justified for dams or dikes proposed to span waterways that are navigable and currently used to transport interstate or foreign commerce. However, for water bodies that have the legal status of navigable waters of the United States only because those water bodies are subject to the ebb and flow of the tide, or because they were historically navigable, or because they could be made navigable with reasonable improvements, authorization of proposed dams or dikes under the Act of March 3, 1899 is neither needed nor practicable. For those categories of water bodies, authorization of any and all proposed structures by the Corps of Engineers under 33 USC 403 would be fully adequate to ensure protection for all aspects of the public interest, including environmental quality and the interests of non-commercial (i.e., recreational) navigation.

For many years the Corps of Engineers regulations governing the regulatory program under the Rivers and Harbors Act of 1899 (including 33 USC Sections 401 and 403) has provided that authorization under 33 USC 401 was required only for any dike or dam that " . . . completely spans a navigable water of the United States and that may obstruct interstate waterbourne commerce." (33 CFR 321.2(b)) The Corps of Engineers has interpreted and applied that provision of Army Corps regulations as requiring authorization under 33 USC 401 for a proposed dam or dike only if it would completely span a waterway that currently supports interstate waterborne commerce. To some degree this provision in Army Corps regulations was upheld as legally permissible in Hart and Miller Islands Area Environmental Group v. Corps of Engineers, 621 F.2d. 1281 (4th Cir. 1980). Because of the wording of the Corps' regulations, the Corps for many years has been requiring that any dam or dike proposed to be built in any navigable water of the United States that is not currently used to transport interstate waterborne commerce would not need authorization under 33 USC 401, but must receive a permit from the Corps under 33 USC 403, and under 33 USC 1344 if a discharge of dredged or fill material would be involved in the construction of the dam or dike (as is usually the case). Section 201 will require that every new dam or dike pro-

posed to be built in any navigable water of the United States that does not require authorization under 33 USC 401 must receive a permit from the Corps under 33 USC 403, so that all aspects of the public interest can be protected in a permit review.

Sec. 211. Project Deauthorization Authority.

This provision amends Section 1001 of the Water Resources Development Act of 1986, as amended, which established criteria for the deauthorization of projects. WRDA 86 also requires a biennial submission to the Congress of a list of projects, or separable elements of projects, which have been authorized but have not met the criteria for continued authorization. Under current law, an authorized project must receive an obligation of funds during the 7 full years immediately preceding the transmittal of the list for it to remain authorized. If no obligations are made within 30 months after the list is submitted to Congress, the project is no longer authorized.

Currently, the Army Corps has a substantial backlog of authorized projects which are not receiving sufficient funding for construction. This provision establishes a more orderly deauthorization process, and one that directly relates to actual conditions that would effect the actual construction of a project (significant adverse environmental impacts, lack of local support, no longer economically justified, premature authorization, lack of funds, etc.).

The provision has two parts. First, if construction of a water resources development project or separable element is not initiated within seven years from the date the project or separable element was last authorized, it will automatically become deauthorized.

Second, those water resources development projects and any separable element of such a project, for which funds have once been obligated for construction, shall be deauthorized if Congressional identified appropriations have not been obligated for construction of the project or separable element during any five consecutive fiscal years. The provisions will not become effective until three years after the date of enactment. In each case, the Congress will be notified in advance of the pending deauthorizations, and a list of all projects or separable elements proposed for deauthorization would be published in the Federal Register.

Sec. 212. Flood Plain Management Requirements.

This provision amends Section 402 of the Water Resources Development Act of 1986, as it was amended by Section 202(c) of the Water Resources Development Act of 1996. The provision strengthens the ability of Army Corps of Engineers to work with non-Federal interests to reduce the impacts of future flood damages. The potential for additional flood damages remain even after the construction of a flood damage reduction project. The provision makes it clear that the non-Federal interests should adopt and enforce measures, practices and policies that they identify in their "Flood Plain Management Plans."

This provision also addresses the need to preserve the level of flood protection initially identified as being provided by a flood damage reduction project. The Army Corps should take into account the effects of future development in the design of the project.

Non-Federal interests should be fully involved in this process and the design should reflect the effects of non-Federal development and the level of flood protection identified with the project should remain over its life.

Since Army Corps projects become local projects once completed, this provision makes it clear that the "Flood Plain Management Plans" will identify those measures that would be undertaken by the non-Federal interests to preserve the level of flood protection. This provision will apply to a project or separable element for which a project cooperation agreement is signed after the date of enactment.

Sec. 213. Environmental Dredging.

This provision amends Section 312 of the Water Resources Development Act of 1990 by allowing non-profit entities to participate in environmental dredging projects, with the consent of the affected local government. Under current law, non-profit entities are not eligible to be non-Federal sponsors for environmental dredging projects.

Sec. 214. Regulatory Analysis and Management Systems Data.

This provision requires the Secretary to publish on the Army Corps' Regulatory Program website, quarterly reports that include all Regulatory Analysis and Management Systems (RAMS) data, including the date on which an individual or nationwide permit application under Section 404 of the Federal Water Pollution Control Act is received, the date on which the application is considered complete, the date on which the Corps either grants or denies the permit. Also, if an application is not complete when first received by the Corps, a description of the reason the application is not complete should be included in the RAMS. This provision was an amendment offered by Senator Inhofe and adopted by unanimous consent.

Sec. 215. Performance of Specialized or Technical Services.

This provision requires that the Chief Executive Officer of an entity requesting specialized or technical services from the Army Corps submit to the Secretary a written request describing the scope of the services to be performed and agreeing to reimburse the Corps for all costs associated with the performance of the services and a certification that the services are not reasonably and quickly available through ordinary business channels.

Before the Secretary can enter into an agreement to perform the services, he shall ensure that the requirements of the request are met and certify that the Army Corps is uniquely qualified to perform the services. The Secretary shall report annually to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure requests submitted for specialized or technical services section. This provision was an amendment offered by Senator Thomas and agreed to10–8 in a roll call vote.

TITLE III—PROJECT-RELATED PROVISIONS

Sec. 301. Boydsville, Arkansas

This provision amends section 402 of the Water Resources Development Act of 1999 (113 Stat. 322) to allow the Secretary to credit up to $250,000 for work performed by local interests prior to initiation of a feasibility study if the Secretary finds that the investigations are integral to the scope of the study.

Sec. 302. White River Basin, Arkansas and Missouri

This provision modifies section 374 of the Water Resources Development Act of 1999 (113 Stat. 322) to extend the authorization period until 2002 for the Secretary to conduct a study and provide a report regarding the reallocation of five U.S. Army Corps of Engineers reservoirs to provide for minimum flows necessary to sustain tailwater trout fisheries.

Sec. 303. Gasparilla and Estero Islands, Florida

This provision amends section 201 of the Flood Control Act of 1965 (79 Stat.1073) to authorize the Secretary to enter into an agreement with non-Federal interests to carry out the shore protection project in accordance with Section 206 of the Water Resources Development Act of 1992 (106 Stat. 4828) if the Secretary determines that the project is technically sound, environmentally acceptable and economically justified.

Sec. 304. Fort Hall Indian Reservation, Idaho

This provision directs the Secretary to carry out planning, engineering, and design of an adaptive ecosystem restoration, flood damage reduction, and erosion protection project along the upper Snake River within and adjacent to Fort Hall Indian Reservation, Idaho. The Secretary must determine that the project is a cost-effective means of providing ecosystem restoration, flood damage reduction, and erosion protection, and is environmentally acceptable and technically feasible. Furthermore, the Secretary must determine that the project will improve the economic and social conditions of the Shoshone-Bannok Indian Tribe. The Shoshone-Bannok Indian Tribe is required to provide all land, easements, and rights-of-way necessary for implementation of the project.

Sec. 305. Upper Des Plaines River and Tributaries, Illinois

This provision amends Section 419 of the Water Resources Development Act of 1999 (113 Stat. 324) to allow, subject to entering into the feasibility cost sharing agreement, the non-Federal interest to receive credit toward the Federal share of the project costs for construction work performed by the non-Federal interest before execution of the project cooperation agreement if the Secretary finds the work integral to the project.

Sec. 306. Red River Waterway, Louisiana

This provision amends section 601 (a) of the Water Resources Development Act of 1986 (100 Stat. 4142) as modified by section 4(h) of the Water Resources Development Act of 1988 (102 Stat. 4016), section 102 (p) of the Water Resources Development Act of 1990

(104 Stat.4613), and section 301(b)(7) of the Water Resources Development Act of 1996 (110 Stat. 3710) to authorize the Secretary to purchase mitigation land from willing sellers in the following Louisiana parishes: Avoyelles, Bossier, Caddo, Grant, Natchitoches, Rapides, and Red River.

Sec. 307. William Jennings Randolph Lake, Maryland

This provision authorizes the Secretary to share in the cost of designing and constructing recreational facilities in the State of Maryland at the William Jennings Randolph Lake (Bloomington Dam), Maryland and West Virginia. The project will be cost shared 50 percent Federal, 50 percent non-Federal.

Sec. 308. Missouri River Valley , Missouri

This provision provides for the protection, enhancement, and restoration of fish and wildlife habitat on the Missouri River. Section 601(a) of the Water Resources Development Act of 1986 authorized the Secretary to study the need for additional measures for mitigation losses of aquatic and terrestrial habitat. This provision contingently authorizes $20,000,000 for each of fiscal years 2001 through 2010, to carry out the study, if the study is complete by December 31, 2000. Further, this provision authorizes the Secretary to conduct a study to analyze any adverse effects on aquatic and riparian-dependent fish and wildlife resulting from the operation and maintenance of the Missouri River Mainstem Reservoir Project in the States of Nebraska, South Dakota, North Dakota, and Montana; recommend measures appropriate to mitigate the adverse effects; and develop baseline geologic and hydrologic data relating the aquatic and riparian habitat. This provision also amends Section 514 of the Water Resources Development Act of 1999 (113 Stat. 342) to increase the level of appropriations to $5,000,000 for each of fiscal years 2001 through 2004.

Sec. 309. New Madrid County, Missouri

The project for navigation is authorized as described in the Feasibility Report under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) to include both phase 1 and phase 2 of the project if the Secretary finds that the construction work is integral to phase 2 of the project. The Secretary is further authorized and directed to provide credit to local interests for their costs incurred in constructing phase 1 of the project, if the Secretary finds that the construction work is integral to phase 2 of the project. The credit shall not exceed the required non-Federal cost sharing for the Federal project.

Sec. 310. Pemiscot County Harbor, Missouri

This provision amends section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) to allow the Secretary to credit up to $222,000 for work performed by local interests after December 1997, if the Secretary finds that the construction work is integral to the project.

Sec. 311. Pike County, Missouri

This provision authorizes an exchange of land between SSS Lumber Company, Inc. and the Corps of Engineers. SSS Lumber will acquire a 9-acre tract it currently leases from the Corps of Engineers and will convey to the Corps of Engineers a tract of land approximately the same acreage it plans to acquire from a private landowner.

Sec. 312. Fort Peck Fish Hatchery, Montana.

This provision authorizes the Secretary to design and construct a multi-species fish hatchery and associated facilities at Fort Peck Lake, Montana. The authorized cost of the fish hatchery is $20,000,000 and will be cost shared 75 percent Federal, 25 percent non-Federal. The costs to the State of Montana of stocking Fort Peck Lake during the period beginning January 1, 1947, and the costs to the State of Montana and the counties surrounding Fort Peck Lake of construction of local access roads to the lake shall be credited toward the non-Federal share of the costs of the project. Although the multi-purpose project at Fort Peck, Montana, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1034, chapter 831), was intended to include other activities designed to promote economic benefits, many of the projects were never completed, to the detriment of the local communities flooded by the Fort Peck Dam. Building the fish hatchery will provide one of the initially envisioned purposes of this project.

Sec. 313. Sagamore Creek, New Hampshire

This provision authorizes the Secretary to carry out maintenance dredging of the Sagamore Creek Channel in New Hampshire.

Sec. 314. Passaic River Basin Flood Management, New Jersey

This provision authorizes the Secretary to reevaluate the Passaic River Mainstem project and consider non-structural solutions that provide flood protection and protect the region's environmental resources.

Sec. 315. Rockaway Inlet to Norton Point, New York

This provision amends section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4135) to allow the Secretary to construct T-groins to improve sand retention downdrift of the West 37th Street groin in the community of Sea Gate, New York.

Sec. 316. John Day Pool, Oregon and Washington

This provision extinguishes use restrictions and reversionary interests on specified properties located on the John Day Pool.

Sec. 317. Fox Point Hurricane Barrier, Providence, Rhode Island

This provision amends section 352 of the Water Resources Development Act of 1999 (113 Stat. 310) to allow the non-Federal interest credit toward the non-Federal share of project costs, or reimbursement for the Federal share of the costs of repairs that were incurred by the non-Federal interest before the date of the execution of the project cooperation agreement.

Sec. 318. Houston-Galveston

This provision allows for the contingent authorization, upon a favorable report by the Chief of Engineers by December 31, 2000, of the project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas, authorized by section 101(a)(30) of the Water Resources Development Act of 1996 (110 Stat. 3666). The Secretary is contingently authorized to modify the project to design and construct barge lanes adjacent to both sides of the Houston Ship Channel from Redfish Reef to Morgan Point, a distance of approximately 15 miles, to a depth of 12 feet, at a total cost of $34,000,000, with an estimated Federal cost of $30,600,000.

Sec. 319. Joe Pool Lake, Trinity River Basin, Texas

This provision authorizes the Secretary to change by agreement the non-Federal sponsorship of the recreation program at Joe Pool Lake. The provision will relieve the current non-Federal sponsor, Trinity River Authority, of its responsibilities and obligation of $9,540,000 to the Federal government, and allow the Secretary to enter into a new agreement with the city of Grand Prairie, Texas. The city of Grand Prairie would accept the non-Federal responsibilities of the recreation program, except the current $14.9 million obligation. Instead, the city would pay $4.29 million for the estimated current value of the parklands. This payment would be paid in two installments. The city would assume all operations and maintenance responsibilities.

Sec. 320. Lake Champlain Watershed, Vermont and New York

This provision authorizes the Secretary to provide ecosystem restoration planning, design and construction assistance to non-Federal interests in the Lake Champlain watershed. The non-Federal interests will receive credit for design work completed prior to entering into an agreement with the Secretary. The Federal share of critical projects may be in the form of financial assistance for project implementation. $20,000,000 is authorized to carry out this section.

Sec. 321. Mount St. Helens, Washington

This provision changes the existing project for sediment control, included in the Supplemental Appropriations Act, 1985, Title I, Chapter IV (P.L.99–88, 99 Stat. 318), authorizing the Secretary of the Army to maintain the flood protection levels cited in the October 1985 Report titled, "Mount St. Helens, Washington, Decision Document" for Longview, Kelso, Lexington, and Castle Rock on the Cowlitz River, Washington.

Sec. 322. Puget Sound and Adjacent Waters Restoration, Washington

This provision authorizes ecosystem studies and restoration in the Puget Sound and adjacent waters in the State of Washington to expedite construction of critical restoration projects by concurrently developing a comprehensive plan, conducting project implementation studies, and initiating construction of specific projects. $20,000,000 is authorized to carry out this section.

Sec. 323. Fox River System, Wisconsin

This provision clarifies that the Federal Government may make a payment to the State of Wisconsin as part of a transfer agreement for the navigation portion of the Fox River System. These funds would be used toward repair and rehabilitation of the transferred locks and appurtenant features.

Sec. 324. Chesapeake Bay Oyster Restoration

This provision increases the funding for Section 704 (b) of the Water Resources Development Act of 1986 (100 Stat. 4157), as amended by Section 505 of the Water Resources Development Act of 1996 (110 Stat. 3757), from $7,000,000 to $20,000,000.

Sec. 325. Great Lakes Dredging Levels Adjustment

This provision authorizes the Secretary to adjust maintenance depths in the Great Lakes to adjust for low water conditions. Dredging depths for operation and maintenance of authorized projects are measured against a mean low water level. Lake levels are dropping below these levels resulting in inadequate depths.

Sec. 326. Great Lakes Fishery and Ecosystem Restoration

This provision authorizes the Secretary to plan, design, implement and monitor an ecosystem, fishery and beneficial uses restoration program in the Great Lakes Basin in cooperation with the States, other Federal agencies and other interests. The projects would include habitat restoration, removal of impediments to upstream habitat, and constructing spawning grounds. $40,000,000 is authorized to carry out this section.

Sec. 327. Great Lakes Remedial Action Plans and Sediment Remediation

This provision amends section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644; 110 Stat. 3763; 113 Stat. 338) to provide for $10 million annually through 2010 for the development and implementation of Remedial Action Plans to restore water quality in the Great Lakes "Areas of Concern." Support under this authority includes demonstrations of sediment remediation technologies to States, local governments, and non-profit groups.

Sec. 328. Great Lakes Tributary Model

This provision directs the Secretary to develop models that will support States and local agencies responsible for soil conservation and pollution prevention. Sediments and sediment contaminants hinder navigation and increase maintenance costs at Federal navigation channels and have impaired water quality uses at Great Lakes "Areas of Concern."

Sec. 329. Treatment of Dredged Material from Long Island Sound

This provision authorizes a demonstration project for the use of innovative sediment treatment technologies for the treatment of dredged material from Long Island Sound.

Sec. 330. New England Water Resources and Ecosystem Restoration

This provision authorizes the Secretary to undertake ecosystem restoration projects in New England, an area defined as Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut. Initially, an assessment will be conducted to determine the condition of water resources and related ecosystems; identify and prioritize the most critical needs; and develop a framework for regional or watershed management plans. These management plans will identify projects the Corps can undertake that will produce independent, immediate, and substantial restoration, preservation, and protection benefits. $40,000,000 is authorized to carry out this section.

Sec. 331. Project Deauthorizations

This provision authorizes the Secretary to deauthorize the following projects:

1) Kennebunk River, Kennebunk and Kennebunkport, Maine. The Town Manager of Kennebunkport has requested deauthorization to resolve an encroachment issue. The proposal would deauthorize an area of the northernmost 6-foot deep anchorage, consisting of approximately 0.15 acres;

2) Wallabout Channel, Brooklyn, New York . Currently, there is no commercial vessel trips or commerce reported in the U.S. Army Corps of Engineers Waterborne Commerce Statistics. The proposal would deauthorize a small portion of the existing Federal channel at the head of the channel; and

3) New York and New Jersey Channels, New York and New Jersey.

TITLE IV—STUDIES

Sec. 401. Baldwin County, Alabama.

This provision directs the Secretary to conduct a study to determine the feasibility of carrying out beach erosion control, storm damage reduction, and other measures along the shores of Baldwin County, Alabama.

Sec. 402. Bono, Arkansas

This provision directs the Secretary to conduct a study to determine the feasibility of and need for a reservoir and associated improvements to provide for flood control, recreation, water quality, and fish and wildlife habitat in the vicinity of Bono, Arkansas.

Sec. 403. Cache Creek Basin, California

This provision directs the Secretary to conduct a study to determine the feasibility of modifying the Cache Creek Basin, California flood control project, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112). The original project authorization was to construct features to mitigate impacts of the project on the storm drainage system of the City of Woodland, California, that have been caused by construction of a new south levee of the Cache Creek Settling Basin. The study shall include consideration of outlet works through the Yolo Bypass capable of receiving up to 1,600 cubic feet per second of storm drainage

from the city of Woodland and Yolo County; a low-flow cross-channel across the Yolo Bypass, including all appurtenant features, that is sufficient to route storm flows of 1,600 cubic feet per second between the old and new south levees of the Cache Creek Settling Basin, across the Yolo Bypass and into the Tule Canal; and such other features as the Secretary determines to be appropriate.

Sec. 404 Estudillo Canal Watershed, California

This provision directs the Secretary to conduct a study to determine the feasibility of constructing flood control measures in the Estudillo Canal watershed, San Leandro, California.

Sec. 405. Laguna Creek Watershed, California

This provision directs the Secretary to conduct a study to determine the feasibility of construction flood control measures in the Laguna Creek watershed, Fremont, California, to provide a 100-year level of flood protection.

Sec. 406. Oceanside, California

This provision directs the Secretary to conduct a special study, not later than 32 months after the date of enactment of this Act and at full Federal expense, of plans to mitigate for the erosion and other impacts resulting from the construction of Camp Pendleton Harbor, Oceanside, California, as a wartime measure; and to restore beach conditions along the affected public and private shores to the conditions that existed before the construction of Camp Pendleton Harbor. Previous studies have indicated that Federal navigation structures at Camp Pendleton, California have obstructed transport of sand to the beaches downcoast and is the major source of erosion to these beaches.

Sec. 407. San Jacinto Watershed, California

This provision directs the Secretary to conduct a watershed study for the San Jacinto watershed, California.

Sec. 408. Choctawhatchee River, Florida

This provision directs the Secretary to conduct a study to determine the Federal interest in dredging the mouth of the Choctawhatchee River, Florida, to remove the sand plug.

Sec. 409. Egmont Key, Florida

This provision directs the Secretary to conduct a study to determine the feasibility of stabilizing the historic fortifications and beach areas of Egmont Key, Florida, that are threatened by erosion.

Sec. 410. Upper Ocklawaha River And Apopka/Palatlakaha River Basins, Florida

This provision directs the Secretary to conduct a re-study of flooding and water quality issues in the upper Ocklawaha River basin, south of the Silver River; and the Apopka River and Palatlakaha River basins. In carrying out study, the Secretary shall review the report of the Chief of Engineers on the Four River Basins, Florida, project, published as House Document No. 585,

87th Congress, and other pertinent reports to determine the feasibility of measures relating to comprehensive watershed planning for water conservation, flood control, environmental restoration and protection, and other issues relating to water resources in the river basins.

Sec. 411. Boise River, Idaho

This provision directs the Secretary to conduct a study to determine the feasibility of carrying out multi-objective flood control activities along the Boise River, Idaho.

Sec. 412. Wood River, Idaho

This provision directs the Secretary to conduct a study to determine the feasibility of carrying out multi-objective flood control and flood mitigation planning projects along the Wood River in Blaine County, Idaho.

Sec. 413. Chicago, Illinois.

This provision directs the Secretary to conduct a study to determine the feasibility of carrying out projects for water-related urban improvements, including infrastructure development and improvements, in Chicago, Illinois. The Secretary shall study the USX/Southworks site; Calumet Lake and River; the Canal Origins Heritage Corridor; and Ping Tom Park. In carrying out this study, the Secretary shall use available information from, and consult with, appropriate Federal, State, and local agencies.

Sec. 414. Boeuf And Black, Louisiana

This provision directs the Secretary to conduct a study to determine the feasibility of deepening the navigation channel of the Atchafalaya River and Bayous Chene, Boeuf and Black, Louisiana, from 20 feet to 35 feet.

Sec. 415. Port of Iberia, Louisiana

This provision directs the Secretary to conduct a study to determine the feasibility of constructing navigation improvements for ingress and egress between the Port of Iberia, Louisiana, and the Gulf of Mexico, including channel widening and deepening.

Sec. 416. South Louisiana.

This provision directs the Secretary to conduct a study to determine the feasibility of constructing projects for hurricane protection in the coastal area of the State of Louisiana between Morgan City and the Pearl River.

Sec. 417. St. John The Baptist Parish, Louisiana.

This provision directs the Secretary to conduct a study to determine the feasibility of constructing urban flood control measures on the east bank of the Mississippi River in St. John the Baptist Parish, Louisiana.

Sec. 418. Narraguagus River, Milbridge, Maine.

This provision directs the Secretary to conduct a study to determine the feasibility of redesignating as anchorage a portion of the

foot channel of the project for navigation, Narraguagus River, Milbridge, Maine, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173). The Secretary also shall conduct a study to determine the feasibility of reauthorizing for the purpose of maintenance as anchorage a portion of the project for navigation, Narraguagus River, Milbridge, Maine, authorized by section 2 of the Act of June 14, 1880 (21 Stat. 195, chapter 211), lying adjacent to and outside the limits of the 11-foot channel and the 9-foot channel. 5

Sec. 419. Portsmouth Harbor and Piscataqua River, Maine and New Hampshire

This provision directs the Secretary to conduct a study to determine the feasibility of modifying the project for navigation, Portsmouth Harbor and Piscataqua River, Maine and New Hampshire, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and modified by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), to increase the authorized width of turning basins in the Piscataqua River to 1000 feet.

Sec. 420. Merrimack River Basin, Massachusetts and New Hampshire

This provision directs the Secretary to conduct a comprehensive study of the water resources needs of the Merrimack River basin, Massachusetts and New Hampshire, in the manner described in section 729 of the Water Resources Development Act of 1986 (100 Stat. 4164). In carrying out this section, the Secretary may take into consideration any studies conducted by the University of New Hampshire on environmental restoration of the Merrimack River System.

Sec. 421. Port of Gulfport, Mississippi.

This provision directs the Secretary to conduct a study to determine the feasibility of modifying the project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094) and modified by section 4(n) of the Water Resources Development Act of 1988 (102 Stat. 4017) to: widen the channel from 300 feet to 450 feet and to deepen the South Harbor channel from 36 feet to 42 feet and the North Harbor channel from 32 feet to 36 feet.

Sec. 422. Upland Disposal Sites in New Hampshire

This provision directs the Secretary to conduct a study, in conjunction with the State of New Hampshire, to identify and evaluate potential upland disposal sites for dredged material originating from harbor areas located within the State.

Sec. 423. Missouri River Basin, North Dakota, South Dakota, And Nebraska

This provision directs the Secretary to conduct a study to determine the feasibility of the conveyance to the Secretary of the Interior of the land, described as follows, to be held in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; the Standing Rock Sioux Tribe of North Dakota and

South Dakota; the Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; the Yankton Sioux Tribe of South Dakota; and the Santee Sioux Tribe of Nebraska. The land authorized to be studied for conveyance is the land that was acquired by the Secretary to carry out the Pick-Sloan Missouri River Basin Program, authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891, chapter 665); and is located within the external boundaries of the reservations of the above named tribes. The study shall be conducted in cooperation with the Secretary of the Interior, the State of South Dakota, the State of North Dakota, the State of Nebraska, county officials, ranchers, sportsmen, other affected parties, and the above named tribes.

Sec. 424. Cuyahoga River, Ohio

This provision amends Section 438 of the Water Resources Development Act of 1996 (110 Stat. 3746) to direct the Secretary to conduct a study to evaluate the structural integrity of the bulkhead system located on the Federal navigation channel along the Cuyahoga River near Cleveland, Ohio and provide to the non-Federal interest design analysis, plans and specifications, and cost estimates for repair or replacement of the bulkhead system. The non-Federal share of the cost of the study shall be 35 percent. There is authorized to be appropriated to carry out this section $500,000.

Sec. 425. Fremont, Ohio.

This provision directs the Secretary to conduct a study, in consultation with appropriate Federal, State, and local agencies, to determine the feasibility of carrying out projects for water supply and environmental restoration at the Ballville Dam, on the Sandusky River at Fremont, Ohio.

Sec. 426. Grand Lake, Oklahoma

This provision directs the Secretary to evaluate the backwater effects specifically due to flood control operations on land around Grand Lake, Oklahoma. Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on whether Federal actions have been a significant cause of the backwater effects. The Secretary shall also conduct a study to determine the feasibility of addressing the backwater effects of the operation of the Pensacola Dam, Grand/Neosho River basin; and purchasing easements for any land that has been adversely affected by backwater flooding in the Grand/Neosho River basin. If the Secretary determines, in accordance with the evaluation of the backwater effects, that Federal actions have been a significant cause of the backwater effects, the Federal share of the cost of the feasibility study shall be 100 percent.

Sec. 427. Dredged Material Disposal Site, Rhode Island

This provision directs the Secretary to, in consultation with the Administrator of the Environmental Protection Agency, conduct a study to determine the feasibility of designating a permanent site in the State of Rhode Island for the disposal of dredged material.

Sec. 428. Chickamauga Lock And Dam, Tennessee

This provision directs the Secretary to use $200,000, from funds transferred from the Tennessee Valley Authority, to prepare a report of the Chief of Engineers for a replacement lock at Chickamauga Lock and Dam, Tennessee. As soon as practicable after the date of enactment of this Act, the Tennessee Valley Authority shall transfer the funds for the report of the Chief of Engineers to the Secretary.

Sec. 429. Germantown, Tennessee

This provision directs the Secretary to conduct a study to determine the feasibility of carrying out a project for flood control and related purposes along Miller Farms Ditch, Howard Road Drainage, and Wolf River Lateral D, Germantown, Tennessee. The Secretary shall include environmental and water quality benefits in the justification analysis for the project. The Secretary shall credit toward the non-Federal share of the costs of the feasibility study the value of the in-kind services provided by the non-Federal interests relating to the planning, engineering, and design of the project, whether carried out before or after execution of the feasibility study cost-sharing agreement; and the Secretary shall consider the feasibility study to be conducted as part of the Memphis Metro Tennessee and Mississippi study authorized by resolution of the Committee on Transportation and Infrastructure, dated March 7, 1996.

Sec. 430. Horn Lake Creek and Tributaries, Tennessee And Mississippi

This provision directs the Secretary to conduct a study to determine the feasibility of modifying the project for flood control, Horn Lake Creek and Tributaries, Tennessee and Mississippi, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), to provide a high level of urban flood protection to development along Horn Lake Creek. The study shall include a limited reevaluation of the project to determine the appropriate design, as desired by the non-Federal interests.

Sec. 431. Cedar Bayou, Texas

This provision directs the Secretary to conduct a study to determine the feasibility of constructing a 12-foot-deep and 125-foot-wide channel from the Houston Ship Channel to Cedar Bayou, mile marker 11, Texas.

Sec. 432. Houston Ship Channel, Texas

This provision directs the Secretary to conduct a study to determine the feasibility of constructing barge lanes adjacent to both sides of the Houston Ship Channel from Bolivar Roads to Morgan Point, Texas, to a depth of 12 feet.

Sec. 433. San Antonio Channel, Texas

This provision directs the Secretary to conduct a study to determine the feasibility of modifying the project for San Antonio Channel improvement, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1259), and modified by section 103 of

the Water Resources Development Act of 1976 (90 Stat. 2921), to add environmental restoration and recreation as project purposes.

Sec. 434. White River Watershed Below Mud Mountain Dam, Washington

This provision directs the Secretary to review the report of the Chief of Engineers on the Upper Puyallup River, Washington, dated 1936, authorized by section 5 of the Act of June 22, 1936 (49 Stat. 1591, chapter 688), the Puget Sound and adjacent waters report authorized by section 209 of the Flood Control Act of 1962 (76 Stat. 1197), and other pertinent reports, to determine whether modifications to the recommendations contained in the reports are advisable to provide improvements to the water resources and watershed of the White River watershed downstream of Mud Mountain Dam, Washington. In conducting the review, the Secretary shall review, with respect to the Lake Tapps community and other parts of the watershed constructed and natural environs; capital improvements; water resource infrastructure; ecosystem restoration; flood control; fish passage; collaboration by, and the interests of, regional stakeholders; recreational and socioeconomic interests; and other issues determined by the Secretary.

Sec. 435. Willapa Bay, Washington

This provision directs the Secretary to conduct a study to determine the feasibility of providing coastal erosion protection for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington. Notwithstanding any other provision of law (including any requirement for economic justification), the Secretary may construct and maintain a project to provide coastal erosion protection for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington, at full Federal expense, if the Secretary determines that the project is a cost-effective means of providing erosion protection; is environmentally acceptable and technically feasible; and will improve the economic and social conditions of the Shoalwater Bay Indian Tribe. As a condition of the project, the Shoalwater Bay Indian Tribe shall provide land, easements, rights-of-way, and dredged material disposal areas necessary for the implementation of the project.

Sec. 436. Upper Mississippi River Basin Sediment and Nutrient Study

This provision directs the Secretary to, in conjunction with the Secretary of Agriculture and the Secretary of the Interior, shall carry out a study to identify and evaluate significant sources of sediment and nutrients in the upper Mississippi River basin; quantify the processes affecting mobilization, transport, and fate of those sediments and nutrients on land and in water; and quantify the transport of those sediments and nutrients to the upper Mississippi River and the tributaries of the upper Mississippi River. In carrying out the study under this section, the Secretary shall develop computer models of the upper Mississippi River basin, at the subwatershed and basin scales, to identify and quantify sources of sediment and nutrients; and examine the effectiveness of alternative management measures. The Secretary shall conduct re-

search to improve the understanding of fate processes and processes affecting sediment and nutrient transport, with emphasis on nitrogen and phosphorus cycling and dynamics; the influences on sediment and nutrient losses of soil type, slope, climate, vegetation cover, and modifications to the stream drainage network; and river hydrodynamics, in relation to sediment and nutrient transformations, retention, and transport. On request of a relevant Federal agency, the Secretary may provide information for use in applying sediment and nutrient reduction programs associated with land-use improvements and land management practices. Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a preliminary report that outlines work being conducted on the study components. Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under this section, including any findings and recommendations of the study. There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2001 through 2005. The Federal share of the cost of carrying out this section shall be 50 percent.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Visitors Centers

This provision authorizes modifications to two visitors centers authorized in the Water Resources Development Act of 1992 (P.L. 102–580). The first, the John Paul Hammerschmidt Visitors Center, Arkansas, provides for the authorized center to be constructed on the property of the City of Fort Smith, Arkansas. The second, the Lower Mississippi River Museum and River Front Interpretive Site, Mississippi, provides for the interpretive site to be constructed at a location between the Mississippi River Bridge and the waterfront in downtown Vicksburg, Mississippi.

Sec. 502. CALFED Bay-Delta Program Assistance, California

This provision enhances Army Corps participation, consistent with Title XI of the Omnibus Parks and Public Lands Management Act (P.L.104–333), in planning and management activities associated with the CALFED Bay-Delta Program referred to in the California Bay-Delta Environmental Enhancement and Water Securities Act (division E, P.L.104–208; 100 Stat. 3009–748). The Army Corps typically relies on project-specific authorizations that may not provide the flexibility necessary to participate fully in interagency, bay-wide planning and management activities such as CALFED. This provision will provide the authority for the Secretary to request funds for the Army Corps to participate fully in the CALFED Bay-Delta Program, and to use funds provided by other to carry out ecosystem restoration projects and activities associated with the Program. The provision directs the Secretary to integrate Army Corps activities in the San Joaquin and Sacramento River basins with the CALFED Policy Group or its successor.

Sec. 503. Conveyance of Lighthouse, Ontonagon, Michigan

This provision conveys the Ontonagon Lighthouse and property from Army Corps ownership to the ownership of the Ontonagon Historical Society. The lighthouse, which is on the National Registry of Historic Places, is located at the Ontonagon Harbor Federal Navigation project in Ontonagon, Michigan and is under the administrative jurisdiction of the Department of the Army. The Army Corps is no longer interested in retaining the lighthouse property and has initiated an excessing action.

Sec. 504. Land Conveyance, Candy Lake, Oklahoma

This provision modifies the conveyance of Army Corps land, authorized under Section 563(c) of the Water Resources Development Act of 1999 (P.L.106–53), associated with the Candy Lake project, Osage County, Oklahoma. The provision alters the definition of "previous owner of land" to include a decedent of a living or deceased person who conveyed land for use in the project. The provision also directs the Federal Government to assume the costs of any Federal activities, under the authorized Candy Lake land conveyance, carried out for the purpose of Section 102 of the Nation Environmental Policy Act of 1969 (42 U.S.C. 4332). Finally, the provision authorizes the appropriations of such sums as necessary to carry out the authorized Candy Lake land conveyance.

TITLE VI—COMPREHENSIVE EVERGLADES RESTORATION PLAN

INTRODUCTION

Background

In its natural state, the South Florida ecosystem was once connected by the flow of water south from Lake Okeechobee through vast freshwater marshes—known as the Everglades—to Florida Bay and on to the coral reefs of the Florida Keys. The Everglades covered approximately 18,000 square miles and were the heart of a unique and biologically productive region, supporting vast colonies of wading birds, a mixture of temperate and tropical plant and animal species, and teeming coastal fisheries. These superlative natural resources were nationally recognized with the establishment of Everglades National Park in 1947. Since that time, the Federal investment in preserving the Everglades has increased. Other significant federally designated conservation areas established since 1947 include Big Cypress National Preserve, Biscayne National Park, Florida Keys National Marine Sanctuary, and 16 National Wildlife Refuges, including A.R.M. Loxahatchee National Wildlife Refuge. The State of Florida has actively participated in this effort and set aside additional lands for conservation purposes.

In 1948, in response to a series of devastating floods that occurred in the region, Congress authorized the Central and Southern Florida (C&SF) Project. The C&SF Project authorized the U.S. Army Corps of Engineers (Army Corps) to provide: flood control; regional water supply for agricultural and urban areas; prevention of salt water intrusion; water supply to Everglades National Park; preservation of fish and wildlife; recreation; and navigation.

Unfortunately, the project has had unintended consequences on the unique natural environment which constitutes the Everglades and Florida Bay ecosystems. Water that flowed unimpeded through the southern half of the State, nearly 1.7 billion gallons of water a day, has been redirected to the Atlantic Ocean or the Gulf of Mexico, disrupting the natural sheet flow through the South Florida ecosystem. As a result of the high volume of discharges of water, coastal estuaries are in peril, while water needed for the ecosystem and regional water supplies is wasted. In addition, runoff from cities and farms has resulted in high levels of phosphorus and other contaminants polluting the water. The C&SF Project also has resulted in a 90–95 percent drop in the wading bird population, and more than 1.5 million acres of land are infested with invasive exotic plants. The South Florida ecosystem also is home to 68 threatened or endangered plant and animal species. The size of the historic Everglades has been reduced by half.

For several decades, this committee and the Congress have taken steps to address many of the C&SF Project's unintended harms to the natural system. The Water Resources Development Act (WRDA) of 1992 authorized a Comprehensive Review Study (Restudy) of the C&SF Project. The purpose of the Restudy was to recommend modifications to the C&SF Project to restore the Everglades and Florida Bay ecosystems while providing for the other water-related needs of the region.

WRDA '96 provided further direction to the Restudy. It established the 50/50 cost share between the Federal Government and the State of Florida for construction of critical restoration projects; gave credit for lands acquired by the South Florida Water Management District (the local sponsor); and established the South Florida Ecosystem Restoration Task Force under the chairmanship of the Secretary of the Interior. The Task Force also includes the Secretaries of Commerce, the Army, Agriculture, and Transportation; the Administrator of the Environmental Protection Agency, the U.S. Attorney General, a representative of the Miccosukee and the Seminole tribes, two representatives of the State of Florida, and a representative of the South Florida Water Management District. The Task Force is charged with coordinating the development of policies, strategies, plans, and activities that address the restoration, preservation, and protection of the South Florida ecosystem.

Also, WRDA '96 spelled out the restoration activities that should be included in the Restudy, mainly: the restoration, preservation and protection of the South Florida ecosystem; the protection of water quality; and the reduction of the loss of fresh water from the Everglades, while providing the flood control and enhancement of water supply objectives served by the C&SF Project. Furthermore, WRDA '96 mandated that the Army Corps present this Plan to Congress on July 1, 1999.

A major provision of WRDA '96 provided for "Critical Restoration Projects," ecosystem projects designated by the Secretary of the Army, the Task Force, and the local sponsor as having immediate and substantial restoration, preservation, and protection benefits. Federal expenditures for the projects were capped at $25 million per project, with a total of $75 million authorized for the period be-

tween fiscal years 1997 through 1999. WRDA 1999 extended this authorization period through 2003.

THE COMPREHENSIVE EVERGLADES RESTORATION PLAN

As required by WRDA '96, the Restudy or "Comprehensive Everglades Restoration Plan" (CERP or Plan) was submitted to Congress on July 1, 1999. The Plan defines the major project for ecosystem restoration, water supply, and other water-related purposes, as well as defining a process for implementation. The keys to restoration include increasing the amount of water available by providing increased storage ability and capacity; improving the timing and distribution of water flows and levels; ensuring the quality of the water that is directed to the natural system; and restoring the connectivity of the system that was so severely compartmentalized by the original project.

The Plan has 68 project components to be implemented over a 35-year period. These components are expected to deliver the following benefits: improve the functioning of over 2.4 million acres of the South Florida ecosystem; stabilize Lake Okeechobee water levels for littoral zone health; improve urban and agricultural water supply; improve deliveries to Florida Bay, Biscayne Bay, and other coastal estuaries; and improve regional water quality conditions, while maintaining the existing levels of flood protection. In addition, the Plan will eliminate the damaging freshwater releases to the Caloosahatchee and St. Lucie estuaries.

A key element of the Plan is adaptive assessment, an approach to monitoring the progress of the Plan, providing built-in flexibility, and giving the implementors of the Plan the opportunity to respond to unforeseen circumstances by making modifications, as necessary.

Although the Plan contains a number of key components designed to benefit federally designated areas by improving the quantity, quality, timing and distribution of water, the Plan is interconnected, with each project component related to the other. Further, the Plan is to be implemented using the principles of adaptive assessment, recognizing that modifications will be made in the future based upon new information. Overall, the 68 individual project components of the Plan, to be implemented over a 35 year period, will improve the ecologic health and economic sustainability of over 2.4 million acres of the South Florida ecosystem

THE RESTORING THE EVERGLADES, AN AMERICAN LEGACY ACT

The "Restoring the Everglades, an American Legacy Act" (REAL Act) was introduced on June 27, 2000, by Senators Smith, Voinovich, Baucus, Graham, and Mack. This bill approves the CERP as a framework and authorizes the first set of projects and implementation procedures. As such, the REAL Act represents the first stage of the restoration process.

A project of this size is not without uncertainties. The REAL Act authorizes four pilot projects to address the effectiveness of some of the technologies being proposed. In addition, this bill authorizes an initial ten construction projects. These projects were carefully selected by the Army Corps and the South Florida Water Management District and included in the Plan as the projects that would,

once constructed, have immediate benefits to the natural system. Almost right away, the Plan begins to restore the natural sheet flow that years of human interference has interrupted.

S. 2797 authorizes so-called "programmatic authority" so that the Army Corps and the non-Federal sponsor can move forward with critical projects that will have immediate, independent, and substantial benefits to the natural system. Together, these components represent the first phase. The remaining projects will be submitted to Congress for authorization biennially, as part of future WRDAs.

One of the key components of the CERP is the inherent flexibility provided by adaptive assessment. Under the adaptive assessment approach, the Plan can be modified, based on any new and improved information or modeling. With a project of this size and duration, it is inevitable that new technologies will emerge, modeling systems will be perfected, and monitoring of the ecosystem will continue to provide up-to-the-minute data on the effectiveness of project components. It is important that these factors be incorporated into the Plan, when the new and improved information will enhance the restoration effort.

The REAL Act also contains a carefully balanced assurances provision that provides the mechanism to ensure that project benefits for the natural system are attained. The United States and the State of Florida will enter into an up-front, binding agreement that will ensure that water generated by the Plan will be available for the natural system. Furthermore, the Secretary of the Army, in concurrence with the Governor of the State of Florida and the Secretary of the Interior will promulgate programmatic regulations which will establish a process to ensure that the goals and purposes of the Plan are achieved.

The total estimated cost of construction, including real estate costs, for the Plan is $7.8 billion dollars over the 35-year implementation period, shared 50/50 between the Federal government and the State of Florida. The State of Florida recently passed legislation that will enable them to pay for and carry out their share of the responsibilities over the next 10 years. The average Federal cost is $200 million a year over the next 20 years. Annual operation and maintenance costs, which are also split 50/50, are estimated to be $172 million once all project components are complete.

Restoration benefits not only Floridians, but the millions of people who visit Florida each year to behold this unique ecosystem. The committee views this effort to restore the Everglades ecosystem as our legacy to future generations.

SECTION-BY-SECTION SUMMARY

Section. 1. Short Title

This section designates the title of the bill as the "Restoring the Everglades, an American Legacy Act."

Sec. 2. Comprehensive Everglades Restoration Plan

(a). Definitions

SUMMARY

Subsections (a)(1) through (7) provide definitions for terms specific to the Comprehensive Everglades Restoration Plan.

Subsection (a)(1) defines the "Central and Southern Florida Project" as the Central and Southern Florida project authorized by section 203 of the Flood Control Act of 1948 and any subsequent amendments made to that section.

Subsection (a)(2) defines the term "Governor" as the Governor of the State of Florida.

Subsection (a)(3) defines the term "natural system" as including all the lands and water managed by the Federal Government or the State within the boundary of the South Florida Water Management District including, but not limited to, the water conservation areas, sovereign submerged lands, Everglades National Parks, Biscayne National Park, Big Cypress National Preserve, coral reefs, State and Federal lands that are designated for conservation purposes, and any tribal lands that the tribes designate for conservation purposes.

Subsection (a)(4), defines the term "Plan" as the Comprehensive Everglades Restoration Plan contained in the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement," dated April 1, 1999, as modified by this bill. This definition does not include the final report of the Chief of Engineers on the C&SF Project Comprehensive Review Study dated June 22, 1999.

Subsection (a)(5) defines the Secretary as the Secretary of the Army.

Subsection (a)(6) defines the term "South Florida ecosystem" as the land and water within the boundary of the South Florida Water Management District in effect on July 1, 1999. Included within the boundary is the Everglades, the Florida Keys and the contiguous near-shore coastal water of South Florida. The committee does not intend for the contents of section (a)(6)(B) to exclude other areas that meet the criteria of subsection (a)(6)(A) from the definition of the South Florida ecosystem.

Subsection (a)(7) defines the term "State" as the State of Florida.

(b). Comprehensive Everglades Restoration Plan

SUMMARY

Subsection (b)(1)(A) approves the Plan, except as modified by this bill, as a framework for modifications and operational changes to the C&SF Project that are needed to restore, preserve, and protect the South Florida ecosystem; provide for the protection of water quality in, and the reduction of the loss of fresh water from, the Everglades; provide for the water-related needs of the region, including flood control, the enhancement of water supplies, and other objectives served by the C&SF Project.

Subsection (b)(1)(B) directs the Secretary to integrate the activities described in subparagraph (A) with ongoing Federal and State

projects and activities in accordance with section 528(c) of WRDA '96 (110 Stat. 3769).

Subsection (b)(2)(A) requires the Secretary of the Army to take into consideration State water quality standards, and include whatever features the Secretary believes are necessary to ensure that the ten projects and the four pilot projects authorized in this bill meet all relevant water quality standards.

Subsection (b)(2)(B) authorizes the Secretary of the Army to construct four pilot projects at a total cost of $69,000,000, with a Federal cost of $34,500,000. In addition, the Secretary of the Army is required to provide an opportunity for the public to review and comment on each project in accordance with Federal law.

Subsection (b)(2)(B)(i) authorizes the Caloosahatchee River (C-43) Basin Aquifer Storage and Recovery pilot project, at a total cost of $6,000,000, with a Federal cost of $3,000,000.

Subsection (b)(2)(B)(ii) authorizes the Lake Belt In-Ground Reservoir Technology pilot project, at a total cost of $23,000,000, with a Federal cost of $11,500,000.

Subsection (b)(2)(B)(iii) authorizes the L-31 Seepage Management pilot project, at a total cost of $10,000,000, with a Federal cost of $5,000,000.

Subsection (b)(2)(B)(iv) authorizes the Wastewater Reuse Technology pilot project, at a total cost of $30,000,000, with a Federal cost of $15,000,000.

Subsection (b)(2)(C) authorizes the Secretary of the Army to construct ten initial projects, subject to a favorable Chief of Engineers report and approval by resolution of the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, at a total cost of $1,100,918,000, with a Federal cost of $550,459,000.

Subsection (b)(2)(C)(i) authorizes construction of the C-44 Basin Storage Reservoir, at a total cost of $112,562,000, with a Federal cost $56,281,000.

Subsection (b)(2)(C)(ii) authorizes construction of the Everglades Agricultural Area Storage Reservoirs, at a total cost of $233,408,000, with a Federal cost of $116,704,000.

Subsection (b)(2)(C)(iii) authorizes the construction of the Site 1 Impoundment, at a total cost of $38,535,000, with a Federal cost $19,267,500.

Subsection (b)(2)(C)(iv) authorizes the construction of Water Conservation Areas 3A/3B Levee Seepage Management, at a total cost of $100,335,000, with a Federal cost of $50,167,500.

Subsection (b)(2)(C)(v) authorizes the construction of the C-11 Impoundment and Stormwater Treatment Area, at a total cost of $124,837,000, with a Federal cost of $62,418,500.

Subsection (b)(2)(C)(vi) authorizes the construction of the C-9 Impoundment and Stormwater Treatment Area, at a total cost of $89,146,000, with a Federal cost of $44,573,000.

Subsection (b)(2)(C)(vii) authorizes the construction of the Taylor Creek-Nubbin Slough Storage and Treatment Area, at a total cost of $104,027,000, with a Federal cost $52,013,500.

Subsection (b)(2)(C)(viii) authorizes construction to raise and bridge the east portion of the Tamiami Trail and fill the Miami

Canal within Water Conservation Area 3, at a total cost of $26,946,000, with a Federal cost of $13,473,000.

Subsection (b)(2)(C)(ix) authorizes the construction of the North New River Improvements, at a total cost of $77,087,000, with a Federal cost of $38,543,500.

Subsection (b)(2)(C)(x) authorizes the construction of the C-111 Spreader Canal, at a total cost of $94,035,000, with a Federal cost of $47,017,500.

Subsection (b)(2)(C)(xi) authorizes a ten-year Adaptive Assessment and Monitoring program, at a total cost of $100,000,000, with a Federal cost $50,000,000.

Subsection (b)(2)(D)(i) requires that before implementation of a project described in clauses (i) through (x) of subparagraph (C), the Secretary shall review and approve for the project a project implementation report prepared in accordance with subsections (f) and (h).

Subsection (b)(2)(D)(ii) requires the Secretary to submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate the project implementation report required by subsections (f) and (h) for each project under this paragraph (including all relevant data and information on all costs).

Subsection (b)(2)(D)(iii) directs that no appropriation shall be made to construct any project under this paragraph if the project implementation report for the project has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subsection (b)(2)(D)(iv) directs that no appropriation shall be made to construct the Water Conservation Area 3 Decompartmentalization and Sheetflow Enhancement Project or the Central Lakebelt Storage Project until the completion of the project to improve water deliveries to Everglades National Park authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r-8).

Subsection (b)(2)(E) restates that Section 902 of WRDA '86 (33 U.S.C. 2280) shall apply to each project feature authorized under this subsection.

DISCUSSION

This subsection approves the Comprehensive Everglades Restoration Plan, as modified by this bill, as a framework to make changes to the C&SF Project. Changes to the project are intended to restore the South Florida ecosystem, and in particular the Everglades, by improving water quality and reducing the amount of fresh water lost from within the system. In addition, the project modifications are intended to provide for the water related needs of the region. The water related needs of the region are defined to include providing flood control and enhancing water supplies. In undertaking these activities, the Secretary must integrate them with ongoing Federal and State projects and activities in accordance with section 528(c) of WRDA '96 (110 Stat. 3769).

The Plan contains a general outline of the quantities of water to be produced by each project. According to the Army Corps, 80 per-

cent of the water generated by the Plan is needed for the natural system in order to attain restoration goals, and 20 percent of the water generated for use in the human environment. The committee recognizes the levels of uncertainty involved in the Plan and fully intends for the adaptive assessment and monitoring process to account for such as the Plan is executed. Subject to future authorizations by Congress, the committee fully expects that the water necessary for restoration, currently estimated at 80 percent of the water generated by the Plan, will be reserved or allocated for the benefit of the natural system.

Endorsement of the Plan as a restoration framework is not intended as an artificial constraint on innovation in its implementation. The committee does not expect rigid adherence to the Plan as it was submitted to Congress. This result would be inconsistent with the adaptive assessment principles in the Plan. Restoration of the Everglades is the goal, not adherence to the modeling on which the April, 1999 Plan was based. Instead, the committee expects that the agencies responsible for project implementation report formulation and Plan implementation will seek continuous improvement of the Plan based upon new information, improved modeling, new technology and changed circumstances. Further, the committee expects that the implementing agencies will make every effort to accelerate the delivery of Plan benefits to the natural system to the extent practicable. It is estimated that 3 to 5 acres of land in the South Florida ecosystem are lost per day under current conditions. Time is of the essence in this restoration effort.

In implementing the Plan, the Secretary of the Army is required to take into consideration State water quality standards, and include such features the Secretary determines are necessary to ensure that all ground water and surface water discharges from any project feature authorized in this bill meet all applicable water quality standards and applicable permitting requirements.

The pilot projects. There are six pilot projects described in the Plan, two of which were authorized in WRDA '99 and four which are authorized in this bill. The pilot projects are necessary to address uncertainties associated with some of the physical features that are proposed in the Plan. These pilot projects include aquifer storage and recovery in the Caloosahatchee River Basin; in-ground reservoir technology in the Lake Belt region of Miami-Dade County; levee seepage management technology adjacent to Everglades National Park; and advanced wastewater reuse technology to determine the feasibility of reusing wastewater for ecological restoration. The authorized funding level for the design, construction, and monitoring of the pilot projects is $69,000,000, to be equally cost shared between the Federal Government and the State of Florida. The Plan's concept of adaptive assessment allows for future changes to be made in the Plan. This includes consideration of the results of the pilot projects. The committee directs the Army Corps to ensure that the overall benefits described in the Plan are maintained and any necessary changes incorporated in the event any pilot project demonstrates technical infeasibility.

Three aquifer storage and recovery pilot projects were proposed in the Plan, and one of those aquifer storage and recovery pilots, the Caloosahatchee River (C-43) Basin Aquifer Storage and Recov-

ery, is included in this bill. This pilot project and the two aquifer storage and recovery projects authorized in WRDA '99 are necessary to identify the most suitable sites for the aquifer storage and recovery wells, and determine the water quality necessary for injections into the well and the water quality of the receiving aquifer. In addition, the pilot projects will provide information on the hydrogeological and geotechnical characteristics of the upper Floridian Aquifer System within the regions, and the ability of the upper Floridian Aquifer System to store injected water for future recovery. The Army Corps expects to design the Caloosahatchee project between November 2000 and October 2001, construct the project between October 2001 through October 2002, and monitor the results between October 2002 through October 2005.

The second pilot project authorized by this bill is the Lake Belt In-Ground Reservoir Technology project. This project utilizes areas to store water where lime rock mining has occurred. The pilot project is necessary in order to assure that the mine retains water and also includes subterranean seepage barriers around the perimeter in order to enable drawdown during dry periods, prevent seepage losses, and protect water quality. The Army Corps expects to complete design in June 2001, will construct the project between June 2001 through December 2005, and will monitor the results between December 2005 through December 2011.

The third pilot project authorized by this bill is the L-31 Seepage Management project. The purpose of this project is to investigate seepage management technologies to control seepage from Everglades National Park. Hydrologic modeling performed by the Army Corps have shown that controlling seepage from the Everglades results in desirable hydrologic conditions. However, the proposed technologies could have unintended results elsewhere. The pilot project will provide the necessary information to determine the appropriate amount of wet season groundwater flow to return to Everglades National Park while minimizing potential impacts to Miami-Dade County's West Wellfield and freshwater flows to Biscayne Bay. The Army Corps of Engineers expects to design the project between November 2000 and October 2001, construct the project between October 2001 through October 2002, and monitor the results between October 2000 through October 2003.

The fourth pilot project authorized by this bill is the Wastewater Reuse Technology project. This pilot project will address water quality issues associated with discharging reclaimed water into natural areas such as West Palm Beach's Catchment Area, Biscayne National Park, and the Bird Drive Basin, as well as determining the level of superior treatment and the appropriate methodologies for that treatment. After treatment to remove nitrogen and phosphorus, the water will be used to restore 1,500 acres of wetlands and to recharge wetlands surrounding the City of West Palm Beach's wellfield. A portion of the treated water will be used to recharge a residential lake system surrounding the City's wellfield and a Palm Beach County wellfield. In addition, this project will reduce the City's dependence on surface water from Lake Okeechobee during dry or drought events, and create or restore approximately 2,000 acres of wetlands. The Army Corps expects to complete design in September 2003, will construct the

project between September 2003 through September 2005, and will monitor the result between September 2003 through December 2007.

The ten initial construction projects. This subsection also authorizes the Secretary of the Army to construct ten initial projects. These projects were carefully chosen by the Army Corps and the South Florida Water Management District because they were viewed as the projects that would provide the most immediate system-wide improvements in water quantity, quality and flow distribution. Prior to beginning construction on the ten initial projects, the Secretary of the Army must approve the project implementation report in accordance with the requirements of this bill, and submit the reports to the Committee on Environment and Public Works in the Senate and the Committee on Transportation and Infrastructure in the House of Representatives. Funding cannot be appropriated for construction of the ten initial projects until the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives approve the project implementation report for a project by resolution. In order to ensure against cost overruns, if the cost of constructing the projects exceeds 20 percent of the authorized amount, after allowance for inflation as measured by appropriate cost indexes, the Army Corps must seek from Congress an authorization for the additional amount required.

The C-44 Basin Storage Reservoir project is a 40,000 acre-feet water storage reservoir. This component will provide significant regional water quality benefits though the reduction of nutrients entering the St. Lucie River and the Indian River Lagoon by reducing damaging water releases from Lake Okeechobee. In addition, this project will moderate damaging releases to the St. Lucie estuary from Lake Okeechobee and the surrounding basin.

The Everglades Agricultural Area Storage Reservoir project will result in approximately 300,000 acre-feet of water storage and will improve the timing of the environmental water releases to the Water Conservation Areas, reduce damaging freshwater releases to the estuaries, and meet supplemental water supply for agricultural demands in the Everglades Agricultural Area (EAA). Phase I of the project included in the initial authorization will further enhance the performance of Stormwater Treatment Areas 3 and 4, thereby improving the overall water quality of EAA water releases into the Everglades. Lands for the construction of this component have been acquired by the South Florida Water Management District through the purchase and exchange of the Talisman Sugar Corporation properties through funds provided by the Department of the Interior.

The Army Corps should maximize use of the lands acquired through the Talisman purchase and exchange, as well as other EAA lands held by the non-Federal sponsor, in the design and construction of Phase 1 of this project feature. Further, the Corps should seek to take full advantage of the Talisman lands by maximizing the depth of water stored in the Talisman Water Storage Reservoir. The lands are presently leased for agricultural production, which is a sound land management practice that should last only until the lands are needed for restoration. As such, the Army

Corps and the non-Federal sponsor are expected to provide the necessary notification to the lessors so the acquired lands can be used for Everglades restoration purposes as promptly as possible, consistent with the anticipated expiration dates in 2005 and 2007 of the current leases. It is expected that the lands will be needed in 2005 as required by the Plan. As a result, the Corps of Engineers will be required to notify the lessees by October 1, 2002, if the lands are to be used for restoration beginning in 2005.

The Site 1 Impoundment project consists of a 15,000 acre-feet water storage reservoir. This reservoir will be located adjacent to Loxahatchee National Wildlife Refuge and will capture water, currently sent to tide, to supplement water deliveries to the Hillsboro Canal during dry periods, thereby reducing water demands on Lake Okeechobee and Loxahatchee National Wildlife Refuge. Much of the land that is required for this feature has already been acquired by the South Florida Water Management District.

The Water Conservation Areas 3A/3B levee Seepage Management project will control seepage from Water Conservation Areas 3A and 3B by improving groundwater elevations, and will provide flood protection for the C-11 Basin.

The C-11 Impoundment and Stormwater Treatment Area project consists of a 6,400 acre-feet impoundment and stormwater treatment area, located in western Broward County. This project will divert and treat runoff from the western C-11 Basin that is currently discharged into Water Conservation Areas 3A and 3B. After treatment, the water will then supply either Water Conservation Area 3A, the C-9 Stormwater Treatment Area, or the North Lake Belt Storage Area. This project is necessary because the original C&SF Project design provides that the Western C-11 Basin drainage be pumped into Water Conservation Area 3. Once completed, this project will provide the necessary facilities to maintain flood protection within the Basin, while reducing flows through the S-9 pump station to Water Conservation Area 3.

The C-9 Impoundment and Stormwater Treatment Area project consists of a 10,000 acre-feet impoundment and stormwater treatment area to enhance groundwater recharge in the western C-9 Basin in Broward County, provide seepage control for Water Conservation Area 3 and buffer areas to the west, provide flood protection, and provide treatment of runoff in the North Lake Belt Storage Area.

The Taylor Creek-Nubbin Slough Storage and Treatment Area project consists of a 50,000 acre-feet water storage reservoir and 20,000 acre-feet stormwater treatment area that will allow flows to Lake Okeechobee to be attenuated when lake levels are high or rising, and improve water quality treatment flows from Taylor Creek and Nubbin Slough basin, which currently contribute to the highest phosphorus inflow concentrations to Lake Okeechobee.

The project to raise and bridge the east portion of the of the Tamiami Trail and fill the Miami Canal within Water Conservation Area 3 consists of modifying or removing water control structures in Water Conservation Areas 3A and 3B to enhance sheetflow within the remaining natural system areas within the Everglades, thereby reestablishing the ecological and hydrological connections between Water Conservation Areas 3A and 3B, Everglades Na-

tional Park and Big Cypress National Preserve. The first phase of enhancing sheetflow necessitates elevating eastern portions of Tamiami Trail and backfilling portions of the Miami Canal within Water Conservation Area 3.

The project to construct the North New River Improvements will improve the North New River Canal and southern conveyance system in order to handle increased water flows resulting from the backfilling of the Miami Canal within Water Conservation Area 3 to allow for continued water supply deliveries to Miami-Dade County.

The C-111 Spreader Canal project will improve water deliveries and enhance the connectivity and sheetflow in the Model Lands and Southern Glades areas, reduce wet season flows in C-111 and decrease potential flood risk in the lower south Miami-Dade County area. Existing C-111 Project design features are enhanced through the construction of a stormwater treatment area, enlarging the S-332E pump station, and extending the canal under U.S. Highway 1 and Card Sound Road into the Model Lands. This feature also results in filling the Southern portion of the C-111 Canal and removal of S-18C and S-197 structures.

Adaptive Assessment and Monitoring. The Adaptive Assessment and Monitoring program provides an organized process for adapting the Plan as new information becomes available, ensuring that long-term implementation of the Plan delivers the benefits intended. In addition to the inevitable uncertainties, natural and human systems will at times respond in ways that are not anticipated or predicted by any existing hypothesis. Adaptive assessment should moderate these responses by providing an in-place process for early detection and interpretation of the unexpected.

Conditions. Prior to implementation of any of the ten initial construction projects authorized in this bill, the Secretary shall review and approve for the project a project implementation report, prepared in accordance with subsections (f) and (h). This project implementation report is to be submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate for approval by committee resolution. No appropriation shall be made to construct any of the ten initial projects authorized in this bill until the project implementation report for the project is approved.

Modified Water Deliveries Project. The Modified Water Deliveries to Everglades National Park Project, authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, is an important element in Everglades restoration since it provides for increased and more natural water deliveries to Everglades National Park through the Shark River Slough. Completion of the project will enhance the recovery of the endangered Cape Sable Seaside Sparrow and environmental restoration north of Everglades National Park. The completion of the Modified Water Deliveries project has been delayed because of controversy over flood mitigation to the adjacent 8.5 square mile area. The committee is encouraged by recent progress in reaching a resolution of the issues on the project, and urges the Secretary of the Interior, Secretary of Army, South Florida Water Management District and the Governor of Florida to continue to cooperate in implementing this criti-

cal project as soon as possible. To emphasize the committee's concern, the bill includes a provision to preclude construction appropriations for projects in the Plan that are dependent on the completion of the Modified Water Deliveries Project, specifically the Water Conservation Area 3 Decompartmentalization and Sheetflow Enhancement Project and the Central Lakebelt Storage Project, until completion of the Modified Water Deliveries to Everglades National Park Project.

(c) Additional Program Authority

SUMMARY

Subsection (c)(1) authorizes the Secretary to expedite the implementation of modifications to the C&SF Project that are described in and consistent with the Plan and that will produce independent and substantial benefits to the restoration, preservation and protection of the South Florida ecosystem.

Subsection (c)(2) requires that before implementation of any project feature authorized by this subsection, the Secretary shall review and approve for the project feature a project implementation report, prepared in accordance with subsections (f) and (h).

Subsection (c)(3) caps the total Federal cost of each project carried out under this subsection at $12,500,000, with the overall project cost not to exceed $25,000,000. The total Federal cost of all projects carried out under this subsection shall not exceed $206,000,000.

DISCUSSION

WRDA '96 authorized Everglades Ecosystem Restoration Projects, or "critical projects," as they are more commonly known. These projects are defined as those which would produce independent and substantial benefits to the restoration, preservation and protection of the South Florida ecosystem. A programmatic authority is included in subsection (c), which provides an authority similar to the "critical projects" authorized in section 528(b)(3) of WRDA '96. Prior to implementation, the Secretary must review and approve a project implementation report for each project, which must be consistent with subsections (f) and (h). The total Federal cost for each project shall not exceed $12,500,000 and the aggregate Federal costs of all projects authorized under this authority shall not exceed $206,000,000. There are 21 such projects in the Plan that meet the criteria set forth in this bill.

(d). Authorization of Future Projects

SUMMARY

Subsection (d)(1) directs that each project except those projects authorized by subsections (b) and (c) require a specific authorization of Congress.

Subsection (d)(2) requires that before seeking Congressional authorization for a project under paragraph (1), the Secretary shall submit to Congress a description of the project and a project implementation report prepared in accordance with subsections (f) and (h).

DISCUSSION

This subsection provides the mechanism by which future projects are authorized. The recommended components of the Plan that are not authorized by this bill or eligible under the program authority subsection require a specific authorization by Congress. These future projects are expected to be authorized for construction in subsequent WRDAs.

Prior to the authorization of any project not authorized in subsections (b) or (c) of this bill, the Secretary must transmit a project implementation report to Congress. This allows the Secretary to complete the additional studies necessary to propose future authorizations to the Congress for the elements of the Plan not authorized in subsections (b) and (c), as well as studies related to the improvement of the performance of the features of the Plan. Such future authorizations shall be consistent with subsections (f) and (h) of this bill.

(e). Cost Sharing

SUMMARY

Subsection (e)(1) directs the Federal share of the cost of implementing the projects authorized in subsections (b), (c), and (d) to be 50 percent.

Subsection (e)(2) directs the non-Federal sponsor to be responsible for the acquisition of all lands, easements and rights-of-way, and relocations, and provides credit for such acquisitions toward the non-Federal share regardless of the date of acquisition.

Subsection (e)(3)(A) provides that the non-Federal sponsor may accept Federal funding for the purchase of any necessary land, easement, right-of-way, or relocation, provided that the funds are credited toward the Federal share of the cost of the project.

Subsection (e)(3)(B) provides that funds appropriated to the non-Federal sponsor under U.S. Department of Agriculture programs may be credited toward the non-Federal share of the cost of the Plan, if the Secretary of Agriculture certifies that the funds provided may be used for that purpose.

Subsection (e)(4) directs that, notwithstanding section 528(e)(3) of WRDA '96 (110 Stat. 3770), the cost share for operations and maintenance will be split 50/50 between the Federal and non-Federal sponsor.

Subsection (e)(5)(A) authorizes the Army Corps to provide credit to the non-Federal sponsor, regardless of the date of acquisition, for the value of lands or interests in lands and incidental costs for land acquired by the non-Federal sponsor in accordance with a project implementation report.

Subsection (e)(5)(B) authorizes the Army Corps to provide credit to the non-Federal sponsor for work performed on implementation of the Plan, if the credit is provided for work completed during the applicable period of the project, as defined in the respective agreement between the Secretary and the non-Federal sponsor for that stage of the project. The Secretary must also make a determination that the work is integral to the project.

Subsection (e)(5)(C) authorizes credit to be carried over between authorized projects.

Subsection (e)(5)(D) directs periodic monitoring at both the preconstruction engineering and design phase and the construction phase to ensure that the non-Federal sponsor's contributions comprise the appropriate percentage share for the cost of projects in the Plan.

DISCUSSION

Responsibilities for implementing the Plan will be shared 50/50 by the Army Corps and the South Florida Water Management District. As is standard with Army Corps projects, the non-Federal sponsor is responsible for all land, easements, rights-of-way, and relocations necessary to implement the Plan. The non-Federal sponsor will be afforded credit for providing these lands, easements, rights-of-way, and relocations. The non-Federal sponsor may use Federal funds for the purchase of such lands, easements, rights-of-way, and relocations necessary to carry out the project, so long as those funds are credited toward the Federal share of the cost of the project. The exception is that funds provided to the non-Federal sponsor by the U.S. Department of Agriculture shall be credited toward the non-Federal share of the cost of the Plan, if the Secretary of Agriculture certifies that the funds provided may be used for that purpose.

The majority of the Plan's projects accomplish restoration of the South Florida ecosystem and directly benefit Everglades National Park, Biscayne National Park, Big Cypress National Preserve, and Loxahatchee National Wildlife Refuge. Therefore, notwithstanding Section 528 (e)(3) of WRDA '96, the cost of operating and maintaining the projects in the Plan will also be shared equally between the Federal and non-Federal sponsors. While the committee supports the traditional non-Federal operation and maintenance responsibility, the unique nature of this project and the Federal benefits from the restoration Plan warrants the sharing of operation and maintenance costs. Approximately half the lands that comprise the natural system in the South Florida ecosystem are Federally-managed lands, and these Federal lands will realize substantial benefits through the implementation of the CERP.

Notwithstanding section 528(e)(4) of WRDA '96 (110 Stat. 3770) and regardless of the date of acquisition, the value of lands or interest in lands and incidental costs for land acquired by the non-Federal sponsor in accordance with a project implementation report for any project included in the Plan and authorized by Congress shall be included in the total cost of the project and credited toward the non-Federal share of the cost of the project.

The Secretary may also provide credit, including in-kind credit, toward the non-Federal share for the reasonable cost of any work performed in connection with a study, preconstruction engineering and design, or construction that is necessary for the implementation of the Plan. The credit is conditioned upon: the work being completed during the period of design, as defined in a design agreement between the Secretary and the non-Federal sponsor; the credit being provided for work completed during the period of construction, as defined in a project cooperation agreement between the Secretary and the non-Federal sponsor; the design agreement or project cooperation agreement prescribing the terms and condition

of the credit; and the Secretary determining that the work performed by the non-Federal sponsor is integral to the project.

Any credit provided may be carried over to another authorized project, in accordance with the periodic monitoring performed by the Secretary. The periodic monitoring, which shall be assessed for each project on a 5-year basis, will ensure that the contributions of the non-Federal sponsor equal a 50 percent proportionate share for projects in the Plan. The Secretary will monitor the preconstruction engineering and design phase and the construction phase separately. Credit or work provided shall be subject to audit by the Secretary.

(f). Evaluation of Projects

SUMMARY

Subsection (f)(1) requires that prior to implementing any project authorized in subsections (c) and (d) or any of the clauses (i) through (x) of subsection (b)(2)(C), the Secretary, in cooperation with the non-Federal sponsor and after notice and opportunity for public comment, shall complete a project implementation report for each project to address its cost-effectiveness, engineering feasibility, and potential environmental impacts. This section requires that the project implementation report for each project be consistent with subsection (h).

Subsection (f)(2)(A) states that in carrying out any activity authorized under this section or any other provision of law to restore, preserve or protect the South Florida ecosystem, the Secretary may determine that the activity is justified by the environmental benefits derived by the South Florida ecosystem and no further economic justification for the activity is required, if the Secretary determines the activity is cost effective.

Subsection (f)(2)(B) provides that (f)(2)(A) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the natural system.

DISCUSSION

Subsection (f) describes the mechanism for the evaluation of projects. Prior to implementation of any projects authorized by this bill, the Secretary, in cooperation with the non-Federal sponsor, and after notice and opportunity for public comment, shall complete a project implementation report for the project.

The project implementation report is a new type of reporting document, similar to a General Reevaluation Report in that it will contain additional project formulation and evaluation. The project implementation report also will contain General Design Memorandum level of detail, or higher, for engineering and design. Some of the tasks associated with the preparation of the project implementation report will include: surveys and mapping; geotechnical analyses; flood damage assessment; real estate analyses; and preparation of supplemental National Environmental Policy Act documents. The project implementation reports will bridge the gap between the programmatic-level design contained in the Plan and the detailed design necessary to proceed to construction. Furthermore, each

project implementation report will be accompanied by a project Management Plan, which will detail schedules, funding requirements, and resource needs for final design and construction of the project.

(g). Exclusions and Limitations

SUMMARY

Subsection (g) directs that some components of the Plan are not approved for implementation subject to certain exclusions and limitations.

Subsection(g)(1) directs that any project designed to implement the capture and use of the approximately 245,000 acre-feet of water described in section 7.7.2 of the Plan shall not be implemented until the project-specific feasibility study on the need for and physical delivery of the approximately 245,000 acre-feet of water, conducted by the Secretary, in cooperation with the non-Federal sponsor, is completed; the project is favorably recommended in a final report of the Chief of Engineers; and the project is authorized by an Act of Congress. The project-specific feasibility study shall include a comprehensive analysis of the structural facilities proposed to deliver the approximately 245,000 acre-feet of water to the natural system; an assessment of the requirements to divert and treat the water; an assessment of delivery alternatives; an assessment of the feasibility of delivering the water downstream while not substantially reducing authorized levels of service for flood protection to affected properties; and any other assessments that are determined by the Secretary to be necessary to complete the study.

Subsection (g)(2) directs that upon completion and evaluation of the wastewater reuse pilot project, the Secretary in an appropriately timed 5-year report, shall describe the results of the evaluation of advanced wastewater reuse in meeting, in a cost effective manner, the requirements of the natural system. This report shall be submitted to the Congress before Congressional authorization is sought for advanced wastewater reuse projects.

Subsection (g)(3) directs that the Federal share for land acquisition to enhance existing wetland systems along the Loxahatchee National Wildlife Refuge, including the Stazzulla tract, should be funded through the budget of the Department of the Interior, and that the Southern Corkscrew regional ecosystem watershed addition should be accomplished outside the scope of the Plan.

DISCUSSION

Certain components of the Plan are excluded from the overall approval of the Plan or are included with conditions or limitations as follows:

- *245,000 acre-feet of water.* Section 7.7.2 of the Plan describes the potential capture and use of approximately 245,000 acre-feet of additional water. The Plan concluded that this additional water would substantially improve the performance of the Plan in meeting restoration goals for Everglades and Biscayne National Parks but had the potential to have adverse impacts elsewhere in the system and, therefore, required additional study before being incorporated into the Plan. The bill provides that any project that is de-

signed to implement the capture and use of the approximately 245,000 acre-feet of water shall not proceed until a project-specific feasibility study on the need for and physical delivery of the additional water is completed, favorably recommended to the Congress in a final report of the Chief of Engineers, and authorized by an Act of Congress.

• *Wastewater Reuse.* The Plan includes a wastewater treatment plant expansion at the existing South District Wastewater Treatment plant in Miami-Dade County and at a future West Miami Dade Wastewater Treatment Plant to produce superior, advanced treatment of wastewater for reuse in Everglades National Park and Biscayne Bay restoration. The plant upgrades will potentially produce a combined 230 million gallons of water per day. The combined cost of the upgrades is about $800 million in construction costs and $85 million in operation and maintenance costs. There is concern about the high cost of treating this water, and whether the treatment system will be capable of treating the wastewater to appropriate levels for reuse in the natural system. The results of the wastewater reuse pilot project will be carefully reviewed in considering the ability of the treatment system to meet water quality requirements.

Additional water is needed to meet the requirements of restoration of the natural system including Biscayne Bay. Therefore, subsection (g) directs that the Secretary, in consultation with the Department of the Interior, the Environmental Protection Agency, the State of Florida and local governments to investigate in conjunction with the implementation of the Wastewater Reuse Technology Pilot project, potential sources of water other than reuse for providing freshwater flows to Biscayne Bay focusing on lower cost alternatives; defining target freshwater flows for Biscayne Bay based on the quality, timing, and distribution of flows needed to provide and maintain the estuarine functions of Biscayne Bay, Biscayne National Park and associated coastal wetlands; and performing further evaluations to determine whether restoration targets can be better achieved. These evaluations are to be included in an appropriate 5-year report to the Congress before any authorization is sought for advanced treatment and reuse of wastewater.

• *Land Acquisition projects.* Two of the projects included in the Plan are primarily land acquisition. While these projects have merit, they are not appropriate for implementation under the program of the Army Corps. Accordingly, the bill provides that the Federal share for land acquisition in the project to enhance existing wetlands systems along the Loxahatchee National Wildlife Refuge, including the Stazzulla tract, should be funded through the budget of the Department of Interior and that the Southern Corkscrew regional eco-system watershed addition should be accomplished outside the scope of the Plan.

(h). Assurance of Project Benefits

SUMMARY

Subsection (h)(1) is a general statement of Congressional purpose and intent to guide the implementation of authorized Plan activities, including the agreement between the President and Governor

required by subsection (h)(2), programmatic regulations required by subsection (h)(3), and the project-specific assurances required by subsection (h)(4).

With the exception of the pilot projects, subsection (h)(2)(A) provides that no appropriation shall be made for construction of a project contained in the Plan until the President and the Governor enter into a binding agreement under which the State will ensure, by regulation or other appropriate means, that water made available under the Plan for the restoration of the natural system is available as specified in the Plan. The committee expects this agreement to be executed early in the Plan implementation process. Subsection (h)(2)(B)(i) establishes a Federal cause of action to enforce a failure by Federal or State officials to comply with any provision of the agreement. This section provides for injunctive relief directing an official, found to be in noncompliance with the agreement, to comply. Subsection (h)(2)(B)(ii) requires sixty-day notification to the Secretary prior to commencement of an action under clause (i), and bars a civil action under clause (i) if the United States has commenced and is diligently prosecuting an action for the failure to comply in either Federal or State court.

Subsection (h)(3)(A) requires the Secretary of the Army to issue programmatic regulations within 2 years of the date of enactment. The purpose of the programmatic regulations is to ensure, over the life of the Central and South Florida Project, that the goals and purposes of the Plan are achieved. The Governor and the Secretary of Interior must concur on the regulations prior to issuance; additionally, consultation with the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Environmental Protection Agency, the Department of Commerce, and other Federal, State and local agencies is required.

The content of the programmatic regulations is specified in subsection (h)(3)(B). Programmatic regulations will be the basis for determining the content and sufficiency of project-specific assurance documents required by subsection (h)(4). The regulations shall establish a process to: provide guidance for the development of project implementation reports, project cooperation agreements, and operating manuals to ensure that the goals and objectives of the Plan are achieved; ensure that new information resulting from changed or unforeseen circumstances, new scientific or technical information or information that is developed through the principles of adaptive assessment contained in the Plan, or future authorized changes to the Plan are integrated into the implementation of the Plan; and ensure the protection of the natural system consistent with the goals and purposes of the Plan.

It is possible that projects authorized for construction in this bill may be ready to proceed to construction prior to issuance of the programmatic regulations. Subsection (h)(3)(C)(i) provides a transition rule, and requires that all project implementation reports approved before the date of promulgation of the programmatic regulations shall be consistent with the Plan. Subsection (h)(3)(C)(ii) further provides that, once issued, the preamble of the programmatic regulations shall include a statement concerning the consistency with the programmatic regulations of any project implementation

reports that were approved before the date of promulgation of the regulations.

Subsection (h)(3)(D) establishes an ongoing duty for the Secretary to ensure that the programmatic regulations will result in attainment of Plan goals and purposes. Review of the regulations not less often than every 5 years is the minimum requirement, however this duty may require review and revision more frequently than the minimum five-year interval. Under subsection (h)(3)(B)(ii), the initial programmatic regulations themselves must include a process to account for new information, changed or unforeseen circumstances, or Congressionally-authorized changes to Plan elements (such as a decision not to proceed with certain projects or unproven technologies).

Subsection (h)(4) establishes requirements for the three project-specific documents that ultimately deliver Plan benefits—project implementation reports ("PIRs"); project cooperation agreements ("PCAs"); and operating manuals. Subsection (h)(4)(A) states the procedures and requirements governing PIRs. Development of a PIR is a joint responsibility of the Secretary and non-Federal project sponsor. The PIR is developed in accordance with section 10.3.1 of the Plan, as modified by the additional requirements in this bill ((h)(4)(A)(i)). The Secretary and non-Federal sponsor must coordinate with appropriate Federal, State, tribal and local officials when developing a PIR ((h)(4)(A)(ii)).

Subsection (h)(4)(B) references and incorporates the existing process under which PCAs are executed on Army Corps construction projects. PCAs are a final check on assuring project benefits. PCAs are essentially a contract for each specific project. This subsection requires execution of a PCA for each authorized project. Further, the Secretary may not sign a PCA until water for the natural system identified in the project implementation report is actually reserved or allocated under State law.

Subsection (h)(4)(C) governs development of project operating manuals. The Secretary and the non-Federal sponsor shall develop and issue, for each project or group of projects, an operating manual that is consistent with the water reservation or allocation for the natural system described in the PIR and the PCA for the project or group of projects ((h)(4)(C)(i)). Any significant modification by the Secretary and the non-Federal sponsor to an operating manual after the operating manual is issued shall only be carried out subject to notice and opportunity for public comment ((h)(4)(C)(ii)).

Subsection (h)(5) is a savings clause that is designed to preserve the existing legal rights of persons and entities served by the Central and South Florida project and potentially affected by implementation of the Plan. Subsection (h)(5)(A) addresses the rights of existing legal water users. The subsection states that the Secretary shall ensure that the implementation of the Plan, including physical or operational modifications to the C&SF Project, does not cause significant adverse impact on existing legal water users.

Subsection (h)(5)(B) establishes a condition upon project implementation that prohibits elimination of existing legal sources of water due to Plan implementation until a new source of water sup-

ply of comparable quantity and quality is available to replace the water to be lost.

Subsection (h)(5)(C) states the rule for maintenance of flood projection. The provision is intended to ensure that persons legally entitled to flood protection are not harmed by implementation of the Plan. The provision provides that in implementing the Plan, the Secretary shall maintain authorized levels of flood protection in existence on the date of enactment of this bill, in accordance with applicable law.

Subsection (h)(5)(D) states that nothing in this bill prevents the State from allocating or reserving water, as provided under State law, to the extent consistent with this bill.

Subsection (h)(5)(E) is a savings clause designed to specifically protect a compact between the State, the South Florida Water Management District and the Seminole Tribe of Florida defining the scope and use of water rights of the Seminole Tribe of Florida, as codified by section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e).

DISCUSSION

Assurances Generally. The predominant Federal interest in this bill is the restoration of the South Florida ecosystem. Subsection (h) provides the assurance that the considerable Federal investment made in this bill, and additional investments expected in subsequent Acts of Congress implementing the Plan, will result in the restoration of the Everglades.

Subsection (h) does more than provide the necessary assurances. It also defines the relation among the various Federal, State and local governmental entities charged with Plan implementation responsibilities. The subsection places procedural and substantive requirements on both the Federal Government and the State of Florida. Most importantly, subsection (h) strikes a careful balance between the Federal interest in ensuring that predicted Plan benefits, including benefits to Federal lands, are attained, and the State's interest in: ensuring that State-owned or managed lands also receive predicted Plan benefits; and preserving its traditional sovereignty over the reservation and allocation of water within the State's boundaries.

Subsection (h)(1) of the bill restates and codifies the purpose of the Plan, as stated on page ii of the Plan summary. In conjunction with section 2(b), which approves the Plan as a framework for modifications to the existing C&SF Project, this subsection provides overall guidance in reconciling the changes made to the C&SF Project by WRDA '96 with implementation of the Plan. Sections 2(b) and 2(h) clearly specify that the purpose of Federal involvement in this project is to restore, preserve, and protect the Southern Florida ecosystem, which was damaged by past authorized Federal actions carried out to implement the original, more limited purposes of the C&SF Project. [1]

[1] While section 2(b)(1) of the bill expressly approves the Plan as the framework for restoration, many parties have testified that additional assurances were needed, especially assurances that the natural system would receive the intended benefits when the Plan is implemented. The bill also contains additional requirements that are not included in the Plan. The bill therefore does

There are three key elements in how the bill provides the needed assurances while creating a partnership between the Federal and State governments. The first element is a requirement that the President and Governor execute a binding, enforceable agreement that the water generated by the Plan will in fact be available for restoration when needed. This agreement is intended to answer concerns that the water needed for the restoration of the natural system will be available for that purpose as individual projects are completed. The second element is the programmatic regulations. These regulations, issued by the Secretary of the Army, require the concurrence of both the Governor and the Secretary of Interior. This relationship between the principal State and Federal trustees for the resources that will benefit from implementation of the Plan is unique in Federal environmental law, and is intended to create a true Federal-State partnership. The third elements are the project-specific documents which provide enforceable project-specific quantification of the appropriate amount, timing and distribution of water for the natural system and for other Plan purposes.

Assurances Agreement. In testimony before the committee and during the negotiations on subsection (h), concerns were expressed that the State's permitting process could result in the over allocation of new water to be derived from the implementation of the Plan. The State of Florida raised concerns that this bill not federalize State water law, and that Plan implementation instead rely upon State law and processes in reserving or allocating water. Subsection (h)(2) balances both of these important concerns.

Subsection (h)(2) does not specify in detail the contents of the agreement. The committee intends that the agreement between the Governor and the President result in a binding requirement for the State to manage its consumptive use permitting process in such a manner that does not infringe upon the ability of the State to deliver the water made available under the Plan for the restoration of the natural system as projects come on-line in later years. The agreement is not intended to create a mechanism for the Federal Government to become involved, on a permit-by-permit basis, in the State's consumptive use permitting decisions. Rather, the agreement will attest that the State will not pre-allocate any water generated by the Plan. Actual allocation and reservation of water generated by implementation of Plan projects is governed by subsection (h)(4). Under subsection (h)(4), any allocation and reservation of Plan water is identified under a cooperative Federal-State partnership and executed under State water law. The President and Governor should execute the agreement required by subsection (h)(2) as soon as is practicable.

Subsection (h)(2)(B) makes the agreement enforceable by establishing a cause of action in Federal courts for injunctive relief in case the Federal or State officials fail to comply with the agreement. This provision, which allows any person or entity aggrieved by a failure to comply to bring a cause of action, is narrowly tailored to remain consistent with United States Supreme Court juris-

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modify the Plan, and any inconsistency between the bill and the Plan must be resolved in favor of the bill.

prudence on State sovereign immunity under the Eleventh Amendment to the Constitution.[2]

Programmatic Regulations. Subsection (h)(3) requires the issuance of programmatic regulations. The purpose of the programmatic regulations are to ensure, over the life of the C&SF Project, that the goals and purposes of the Plan are achieved. Further, the programmatic regulations guide the implementation of the project implementation reports, and they must be periodically reviewed not less often than every 5 years to ensure that new information is integrated into implementation of the Plan. The programmatic regulations are therefore a central component in the adaptive assessment and management process on which success of the Plan, and this bill, depends.

The process for developing the programmatic regulations recognizes the stewardship responsibilities of governmental entities with trustee relationships for the resources that will benefit from Plan implementation. As the Secretary of the Interior and the State of Florida share, in approximately equal proportions, responsibility for most of the remaining natural system areas to benefit from the Plan, and further recognizing that the State will share equally in the cost of Plan implementation with the Federal Government, subsection (h)(3) requires that the Secretary issue the programmatic regulations only with the concurrence of the Secretary of the Interior and the Governor of Florida. This unique Federal-State partnership will allow for improved up-front planning during the implementation of the Plan and should improve coordination among the affected agencies, each with varying missions and responsibilities. In developing the programmatic regulations, the Federal and State partners should establish interim goals—expressed in terms of restoration standards—to provide a means by which the restoration success of the Plan may be evaluated throughout the implementation process. The restoration standards should be quantitative and measurable at specific points in the Plan implementation. The Secretary and the Secretary of the Interior are required to report on the progress toward these goals as part of the required reporting process.

Project-Specific Assurances. Project-specific assurances are included requiring the project-specific implementation reports to be consistent with the Plan and the programmatic regulations. The PIRs are the documents that will identify and quantify the water that is necessary to attain the restoration of the natural system. The State, using its own State water law, will execute the reservations or allocations for the natural system that are specified in the PIR before the Secretary can execute the PCA, which is the contract between the Secretary and non-Federal sponsor that is the prerequisite for construction of Plan projects. Finally, subsection (h)(4)(C) requires consistency between the operating manuals and the water reservations or allocations for the natural system.

Savings Clause. Subsection (h)(5) requires the Secretary to ensure that implementation of the Plan does not cause substantial

[2] Although the Eleventh Amendment prohibits Congress from making the State of Florida capable of being sued in Federal court, an exception is provided by the doctrine of *Ex Parte Young*, 209 U.S. 123 (1908). *Ex Parte Young* provides that Congress may authorize suits against State officers to enforce Federal law. The cause of action here fully comports with *Ex Parte Young*.

adverse impacts on existing legal uses of water, including water allocated to the Seminole Tribe of Florida as codified under Federal and State law, the Miccosukee Tribe of Indians of Florida, water for Everglades National Park, water for the preservation of fish and wildlife in the natural system, agricultural water supply and other legal uses as of the date of enactment of this bill. Elimination of existing sources of water supply is barred until new sources of comparable quantity and quality of water are available; existing authorized levels of flood protection are maintained; and the water compact among the Seminole Tribe of Florida, the State, and the South Florida Water Management District is specifically preserved.

With respect to flood control, the committee intends that implementation of the Plan will not result in significant adverse impact to any person with an existing, legally recognized right to a level of protection against flooding. The committee does not intend that, consistent with benefits included in the Plan, this bill create any new rights to a level of protection against flooding that is not currently recognized under applicable Federal or State law.

(i). Dispute Resolution

SUMMARY

Subsection (i)(1) directs the Governor and the Secretary, within 180 days of enactment of this bill, to develop an agreement for resolving disputes between the Army Corps and the South Florida Water Management District. Subsections (i)(1)(A), (i)(1)(B), and (i)(1)(C) describe what must be included in the mechanism for the timely and efficient resolution of disputes.

Subsection (i)(2) directs that the Secretary shall not approve a project implementation report under this bill until the agreement established under this subsection has been executed.

Subsection (i)(3) states that nothing in the agreement established under this subsection shall alter or amend any existing Federal or State law.

DISCUSSION

This bill provides a mechanism by which disputes between the Secretary and the Governor are resolved. Within 180 days from the date of enactment, the Secretary and the Governor shall develop an agreement on how to resolve disputes between the Army Corps and the State, related to the implementation of the Plan. This agreement will establish a mechanism for the resolution of disputes, including: a preference for the resolution of disputes between the Jacksonville District of the Corps of Engineers and the South Florida Water Management District; a mechanism for the Jacksonville District of the Corps of Engineers or the South Florida Water Management District to initiate the dispute resolution process for unresolved issues; the establishment of appropriate time-frames and intermediate steps for the elevation of disputes to the Governor and the Secretary; and a mechanism for the final resolution of disputes, within 180 days from the date that the dispute resolution process is initiated.

(j) Independent Scientific Review

SUMMARY

Subsection (j)(1) directs the Secretary of the Army, the Secretary of the Interior, and the State of Florida, in consultation with the South Florida Ecosystem Restoration Task Force, to establish an independent scientific review panel, convened by a body such as the National Academy of Sciences, to review the Plan's progress toward achieving the natural system's restoration goals of the Plan.

Subsection (j)(2) directs the panel described in paragraph (1) to produce a biennial report to Congress, the Secretary of the Army, the Secretary of Interior, and the State of Florida that includes an assessment of ecological indicators and other measures of progress in restoring the ecology of the natural system, based on the Plan.

DISCUSSION

Subsection (j) directs the Secretary, the Secretary of the Interior, and the State, in consultation with the South Florida Ecosystem Restoration Task Force, to establish an independent scientific panel to conduct on-going review of the progress achieved by the Plan's execution in attaining the restoration goals of the Plan. The panel is to be convened by a body, such as the National Academy of Sciences, with expertise in assembling panels for the purpose of conducting independent scientific reviews.

The committee expects the body convening the review panel to use established practices for assuring the independence of members employed in this instance. This includes assuring that neither panel members, nor the institutions they represent, have a vested interest in the outcome of the scientific review or the execution of the Plan. The committee also expects the review panel to contain individuals reflecting a balance of the knowledge, training, and experience suitable to comprehensively review and assess the Plan's progress toward achieving restoration goals. The committee believes that members of the review panel should have expertise in applicable scientific disciplines and include individuals possessing specific scientific experience with, and knowledge of, the South Florida ecosystem. This subsection is not intended to necessarily preclude the National Research Council's Committee on Restoration of the Greater Everglades Ecosystem, either in part or in full, from assuming the specified duties of the independent scientific review panel.

The panel is directed to produce a biennial report and submit its findings to Congress, the Secretary, the Secretary of the Interior, and the State of Florida. The committee intends for these reports to address the Plan's progress toward achieving the restoration goals of the Plan on a biennial basis. The panel is directed to include in each report an assessment of ecological indicators and other measures of progress in restoring the ecology of the natural system, based on the Plan.

(k). Outreach and Assistance

SUMMARY

Subsection (k)(1) directs the Secretary, in executing the Plan, to ensure that small business concerns owned and controlled by socially and economically disadvantaged individuals are provided opportunities to participate under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

Subsection (k)(2) requires the Secretary to ensure that impacts on socially and economically disadvantaged individuals, including individuals with limited English proficiency, and communities are considered during implementation of the Plan, and that such individuals have opportunity to review and comment on the Plan's implementation. The Secretary shall also ensure that public outreach and educational opportunities are provided to the individuals of South Florida, including individuals with limited English proficiency, and in particular for socially and economically disadvantaged communities.

DISCUSSION

This subsection directs the Secretary to ensure that small businesses owned and controlled by socially and economically disadvantaged individuals have an opportunity to participate in the Plan. Under section 15(g) of the Small Business Act, Federal agencies are required to establish goals for awarding contracts to small businesses, including socially and economically disadvantaged businesses. This provision reiterates that requirement for purposes of carrying out the Plan.

The Secretary is also directed to consider the impacts of implementing the Plan on socially and economically disadvantaged individuals, including those with limited English proficiency. Recognizing that a large percentage of the population of the South Florida ecosystem is made up of minority groups (e.g., 20.5 percent Hispanic), this provision ensures that the individuals have opportunities to review and comment on the implementation of the Plan. In addition, the Secretary shall ensure that public outreach and educational opportunities are provided to these same individuals.

The Plan must be adequately explained to the people of South Florida, in particular to those in socially and economically disadvantaged communities. The Secretary should work closely with the non-Federal sponsor to identify local partners for these efforts, such as existing non-profit institutions with experience in researching and exhibiting South Florida ecosystems for the general public and conducting outreach programs for socially and economically disadvantaged communities and individuals with limited English proficiency. Because of the large number of individuals in the area with limited English proficiency, the Secretary should ensure that the outreach and education programs are communicated so that these individuals can understand the Plan and implementation process.

(l). Report to Congress.

Subsection (l) requires the Secretary and the Secretary of the Interior, in consultation with the Environmental Protection Agency,

the Department of Commerce and the State of Florida to submit a report to Congress on the implementation of the Plan. The report shall be submitted on October 1, 2005, and not less than every 5 years thereafter. The report shall include: a description of planning, design, and construction work completed; the amount of funds expended during the period covered by the report, including an analysis of funds expended for adaptive assessment; the work anticipated over the next 5-year period; a determination by each Secretary and the Administrator of the Environmental Protection Agency concerning the benefits to the natural system and the human environment achieved by the date of the report and whether the completed projects are being operated consistent with the assurances provisions in subsection (h); and a review of the activities required under the outreach and assistance provisions of subsection (k). The role of the Environmental Protection Agency in this determination helps to ensure that water quality benefits, an essential component of the restoration effort, will be achieved, and that an ecosystem-wide perspective will be maintained.

HEARINGS

On January 7, 2000, the Committee on Environment and Public Works held a field hearing in Naples, Florida, to receive testimony on the Comprehensive Everglades Restoration Plan. Witnesses who testified were: the Honorable Carol Browner, Administrator, U.S. Environmental Protection Agency; the Honorable Joseph Westphal, Assistant Secretary of the Army (Civil Works); Mary Doyle, Counselor to the Secretary and the Chair of the South Florida Ecosystem Task Force, U.S. Department of the Interior; the Honorable David Struhs, Secretary of the Florida Department of Environmental Protection; Captain Mike Collins, Chairman of the South Florida Water Management District; Jim Shore, Counsel to the Seminole Tribe of Florida; Dexter Lehtinen, representing the Miccosukee Tribe of Indians; the Honorable Nora Williams, Commissioner of Monroe County, Florida; Malcolm S. "Bubba" Wade, Senior Vice President of U.S. Sugar Corporation; and the Honorable Nathaniel Reed, former Assistant Secretary of the Interior.

On May 11, 2000, the Committee on Environment and Public Works met to consider the Administration's legislative proposal for the Comprehensive Everglades Restoration Plan, included in S. 2437. The committee received testimony from the Honorable Jeb Bush, Governor of the State of Florida; Patricia Power, representing the Seminole Tribe of Florida; Dexter Lehtinen, representing the Miccosukee Tribe of Indians; Captain Mike Collins, Chairman of the South Florida Water Management District; the Honorable Joseph Westphal, Assistant Secretary of the Army (Civil Works); Gary Guzy, General Counsel, U.S. Environmental Protection Agency; Mary Doyle, Acting Assistant Secretary for Water and Science, and the Chair of the South Florida Ecosystem Task Force, U.S. Department of the Interior; Mr. Ken Keck, Director of Legislative and Regulatory Affairs, Florida Citrus Mutual; and Dr. David Guggenheim, President, The Conservancy of Southwest Florida, Co-Chair, the Everglades Coalition.

On May 23, 2000, the Subcommittee on Transportation and Infrastructure met to consider the Administration's legislative pro-

posal for the Water Resources Development Act of 2000 (S. 2437). The committee received testimony from the Honorable Joseph Westphal, Assistant Secretary of the Army (Civil Works); Major General Hans A. Van Winkle, Deputy Commanding General for Civil Works, U.S. Army Corps of Engineers; Doug Sutherland, County Executive, Pierce County, Washington; Lillian Borrone, Director of Port Commerce, Port Authority of New York and New Jersey; Barry Pamer, Executive Director, Dinamo; the Honorable Dannel P. Malloy, City of Stamford, Connecticut; and Howard Marlowe, President of American Coastal Coalition.

LEGISLATIVE HISTORY

On April 13, 2000, Senators Smith and Baucus introduced by request the Administration's proposal for the Water Resources Development Act of 2000 (S. 2437). On June 27, 2000, Senator Voinovich, Smith and Baucus introduced the Water Resources Development Act of 2000 (S. 2796). On that same day, Senators mith, Voinovich, Baucus, Graham, and Mack introduced the Restoring the Everglades, an American Legacy Act (S. 2797).

S. 2796, as amended, was reported by the Committee on Environment and Public Works on June 28, 2000. In addition, S. 2796 was amended to include S. 2797, as reported by the committee, as Title VI of the bill.

ROLLCALL VOTES

On June 28, 2000 the Committee on Environment and Public Works met to consider S. 2796, the Water Resources Development Act of 2000. An substitute amendment was agreed to by unanimous consent. An amendment offered by Senator Thomas, relative to performance by the Army Corps of specialized or technical services, was agreed to by a vote of 9 ayes to 8 nays. Voting in favor were Senators Bennett, Bond, Chafee, Crapo, Hutchison, Inhofe, Thomas, Smith of New Hampshire, and Voinovich. Voting against were Senators Baucus, Boxer, Graham, Lautenberg, Lieberman, Moynihan, Reid, and Wyden. Senator Warner was not recorded on the Thomas amendment. A motion to include the text of S. 2797, "Restoring the Everglades, An American Legacy Act," into S. 2796 was agreed to by voice vote. The motion to report S. 2796, as amended, was agreed to by voice vote.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (P.L. 104–4), the committee finds that this bill would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments. All of its governmental directives are imposed on Federal agencies. The bill does not directly impose any private sector mandates.

EVALUATION OF REGULATORY IMPACT

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires publication in the report the committee's estimate of the regulatory impact made by the bill as reported. No regulatory im-

pact is expected by the passage of S. 2796. The bill will not affect the personal privacy of individuals.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Act requires each report to contain a statement of the cost of a reported bill prepared by the Congressional Budget Office. Senate Rule XXVI paragraph 11(a)(3) allows the report to include a statement of the reasons why compliance by the committee is impracticable. The committee is unable to include a statement of the cost at this time because the Congressional Budget Office has not finished an analysis of the bill.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

UNITED STATES CODE—TITLE 33—NAVIGATION AND NAVIGABLE WATERS

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CHAPTER 9—PROTECTION OF NAVIGABLE WATERS AND OF HARBOR AND RIVER IMPROVEMENTS GENERALLY

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SUBCHAPTER I—IN GENERAL

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Sec. 401. Construction of bridges, causeways, dams or dikes generally; exemptions

(a) *IN GENERAL.*—It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for (1) the bridge or causeway shall have been submitted to and approved by the Secretary of Transportation, or

(2) the dam or dike shall have been submitted to and approved by the Chief of Engineers and Secretary of the Army. [However, such structures]

(b) WATERWAYS WITHIN A SINGLE STATE.—Notwithstanding subsection (a), structures described in subsection (a) may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of Transportation or

by the Chief of Engineers and Secretary of the Army before construction is commenced. [When plans]

(c) MODIFICATION OF PLANS.—When plans for any bridge or other structure have been approved by the Secretary of Transportation or by the Chief of Engineers and Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of Transportation or the Chief of Engineers and the Secretary of the Army. [The approval]

(d) APPLICABILITY.—

(1) BRIDGES AND CAUSEWAYS.—The approval required by this section of the location and plans or any modification of plans of any bridge or causeway does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(2) DAMS AND DIKES.—

(A) IN GENERAL.—The approval required by this section of the location and plans, or any modification of plans, of any dam or dike, applies only to a dam or dike that, if constructed, would completely span a waterway used to transport interstate or foreign commerce, in such a manner that actual, existing interstate or foreign commerce could be adversely affected.

(B) OTHER DAMS AND DIKES.—Any dam or dike (other than a dam or dike described in subparagraph (A)) that is proposed to be built in any other navigable water of the United States—

(i) shall be subject to section 10; and

(ii) shall not be subject to the approval requirements of this section.

UNITED STATES CODE—TITLE 42—THE PUBLIC HEALTH AND WELFARE

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CHAPTER 19B—WATER RESOURCES PLANNING

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

* * * * * * *

Sec. 1962d-5b. Water resources projects; written agreement requirement

(a) Cooperation of non-Federal interest After December 31, 1970, the construction of any water resources project, or an acceptable separable element thereof, by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under the provisions of section 1962d-5a of this title or under any other

provision of law, shall not be commenced until each non-Federal interest has entered into a written agreement with the Secretary of the Army to furnish its required cooperation for the project or the appropriate element of the project, as the case may be; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than $25,000. In any such agreement entered into by a State, or a body politic of the State which derives its powers from the State constitution, or a governmental entity created by the State legislature, the agreement may reflect that it does not obligate future [State legislative] appropriations for such performance and payment when obligating future appropriations would be inconsistent with State constitutional or statutory limitations *of the State or a body politic of the State.*

Public Law 99–662

WATER RESOURCES DEVELOPMENT ACT OF 1986

[As Amended Through P.L. 106–170, Dec. 17, 1999]

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act many be cited as the "Water Resources Development Act of 1986".

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TITLE I—COST SHARING

* * * * * * *

SEC. 103. FLOOD CONTROL AND OTHER PURPOSES.

* * * * * * *

(m) ABILITY TO PAY.—

[(1) IN GENERAL.—Any cost-sharing agreement under this section for flood control or agricultural water supply shall be subject to the ability of a non-Federal interest to pay.

[(2) CRITERIA AND PROCEDURES.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with criteria and procedures in effect on the day before the date of the enactment of the Water Resources Development Act of 1996; except that such criteria and procedures shall be revised within 1 year after such date of enactment to reflect the requirements of paragraph (3).]

(1) IN GENERAL.—Any cost-sharing agreement under this section for a feasibility study, or for construction of an environmental protection and restoration project, a flood control project, a project for navigation, storm damage protection, shoreline erosion, hurricane protection, or recreation, or an agricultural water supply project, shall be subject to the ability of the non-Federal interest to pay.

(2) CRITERIA AND PROCEDURES.—

(A) IN GENERAL.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with—

(i) during the period ending on the date on which revised criteria and procedures are promulgated under subparagraph (B), criteria and procedures in effect on the day before the date of enactment of this subparagraph; and

(ii) after the date on which revised criteria and procedures are promulgated under subparagraph (B), the revised criteria and procedures promulgated under subparagraph (B).

(B) REVISED CRITERIA AND PROCEDURES.—Not later than 18 months after the date of enactment of this subparagraph, in accordance with paragraph (3), the Secretary shall promulgate revised criteria and procedures governing the ability of a non-Federal interest to pay.

(3) REVISION OF CRITERIA AND PROCEDURES.—In revising criteria and procedures pursuant to paragraph (2), the Secretary—

(A) shall consider—

(i) per capita income data for the county or counties in which the project is to be located; and

(ii) the per capita non-Federal cost of construction of the project for the county or counties in which the project is to be located; *and*

[(B) shall not consider criteria (other than criteria described in subparagraph (A)) in effect on the day before the date of the enactment of the Water Resources Development Act of 1996; and

[(C) may consider additional criteria relating to the non-Federal interest's financial ability to carry out its cost-sharing responsibilities, to the extent that the application of such criteria does not eliminate areas from eligibility for a reduction in the non-Federal share as determined under subparagraph (A).**]**

(B) may consider additional criteria relating to—

(i) the financial ability of the non-Federal interest to carry out its cost-sharing responsibilities; or

(ii) additional assistance that may be available from other Federal or State sources.

(4) NON-FEDERAL SHARE.—Notwithstanding subsection (a), the Secretary may reduce the requirement that a non-Federal interest make a cash contribution for any project that is determined to be eligible for a reduction in the non-Federal share under criteria and procedures in effect under paragraphs (1), (2), and (3).

* * * * * * *

SEC. 402. COMPLIANCE WITH FLOODPLAIN MANAGEMENT AND INSURANCE PROGRAMS.

(a) COMPLIANCE WITH FLOODPLAIN MANAGEMENT AND INSURANCE PROGRAMS.—Before construction of any project for local flood

protection, or any project for hurricane or storm damage reduction, that involves Federal assistance from the Secretary, the non-Federal interest shall agree to participate in and comply with applicable Federal floodplain management and flood insurance programs.

(b) [FLOOD PLAIN] *FLOODPLAIN* MANAGEMENT PLANS.—Within 1 year after the date of signing a project cooperation agreement for construction of a project to which subsection (a) of this section applies, the non-Federal interest shall prepare a [flood plain] *floodplain* management plan designed to reduce the impacts of future flood events in the project area. Such plan shall be implemented by the non-Federal interest not later than 1 year after completion of construction of the project.

(c) GUIDELINES.—

(1) IN GENERAL.—[Within 6 months after the enactment of this subsection, the] *The* Secretary shall develop guidelines for preparation of floodplain management plans by non-Federal interests under subsection (b) of this section. [Such guidelines shall address]

(2) REQUIRED ELEMENTS.—The guidelines developed under paragraph (1) shall—

(A) address potential measures, practices, and policies *that non-Federal interests shall adopt and enforce* to reduce loss of life, injuries, damages to property and facilities, public expenditures, and other adverse impacts associated with flooding and to preserve and enhance natural floodplain values[.]*; and*

(B) require non-Federal interests to take measures to preserve the level of flood protection provided by a project to which subsection (a) applies.

[(2)] *(3)* LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to confer any regulatory authority upon the Secretary or the Director of the Federal Emergency Management Agency.

(d) TECHNICAL SUPPORT.—The Secretary may provide technical support to a non-Federal interest for a project to which subsection (a) of this section applies for the development and implementation of plans prepared under subsection (b) of this section.

* * * * * * *

SEC. 704. STUDY OF CORPS CAPABILITY TO CONSERVE FISH AND WILDLIFE

(a) The Secretary shall investigate and study the feasibility of utilizing the capabilities of the United States Army Corps of Engineers to conserve fish and wildlife (including their habitats) where such fish and wildlife are indigenous to the United States, its possessions, or its territories. The scope of such study shall include the use of engineering or construction capabilities to create alternative habitats, or to improve, enlarge, develop, or otherwise beneficially modify existing habitats of such fish and wildlife. The study shall be conducted in consultation with the Director of the Fish and Wildlife Service of the Department of the Interior, the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, and shall be transmitted within the 30-month

period beginning on November 17, 1986, by the Secretary to Congress, together with the findings, conclusions, and recommendations of the Chief of Engineers. The Secretary, in consultation with the Federal officers referred to in the preceding sentence, shall undertake a continuing review of the matters covered in the study and shall transmit to Congress, on a biennial basis, any revisions to the study that may be required as a result of the review, together with the findings, conclusions, and recommendations of the Chief of Engineers.

(b) The Secretary is further authorized to conduct projects of alternative or beneficially modified habitats for fish and wildlife, including but not limited to man-made reefs for fish. There is authorized to be appropriated not to exceed **[**$7,000,000**]** *$20,000,000* to carry out such projects. Such projects shall be developed, and their effectiveness evaluated, in consultation with the Director of the Fish and Wildlife Service and the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration. Such projects shall include—

(1) the construction of a reef for fish habitat in Lake Erie in the vicinity of Buffalo, New York;

(2) the construction of a reef for fish habitat in the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida;

(3) the construction of a reef for fish habitat in Lake Ontario in the vicinity of the town of Newfane, New York; and

[(4) the construction of a reef for fish habitat in the Chesapeake Bay in Maryland and Virginia.**]**

(4) the construction of reefs and related clean shell substrate for fish habitat, including manmade 3-dimensional oyster reefs, in the Chesapeake Bay and its tributaries in Maryland and Virginia—

(A) which reefs shall be preserved as permanent sanctuaries by the non-Federal interests, consistent with the recommendations of the scientific consensus document on Chesapeake Bay oyster restoration dated June 1999; and

(B) for assistance in the construction of which reefs the Chief of Engineers shall solicit participation by and the services of commercial watermen.

The non-Federal share of the cost of any project under this section shall be 25 percent.

* * * * * * *

[Sec. 729. STUDY OF WATER RESOURCES NEEDS OF RIVER BASINS AND REGIONS.

[(a) The Secretary, in coordination with the Secretary of the Interior and in consultation with appropriate Federal, State, and local agencies, is authorized to study the water resources needs of river basins and regions of the United States. The Secretaries shall report the results of such study to Congress not later than October 1, 1988.

[(b) In carrying out the studies authorized under subsection (a) of this section, the Secretaries shall consult with State, interstate, and local governmental entities.

[(c) There is authorized to be appropriated $5,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.]

SEC. 729. WATERSHED AND RIVER BASIN ASSESSMENTS.

(a) IN GENERAL.—The Secretary may assess the water resources needs of river basins and watersheds of the United States, including needs relating to—

(1) ecosystem protection and restoration;

(2) flood damage reduction;

(3) navigation and ports;

(4) watershed protection;

(5) water supply; and

(6) drought preparedness.

(b) COOPERATION.—An assessment under subsection (a) shall be carried out in cooperation and coordination with—

(1) the Secretary of the Interior;

(2) the Secretary of Agriculture;

(3) the Secretary of Commerce;

(4) the Administrator of the Environmental Protection Agency; and

(5) the heads of other appropriate agencies.

(c) CONSULTATION.—In carrying out an assessment under subsection (a), the Secretary shall consult with Federal, tribal, State, interstate, and local governmental entities.

(d) PRIORITY RIVER BASINS AND WATERSHEDS.—In selecting river basins and watersheds for assessment under this section, the Secretary shall give priority to—

(1) the Delaware River basin; and

(2) the Willamette River basin, Oregon.

(e) ACCEPTANCE OF CONTRIBUTIONS.—In carrying out an assessment under subsection (a), the Secretary may accept contributions, in cash or in kind, from Federal, tribal, State, interstate, and local governmental entities to the extent that the Secretary determines that the contributions will facilitate completion of the assessment.

(f) COST-SHARING REQUIREMENTS.—

(1) NON-FEDERAL SHARE.—The non-Federal share of the costs of an assessment carried out under this section shall be 50 percent.

(2) CREDIT.—

(A) IN GENERAL.—Subject to subparagraph (B), the non-Federal interests may receive credit toward the non-Federal share required under paragraph (1) for the provision of services, materials, supplies, or other in-kind contributions.

(B) MAXIMUM AMOUNT OF CREDIT.—Credit under subparagraph (A) shall not exceed an amount equal to 25 percent of the costs of the assessment.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000.

* * * * * * *

[SEC. 1001. PROJECT DEAUTHORIZATIONS.

[(a) Any project authorized for construction by this Act shall not be authorized after the last day of the 5-year period beginning

on the date of enactment of this Act unless during such period funds have been obligated for construction, including planning and designing, of such project.

[(b)(1) Not later than one year after the date of enactment of this Act, the Secretary shall transmit to Congress a list of unconstructed projects, or unconstructed separable elements of projects, which have been authorized, but have received no obligations during the 10 full fiscal years preceding the transmittal of such list. A project or separable element included in such list is not authorized after December 31, 1989, if funds have not been obligated for construction of such project or element after the date of enactment of this Act and before December 31, 1989.

[(2) Every two years after the transmittal of the list under paragraph (1), the Secretary shall transmit to Congress a list of projects or separable elements of projects which have been authorized, but have received no obligations during the 10 full fiscal years preceding the transmittal of such list. A project or separable element included in such list is not authorized after the date which is 30 months after the date the list is so transmitted if funds have not been obligated for construction of such project or element during such 30-month period.

[(c) The Secretary shall publish in the Federal Register a list of any projects or separable elements that are deauthorized under this section.]

SEC. 1001. PROJECT DEAUTHORIZATIONS.

(a) DEFINITIONS.—In this section:

(1) CONSTRUCTION.—The term "construction", with respect to a project or separable element, means—

(A) in the case of—

(i) a nonstructural flood control project, the acquisition of land, an easement, or a right-of-way primarily to relocate a structure; and

(ii) in the case of any other nonstructural measure, the performance of physical work under a construction contract;

(B) in the case of an environmental protection and restoration project—

(i) the acquisition of land, an easement, or a right-of-way primarily to facilitate the restoration of wetland or a similar habitat; or

(ii) the performance of physical work under a construction contract to modify an existing project facility or to construct a new environmental protection and restoration measure; and

(C) in the case of any other water resources project, the performance of physical work under a construction contract.

(2) PHYSICAL WORK UNDER A CONSTRUCTION CONTRACT.—The term "physical work under a construction contract" does not include any activity related to project planning, engineering and design, relocation, or the acquisition of land, an easement, or a right-of-way.

(b) PROJECTS NEVER UNDER CONSTRUCTION.—

(1) LIST OF PROJECTS.—The Secretary shall annually submit to Congress a list of projects and separable elements of projects that—

(A) are authorized for construction; and

(B) for which no Federal funds were obligated for construction during the 4 full fiscal years preceding the date of submission of the list.

(2) DEAUTHORIZATION.—Any water resources project, or separable element of a water resources project, authorized for construction shall be deauthorized effective at the end of the 7-year period beginning on the date of the most recent authorization or reauthorization of the project or separable element unless Federal funds have been obligated for construction of the project or separable element by the end of that period.

(c) PROJECTS FOR WHICH CONSTRUCTION HAS BEEN SUSPENDED.—

(1) LIST OF PROJECTS.—The Secretary shall annually submit to Congress a list of projects and separable elements of projects—

(A) that are authorized for construction;

(B) for which Federal funds have been obligated for construction of the project or separable element; and

(C) for which no Federal funds have been obligated for construction of the project or separable element during the 2 full fiscal years preceding the date of submission of the list.

(2) DEAUTHORIZATION.—Any water resources project, or separable element of a water resources project, for which Federal funds have been obligated for construction shall be deauthorized effective at the end of any 5-fiscal year period during which Federal funds specifically identified for construction of the project or separable element (in an Act of Congress or in the accompanying legislative report language) have not been obligated for construction.

(d) CONGRESSIONAL NOTIFICATIONS.—Upon submission of the lists under subsections (b)(1) and (c)(1), the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, the affected project or separable element is or would be located.

(e) FINAL DEAUTHORIZATION LIST.—The Secretary shall publish annually in the Federal Register a list of all projects and separable elements deauthorized under subsection (b)(2) or (c)(2).

(f) EFFECTIVE DATE.—Subsections (b)(2) and (c)(2) take effect 3 years after the date of enactment of this subsection.

* * * * * * *

SEC. 1148. PASSAIC RIVER BASIN.

(a) ACQUISITION OF LANDS.—The Secretary may acquire from willing sellers lands on which residential structures are located and that are subject to frequent and recurring flood damage, as identified in the supplemental floodway report of the Corps of Engineers, Passaic River Buyout Study, September 1995, at an estimated total cost of $194,000,000.

(b) RETENTION OF LANDS FOR FLOOD PROTECTION.—Lands acquired by the Secretary under this section shall be retained by the Secretary for future use in conjunction with flood protection and flood management in the Passaic River Basin.

(c) COST SHARING.—The non-Federal share of the cost of carrying out this section shall be 25 percent plus any amount that might result from application of subsection (d).

(d) APPLICABILITY OF BENEFIT-COST RATIO WAIVER AUTHORITY.—In evaluating and implementing the project under this section, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c), to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.

(e) CONSISTENCY WITH NEW JERSEY BLUE ACRES PROGRAM.—The Secretary shall carry out this section in a manner that is consistent with the Blue Acres Program of the State of New Jersey.

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Public Law 101–640

WATER RESOURCES DEVELOPMENT ACT OF 1990

[As Amended Through P.L. 106–53, August 17, 1999]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1990".

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SEC. 101. PROJECT AUTHORIZATIONS.

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(18) PASSAIC RIVER [MAIN STEM] *FLOOD MANAGEMENT PROJECT*, NEW JERSEY AND NEW YORK.—

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SEC. 312. ENVIRONMENTAL DREDGING.

(a) OPERATION AND MAINTENANCE OF NAVIGATION PROJECTS.—* * *

* * * * * * *

(g) NONPROFIT ENTITIES.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal sponsor may include a nonprofit entity, with the consent of the affected local government.

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SEC. 314. OPERATION AND MAINTENANCE OF HYDROELECTRIC FACILITIES.

Activities currently performed by personnel under the direction of the Secretary in connection with the operation and maintenance of hydroelectric power generating facilities at Corps of Engineers water resources projects are to be considered as inherently govern-

mental functions and not commercial activities *in cases in which the activities require specialized training relating to hydroelectric power generation*. This section does not prohibit contracting out major maintenance or other functions which are currently contracted out or studying services not directly connected with project maintenance and operations.

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SEC. 401. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

(a) GREAT LAKES REMEDIAL ACTION PLANS—

(1) IN GENERAL.—The Secretary may provide technical, planning, and engineering assistance to State and local governments and nongovernmental entities designated by a State or local government in the development and implementation of remedial action plans for Areas of Concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978.

(2) NON-FEDERAL INTERESTS.—

(A) IN GENERAL.—Non-Federal interests shall contribute, in cash or by providing in-kind contributions, ⟦50 percent⟧ *35 percent* of costs of activities for which assistance is provided under paragraph (1).

(B) CONTRIBUTIONS BY ENTITIES.—Nonprofit public or private entities may contribute all or a portion of the non-Federal share.

(b) SEDIMENT REMEDIATION PROJECTS—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency (acting through the Great Lakes National Program Office), may conduct pilot- and full-scale projects of promising technologies to remediate contaminated sediments in freshwater coastal regions in the Great Lakes basin. The Secretary shall conduct not fewer than 3 full-scale projects under this subsection.

(2) SITE SELECTION FOR PROJECTS.—In selecting the sites for the technology projects, the Secretary shall give priority consideration to Saginaw Bay, Michigan, Sheboygan Harbor, Wisconsin, Grand Calumet River, Indiana, Ashtabula River, Ohio, Buffalo River, New York, and Duluth-Superior Harbor, Minnesota and Wisconsin.

⟦(3) DEADLINE FOR IDENTIFICATIONS.—The Secretary shall-—

⟦(A) not later than 18 months after the date of the enactment of this paragraph, identify the sites and technologies for projects under this subsection; and

⟦(B) not later than 3 years after that date, complete each such full-scale project.⟧

⟦(4)⟧ *(3)* NON-FEDERAL SHARE.—Non-Federal interests shall contribute 50 percent of costs of projects under this subsection. Such costs may be paid in cash or by providing in-kind contributions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section

[$5,000,000 for each of fiscal years 1998 through 2000] *$10,000,000 for each of fiscal years 2001 through 2010.*

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Public Law 102–580

WATER RESOURCES DEVELOPMENT ACT OF 1992

[As Amended Through P.L. 106–53, August 17, 1999]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1992".

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SEC. 103. VISITOR CENTERS.

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(c) LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE.—

(1) ESTABLISHMENT.—The Secretary shall establish and operate in accordance with this subsection an interpretive facility (including a museum and interpretive site) in Vicksburg, Mississippi, which shall be known as the "Lower Mississippi River Museum and Riverfront Interpretive Site".

(2) LOCATION OF MUSEUM.—The museum shall be located on property currently held by the Resolution Trust Corporation [in the vicinity of the Mississippi River Bridge in Vicksburg, Mississippi] *between the Mississippi River Bridge and the waterfront in downtown Vicksburg, Mississippi*. Title to the property shall be transferred to the Secretary at no cost.

(3) INTERPRETIVE SITE.—The interpretive site shall be located on riverfront property between the Mississippi River Bridge and the Mississippi Riverpark in Vicksburg, Mississippi. The Secretary is authorized to acquire surface use easements for such site on a willing seller basis.

(4) LIMITATION ON ACQUISITION AUTHORITY.—The Secretary may not use condemnation of property in carrying out this subsection.

(5) PURPOSES OF THE MUSEUM AND INTERPRETIVE SITE.—The purposes of the Lower Mississippi River Museum and Riverfront Interpretive Site are to-—

(A) promote an understanding of the Lower Mississippi River and the United States Army Corps of Engineers' role in developing and managing this nationally significant resource;

(B) interpret the United States Army Corps of Engineers historic presence in the Lower Mississippi River Valley and its administration of the Mississippi River and Tributaries project;

(C) provide an understanding of the many Corps of Engineers branches and facilities in the Vicksburg area

and their relationship to flood control, navigation, and environmental conservation in the Mississippi River;

(D) highlight the Mississippi River's influence on the Vicksburg area and the river valley's natural, historic, and cultural resource contributions;

(E) highlight local Corps of Engineers projects and management strategies;

(F) provide an understanding of the surrounding natural riparian environment adjacent to the Mississippi River through public access and interpretive displays; and

(G) promote the worldwide application of water resource technologies learned from using the Mississippi River as a working model.

(6) RELATED AGENCIES AND PROGRAMS—

(A) SMITHSONIAN INSTITUTION.—The Secretary shall consult with the Secretary of the Smithsonian Institution in the planning and design of the museum and riverfront interpretive site under this subsection.

(B) DEPARTMENT OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior and the Director of the National Park Service in the planning, design, and implementation of interpretive programs for the museum and riverfront interpretive site to be established under this subsection.

(C) VISITOR SERVICES.—The Secretary is directed to provide increased and enhanced visitor services at the United States Army Corps of Engineers, Waterways Experiment Station in Vicksburg, Mississippi.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this subsection, including acquiring and restoring under paragraph (2) the property held by the Resolution Trust Corporation and planning, designing, and constructing the museum and riverfront interpretive site under this subsection.

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(e) JOHN PAUL HAMMERSCHMIDT LAKE, ARKANSAS.—

(1) CONSTRUCTION.—The Secretary shall construct a visitors center for the Army Corps of Engineers at the John Paul Hammerschmidt Lake, [Arkansas River, Arkansas] *at Fort Smith, Arkansas, on land provided by the city of Fort Smith.*

(2) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "John Paul Hammerschmidt Visitor Center".

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

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SEC. 332. TRANSFER OF LOCKS AND APPURTENANT FEATURES, FOX RIVER SYSTEM, WISCONSIN.

(a) TRANSFER.—[The Secretary]

(1) IN GENERAL.—The Secretary is authorized to transfer to the State of Wisconsin the locks and appurtenant features of the navigation portion of the Fox River System, Wisconsin, extending from Green Bay, Wisconsin, to Lake Winnebago, Wisconsin, subject to the execution of an agreement by the Secretary and the State of Wisconsin which specifies the terms and conditions for such transfer.

(2) PAYMENTS TO STATE.—The terms and conditions may include 1 or more payments to the State of Wisconsin to assist the State in paying the costs of repair and rehabilitation of the transferred locks and appurtenant features.

(b) TREATMENT OF LOCKS AND APPURTENANT FEATURES.—The locks and appurtenant features to be transferred under subsection (a) shall not be treated as part of any Federal project after the effective date of the transfer.

(c) OPERATION AND MAINTENANCE.—Operation and maintenance of all features of the Fox River System, Wisconsin, other than the locks and appurtenant features to be transferred under subsection (a), shall continue to be a Federal responsibility after the effective date of the transfer under subsection (a).

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Public Law 104–303

WATER RESOURCES DEVELOPMENT ACT OF 1996

[As Amended Through P.L. 105–153, December 17, 1997]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1996".

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SEC. 234. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY.

(a) IN GENERAL.—The Secretary may engage in activities in support of other Federal agencies or international organizations to address problems of national significance to the United States.

(b) CONSULTATION.—The Secretary may engage in activities in support of international organizations only after consulting with the Secretary of State.

(c) USE OF CORPS' EXPERTISE.—The Secretary may use the technical and managerial expertise of the Corps of Engineers to address domestic and international problems related to water resources, infrastructure development, and environmental protection.

(d) FUNDING.—There is authorized to be appropriated **[**$1,000,000**]** *$2,000,000* to carry out this section. The Secretary may accept and expend additional funds from other Federal agencies or international organizations to carry *out* this section.

* * * * * * *

[SEC. 438. CUYAHOGA RIVER, OHIO.

[The Secretary shall conduct a study to evaluate the integrity of the bulkhead system located on the Federal channel along the Cuyahoga River in the vicinity of Cleveland, Ohio, and shall provide to the non-Federal interest an analysis of costs and repairs of the bulkhead system.]

SEC. 438. CUYAHOGA RIVER, OHIO.

(a) IN GENERAL.—The Secretary shall—

(1) conduct a study to evaluate the structural integrity of the bulkhead system located on the Federal navigation channel along the Cuyahoga River near Cleveland, Ohio; and

(2) provide to the non-Federal interest design analysis, plans and specifications, and cost estimates for repair or replacement of the bulkhead system.

(b) COST SHARING.—The non-Federal share of the cost of the study shall be 35 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.

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SEC. 516. SEDIMENT MANAGEMENT.

(a) IN GENERAL.—The Secretary may enter into cooperation agreements with non-Federal interests with respect to navigation projects, or other appropriate non-Federal entities, for the development of long-term management strategies for controlling sediments at such projects.

(b) CONTENTS OF STRATEGIES.—Each strategy developed under subsection (a) shall—

(1) include assessments of sediment rates and composition, sediment reduction options, dredging practices, long-term management of any dredged material disposal facilities, remediation of such facilities, and alternative disposal and reuse options;

(2) include a timetable for implementation of the strategy; and

(3) incorporate relevant ongoing planning efforts, including remedial action planning, dredged material management planning, harbor and waterfront development planning, and watershed management planning.

(c) CONSULTATION.—In developing strategies under subsection (a), the Secretary shall consult with interested Federal agencies, States, and Indian tribes and provide an opportunity for public comment.

(d) DREDGED MATERIAL DISPOSAL.—

(1) STUDY.—The Secretary shall conduct a study to determine the feasibility of constructing and operating an underwater confined dredged material disposal site in the Port of New York-New Jersey that could accommodate as much as 250,000 cubic yards of dredged material for the purpose of demonstrating the feasibility of an underwater confined disposal pit as an environmentally suitable method of containing certain sediments.

(2) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under paragraph

(1), together with any recommendations of the Secretary that may be developed in a strategy under subsection (a).

(e) GREAT LAKES TRIBUTARY MODEL.—

(1) IN GENERAL.—In consultation and coordination with the Great Lakes States, the Secretary shall develop a tributary sediment transport model for each major river system or set of major river systems depositing sediment into a Great Lakes federally authorized commercial harbor, channel maintenance project site, or Area of Concern identified under the Great Lakes Water Quality Agreement of 1978. Such model may be developed as a part of a strategy developed under subsection (a).

(2) REQUIREMENTS FOR MODELS.—In developing a tributary sediment transport model under this subsection, the Secretary shall build on data and monitoring information generated in earlier studies and programs of the Great Lakes and their tributaries.

(3) COST SHARING.—The non-Federal share of the costs of developing a tributary sediment transport model under this subsection shall be 50 percent.

(f) GREAT LAKES STATES DEFINED.—In this section, the term "Great Lakes States" means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

(g) AUTHORIZATION OF APPROPRIATIONS.—**[**There is authorized**]**

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 1998 through 2001.

(2) GREAT LAKES TRIBUTARY MODEL.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out subsection (e) $5,000,000 for each of fiscal years 2001 through 2008.

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Public Law 106–53

WATER RESOURCES DEVELOPMENT ACT OF 1999

[As Amended Through P.L. 106–109, November 24, 1999]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1999".

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SEC. 212. FLOOD MITIGATION AND RIVERINE RESTORATION PROGRAM.

(a) IN GENERAL. * * *

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(e) PRIORITY AREAS.—In carrying out this section, the Secretary shall examine appropriate locations, including—

(1) Pima County, Arizona, at Paseo De Las Iglesias and Rillito River;

(2) Coachella Valley, Riverside County, California;

(3) Los Angeles and San Gabriel Rivers, California;

(4) Murrieta Creek, California;

(5) Napa River Valley watershed, California, at Yountville, St Helena, Calistoga, and American Canyon;

(6) Santa Clara basin, California, at Upper Guadalupe River and Tributaries, San Francisquito Creek, and Upper Penitencia Creek;

(7) Pond Creek, Kentucky;

(8) Red River of the North, Minnesota, North Dakota, and South Dakota;

(9) Connecticut River, New Hampshire;

(10) Pine Mount Creek, New Jersey;

(11) Southwest Valley, Albuquerque, New Mexico;

(12) Upper Delaware River, New York;

(13) Briar Creek, North Carolina;

(14) Chagrin River, Ohio;

(15) Mill Creek, Cincinnati, Ohio;

(16) Tillamook County, Oregon,

(17) Willamette River basin, Oregon;

(18) Blair County, Pennsylvania, at Altoona and Frankstown Township;

(19) Delaware River, Pennsylvania;

(20) Schuylkill River, Pennsylvania;

(21) Providence County, Rhode Island;

(22) Shenandoah River, Virginia; [and]

(23) Lincoln Creek, Wisconsin[.] *; and*

(24) Perry Creek, Iowa.

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SEC. 217. DISPOSAL OF DREDGED MATERIAL ON BEACHES.

(a) IN GENERAL.— * * *

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(f) FORT CANBY STATE PARK, BENSON BEACH, WASHINGTON.— The Secretary may design and construct a shore protection project at Fort Canby State Park, Benson Beach, Washington, including beneficial use of dredged material from Federal navigation projects as provided under section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j).

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SEC. 352. FOX POINT HURRICANE BARRIER, PROVIDENCE, RHODE ISLAND.

(a) *IN GENERAL.*—The project for hurricane-flood protection, Fox Point, Providence, Rhode Island, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 306), is modified to direct the Secretary to undertake the necessary repairs to the barrier, as identified in the Condition Survey and Technical Assessment dated April 1998, with Supplement dated August 1998, at a total cost of $3,000,000, with an estimated Federal cost of $1,950,000 and an estimated non-Federal cost of $1,050,000.

(b) CREDIT TOWARD NON-FEDERAL SHARE.—The non-Federal interest shall receive credit toward the non-Federal share of project costs, or reimbursement, for the Federal share of the costs of repairs authorized under subsection (a) that are incurred by the non-Federal interest before the date of execution of the project cooperation agreement.

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SEC. 374. WHITE RIVER BASIN, ARKANSAS AND MISSOURI.

(a) IN GENERAL.—Subject to subsection (b), the project for flood control, power generation, and other purposes at the White River Basin, Arkansas and Missouri, authorized by section 4 of the Act of June 28, 1938 (52 Stat. 1218, chapter 795), and modified by House Document 917, 76th Congress, 3d Session, and House Document 290, 77th Congress, 1st Session, approved August 18, 1941, and House Document 499, 83d Congress, 2d Session, approved September 3, 1954, and by section 304 of the Water Resources Development Act of 1996 (110 Stat. 3711) is further modified to authorize the Secretary to provide minimum flows necessary to sustain tail water trout fisheries by reallocating **[**the following amounts of project storage: Beaver Lake, 1.5 feet; Table Rock, 2 feet; Bull Shoals Lake, 5 feet; Norfork Lake, 3.5 feet; and Greers Ferry Lake, 3 feet.**]** *the amounts of project storage that are recommended by the report required under subsection (b).*

(b) REPORT.—

(1) IN GENERAL.—No funds may be obligated to carry out work on the modification under subsection (a) until completion of a final report by the Chief of Engineers finding that the work is technically sound, environmentally acceptable, and economically justified *and does not significantly impact other authorized project purposes.*

(2) TIMING.—The Secretary shall submit the report to Congress not later than July 30, **[**2000**]** *2002.*

(3) CONTENTS.—The report shall include determinations concerning whether *and to what extent—*

(A) the modification under subsection (a) adversely affects other authorized project purposes; **[**and**]**

(B) Federal costs will be incurred in connection with the modification**[**.**]***; and*

(C) project storage should be reallocated to sustain the tail water trout fisheries.

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SEC. 563. LAND CONVEYANCES.

* * * * * * *

(c) CANDY LAKE PROJECT, OSAGE COUNTY, OKLAHOMA.—

(1) DEFINITIONS.—In this subsection:

(A) FAIR MARKET VALUE.—The term "fair market value" means the amount for which a willing buyer would purchase and a willing seller would sell a parcel of land, as determined by a qualified, independent land appraiser.

(B) PREVIOUS OWNER OF LAND.—The term "previous owner of land" means a person (including a corporation) that conveyed, or a descendant of **[**a deceased**]** *an* individ-

ual who conveyed, land to the Corps of Engineers for use in the Candy Lake project in Osage County, Oklahoma.

(2) CONVEYANCES.—

(A) IN GENERAL.—The Secretary shall convey all right, title, and interest of the United States in and to the land acquired by the United States for the Candy Lake project in Osage County, Oklahoma.

(B) PREVIOUS OWNERS OF LAND.—

(i) IN GENERAL.—The Secretary shall give a previous owner of land the first option to purchase the land described in subparagraph (A).

(ii) APPLICATION.—

(I) IN GENERAL.—A previous owner of land that desires to purchase the land described in paragraph (1) that was owned by the previous owner of land, or by the individual from whom the previous owner of land is descended, shall file an application to purchase the land with the Secretary not later than 180 days after the official date of notice to the previous owner of land under paragraph (3).

(II) FIRST TO FILE HAS FIRST OPTION.—If more than 1 application is filed to purchase a parcel of land described in subparagraph (A), the first option to purchase the parcel of land shall be determined in the order in which applications for the parcel of land were filed.

(iii) IDENTIFICATION OF PREVIOUS OWNERS OF LAND.—As soon as practicable after the date of enactment of this Act, the Secretary shall, to the extent practicable, identify each previous owner of land.

(iv) CONSIDERATION.—Consideration for land conveyed under this subsection shall be the fair market value of the land.

(C) DISPOSAL.—Any land described in subparagraph (A) for which an application to purchase the land has not been filed under subparagraph (B)(ii) within the applicable time period shall be disposed of in accordance with law.

(D) EXTINGUISHMENT OF EASEMENTS.—All flowage easements acquired by the United States for use in the Candy Lake project in Osage County, Oklahoma, are extinguished.

(3) NOTICE.—

(A) IN GENERAL.—The Secretary shall notify—

(i) each person identified as a previous owner of land under paragraph (2)(B)(iii), not later than 90 days after identification, by United States mail; and

(ii) the general public, not later than 90 days after the date of enactment of this Act, by publication in the Federal Register.

(B) CONTENTS OF NOTICE.—Notice under this paragraph shall include—

(i) a copy of this subsection;

(ii) information sufficient to separately identify each parcel of land subject to this subsection; and

(iii) specification of the fair market value of each parcel of land subject to this subsection.

(C) OFFICIAL DATE OF NOTICE.—The official date of notice under this subsection shall be the later of—

(i) the date on which actual notice is mailed; or

(ii) the date of publication of the notice in the Federal Register.

(4) COSTS OF NEPA COMPLIANCE.—The Federal Government shall assume the costs of any Federal action under this subsection that is carried out for the purpose of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

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