Calendar No. 227

104TH CONGRESS
1st Session

SENATE

REPORT
104–170

WATER RESOURCES DEVELOPMENT ACT OF 1995

REPORT

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

together with

ADDITIONAL VIEWS

TO ACCOMPANY

S. 640

[Including cost estimate of the Congressional Budget Office]

NOVEMBER 9, 1995.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
29–010 WASHINGTON : 1995

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104TH CONGRESS, *1st Session* | SENATE | REPORT 104–170

WATER RESOURCES DEVELOPMENT ACT OF 1995

NOVEMBER 9, 1995.—Ordered to be printed

Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 640]

The Committee on Environment and Public Works, to which was referred the bill (S. 640) 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 do pass.

GENERAL STATEMENT

In reporting the Water Resources Development Act of 1995, the Committee has chosen to adhere to the policies established in the 1986 Water Resources Development Act (Public Law 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 23 new construction projects.

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 public 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, disputes 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 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 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 (Public Law 94–587) made some changes to 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 the Senate and signed into law on November 17, 1986 (Public Law 99–662). The Water Resources Development Act of 1986 was the largest and most comprehensive authorization of the 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 deep draft harbor dredging (section 101), flood control (section 103), shoreline protection (section 103), steambank erosion control (section 603), and other projects. Local Cooperation Agreements were required for all such projects. Projects for enhancement of fish and wildlife resources were allowed to be carried out at up to 100 percent Federal expense under section 906 and environmental restoration at 75 percent Federal expense under section 1135.

The Harbor Maintenance Trust Fund, funded by a new Harbor Maintenance Tax, 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 100 percent under the 1990 Water Resources Development Act.

Projects authorized prior to 1986 that were incomplete would be deauthorized without Congressional action if no funds were expended on the project for a period of 10 years; projects authorized in 1986 or thereafter would be deauthorized if not funded for a period of 5 years (section 1001).

These policy changes applied to all projects contained in the Water Resources Development Acts of 1988 (Public Law 100–676); 1990 (Public Law 101–640); 1992 (Public Law 102–580); and will continue to apply to all projects contained in the Water Resources Development Act of 1995.

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. In addition, it has been the policy of the Committee to require all projects to have undergone full engineering, environmental and economic review by the Chief of Engineers prior to project approvals by the Committee.

The Corps of Engineers water resources project study process can be initiated when either the two Public Works Committees of the Congress approves a Committee Resolution requesting that the study of a project be undertaken. Once such a resolution is approved by either Committee, the 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.

When the feasibility study is completed, the 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 Corps Headquarters. Headquarters performs a final policy review and submits the report for the mandatory (33 U.S.C. 701–1(a)) 90-day State and 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.

Some 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 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 review of projects by the Chief of Engineers is technical in nature and does not involve political or policy judgment. The Committee practice of using Chief of Engineers' reports to measure the validity of projects does not represent a pre-clearance of projects with the Administration. If the technical nature of the Chief of Engineers' review process were to change in the future, the Committee would reevaluate the practice of using Chief of Engineers' reports for the purpose of project authorization.

The contingent authorization of water resources projects is contrary to the policy of the Committee. Requests for authorization are usually based on an expected favorable report by the Chief of Engineers and approval of the Secretary of the Army. Exceptions to this previously unwritten Committee policy will not be supported.

ADMINISTRATION'S PROPOSED CHANGES IN CIVIL WORKS MISSION

The Committee has carefully reviewed the Administration's proposed change in Federal participation in water resources projects and programs. One of the more significant proposed policy changes involved flood control. While the Administration did not submit legislative language to implement its proposed policy changes, the

Committee did conduct a hearing on potential impacts of such proposal.

There is no doubt that current budget circumstances require certain program reductions. The Civil Works Program of the Army Corps must and will share in these reductions. Increased flood damage reduction efforts are necessary at the State and local levels if we are to reduce human suffering and economic loss such as that witnessed in the Midwest during the summer of 1993. Nevertheless, given the continued high incidence of coastal and riverine flooding, it is critical that national expertise and resources continue to be dedicated to the reduction of flood damages. The Administration's proposal to limit Corps involvement to new flood control projects involving interstate water is misguided. Restricting Corps involvement to areas where more than half of flood waters originate from outside the State where the damage is occurring would have dire results for flood prone regions throughout the Nation.

Many valuable and necessary coastal and riverine flood control projects, both proposed and constructed, fall short of the Administration's proposed policy criteria. With careful planning and scrutiny by local sponsors, the Executive Branch and the Congress, along with strict adherence to the cost-sharing rules established in the Water Resources Development Act of 1986, Corps involvement in the planning and execution of flood control and reduction projects continues to be of national significance and interest.

DREDGED MATERIAL DISPOSAL FACILITIES

The availability of dredged material disposal capacity is a growing concern in many areas around the country. Testimony and correspondence provided to the Committee by U.S. ports and their users indicate that this is an existing problem which is expected to worsen in the years ahead.

Upstream pollution has been identified as a significant burden for domestic port operators as they strive to maintain authorized channel depths. Contaminated harbor sediments found in many U.S. ports, particularly those in the Northeast, severely limit disposal options.

The Corps of Engineers and other relevant Federal agencies are expected to work closely with State, local and port officials in seeking innovative solutions to this problem. Despite the severe budget cuts anticipated for civil works activities, this issue is of critical concern. For the reason, environmental dredging and sediment decontamination technology development authorities are extended in this legislation.

With respect to the construction of dredged material disposal facilities, it is apparent that cost-sharing inconsistencies do exist. Federal and non-Federal cost-sharing responsibilities for dredged material disposal vary from project to project, region to region, and port to port depending on when the project was authorized. In addition, current cost-sharing policies favor open water disposal. As a general rule, open water disposal costs are either cost shared for new projects, or, if associated with operation and maintenance, borne by the Federal government and reimbursed through the Harbor Maintenance Trust Fund. In the latter instance, land and

diking costs for upland and confined disposal are largely non-Federal costs.

This inconsistency creates incentive for open water disposal and discourages upland and confined disposal, including environmentally beneficial disposal options. Increased information about the effects of dredged material disposal on the environment has led to a decrease in unconfined open water disposal and an increase in upland and confined disposal. This course of events results in a shift in disposal costs from the Federal government to the non-Federal sponsor.

The Administration is considering various options to address the inconsistency of cost-sharing for dredged material disposal associated with the operation and maintenance of Federal channels. Although current law and Corps' policy restrict cost-sharing for such activities, the Committee urges the Administration to report possible solutions to the Congress for consideration.

EVERGLADES RESTORATION

The Florida Everglades National Park and its estuarial ecosystem possesses environmental, ecological and historical significance. The Everglades is a national asset and treasure which continues to deserve our attention. In addition to the Federal Government's initiatives to improve and preserve the Everglades, the State of Florida and local communities have taken an aggressive role in working to address the problems faced by the ecosystem. The improvements supported by the Army Corps of Engineers to the C–111 and C–51 canal projects are important and should go forward. Continued and innovative endeavors on the part of the Federal agencies and State and local authorities in working for solutions to address the restoration and preservation of the Florida Everglades are to be encouraged and supported.

WASHINGTON AQUEDUCT

The Washington Aqueduct system consists of the Dalecarlia and McMillan water treatment plants located in Washington, DC. The system was constructed in 1853 and is under the control of the U.S. Army Corps of Engineers for appropriate management and maintenance. Today, the system distributes approximately 250 million gallons per day to the over one million customers in the metropolitan Washington and northern Virginia area.

Fees are collected from the water system users and are deposited into the District of Columbia Water and Sewer Enterprise Fund. This Fund provides the revenue to finance the system's annual operating expenses. The Corps of Engineers, as owner of the system, has no authority to finance capital improvement projects necessary to meet Federal drinking water standards.

This legislation includes a provision to provide the Corps of Engineers with the authority to borrow funds from the Secretary of Treasury to underwrite the cost of necessary improvements to the Washington Aqueduct. Amounts borrowed from the bank are to be repaid by the customers of the Washington Aqueduct.

EXOTIC HARMFUL PLANT QUARANTINE FACILITY

The Federal Interagency Task Force for South Florida Ecosystem Restoration, established by the Secretary of Interior, has made significant efforts to address problems associated with harmful nonindigenous plant species, particularly the melaleuca quinquenervia plant. This plant species, introduced to Florida in the early part of this century, has had a devastating impact on wetland habitats and numerous urban areas throughout the southern portion of the State. Melaleuca is already present on over 500,000 acres in Florida and it continues to out-compete native vegetation at a high rate of approximately 52 acres per day. Due to its extremely high evapotranspiration rate, the plant quickly dries out groundwater, and creates navigational hazards and flood control problems.

The melaleuca and other harmful exotic plants do create a burden and hazard to communities throughout the nation. A balanced, shared effort on the part of Federal, State and local organizations is necessary to address these problems before the costs associated with eradication becomes unmanageable.

The South Florida Ecosystem Restoration Working Group has the expertise to evaluate current proposals and associated costs for addressing the exotic plant control problem. The Working Group has explored the need for a harmful plant quarantine facility to study methods for containing the harmful plants as well as other exotic pests of wetlands, lakes, rivers and other natural systems.

The Committee requests recommendations from the Working Group on the scientific and ecological need for such a quarantine facility; cost benefits associated with constructing and operating such facility; and an appropriate funding plan for the construction of such facility. Such funding plan shall reflect the interagency nature of this effort.

SECTION-BY-SECTION ANALYSIS

SECTION 101—PROJECT AUTHORIZATIONS

This section authorizes construction of 18 new Army Corps of Engineers water resources development projects. Each project is authorized subject to the cost ceiling, automatic deauthorization, cost sharing, and other policies of the 1986 Water Resources Development Act. Descriptions of the projects are as follows:

San Rafael, California

Location—City of San Rafael, California, on the northwestern shoreline of San Francisco Bay.

Purpose—Hurricane and storm damage reduction.

Problem—High tides in combination with low barometric pressure and surge effects in San Pablo Bay result in overtopping of the existing levees along the South Bank of the San Rafael Canal.

Recommended Plan—Provide floodwall along portions of south bank of canal, along the east bayfront levee crest, and 750 linear feet of new levee in Pickleweed Park.

Environmental Impact Statement—Record of Decision signed September 13, 1994.
Project Costs—Total $27,200,000. First Federal $17,700,000; first non-Federal $9,500,000.
Benefit/Cost Ratio—2.0 to 1 at a discount rate of 8.00 percent.

San Lorenzo River, California

Location—City of Santa Cruz, California, approximately 75 miles south of San Francisco.
Purpose—Flood Damage Reduction.
Problem—In January 1982, a major runoff event occurred on the San Lorenzo River that caused one span of the Soquel Avenue Bridge to collapse. The existing flood control system is estimated to provide protection to significantly less than the 100-year frequency flood.
Recommended Plan—Provide a 70-year level of flood protection for much of the downtown area of Santa Cruz by constructing floodwalls on top of existing levees; modifying the Water Street and Soquel Avenue bridges; dredging of channel; habitat restoration.
Environmental Impact Statement—Finding of No Significant Impact, signed February 15, 1994.
Project Costs—Total $16,100,000. First Federal $8,100,000; first non-Federal $8,000,000; and the habitat restoration, at a total cost of $4,050,000, with an estimated Federal cost of $3,040,000, and an estimated non-Federal cost of $1,010,000.
Benefit/Cost Ratio—1.3 to 1 at a discount rate of 8.00 percent.

Santa Barbara Harbor, California

Location—Santa Barbara County, California, on coastline approximately 90 miles northwest of Los Angeles.
Purpose—Navigation.
Problem—Severe shoaling in the Santa Barbara Harbor Entrance Channel, particularly during the winter storm season, restricts access to the harbor.
Recommended Plan—Federal participation in acquiring a dredge system including appurtenant facilities for the City of Santa Barbara. In addition, the City of Santa Barbara will assume full responsibility for maintaining the existing Federal navigation channel.
Environmental Impact Statement—Finding of No Significant Impact, signed August 8, 1993.
Project Costs—Total $5,720,000. First Federal $4,580,000; first non-Federal $1,140,000.
Net Annual Savings—1.01 to 1 with a discount rate of 8.00 percent.

Palm Valley Bridge Replacement, St. Johns County, Florida

Location—St. Johns County, Florida, approximately 40 miles south of the City of Jacksonville.
Purpose—Navigation.
Problem—Palm Valley Bridge, constructed in 1937, possesses obsolete roadway width and load limit. Conditions on bridge

are especially hazardous for opposing traffic, with a fatality occurring in July of 1993.

Recommended Plan—Remove existing bridge; construct a new, high level fixed span bridge providing unrestricted horizontal clearance and a vertical clearance of 65 feet over the Atlantic Intracoastal waterway navigation channel; dredging of channel; environmental mitigation.

Environmental Impact Statement—Finding of No Significant Impact, signed March 14, 1994.

Project Costs—Total $15,312,000. As a condition of receipt of Federal funds, St. Johns County shall assume full ownership of the replacement bridge, including all associated operation, maintenance, repair, replacement and rehabilitation costs.

Benefit/Cost Ratio—1.3 to 1 at a discount rate of 8.00 percent.

Illinois Shoreline Erosion, Interim III, Wilmette to Illinois and Indiana State Line

Location—Lake Michigan Shoreline between Wilmette, Illinois and the Illinois/Indiana State line, a distance of approximately 33 miles.

Purpose—Storm Damage Reduction.

Problem—Along the Chicago shoreline from Montrose Avenue (4400 North) to South 56th Street, the existing shore protection is no longer functioning from a structural standpoint. In addition, the existing breakwater protecting the South Water Filtration Plant provides insufficient protection from storm action and threatens the drinking water of 2.5 million persons.

Recommended Plan—Replacement of failed shoreline revetment protection structures with step stone revetments. In addition, a breakwater would be reconstructed at the water filtration plant.

Environmental Impact Statement—Finding of No Significant impact, signed July 2, 1993.

Project Costs—Total $204,000,000. First Federal $110,000,000; first non-Federal $94,000,000; and the breakwater near the filtration plant, a separable element of the project at total cost of $8,539,000, with an estimated Federal cost of $5,550,000 and an estimated non-Federal cost of $2,989,000.

Benefit/Cost Ratio—5.3 to 1 at a discount rate of 8.00 percent.

Kentucky Lock Addition, Kentucky

Location—Southwestern Kentucky, near Paducah where the Tennessee and Cumberland Rivers join with the Ohio River.

Purpose—Commercial Inland Navigation.

Problem—Congestion at Kentucky Lock as a result of deficient lock chamber, hazardous and inefficient navigation of nearby Cumberland River channel, and continued growth of navigation traffic.

Recommended Plan—Construct a 110- by 1200-foot lock adjacent to the existing lock at the Kentucky Project.

Environmental Impact Statement—Final statement filed with the EPA in January, 1992.

Project Costs—Total $467,000,000. The construction costs shall be paid 50 percent from amounts appropriated from the general fund of the Treasury and 50 percent from amounts appropriated from the inland Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.
Benefit/Cost Ratio—2.0 to 1 at a discount rate of 7¾ percent.

Wolf Creek Hydropower, Cumberland River, Kentucky

Location—Wolf Creek Dam and Lake Cumberland in south-central Kentucky on the Cumberland River at river mile 460.9, near Jamestown, Kentucky.
Purpose—Hydropower.
Problem—Full advantage has not been taken of the flexibility inherent in the large amount of power storage available at the 270 megawatt project.
Recommended Plan—Power updating to consist of replacing key electrical/mechanical components within the existing hydroelectric units. The updating would provide a capacity of 390 megawatts.
Environmental Impact Statement—Finding of No Significant Impact, signed June 5, 1989.
Project Costs—Total $50,230,000. Funds derived by the Tennessee Valley Authority from the power program of the Authority and funds derived from any private or public entity designated by the Southeastern Power Administration may be used for all or part of any cost-sharing requirements for the project.
Benefit/Cost Ratio—1.2 to 1 at a discount rate of 8.00 percent.

Port Fourchon, Louisiana

Location—Port Fourchon, Lafourche Parish, Louisiana, near the mouth of the Bayou Lafourche in southern Louisiana.
Purpose—Commercial Inland Navigation.
Problem—Existing Federal navigation project, the Bayou-Lafourche-Lafourche Jump Waterway provides for a 12 by 125 foot channel from the Gulf of Mexico through Port Fourchon. The channel has since been enlarged to 20 by 300 feet. The most recent enlargement, done in 1968, is no longer sufficient to safely and efficiently accommodate the increasing commercial navigation.
Recommended Plan—Enlarge the existing channel to 24 feet by 300 feet from the jetties to mile 3.4. In addition, a 26 by 300 foot channel will be constructed from the 26 foot contour in the Gulf to the jetties.
Environmental Impact Statement—Final statement filed with the EPA on October 11, 1994.
Project Costs—Total $2,812,000. First Federal $2,211,000; first-non-Federal $601,000.
Benefit/Cost Ratio—2.2 to 1 discount rate of 7¾ percent.

West Bank Hurricane Protection Levee

Location—West Bank of Mississippi River in the vicinity of New Orleans, Jefferson Parish, Louisiana (East of Harvey Canal).
Purpose—Hurricane protection.

Problem—Existing protection project does not provide standard hurricane and storm protection to residents and businesses on the west bank of the Mississippi River in portions of Jefferson, Orleans, and Plaquemines Parishes, which lie, east of Harvey Canal.

Recommended Plan—Construction of a navigable floodgate in the Harvey Canal near Lapalco Boulevard. In addition, a navigation buy-pass will be constructed to temporarily accommodate Harvey Canal traffic while the floodgate is under construction. Levees and floodwalls will also be constructed, and environmental mitigation of bottomland hardwood and undrained cypress swamp loss will occur.

Environmental Impact Statement—Final statement filed with the EPA on September 20, 1994.

Project Costs—Total $217,000,000. First Federal $141,400,000; first non-Federal $75,600,000.

Benefit/Cost Ratio—4.0 to 1 at a discount rate of 7¾ percent.

Natchez Bluffs, Mississippi

Location—Natchez, Mississippi, bounded on the west by the Mississippi River, on the north by the National Cemetery and by U.S. Highway 84 Natchez-Vidalia bridge on the south.

Purpose—Bluff stabilization.

Problem—Infiltration of water into loess soil weakens bluffs. Trees on top and face of bluff also add weight to the slopes and provide seepage paths for water. Bluffs, overlooking Mississippi River, are retreating at an advanced rate providing serious vulnerability to nearby roadways, businesses and historic residential structures.

Recommended Plan—Construct reinforced earth wall with stone columns, soil berms, and erosion control. Portions of area will receive repair to existing retaining wall and a tieback system consisting of soil or rock anchors secured to a structural wall by tendons.

Project Costs—Total $17,200,000. First Federal $12,900,000; first non-Federal 44,300,000.

Wood River at Grand Island, Nebraska

Location—City of Grand Island, Nebraska and adjacent portions of Hall and Merrick Counties.

Purpose—Flood Damage Reduction.

Problem—Wood River floods cause major, widespread flooding in the Grand Island area because flood flows spread over a wide, relatively flat, highly developed floodplain. Major floods have occurred in 1923, 1947, 1949 and 1967.

Recommended Plan—Construction of 2 miles of channel and levee; a diversion structure; 5 miles of diversion channel with levees on both sides; and measures to mitigate unavoidable impacts. Construction of four new roadway bridges and modification of one existing railroad bridge are also planned.

Environmental Impact Statement—No EIS required. Finding of No Significant Impact signed April 30, 1993.

Project Costs—Total $10,500,000. First Federal $5,250,000; first non-Federal $5,250,000.

Benefit/Cost Ratio—2.1 to 1 with a discount rate of 8.00 percent.

Wilmington Harbor, Cape Fear-Northeast Cape Fear Rivers, North Carolina

Location—Cape Fear River between New Hanover and Brunswick Counties, between the mouth of the Cape Fear River and the turning basin above the North Carolina State Ports Authority terminal at Wilmington.
Purpose—Navigation.
Problem—Current channel widths are inadequate for the larger vessels now calling at the Port of Wilmington.
Recommended Plan—Widening five turns and bends and construction of a passing lane 6.2 miles long.
Environmental Impact Statement—Record of Decision signed August 25, 1994.
Project Costs—Total $23,290,000. First Federal $16,955,000; first non-Federal $6,335,000.
Benefit/Cost Ratio—1.5 to 1 at a discount rate of 8.00 percent.

Duck Creek, Ohio

Location—Watershed in southeastern Hamilton County, Cincinnati, Ohio, bordering the Ohio and Little Miami Rivers.
Purpose—Flood Damage Reduction.
Problem—Frequent flooding affecting business and industrial properties.
Recommended Plan—Construction of levee and floodwall segments providing a uniform 100-year level of flood protection in three reaches of Duck Creek, along with minor stream relocations, channel protection, pump stations, and other work.
Environmental Impact Statement—Finding of No Significant Impact, signed January 14, 1994.
Project Costs—Total $15,408,000. First Federal $11,556,000; first non-Federal $3,852,000.
Benefit/Cost Ratio—1.2 to 1 with a discount rate of 8.00 percent.

Pond Creek, Ohio

Location—Portions of Jefferson and Bullitt Counties, Kentucky.
Purpose—Flood Damage Reduction.
Problem—Inadequate flood protection for residential and commercial areas surrounding the Pond Creek mainstem, and tributaries Northern and Southern Ditches, Greasy Ditch, Slop Ditch, and Fishpool Creek.
Recommended Plan—Construction of two detention basins, channel enlargement along portions of Pond Creek and Northern Ditch; environmental mitigation; and construction of a recreation trail.
Environmental Impact Statement—Finding of No Significant Impact, signed March 18, 1994.
Project Costs—Total $16,865,000. First Federal $11,243,000; first non-Federal $5,622,000.
Benefit/Cost Ratio—2.3 to 1 with a discount rte of 8.00 percent.

Coos Bay, Oregon

Location—Coos County, Oregon, on the southern coastline approximately 200 miles south of the Columbia River mouth.
Purpose—Navigation.
Problem—Existing Channel depths constrain the draft of vessels able to use the port.
Recommended Plan—Deepen channel entrance by 2 feet from the currently authorized depth of 45 feet to 47 feet, and from 35 to 37 feet in the 15-mile inner channel. In addition, turning basins will be widened and deepened.
Environmental Impact Statement—Record of Decision signed September 6, 1994.
Project Costs—Total $14,541,000. First Federal $10,777; first non-Federal $3,764,000.
Benefit/Cost Ratio—1.6 to 1 with a discount of 8.00 percent.

Big Sioux River and Skunk Creek at Sioux Falls, South Dakota

Location—City of Sioux Falls, Minnehaha County, North Dakota.
Purpose—Flood Damage Reduction.
Problem—Existing flood control project provides inadequate flood protection to residential and commercial structures.
Recommended Plan—Raising the existing diversion levees and the levees along the Big Sioux River and Skunk Creek; raising the diversion dam; raising the walls of the existing spillway chute; deepening and extending the existing stilling basin; making selected bridge improvements; extending existing drainage structures; and mitigating small wetland areas on project lands.
Environmental Impact Statement—Finding of No Significant Impact, signed November 19, 1993.
Project Costs—Total $31,600,000. First Federal $23,600,000; first non-Federal $8,000,000.
Benefit/Cost Ratio—1.2 to 1 with a discount rate of 8.00 percent.

Atlantic Intracoastal Waterway Bridge Replacement at Great Bridge, Chesapeake, Virginia

Location—City of Chesapeake, Virginia, located in the community of Great Bridge where Virginia's Route 168 crosses the Albermarle and Chesapeake Canal.
Purpose—Navigation.
Problem—Existing bridge, constructed by the Corps in 1943, is inadequate to handle vehicle load of more than 30,000 vehicles per day.
Recommended Plan—Replace existing bridge with a 5-lane, 6-foot vertical clearance bascule bridge east of existing alignment. Local sponsor will assume full ownership, maintenance, and replacement costs for new bridge.
Environmental Impact Statement—Finding of No Significant Impact, signed February 25, 1994.
Project Costs—Total $23,680,000. First Federal $20,341,000; first non-Federal $3,339,000.
Benefit/Cost Ratio—1.9 to 1 with a discount rate of 8.00 percent.

Marmet Lock Replacement, Kanawha River, West Virginia

Location—Kanawha River, 5 miles upstream of Charleston near the community of Belle, West Virginia.

Purpose—Commercial Inland Navigation.

Problem—Limited capacity of existing lock chambers result in traffic delays, increased transportation costs, and deterioration of lock structures.

Recommended Plan—Construction of new lock chamber sized at 110 feet by 800 feet on the right bank of the landward side of the existing locks. In addition, dam rehabilitation and extensive relocations and various environmental mitigation measures will occur.

Environmental Impact Statement—Record of Decision signed August 25, 1994.

Project Costs—Total $257,900,000. The construction costs of the project shall be paid 50 percent from amounts appropriated from the general fund of the Treasury; and 50 percent from amounts appropriated from the Inland Navigation Waterways Trust Fund established by section 9506 of the Internal Revenue Code of 1986.

Benefit/Cost Ratio—2.1 to 1 with a discount rate of 8.00 percent.

SECTION 102—PROJECT MODIFICATIONS

(a) *Oakland, Harbor, California*.—Modifies the navigation projects to combine the Inner and Outer Harbor projects to accommodate changed dredged material disposal needs.

(b) *Broward County, Florida*.—Provides for Federal participation in a beach nourishment project at Hillsborough Inlet to Port Everglades consistent with the section 934 study approved by the Chief of Engineers.

(c) *Canaveral Harbor, Florida*.—Modifies the navigation project to include the stone revetments as part of the general navigation features.

(d) *Fort Pierce, Florida*.—In accordance with the Section 934 study approved by the Chief of Engineers on June 16, 1995, the Secretary is directed to proceed with periodic beach renourishment through the year 2020.

(f) *Arkansas City, Kansas*.—Provides for increased flood protection along the Arkansas and Walnut Rivers to the City of Arkansas City consisting of levee and channel improvements.

(g) *Halstead, Kansas*.—Allow for the completion of the project to provide flood protection along the Little Arkansas River to the City of Halstead consistent with the post authorization change report approved by the Assistant Secretary of the Army, August, 1993.

(h) *Baptiste Collette Bayou, Louisiana*.—Extends the currently authorized project by providing a permanently-marked navigation channel for shallow-draft vessels.

(i) *Manistique Harbor, Michigan*.—Modifies the authorized harbor depth from 18 feet to 12.5 feet to allow for the placement of a sand and stone cap over sediments as directed by the Environmental Protection Agency.

(j) *Stillwater, Minnesota.*—Contingent upon further Corps review, modifies project to extend shoreline protection wall and new landward wall for additional flood control purposes.

(k) *Cape Girardeau, Missouri.*—Provides that non-structural measures will become part of the authorized flood control project.

(l) *Wilmington Harbor-Northeast Cape Fear River, North Carolina.*—Allows for navigation improvements in conformance with the general design memorandum and supplement dated April 1990 and February 1994.

(m) *Saw Mill Run, Pennsylvania.*—Provides for flood protection consistent with the post authorization change report and general reevaluation report.

(n) *Allendale Dam, North Providence, Rhode Island.*—Modifies the authorization level to provide for the reconstruction of the Allendale Dam.

(o) *India Point Bridge, Seekonk River, Providence, Rhode Island.*—Provides for the demolition and removal of all features of the movable span of the abandoned railroad bridge.

(p) *Dallas Floodway Extension, Dallas, Texas.*—Allows for the non-Federal sponsor to be credited for flood proofing work performed at Rochester Park and the Central Wastewater Treatment Plant against the larger flood control project for the City of Dallas.

(q) *Matagorda Ship Channel, Port Lavaca, Texas.*—Expands the Federal navigation channel to include the turning basis at Point Comfort.

(r) *Upper Jordan River, Utah.*—Modifies the authorization level for a flood control diversion and sediment structure to accommodate existing wetlands.

(s) *Grundy, Virginia.*—Modifies the flood control project to require that it be constructed according to the Corps' detailed project report dated August, 1993.

(t) *Haysi Lake, Virginia and Kentucky.*—Provides that the project will include water resource features recommended by the non-Federal sponsor consistent with cost sharing requirements.

(u) *Petersburg, West Virginia.*—Modifies the authorization levels to permit the project to be constructed consistent with the approved scope of the project.

(v) *Teton County, Wyoming.*—Allows for the Secretary of the Army to accept services from the non-Federal sponsors to assist in the operation and maintenance of the Jackson Hole flood protection project.

SECTION 103—PROJECT DEAUTHORIZATIONS

(a) *Bridgeport Harbor, Connecticut.*—A portion of the Bridgeport Harbor Federal navigation project located in Johnson's Creek northerly of a line across the Federal channel is deauthorized because there is only a single user of the Federal project.

(b) *Guilford Harbor, Connecticut.*—A portion of the Guilford Harbor Federal navigation project is deauthorized to allow non-Federal projects within the harbor to be completed without interfering with public use of the Federal channel.

(c) *Norwalk Harbor, Connecticut.*—A portion of the Norwalk Harbor Federal navigation project is deauthorized and redesignated to

resolve encroachment issues and permit non-Federal projects to proceed without impacting activities in the Federal channel.

(d) *Southport Harbor, Connecticut.*—A portion of the Southport Harbor Federal navigation project is deauthorized and redesignated to resolve encroachment issues in the Federal channel.

(e) *East Boothbay Harbor, Maine.*—A portion of the East Boothbay Harbor navigation project is deauthorized to allow non-Federal projects to be completed without interfering with public use of the Federal channel.

(f) *York Harbor, Maine.*—A portion of the York Harbor navigation project consisting of 1.5 acres of anchorage areas is deauthorized to accommodate non-Federal activities.

(g) *Fall River Harbor, Massachusetts and Rhode Island.*—Modifies the Federal navigation project to repeal the requirement for a channel width of 300 feet to allow for the replacement of the Brightman Street Bridge.

(h) *Oswegatchie River, Ogdensburg, New York.*—A portion of the Oswegatchie River Federal navigation project is deauthorized to accommodate non-Federal activities.

(i) *Kickapoo River, Wisconsin.*—The project for flood control on the Kickapoo River, including the LaFarge Dam and Lake, is deauthorized and project lands are transferred to the State of Wisconsin.

SECTION 104—STUDIES

(a) *Bear Creek Drainage, San Joaquin County, California.*—A review of the Bear Creek flood control project is authorized to develop a comprehensive plan for additional flood protection.

(b) *Lake Elsinore, Riverside County, California.*—A feasibility study is authorized to evaluate the impact of storing higher elevations of water to improve water quality and provide other water resource benefits.

(c) *Long Beach, California.*—A review of the feasibility study of navigation improvements at Long Beach Harbor is authorized to examine the widening and deepening of the navigation channel.

(d) *Mormon Slough/Calaveras River, California.*—A reconnaissance study is authorized to review the Mormon Slough/Calaveras River flood control project to develop a comprehensive plan for additional flood protection for the region.

(e) *Murrieta Creek, Riverside County, California.*—A review of the feasibility study is authorized to determine the Federal interest in providing flood protection along Murrieta Creek from Temecula to Wildomar.

(f) *Pine Flat Dam Fish and Wildlife Habitat Restoration, California.*—A review of the feasibility of the habitat improvement measures, including a turbine bypass, identified in the reconnaissance report is authorized for the Pine Flat Dam on the Kings River.

(g) *West Dade, Florida.*—A reconnaissance study is authorized to determine the Federal interest in a regional wastewater reuse facility to offset the public demands on the regional water supply system and to increase the supply of water available for the Everglades system to enhance fish and wildlife habitat.

(h) *Savannah River Basin Comprehensive Water Resources Study.*—A comprehensive study is authorized to examine flood con-

trol, the reallocation of water storage, and to develop an improved management structure for basin water resources issues. The Secretary is directed to coordinate the study effort with ongoing watershed management issues underway at the Environmental Protection Agency and the Agency of the Savannah River Basin.

(i) *Bayou Blanc, Crowley, Louisiana.*—A reconnaissance study is authorized to examine the construction of a bulkhead system and other measures to address slope failures along the embankment of Bayou Blanc.

(j) *Hackenberry Industrial Ship Channel Park, Louisiana.*—The study of the Lake Charles ship channel and general anchorage area is modified to include the Hackenberry ship channel.

(k) *City of North Las Vegas, Clark County, Nevada.*—A reconnaissance study is authorized to examine the need for flood control for the North Las Vegas Wash.

(l) *Lower Las Vegas Wash Wetlands, Clark County, Nevada.*—A study is authorized to evaluate the restoration of wetlands to control erosion of the Lower Las Vegas Wash.

(m) *Northern Nevada.*—A reconnaissance study is authorized to determine the need for flood control and environmental restoration on the Humboldt, Truckee, Carson and Walker rivers in Nevada.

(n) *Buffalo Harbor, New York.*—A reconnaissance study is authorized to determine the feasibility of excavating the inner harbor and constructing the associated bulkheads in Buffalo Harbor, New York.

(o) *Coeymans, New York.*—A reconnaissance study is authorized to examine the siltation problems of the in-shore side of the Coeymans Middle Dike.

(p) *Shinnecock Inlet, New York.*—A reconnaissance study is authorized to examine the feasibility of constructing a sand bypass system to address beach erosion problems.

(q) *Kill Van Kull and Newark Bay Channels, New York and New Jersey.*—The Secretary is directed to continue with the engineering and design of the project to the 45 feet mean low water authorized channel depth consistent with the Report of the Chief of Engineers, 1981.

(r) *Columbia Slough, Oregon.*—A feasibility study is authorized to evaluate opportunities to alter and improve structural facilities, including ecosystem restoration along Columbia Slough.

(s) *Oahe Dam to Lake Sharpe, South Dakota.*—A feasibility study is authorized to examine sediment removal in the Missouri River Channel below Oahe Dam and also in the Bad River at its confluence with the Missouri River to improve water flows for fisheries and recreational activities.

(t) *Ashley Creek, Utah.*—A feasibility study is authorized to examine fish and wildlife restoration opportunities at Ashley Creek.

TITLE II—PROJECT-RELATED PROVISIONS

SECTION 201

Heber Springs, Arkansas.—The Secretary is authorized to execute an agreement with the city of Heber Springs to provide water storage in Greers Ferry Lake as compensation for Corps activities which impacted the city's water supply.

SECTION 202

Morgan Point, Arkansas.—The Secretary is authorized to accept as in-kind contributions towards the non-Federal cost sharing requirements certain fish and wildlife activities and land.

SECTION 203

White River Basin Lakes, Arkansas and Missouri.—The project for flood control and power generation at White River Basin Lakes is modified to include recreation and wildlife mitigation as project purposes.

SECTION 204

Central and Southern Florida.—The project for flood control in Central and Southern Florida is modified to repair energy dissipation device design deficiencies at the project.

SECTION 205

West Palm Beach, Florida.—The project for flood protection of West Palm Beach, Florida is modified to provide for construction of an enlarged stormwater detention area.

SECTION 206

Periodic Maintenance Dredging for Greenville Inner Harbor Channel, Mississippi.—The navigation project for the Greenville Harbor and the portion of the Mississippi River adjacent to the channel is modified to include the Greenville Inner Harbor Channel. The Secretary shall maintain this element of the Federal channel consistent with the existing 10-foot navigable channel.

SECTION 207

Sardis Lake, Mississippi.—The Secretary is authorized to work with the City of Sardis on the development of leased lands that are consistent with the economic development plans prepared by the city.

SECTION 208

Libby Dam, Montana.—The Secretary is directed to complete the construction and installation of three generators at Libby Dam in Montana. Congress authorized the Libby Dam Project with an eight unit powerhouse. However, construction has been completed on only five units. Almost all of the equipment for the last three units has been purchased. This section also directs the Secretary to remove a partially constructed haul bridge over the Kootenai River in Montana. The Corps built the bridge in anticipation of a future project which is not going to proceed. Therefore the bridge is unnecessary and serves no purpose.

SECTION 209

Small flood control project, Malta, Montana.—The Secretary is authorized to move toward completion of the small flood control project in Malta, Montana.

SECTION 210

Cliffwood Beach, New Jersey.—The Secretary is authorized to begin a beach nourishment project at Cliffwood Beach, New Jersey. This project was initially authorized in the Flood Control Act of 1962, but was deauthorized under Title X of Public Law 99–662. Section 102 of the Water Resources Development Act of 1992 modified the authorization to provide periodic beach nourishment, thereby reauthorizing the project. However, the 1992 provision has been interpreted by the Corps to be insufficient for continuing this project. This section provides the authority necessary to continue the project.

SECTION 211

Fire Island Inlet, New York.—The Secretary is directed to place dredged sand from the Fire Island Inlet on the shoreline west of Gilgo State Park at Tobay Beach. Tobay Beach has experienced unexpected erosion due to storm activity in the area. These storms have increased the rate of erosion and diminished the Gilgo Beach feeder system's ability to replenish the downdrift beaches.

SECTION 212

Buford Trenton Irrigation District, North Dakota.—The Secretary is authorized to acquire permanent flowage and saturation easements from willing sellers in Williams County, North Dakota. Beginning in 1967, the Board of Directors of the Buford Trenton Irrigation District and farmers have reported numerous complaints of high water table problems resulting from ice-jam flooding and siltation in the river channel. The Garrison Dam, operated by the Corps, is responsible for the damage.

Corps analysis indicates that structural solutions are not cost effective. Purchasing flowage and saturation easements will relieve the Corps of responsibility to repair flood damage and the landowners will be able to continue to work the land until it becomes unproductive.

SECTION 213

Wister Lake, LeFlore County, Oklahoma.—The Secretary is authorized to permanently raise the conservation pool in the reservoir based on the findings in the reconnaissance report.

SECTION 214

Willamette River, McKenzie Subbasin, Oregon.—The Secretary is authorized to undertake a water temperature control project at the Blue River and Cougar Lake projects to mitigate the impact of the operation of these facilities on fish and wildlife.

SECTION 215

Abandoned and wrecked barge removal, Rhode Island.—The Secretary is authorized to remove a sunken barge off the shore of Narragansett Beach. The costs of the removal work will be shared with the Town of Narragansett after title to the barge has been transferred to the United States at no cost to the Federal government.

SECTION 216

Providence River and Harbor, Rhode Island.—The Secretary is authorized to incorporate a channel extending from the vicinity of the Fox Point Hurricane Protection Barrier to the vicinity of the Francis Street Bridge in Providence, Rhode Island.

SECTION 217

Cooper Lake and Channels, Texas.—The Secretary is authorized to redesignate and lease lands within the project area to the non-Federal sponsor following the acceptance of lands that are of equivalent acreage and resource value. The lands must also be contiguous to the project area. The costs of this land redesignation shall be borne by the non-Federal sponsor.

SECTION 218

Rudee Inlet, Virginia Beach, Virginia.—The Secretary is authorized to continue the Federal participation in the navigation project at Rudee Inlet. The non-Federal costs of continuing the project shall continue at the current level.

SECTION 219

Virginia Beach, Virginia.—The Secretary is authorized to reimburse the City of Virginia Beach for Federal costs incurred by the non-Federal sponsor for the authorized beach nourishment program under Section 934. If the non-Federal sponsor has not been reimbursed at the time a project cooperation agreement is executed for the beach erosion control and hurricane protection project, the non-Federal cost of that project shall be reduced by the amount due to the non-Federal sponsor in reimbursement costs.

TITLE III—GENERAL PROVISIONS

SECTION 301

Cost-sharing for environmental projects.—This provision creates a consistent cost-sharing formula of 75 percent Federal and 25 percent non-Federal responsibility for the costs of environmental protection, restoration and/or enhancement that could be applied to the various authorities for the Corps to carry out such projects.

SECTION 302

Collaborative research and development.—This provision amends section 7 of the Water Resources Development Act of 1988 (Public Law 100–676) to authorize the Secretary of the Army to apply appropriate protections to technology developed by the Corps. This provision would encourage private entities to market software developed by the Corps, since it would enable the Corps to apply the protections in section 12(c)(4)(6) of the Technology Transfer Act.

SECTION 303

National Inventory of Dams.—This provision ensures the Army's ability to continuously maintain and update the national inventory of dams compiled by the Corps pursuant to Public Law 92–367, the

National Dam Safety Act of 1972. There are authorized to be appropriated $500,000 for each fiscal year under this provision to allow the Corps to continue to collect current inventory data from State and Federal agencies. Such data will be placed in a computerized database which will be accessible to Federal, State and private users.

SECTION 304

Hydroelectric Power Project Uprating.—This provision provides general authority to uprate existing projects in the course of the Corps performing its operation and maintenance responsibilities at the hydroelectric power facilities under the jurisdiction of the Corps. The Corps operates and maintains more than 70 hydroelectric facilities. This new authority would be akin to the authority set forth in 33 U.S.C. 701r-1(c), wherein the Chief of Engineers is authorized to construct replacement roads at water resources projects to current State standards without creating a "betterment".

SECTION 305

Federal Lump Sum Payments for Federal Operation and Maintenance Costs.—This provision enables the Secretary of the Army to make onetime lump-sum payments to non-Federal sponsors for the Federal share of operation, maintenance, repair, replacement, and rehabilitation costs of civil works projects. The provision would reduce Corps administrative costs for budgeting, auditing and making payment on an annual basis. A lump sum payment could be made only with the concurrence of the non-Federal sponsor under the terms of the local cooperation agreement.

SECTION 306

Cost-sharing for Removal of Existing Project Features.—This provision clarifies the existing cost share formula for project modifications at existing authorized water resources development projects where that modification would require removal of one or more of the features of the project and where that removal would significantly and adversely impact the authorized project purposes or outputs. In such circumstances, the non-Federal project sponsor would be required to provide 50 percent of the cost of the modification.

SECTION 307

Termination of Technical Advisory Committee.—This provision eliminates the legislated requirement to impanel a board of advisors on matters pertaining to water management at Corps reservoirs. This provision will eliminate the need to commit funding and manpower to an activity that is not required for the execution of the Agency's water control management mission.

SECTION 308

Conditions for Project Deauthorizations.—This provision will establish a uniform set of rules for all projects authorized for construction, or authorized for preconstruction planning, engineering, and design only. This proposal would also shorten the length of

time authorized projects can languish on the shelves from 10 years to 5 years, thereby encouraging early development of projects with strong Federal and non-Federal support.

SECTION 309

Participation in International Engineering and Scientific Conferences.—This provision repeals section 211 of the Flood Control Act of 1950 (33 U.S.C. 701u) which restricts Corps employees from participating in international conferences.

SECTION 310

Research and Development in Support of Army Civil Works Programs.—This provision will provide the Army with the same flexibility as the rest of the Department of Defense and other agencies to use all of the standard legal instruments commonly used by the Federal Government to carry out research and development projects in support of the civil works program, including contracts, cooperative research and development agreements, grants and cooperative agreements. Under existing authority, it is ambiguous as to whether or not the Army can carry out research and development activities utilizing grants and cooperative agreements.

SECTION 311

Interagency and International Support Authority.—This provision authorizes the Secretary of the Army to spend up to $1,000,000 to support other agencies or international organizations to address water resources, infrastructure development, and environmental protection problems of national significance.

SECTION 312

Section 1135 Program.—This provision expands the authority provided in section 1135 of the Water Resources Development Act of 1986, as amended, to allow the Corps to implement small fish and wildlife habitat restoration projects in cooperation with non-Federal interests in those situations where a project constructed by the Corps has contributed to degradation of the quality of the environment. This provision also provides the Corps with authority to undertake measures for restoration of environmental quality when the Secretary of the Army determines that operation of the project has contributed to the degradation of the quality of the environment even if that degradation occurred in areas not immediately in the vicinity of the project structures. This section also authorizes two new section 1135 projects.

SECTION 313

Environmental Dredging.—This provision eliminates the five-year sunset for activities authorized under section 312 of the Water Resources Development Act of 1990 (Public Law 101–640).

SECTION 314

Feasibility Studies.—This provision amends section 105 of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)(1)) to provide that costs for feasibility studies may be amended only by

mutual agreement of the Federal government and the non-Federal sponsor. In those instances where, during the course of the feasibility study, costs exceed the initial estimate contained in the feasibility cost-sharing agreement, the additional non-federal share would be payable upon project authorization. This provision continues the concept of equal cost-sharing, while at the same time allowing the non-Federal sponsor to plan more effectively for any cost increases in the study.

SECTION 315

Obstruction Removal Requirement.—This provision provides enhanced enforcement authority to the Secretary of the Army to better fulfill the Secretary's obligations under 33 U.S.C. 411, as amended, to remove sinking or grounded vessels obstructing navigable waters of the United States. The Secretary is authorized to levy fines of up to $25,000 for each day that an obstruction violation occurs.

SECTION 316

Levee Owners Manual.—This provision directs the Secretary of the Army to prepare a manual describing the levee maintenance and upkeep responsibilities that the Corps requires of a non-Federal interest to receive Federal assistance.

SECTION 317

Risk-Based Analysis Methodology.—This provision directs the Secretary of the Army to obtain outside evaluation of the Risk-Based Analysis for Evaluation of Hydrology/Hydraulics and Economics in Flood Damage Reduction Studies established in an Army Corps of Engineers circular. The evaluation shall consider minimum engineering and safety standards and the validity of results generated by the multi-agency task force created by this section. The provision also permits a non-Federal sponsor to request that the Secretary of the Army refrain from employing this Risk-Based Analysis Methodology technique in the evaluation and design of a flood control project carried out in cooperation with such non-Federal sponsor.

SECTION 318

Sediments Decontamination Technology.—This provision amends section 405 of the Water Resources Development Act of 1992 (Public Law 102–580) by establishing an Army Corps program goal to develop one or more sediment decontamination technologies under the terms of the section. Such technologies shall demonstrate a sediment decontamination capacity of at least 2,500 cubic yards per day.

SECTION 319

Melaleuca tree.—This section adds the melaleuca tree to the Aquatic Plant Control Program authorized under Section 104 of the River and Harbors Flood Control Act of 1958. The program is designed to deal with aquatic weed infestations of major economic significance in navigable water, tributaries, streams, connecting

channels and allied waters. The melaleuca is an invasive plant that is spreading throughout the Everglades and south Florida and threatens the coastal wetlands of the southern United States.

SECTION 320

Faulkner's Island, Connecticut.—This section authorizes the Secretary to undertake a shoreline erosion control project at Faulkner's Island, Connecticut. The island is part of the McKinney National Wildlife Refuge operated by the U.S. Fish and Wildlife Service and provides critical habitat for the endangered roseate tern and a resting place for more than 150 species of migratory birds. The lighthouse on the island was authorized for construction by President Thomas Jefferson in 1801 and is on the State and National Registers of Historic Places. It continues to be used as an active navigation aid by approximately 20,000 commercial vessels each year. The lighthouse is in danger of being lost to coastal erosion unless measures are taken to protect the shoreline.

SECTION 321

Designation of lock and dam at the Red River Waterway, Louisiana.—This section renames Lock and Dam 4 of the Red River Waterway, Louisiana, for Senator Russell B. Long of Louisiana in honor of his 37 years of service to Louisiana and the country as a member of the U.S. Senate.

SECTION 322

Jurisdiction of Mississippi River Commission, Louisiana.—This section adds parts of Lafourche Parish from Donaldsonville, Louisiana, to the Gulf of Mexico to the jurisdiction of the Mississippi River Commission. This area is located between and is contiguous to two areas already included in the jurisdiction of the Mississippi River Commission.

SECTION 323

William Jennings Randolph access road, Garrett County, Maryland.—This section transfers funds from the William Jennings Randolph Lake project to the State of Maryland to build a road to the lake on the Maryland side. The Corps, the State of Maryland and the Maryland National Guard have begun work on the road. This section would enable the Corps to transfer the necessary funds to the State of Maryland to complete the final portion of the road which traverses Corps property.

SECTION 324

Arkabutla Dam and Lake, Mississippi.—The Secretary is directed to repair the access roads to Arkabutla Dam and Arkabutla Lake in Tate County and DeSoto County, Mississippi.

SECTION 325

New York State Canal System.—The Secretary is directed to enter into agreements with the public and private interests to make necessary capital improvements of the canal system. The

Federal cost share responsibility for such improvements is limited to 50 percent of project cost.

SECTION 326

Quonset Point-Davisville, Rhode Island.—The Secretary is directed to make necessary bulkhead and other related capital improvements at the Quonset Point-Davisville Industrial Park. The Federal cost share responsibility for such improvements is limited to 75 percent of project cost.

SECTION 327

Clouter Creek Disposal Area, Charleston, South Carolina.—This provision directs the Secretary of the Navy to transfer administrative jurisdiction over approximately 1,400 acres of land to the Secretary of the Army for use as a dredge material disposal area for dredging activities in the vicinity of Charleston, South Carolina.

SECTION 328

Nuisance Aquatic Vegetation in Lake Gaston, Virginia and North Carolina.—This provision amends section 339(b) of the Water Resources Development Act of 1992 (Public Law 102–580) to continue for two additional years the Corps maintenance efforts at the lake.

SECTION 329

Capitol Improvements for the Washington Aqueduct.— This provision provides the Army Corps of Engineers with the authority to borrow funds from the Secretary of the Treasury to underwrite the cost of necessary improvements to the Washington Aqueduct. Amounts borrowed from the bank are to be repaid by the customers of the Washington Aqueduct.

SECTION 330

Chesapeake Bay Environmental Restoration and Protection Program.—This provision establishes an environmental infrastructure pilot program in the Chesapeake Bay Watershed. One project shall be established for each of the States of Maryland, Virginia, and Pennsylvania.

SECTION 331

Research and Development Program to Improve Salmon Survival.—This provision directs the Secretary of the Army to accelerate ongoing research and development activities for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia River Basin.

SECTION 332

Recreational User Fees.—This provision amends section 210(b)(4) of the Flood Control Act of 1968 (16 U.S.C. 460d-3(b)(4)) to require that revenues collected at water resource development projects shall be used at the water resource development project at which the fees are collected.

SECTION 333

Shoreline Erosion Control Demonstration Program.—This provision amends (60 Stat. 1056, chapter 960; 33 U.S.C. 426e et seq.) to require the Secretary of the Army to establish and conduct a national shoreline erosion control development and demonstration program for a period of 8 years. The erosion control program requirements include demonstration projects; adequate monitoring of the prototype projects; engineering and environmental reports on the projects; and appropriate technology transfers to private property owners and State and local entities.

SECTION 334

Technical Corrections.—This provision makes technical corrections to sections 203 and 225 of the Water Resources Development Act of 1992. An Army Corps special revenues account is given the appropriate account number and identification.

HEARINGS

On February 14, 1995, the Subcommittee on Transportation and Infrastructure held an oversight hearing prior to the introduction of a bill. The scope of the hearing was to assess the funding levels for the Water Resources Development Act and to examine the President's budget request for Fiscal Year 1996 for the U.S. Army Corps of Engineers. Testimony was heard from Dr. John H. Zirschky, Acting Assistant Secretary of the Army for Civil Works; Major General Stanley Genega, Director of Civil Works, U.S. Army; Brigadier General Gerald E. Galloway, Jr., U.S. Army, U.S. Military Academy, West Point, NY; Larry King, Acting Director, District of Columbia Department of Public Works; Jeffrey Tarbert, Mayor, Falls Church, VA; Robert R. Perry, City Council Member, Falls Church, VA; Mary Margaret Whipple, Member of the County Board of Supervisors, Arlington, VA; Doug Plasencia, Association of State Floodplain Managers, Inc., Richmond, VA; and Christopher J. Brescia, Midwest Area River Coalition 2000, St. Louis, MO. A bill, S. 640, was introduced on March 28, 1995. No further hearings were held.

ROLLCALL VOTES

On August 2, 1995, a quorum being present, the Committee on Environment and Public Works met to consider S. 640. By voice vote, the committee agreed to a manager's amendment in the nature of a substitute, as well as amendments offered by Senators Chafee, Lautenberg, Bond, and Graham. Senator Chafee moved and Senator Warner seconded the motion to report the bill, as amended, to the Senate. On the voice vote that followed, all Senators present voted in favor of the motion to report the bill favorably, except Senator Baucus, who voted against.

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 impact is expected by the passage of S. 640.

The bill will not affect the personal privacy of individuals.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Act requires that a statement of the cost of a reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 1, 1995.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 640, the Water Resources Development Act of 1995.

Enacting S. 640 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 640.
2. Bill title: Water Resources Development Act of 1995.
3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works on August 2, 1995.
4. Bill purpose: Title I of the Water Resources Development Act (WRDA) would authorize the Secretary of the Army, acting through the Army Corps of Engineers (Corps), to construct 18 projects for flood control, port development, inland navigation, storm damage reduction, and environmental restoration. This title also would modify 22 existing Corps projects, authorize the Corps to carry out 20 studies, and eliminate portions of nine projects from consideration for future funding.

Titles II and III of WRDA, respectively, contain project-specific and general provisions related to Corps operations. Among other provisions, these titles would:

Direct the Secretary to enter into an agreement with the city of Heber Springs, Arkansas, to provide 3,522 acre-feet of water supply storage in Greers Ferry Lake, Arkansas, for municipal and industrial purposes, at no cost to the city;

Increase criminal penalties for damaging river and harbor improvements and obstructing the passage of vessels in navigable channels; and

Authorize borrowing authority in amounts sufficient to cover the full costs of modernizing the Washington Aqueduct.

5. Estimated cost to the Federal Government: Assuming the necessary appropriations, CBO estimates that enactment of the bill

will result in new discretionary spending totaling $1,017 million for fiscal years 1996 through 2000 as shown in Table 1.

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF S. 640

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorizations of Appropriations					
Estimated authorization level	230	263	252	181	184
Estimated outlays	122	244	256	213	182
Direct Spending					
Estimated budget authority	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Revenues					
Estimated revenues	(1)	(1)	(1)	(1)	(1)

[1] Less than $500,000.

The costs of this bill fall within budget function 300.

In addition to the amounts shown above, CBO estimates that the Corps would spend approximately $1.2 billion after 2000 to complete construction of the projects authorized by the bill. These amounts would be subject to appropriations, as are the 1996–2000 amounts. The Corps would incur additional expenses, in all years, for operating and maintaining projects and for other activities that are authorized indefinitely under the bill. However, the Corps could not provide us with the data necessary to estimate these costs. Finally, the estimate does not include any potential savings for the bill's deauthorization of funding for maintenance or additional construction on existing projects. The Corps does not currently maintain most of these projects and there are no plans for the Corps to conduct maintenance or begin additional construction.

The fiscal year 1996 appropriation bill for energy and water, which was cleared by the Congress on October 31, 1995, would provide $3,204 million for flood control, port development, inland navigation, storm damage reduction, environmental restoration, general investigations, operations and maintenance, and other Corps activities. Most of the new projects and project modifications that S. 640 would authorize would not receive any funding under that bill. Hence, spending under S. 640 would be lower than estimated in Table 1 unless additional appropriations are provided later in the fiscal year.

6. Basis of estimate: For purposes of this estimate, CBO assumes that the amounts authorized will be appropriated. Where specific amounts are not authorized in the bill, we have used estimates of project costs provided to us by the Corps. In all cases, CBO adjusted the estimates to reflect the impact of inflation during the time between authorization, appropriation, and the beginning of construction. Outlays are estimated based on historical spending rates for each project type.

Title I—Project authorizations, project modifications, project deauthorizations, and authorizations of studies

We assume that all projects authorized will be constructed. Some of the projects authorized in this title are still in the study or design phase and will not be ready to begin construction for a number

of years. Although many projects in this bill would be subject to sunset provisions, we assume that all projects authorized and subject to these provisions would receive at least some funding within the stipulated periods. Estimates of annual budget authority needed to meet design and construction schedules were provided by the Corps.

As shown in Table 2, CBO estimates that enacting Title I would result in discretionary spending totaling $673 million over the 1996–2000 period, assuming appropriation of the necessary funds.

TABLE 2. ESTIMATED BUDGETARY EFFECTS OF TITLE I

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorizations					
Estimated Authorization Level	129	176	171	131	137
Estimated Outlays	67	151	172	150	133

In addition, CBO estimates that the Corps would spend about $1.0 billion after 2000 to complete construction of these projects.

Enacting Title I also would affect direct spending, but not until after 2000. Specifically, section 101, which authorizes the construction of the Wolf Creek Hydropower Project at Lake Cumberland, Kentucky, would result in additional hydropower receipts of roughly $4 million a year upon completion of the project. CBO estimates that these receipts would be collected beginning in 2001.

Title II—Project-related provisions

Title II would authorize the Corps to modify existing projects and begin new activities at various locations around the country. CBO estimates that enactment of this title would result in new discretionary spending totaling $200 million over the 1996–2000 period, assuming appropriation of the authorized amounts. We also estimate that this title would increase direct spending, but the increase would be less than $500,000 annually. Table 3 summarizes the estimated budgetary effects of Title II.

TABLE 3. ESTIMATED BUDGETARY EFFECTS OF TITLE II

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorizations					
Estimated authorization level	61	46	48	30	28
Estimated outlays	31	53	47	39	29
Direct Spending					
Estimated budget authority	(1)	(1)	(1)	(1)	(1)
Estimated Outlays	(1)	(1)	(1)	(1)	(1)

[1] Less than $500,000.

CBO estimates that discretionary outlays of $49 million would occur after 2000, primarily to complete construction of projects authorized under this title.

Section 201 would direct the Secretary of the Army to enter into an agreement with the city of Heber Springs, Arkansas, to supply water at no cost to the city. This water currently contributes to the generation of hydropower at Greers Ferry Lake, Arkansas. The

power is then sold, providing receipts to the Treasury. Thus, providing water to Heber Springs would diminish the government's receipts from the generation of power. CBO estimates that the loss of receipts would be less than $500,000 a year.

Title III—General provisions

This title would authorize appropriations for reducing storm damage, operations and maintenance, and other activities. This title also would change certain financial practices related to cost-sharing, research and development, and the operation and maintenance of projects. In addition to small changes in direct spending and revenues, CBO estimates that enacting this title would result in new discretionary spending totaling $142 million over the 1996–2000 period, as shown in Table 4.

TABLE 4. ESTIMATED BUDGETARY EFFECTS OF TITLE III

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Authorizations					
Estimated authorization level	40	41	33	19	18
Estimated outlays	24	39	36	24	19
Direct Spending					
Estimated budget authority	—	(1)	(1)	(1)	(1)
Estimated outlays	—	(1)	(1)	(1)	(1)
Revenues					
Estimated revenues	(1)	(1)	(1)	(1)	(1)

[1] Less than $500,000.

Assuming appropriation of the necessary amounts, discretionary outlays of approximately $16 million per year would occur after enactment of the bill, primarily for the cost of operating and maintaining navigation channels. Those amounts are included in the above table.

Enacting Title III also would affect both direct spending and revenues. Specifically, section 315 would increase criminal penalties for damaging river and harbor improvements and obstructing the passage of vessels in navigable channels. The expansion of criminal penalties could cause governmental receipts to increase, but CBO estimates that any such increase would be less than $500,000 annually. Criminal fines would be deposited in the Crime Victims Fund and could be spent without appropriation. CBO estimates that direct spending from the fund would match the increase in revenues with a one-year lag.

In addition, Title III would authorize borrowing authority for the Corps sufficient to pay the full cost of modernizing the Washington Aqueduct. The borrowing authority would not be provided to the Corps until that agency enters into a series of contracts with the three localities that receive water from the aqueduct to repay their respective shares of the principal and interest owed to the Treasury. The localities would have to agree to pay any additional amount necessary to ensure that there would be no net cost to the federal government for making the loan.

CBO believes that the proposed authority for modernizing the Washington Aqueduct should be treated as authority for providing

a federal loan to the localities. In effect, the three localities are borrowing money from the Treasury to pay for modernizing the aqueduct. Such a loan would be subject to credit reform provisions of the Budget Enforcement Act of 1990.

The Corps estimates that the Aqueduct modernization project would cost about $275 million in 1995 dollars and would take seven years to complete. Credit reform requires that the subsidy cost of any loan—estimated as a net present value—be recorded as an outlay in the year that the loan is disbursed. But since the bill would require that the three localities pay interest and any additional amounts necessary to offset the risk of default, the subsidy cost of this loan would be zero. Hence, we estimate that the proposed loan would have no effect on outlays.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enacting S. 640 would affect both direct spending and receipts. The bill contains a provision that would decrease the amount of offsetting receipts the government receives from the Corps hydropower project at Greers Ferry Lake. The effect of this provision would be an increase in direct spending equal to the amount of the forgone offsetting receipts. In addition, the bill would increase criminal penalties for damaging river and harbor improvements and obstructing the passage of vessels in navigable channels. These governmental receipts would be deposited in the Crime Victims Fund and would be available for spending without appropriation. For each of fiscal years 1996 through 1998, CBO estimates that changes in both direct spending and governmental receipts would be less than $500,000.

Enacting the bill also would result in an increase of hydropower receipts when the Wolf Creek project is completed in 2001. Since these receipts would not be collected until after 1998, they are not subject to current pay-as-you-go provisions. The following table summarizes CBO's estimate of the pay-as-you-go impact of S. 640.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	0	0	0

8. Estimated cost to State and local governments: The bill would authorize new water resources projects, modify existing projects, order studies, and establish several new environmental protection programs. In total, the bill would result in construction-related costs to nonfederal entities who choose to participate in projects (primarily state and local governments) totaling nearly $420 million in 1995 dollars. These costs would occur in fiscal years 1996 through 2006. In addition to these costs, nonfederal entities would pay for the operation and maintenance of many of the projects after they are constructed. The bill also would revoke existing authorizations for portions of nine projects.

The bill would allow the District of Columbia, Arlington County, Virginia, and Falls Church, Virginia to enter into agreements to pay the Army Corps of Engineers to modernize the Washington

Aqueduct. The Corps estimates that the modernization would cost around $275 million in 1995 dollars and would take about seven years to complete. The terms of the agreements are subject to negotiation, but it is likely that payment of principal and interest would begin within two or three years and would be spread out over thirty years. The three localities would raise the necessary funds through increased water rates charged to their customers. Their respective shares of the costs would be roughly as follows: District of Columbia (75 percent), Arlington County (15 percent), and Falls Church (10 percent).

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Gary Brown. State and Local Estimate: Pepper Santalucia.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

ADDITIONAL VIEWS OF SENATORS MOYNIHAN, LAUTENBERG, AND BOXER

The Committee report urges the Administration to report possible solutions to Congress on inconsistencies of cost-sharing for dredged material disposal associated with the operation and maintenance of Federal channels. We agree with the Committee's recommendation. However, we believe that the increasing problems in the U.S. ports related to navigational dredging and dredged material disposal are matters of great concern that deserves policy direction from this Committee as well.

In 1824 Congress assigned responsibility for improving navigation in the still-young nation's waterways to the Federal government. Federal assurance that a system of channels would be provided and maintained was important to the growth of interstate and foreign commerce. Today the same is true. The maintenance and improvement of the nation's navigational infrastructure is essential to our nation's economic well being and national security. Approximately 95 percent of the nation's import/export cargo travels on ships through American ports.

Many ports are located in estuaries and coastal areas that represent significant natural resources. And while some might suggest that the protection and enhancement of those resources is inconsistent with the operation of a busy port, this is not the case. In the New York metropolitan region and the Bay Area of Northern California, for example, both ports and natural resources features are important economic factors in regional and national terms. The objective in any region and in Federal policy should be to sustain both port commerce and environmental resources. A Federal policy that makes possible the construction of confined disposal facilities can make that sustainable development objective attainable.

Secretary Federico Peña recognized that the port dredging problem is in fact a national transportation problem. He organized the Interagency Working Group on the Dredging Process to determine what might be done to improve Federal performance in several areas including interagency coordination, the regulatory process, and disposal issues. The final report to the Secretary said:

> "Over the past two decades, a number of factors have complicated the development, operation and maintenance of the nation's harbors, particularly in the area of dredged material management. These factors include increases in the demands of commerce, rapid evolution of shipping practices * * *, increasing environmental awareness and mounting environmental problems affecting coastal areas and ocean waters, heavy population shifts to coastal areas and a general increase in non-Federal responsibilities in the development and management of navigation projects. As a result, dredged material management has often be-

> come a contentious problem at all stages of harbor development and operation * * *. Left unattended, these problems could cause a crisis."

One of the specific problems noted in the report—that of an "inconsistent" dredged material management policy—can be rectified through legislation by establishing a coherent Federal cost-sharing policy that ends the existing situation. As noted in the Committee report's discussion of this issue, current policy is an incentive for the least expensive but not necessarily environmentally suitable disposal solutions and treats navigation projects differently, depending on whether there is a pre-existing Federal obligation, and if the sediments are dredged as part of improvement or maintenance work.

The availability of dredged material disposal capacity, both now and in the decades ahead, is a growing concern in many areas around the country. Further, the timely and cost-effective dredging of the Nation's ports is essential to the nation's economy and the Federal government has an essential role in maintaining commercial navigation. In this report, the Committee calls on the Administration to "report possible solutions to Congress for consideration."

We agree with that view but also would like to see movement toward solutions that are not dependent on the enactment of legislation. As such, and because we believe current law speaks only to the local responsibility to provide lands ("disposal areas") on which to locate disposal facilities, we believe that, at the very least, the Secretary of the Army should amend any Corps of Engineers policies that is inconsistent with Federal cost-sharing for the construction of disposal facilities. Further, the Secretary should use all available authorities to enter into cooperative cost-sharing agreements, including amending existing agreements, with the non-Federal interests to ensure that dredged material disposal facilities, including upland, confined aquatic and beneficial-use sites where appropriate, are available for construction and maintenance of commercial navigation harbors and channels. It is our view that the cost-sharing ratios as prescribed in Section 101 of the Water Resources Development Act of 1986 could serve as a guide as to the allocation of costs. Further, we believe the Federal share of the cost of providing adequate disposal facilities for the maintenance of Federal channels is an eligible operation and maintenance cost under the provisions of the Water Resources Development Act of 1986 and could be funded from the Harbor Maintenance Trust Fund.

Because we also agree with the Federal agencies in their report to Secretary Peña that there is a need for "consistent Federal-local sponsor cost-sharing across all dredged material disposal methods," we believe that it is important that the law be amended to clearly state a Federal-local partnership in providing for confined dredged material disposal facilities.

New Federal dredged material disposal policy should enable Federal and local agencies to decide how best to manage dredged sediments, and implement those decisions, in the knowledge that Federal policy does not discourage one management solution over another without consideration of all other relevant factors, such as environmental impact. Rather than make do with what is allowable

under the current law and settle for inconsistent policy, the Congress should look favorably on legislative language that sets forth a clear and consistent policy that can be the basis for all future sediment management decisions by the Corps of Engineers and the local Sponsor. It is our hope that this Congress will consider such legislation before too long.

DANIEL PATRICK MOYNIHAN.
FRANK R. LAUTENBERG.
BARBARA BOXER.

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:

TITLE 16—CONSERVATION, UNITED STATES CODE

NATIONAL SEASHORE RECREATIONAL AREAS

* * * * * * *

§ 460d–3. Recreational user fees

(a) PROHIBITION ON ADMISSIONS FEES.—No entrance or admission fees shall be collected after March 31, 1970, by any officer or employee of the United States at public recreation areas located at lakes and reservoirs under the jurisdiction of the Corps of Engineers, United States Army.

(b) FEES FOR USE OF DEVELOPED RECREATION SITES AND FACILITIES.—(1) Establishment and collection. Notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)), the Secretary of the Army is authorized, subject to paragraphs (2) and (3), to establish and collect fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps but excluding a site or facility which includes only a boat launch ramp and a courtesy dock.

(2) EXEMPTION OF CERTAIN FACILITIES.—The Secretary shall not establish or collect fees under this subsection for the use or provision of drinking water, wayside exhibits, roads, scenic drives, overlook sites, picnic tables, toilet facilities, surface water areas, undeveloped or lightly developed shoreland, or general visitor information.

(3) PER VEHICLE LIMIT.—The fee under this subsection for use of a site or facility (other than an overnight camping site or facility or any other site or facility at which a fee is charged for use of the site or facility as of the date of the enactment of this paragraph [enacted Aug. 10, 1993]) for persons entering the site or facility by private, noncommercial vehicle transporting not more than 8 persons (including the driver) shall not exceed $3 per day per vehicle. Such maximum amount may be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(4) DEPOSIT INTO TREASURY ACCOUNT.—All fees collected under this subsection shall be deposited into the Treasury account for the Corps of Engineers established by section 4(i) of the Land and

Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)) *and, subject to the availability of appropriations, shall be used for the purposes specified in section 4(i)(3) of the Act at the water resources development project at which the fees were collected.*

(As amended Aug. 10, 1993, P.L. 103–66, Title V, § 5001(a), 107 Stat. 378.)

* * * * * * *

TITLE 33—NAVIGATION AND NAVIGABLE WATERS, UNITED STATES CODE

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

* * * * * * *

§ 411. Penalty for wrongful deposit of refuse; use of or injury to harbor improvements, and obstruction of navigable waters generally

Every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of **[**sections thirteen, fourteen, and fifteen**]** *section 13, 14, 15, 19, or 20* of this Act **[**33 United States Code §§ 407, 408, and 409**]** shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine **[**not exceeding $2,500 nor less than $500**]**, *of not more than $25,000 for each day that the violation continues* or by imprisonment (in the case of a natural person) for not less than thirty days not more than one year, or by both such fine and imprisonment, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction.

* * * * * * *

§ 415. Summary removal of water craft obstructing navigation; liability of owner, lessee, or operator

(a) **[**Under emergency**]** *SUMMARY REMOVAL PROCEDURES.—Under emergency,* in the case of any vessel, boat, water craft, or raft, or other similar obstruction, sinking or grounding, or being unnecessarily delayed in any Government canal or lock, or in any navigable waters mentioned in section 19 [33 U.S.C. § 414], in such manner as to stop, seriously interfere with, or specially endanger navigation, in the opinion of the Secretary of War [Secretary of the Army], or any agent of the United States to whom the Secretary may delegate proper authority, the Secretary of War [Secretary of the Army] or any such agent shall have the right to take immediate possession of such boat, vessel, or other water craft, or raft, so far as to remove or to destroy it and to clear immediately the canal, lock, or navigable waters aforesaid of the obstruction thereby caused, using his best judgment to prevent any unnecessary injury; and no one shall interfere with or prevent such removal or destruction: Provided, That the officer or agent charged with the removal or destruction of an obstruction under this section may in his discretion give notice in writing to the owners of any such obstruction

requiring them to removal it: And provided further, That the [expense] *actual expense, including administrative expenses,* of removing any such obstruction as aforesaid shall be a charge against such craft and cargo; and if the owners thereof fail or refuse to reimburse the United States for such expense within 30 days after notification, then the officer or agent aforesaid may sell the craft or cargo, or any part thereof that may not have been destroyed in removal, and the proceeds of such sale shall be covered into the Treasury of the United States.

(b) REMOVAL REQUIREMENT.—Not later then 24 hours after the Secretary of the Department in which the Coast Guard is operating issues an order to stop or delay navigation in any navigable waters of the United States because of conditions related to the sinking or grounding of a vessel, the owner or operator of the vessel, with the approval of the Secretary of the Army, shall begin removal of the vessel using the most expeditious removal method available or, if appropriate, secure the vessel pending removal to allow navigation to resume. If the owner or operator fails to being removal or to secure the vessel pending removal in accordance with the preceding sentence or fails to complete removal as soon as possible, the Secretary of the Army shall remove or destroy the vessel using the summary removal procedures under subsection (a).

(c) [The] *LIABILITY OF OWNER, LESSEE, OR OPERATOR.—The* owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as described in this section shall be liable to the United States for the [cost] *actual cost, including administrative costs,* of removal or destruction and disposal as described which exceeds the costs recovered under subsection (a). Any amount recovered from the owner, lessee, or operator of such vessel pursuant to this subsection to recover costs in excess of the proceeds from the sale or disposition of such vessel shall be deposited in the general fund of the Treasury of the United States.

* * * * * * *

§ 426h. Definition

As used in this Act [33 U.S.C. §§ 426e–426h], the word "shores" includes all the shorelines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

(Aug. 13, 1946, ch 960, § 4, 60 Stat. 1057; July 28, 1956, ch 768, § 4, 70 Stat. 703.)

SEC. 5. NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) EROSION CONTROL PROGRAM.—The term "erosion control program" means the national shoreline erosion control development and demonstration program established under this section.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers of the Army Corps of Engineers.

(b) ESTABLISHMENT OF EROSION CONTROL PROGRAM.—The Secretary shall establish and conduct a national shoreline erosion con-

trol development and demonstration program for a period of 8 years beginning on the date that funds are made available to carry out this section.

(c) REQUIREMENTS.—

(1) IN GENERAL.—The erosion control program shall include provisions for—

(A) demonstration projects consisting of planning, designing, and constructing prototype engineered and vegetative shoreline erosion control devices and methods during the first 5 years of the erosion control program;

(B) adequate monitoring of the prototypes throughout the duration of the erosion control program;

(C) detailed engineering and environmental reports on the results of each demonstration project carried out under the erosion control program; and

(D) technology transfers to private property owners and State and local entities.

(2) EMPHASIS.—The demonstration projects carried out under the erosion control program shall emphasize, to the extent practicable—

(A) the development and demonstration of innovative technologies;

(B) efficient designs to prevent erosion at a shoreline site, taking into account the life-cycle cost of the design, including cleanup, maintenance, and amortization;

(C) natural designs, including the use of vegetation or temporary structures that minimize permanent structural alterations;

(D) the avoidance of negative impacts to adjacent shorefront communities;

(E) in areas with substantial residential or commercial interests adjacent to the shoreline, designs that do not impair the aesthetic appeal of the interests;

(F) the potential for long-term protection afforded by the technology; and

(G) recommendations developed from evaluations of the original 1974 program established under the Shoreline Erosion Control Demonstration Act of 1974 (section 54 of Public Law 93–251; 42 U.S.C. 1962d–5 note), including—

(i) adequate consideration of the subgrade;

(ii) proper filtration;

(iii) durable components;

(iv) adequate connection between units; and

(v) consideration of additional relevant information.

(3) SITES.—

(A) IN GENERAL.—Each demonstration project under the erosion control program shall be carried out at a privately owned site with substantial public access, or a publicly owned site, on open coast or on tidal waters.

(B) SELECTION.—The Secretary shall develop criteria for the selection of sites for the demonstration projects, including—

(i) a variety of geographical and climatic conditions;

(ii) the size of the population that is dependent on the beaches for recreation, protection of homes, or commercial interests;

(iii) the rate of erosion;

(iv) significant natural resources or habitats and environmentally sensitive areas; and

(v) significant threatened historic structures or landmarks.

(C) AREAS.—Demonstration projects under the erosion control program shall be carried out at not fewer than 2 sites on each of the shorelines of—

(i) the Atlantic, Gulf, and Pacific coasts;

(ii) the Great Lakes; and

(iii) the State of Alaska.

(d) COOPERATION.—

(1) PARTIES.—The Secretary shall carry out the erosion control program in cooperation with—

(A) the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion;

(B) Federal, State, and local agencies;

(C) private organizations;

(D) the Coastal Engineering Research Center established under the first section of Public Law 88–172 (33 U.S.C. 426–1); and

(E) university research facilities.

(2) AGREEMENTS.—The cooperation described in paragraph (1) may include entering into agreements with other Federal, State, or local agencies or private organizations to carry out functions described in subsection (c)(1) when appropriate.

(e) REPORT.—Not later than 60 days after the conclusion of the erosion control program, the Secretary shall prepare and submit an erosion control program final report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include a comprehensive evaluation of the erosion control program and recommendations regarding the continuation of the erosion control program.

(f) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), the Federal share of the cost of a demonstration project under the erosion control program shall be determined in accordance with section 3.

(2) RESPONSIBILITY.—The cost of and responsibility for operation and maintenance (excluding monitoring) of a demonstration project under the erosion control program shall be borne by non-Federal interests on completion of construction of the demonstration project.

* * * * * * *

§ 426e. Federal aid in protection of shores

(a) DECLARATION OF POLICY.—* * *

* * * * * * *

(e) AUTHORIZED PLANS.—No Federal contribution shall be made with respect to a project under this Act [33 U.S.C. §§ 426e–426h] unless the plan therefor shall have been specifically adopted and authorized by Congress after investigation and study by the Beach Erosion Board [Coastal Engineering Research Center] under the provisions of section 2 of the River and Harbor Act approved July 3, 1930 [33 U.S.C. § 426], as amended and supplemented, or, in the case of a small project under section 3 or 5 of this Act [33 U.S.C. § 426g], unless the plan therefor has been approved by the Chief of Engineers.

* * * * * * *

§ 4671. Dam inventory updates

The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams authorized in section 5 of this Act. **[**For the purpose of carrying out this section, there is authorized to be appropriated to the Secretary $500,000 for each of the fiscal years ending September 30, 1988, through September 30, 1994.**]** *There are authorized to be appropriated to carry out this section $500,000 for each fiscal year.*

* * * * * * *

§ 579a. Project deauthorizations

(a) FUNDS TO BE OBLIGATED FOR CONSTRUCTION TO AVOID DEAUTHORIZATION.—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 [Nov. 17, 1986] unless during such period funds have been obligated for construction, including planning and designing, of such project.

(b) TRANSMISSION TO CONGRESS OF LIST OF UNCONSTRUCTED PROJECTS OR SEPARABLE ELEMENTS AUTHORIZED BUT NOT RECEIVING OBLIGATIONS DURING 10 FISCAL YEARS PRECEDING TRANSMISSION; TWO-YEAR UPDATES OF LIST.—(1) Not later than 1 year after the date of enactment of this Act [Nov. 17, 1986], 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 [Nov. 17, 1986] and before December 31, 1989.

(2) Every 2 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**]** *5* full fiscal years preceding the transmittal of such list. **[**Before**]** *Upon official* submission of such list to Congress, the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project (including any part thereof) on such list would be located. 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 obli-

gated for *the planning, design, or* construction of such project or element during such 30-month period.

(c) DEAUTHORIZED LIST; PUBLICATION IN FEDERAL REGISTER.—The Secretary shall publish in the Federal Register a list of any projects or separable elements that are deauthorized under this section.

(Nov. 17, 1986, P.L. 99–662, title X, § 1001, 100 Stat. 4201; Nov. 28, 1990, P.L. 101–640, title I, § 119(a), 104 Stat. 4630.)

* * * * * * *

§ 610. Control of aquatic plant growths

(a) There is hereby authorized a comprehensive program to provide for control and progressive eradication of waterhyacinth, alligatorweed, Eurasian water milfoil, *melaleuca tree,* and other obnoxious aquatic plant growths, from the navigable waters, tributary streams, connecting channels, and other allied waters of the United States, in the combined interest of navigation, flood control, drainage, agriculture, fish and wildlife conservation, public health, and related purposes, including continued research for development of the most effective and economic control measures, to be administered by the Chief of Engineers, under the direction of the Secretary of the Army, in cooperation with other Federal and State agencies. Local interests shall agree to hold and save the United States free from claims that may occur from control operations and to participate to the extent of 30 per centum of the cost of such operations. Costs for research and planning undertaken pursuant to the authorities of this section shall be borne fully by the Federal Government.

* * * * * * *

§ 701n. Flood emergencies; extraordinary wind, wave, or water damage to federally authorized hurricane or shore protective structures; emergency supplies of drinking water; drought; well construction and water transportation

(a)(1) * * *

* * * * * * *

(c) LEVEE OWNERS MANUAL.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subdivision, in accordance with chapter 5 of title 5, United States Code, the Secretary shall prepare a manual describing the maintenance and upkeep responsibilities that the Army Corps of Engineers requires of a non-Federal interest in order for the non-Federal interest to receive Federal assistance under this section. The Secretary shall provide a copy of the manual at no cost to each non-Federal interest that is eligible to receive Federal assistance under this section.

(2) PROHIBITION ON DELEGATION.—The preparation of the manual shall be carried out under the personal direction of the Secretary.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this subsection.

(4) DEFINITIONS.—In this subsection:

(A) MAINTENANCE AND UPKEEP.—The term "maintenance and upkeep" means all maintenance and general upkeep of a levee performed on a regular and consistent basis that is not repair and rehabilitation.

(B) REPAIR AND REHABILITATION.—The term "repair and rehabilitation"—

(i) except as provided in clause (ii), means the repair or rebuilding of a levee or other flood control structure, after the structure has been damaged by a flood, to the level of protection provided by the structure before the flood; and

(ii) does not include—

(I) any improvement to the structure; or

(II) repair or rebuilding described in clause (i) if, in the normal course of usage, the structure becomes structurally unsound and is no longer fit to provide the level of protection for which the structure was designed.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Army.

[§ 701u. International engineering or scientific conferences; attendance

[The Secretary of the Army is hereby authorized to allot from any appropriations heretofore or hereafter made for flood control or rivers and harbors, funds for payment of expenses of representatives of the Corps of Engineers engaged on flood control and river and harbor work to international engineering or scientific conferences to be held outside the continental limits of the United States: Provided, That no more than ten representatives of the Corps of Engineers shall attend any one conference: And provided further, That not more than $25,000 shall be allotted during any one fiscal year for this purpose.

[(May 17, 1950, ch 188, Title II, § 211, Stat. 183.)]

Repealed.

* * * * * * *

§ 1252. Comprehensive programs for water pollution control

HISTORICAL AND STATUTORY NOTES

Environmental dredging

Pub. L. 101–640, Title III, § 312, Nov. 28, 1990, 104 Stat. 4639, provided that:

"(a) OPERATION AND MAINTENANCE OF NAVIGATION PROJECTS.—Whenever necessary to meet the requirements of the Federal Water Pollution Control Act [this chapter], the Secretary, in consultation with the Administrator of the Environmental Protection Agency, may remove, as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel.

"(b) NONPROJECT SPECIFIC.—

"(1) IN GENERAL.—The Secretary may remove contaminated sediments from the navigable waters of the United States for the purpose of environmental enhancement and water quality improvement if such removal is requested by a non-Federal sponsor and the sponsor agrees to pay 50 percent of the cost of such removal.

"(2) MAXIMUM AMOUNT.—The Secretary may not expend more than $10,000,000 in a fiscal year to carry out this subsection.

"(c) JOINT PLAN REQUIREMENT.—The Secretary may only remove contaminated sediments under subsection (b) in accordance with a joint plan developed by the Secretary and interested Federal, State, and local government officials. Such plan must include an opportunity for public comment, a description of the work to be undertaken, the method to be used for dredged material disposal, the roles and responsibilities of the Secretary and non-Federal sponsors, and identification of sources of funding.

"(d) DISPOSAL COSTS.—Costs of disposal of contaminated sediments removed under this section shall be a non-Federal responsibility.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the rights and responsibilities of any person under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [section 9601 et seq. of Title 42, The Public Health and Welfare].

["(f) TERMINATION DATE.—This section shall not be effective after the last day of the 5-year period beginning on the date of the enactment of this Act [Nov. 28, 1990]; except that the Secretary may complete any project commenced under this section on or before such last day."**]**

* * * * * * *

§ 2213. Flood control and other purposes

(a) FLOOD CONTROL.— (1) * * *

* * * * * * *

(c) OTHER PURPOSES.—The non-Federal share of the cost assigned to other project purposes shall be as follows:

(1) hydroelectric power: 100 percent, except that the marketing of such power and the recovery of costs of constructing, operating, maintaining, and rehabilitating such projects shall be in accordance with existing law: Provided, That after the date of enactment of this Act, the Secretary shall not submit to Congress any proposal for the authorization of any water resources project that has a hydroelectric power component unless such proposal contains the comments of the appropriate Power Marketing Administrator designated pursuant to section 302 of the Department of Energy Organization Act (Public Law 95–91) concerning the appropriate Power Marketing Administration's ability to market the hydroelectric power expected to be generated and not required in the operation of the project under the applicable Federal power marketing law, so that, 100 percent of operation, maintenance and replacement costs, 100 percent of the capital investment allocated to the purpose of hy-

droelectric power (with interest at rates established pursuant to or prescribed by applicable law), and any other costs assigned in accordance with law for return from power revenues can be returned within the period set for the return of such costs by or pursuant to such applicable Federal power marketing law;

(2) municipal and industrial water supply: 100 percent;

(3) agricultural water supply: 35 percent;

(4) recreation, including recreational navigation: 50 percent of separable costs and, in the case of any harbor or inland harbor or channel project, 50 percent of joint and separable costs allocated to recreational navigation;

(5) hurricane and storm damage reduction: 35 percent; [and]

(6) aquatic plant control: 50 percent of control operations; *and*

(7) environmental protection and restoration: 25 percent.

§ 2215. Feasibility studies; planning, engineering, and design

(a) FEASIBILITY STUDIES.—(1) The Secretary shall not initiate any feasibility study for a water resources project after the date of enactment of this Act [enacted Nov. 17, 1986] until appropriate non-Federal interests agree, by contract, to contribute 50 percent of the cost for such study [during the period of such study]. *During the period of the study, the non-Federal share of the cost of the study shall be not more than 50-percent of the estimate of the cost of the study as contained in the feasibility cost sharing agreement. The cost estimate may be amended only by mutual agreement of the Secretary and the non-Federal interests. The non-Federal share of any costs in excess of the cost estimate shall, except as otherwise mutually agreed by the Secretary and the non-Federal interests, be payable after the project has been authorized for construction and on the date on which the Secretary and non-Federal interests enter into an agreement pursuant to section 101(e) or 103(j).* Not more than one-half of [such non-Federal contribution] *the non-Federal Share required under this paragraph* may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the feasibility report.

* * * * * * *

§ 2239. [Repealed]

HISTORY; ANCILLARY LAWS AND DIRECTIVES

This section (Act Nov. 17, 1986, P.L. 99–662, Title II, § 211, 100 Stat. 4106; Nov. 17, 1988, P.L. 100–676, § 32, 102 Stat. 4030) was repealed by Act Nov. 28, 1990, P.L. 101–640, Title IV, § 412(f), 104 Stat. 4650. This section provided for alternatives to the New Jersey Mud Dump Site for disposal of dredged material, and similar provisions are contained in 33 USCS § 2239 note.

Other provisions:

* * * * * * *

Sediments decontamination technology.—Act Oct. 31, 1992, P.L. 102–580, Title IV, § 405, 106 Stat. 4863, provides:

"(a) DECONTAMINATION PROJECT.—(1) SECTION OF TECHNOLOGIES.—Based upon a review of decontamination technologies identified pursuant to section 412(c) of the Water Resources Development Act of 1990 [note to this section], the Administrator of the Environmental Protection Agency and the Secretary shall, within 1 year after the date of the enactment of this Act, jointly select removal, pre-treatment, post-treatment, and decontamination technologies for contaminated marine sediments for a decontamination project in the New York/New Jersey Harbor.

"(2) RECOMMENDED PROGRAM.—Upon selection of technologies, the Administrator and the Secretary shall jointly recommend a program of selected technologies to assess their effectiveness in rendering sediments acceptable for unrestricted ocean disposal or beneficial reuse, or both. *The goal of the program shall be to make possible the development, on an operational scale, of 1 or more sediment decontamination technologies, each of which demonstrates a sediment decontamination capacity of at least 2,500 cubic yards per day.*

"(3) REPORT TO CONGRESS.—Not later than September 30, 1996, and September 30 of each year thereafter, the Administrator and the Secretary shall report to Congress on progress made toward the goal described in paragraph (2).

"(b) DECONTAMINATION DEFINED.—For purposes of this section, 'decontamination' may include local or remote prototype or production and laboratory decontamination technologies, sediment pretreatment and post-treatment processes, and siting, economic, or other measures necessary to develop a matrix for selection of interim prototype of long-term processes. Decontamination techniques need not be preproven in terms of likely success.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section **[**$5,000,000**]** *$10,000,000* for fiscal years beginning after September 30, **[**1992.**]** *1996.* Such sums shall remain available until expended.".

* * * * * * *

§ 2309a. Project modifications for improvement of environment

(a) REVIEW OF PROJECT OPERATIONS.—The Secretary is authorized to review the operation of water resources projects constructed by the Secretary to determine the need for modifications in the structures and operations of such projects for the purpose of improving the quality of the environment in the public interest *and to determine if the operation of the projects has contributed to the degradation of the quality of the environment.*

(b) MODIFICATION PROGRAM.—The Secretary is authorized to carry out a program for the purpose of making such modifications in the structures and operations of water resources projects constructed by the Secretary which the Secretary determines (1) are feasible and consistent with the authorized project purposes, and (2) will improve the quality of the environment in the public interest. **[**The non-Federal share of the cost of any modifications carried out under this section shall be 25 percent. No modification shall be

carried out under this section without specific authorization by Congress if the estimated cost exceeds $5,000,000.]

(c) MEASURES TO RESTORE ENVIRONMENTAL QUALITY.—If the Secretary determines under subsection (a) that operation of a water resources project has contributed to the degradation of the quality of the environment, the Secretary may carry out, with respect to the project, measures for the restoration of environmental quality, if the measures are feasible and consistent with the authorized purposes of the project.

(d) FUNDING.—The non-Federal share of the cost of any modification or measure carried out pursuant to subsection (b) or (c) shall be 25 percent. Not more than $5,000,000 in Federal funds may be expended on any 1 such modification or measure.

[(c)] *(e)* COORDINATION.—The Secretary shall coordinate any actions taken pursuant to this section with appropriate Federal, State, and local agencies.

[(d)] *(f)* BIENNIAL REPORT.—Beginning in 1992 and every 2 years thereafter, the Secretary shall transmit to Congress a report on the results of reviews conducted under subsection (a) and on the program conducted under subsection (b).

[(e)] *(g)* FUNDING.—There is authorized to be appropriated not to exceed $25,000,000 annually to carry out this section.

(Nov. 17, 1986, P.L. 99–662, Title XI, § 1135, 100 Stat. 4251; Nov. 17, 1988, P.L. 100–676, § 42, 102 Stat. 4040; Nov. 28, 1990, P.L. 101–640, Title III, § 304, 104 Stat. 4634; Oct. 31, 1992, P.L. 102–580, Title II, § 202, 106 Stat. 4826.)

* * * * * * *

§ 2313. Collaborative research and development

(a) IN GENERAL.—For the purpose of improving the state of engineering and construction in the United States and consistent with the mission of the Army Corps of Engineers, the Secretary is authorized to utilize Army Corps of Engineers laboratories and research centers to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local government, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the several States of the United States or the District of Columbia.

(b) ADMINISTRATIVE PROVISIONS.—In carrying out this section, the Secretary may consider the recommendations of a non-Federal entity in identifying appropriate research or development projects and may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in such agreement, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this section. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(c) APPLICABILITY OF OTHER LAWS.—The research, development, or utilization of any technology pursuant to an agreement under subsection (b), including the terms under which such technology

may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701–3714).

(d) TERMPORARY PROTECTION OF TECHNOLOGY.—

(1) PRE-AGREEMENT.—If the Secretary determines that information developed as a result of a research or development activity conducted by the Army Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years after the development of the information, and that the information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a), the Secretary may provide appropriate protections against the dissemination of the information, including exemption from subchapter II of chapter 5 of title 5, United States Code, until the earlier of—

(A) the date on which the Secretary enters into such an agreement with respect to the information; or

(B) the last day of the 2-year period beginning on the date of the determination.

(2) POST-AGREEMENT.—Any information subject to paragraph (1) that becomes the subject of a cooperative research and development agreement shall be subject to the protections provided under section 12(c)(7)(B) of the Act (15 U.S.C. 3710a(c)(7)(B)) as if the information had been developed under a cooperative research and development agreement.

[(d)**]** *(e)* AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section, there is authorized to be appropriated to the Secretary of the Army civil works funds $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, $5,000,000 for fiscal year 1991, and $6,000,000 for each fiscal year thereafter.

[(e) ADDITIONAL FUNDING.—Notwithstanding the third proviso under the heading "General Investigations" of title I of the Energy and Water Development Appropriations Act, 1989 (102 Stat. 857) [unclassified], an additional $3,000,000 of the funds appropriated under such heading shall be available to the Secretary for obligation to carry out the purposes of this section in fiscal year 1989.**]**

(Nov. 17, 1988, P.L. 100–676, § 7, 102 Stat. 4022.)

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§ 2319. Reservoir management

[(a) TECHNICAL ADVISORY COMMITTEE.—Not later than 2 years after the date of the enactment of this Act [enacted Nov. 28, 1990], the Secretary shall establish for major reservoirs under the jurisdiction of the Corps of Engineers a technical advisory committee to provide to the Secretary and Corps of Engineers recommendations on reservoir monitoring and options for reservoir research. The Secretary shall determine the membership of the committee, except that the Secretary may not appoint more than 6 members and shall ensure a predominance of members with appropriate academic, technical, or scientific qualifications. Members shall serve

without pay, and the Secretary shall provide any necessary facilities, staff, and other support services in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.),]

[(b) PUBLIC PARTICIPATION.] The Secretary shall ensure that, in developing or revising reservoir operating manuals of the Corps of Engineers, the Corps shall provide significant opportunities for public participation, including opportunities for public hearings. The Secretary shall issue regulations to implement this [subsection] *section* including a requirement that all appropriate informational materials relating to proposed management decisions of the Corps be made available to the public sufficiently in advance of public hearings. Not later than January 1, 1992, the Secretary shall transmit to Congress a report on measures taken pursuant to this [subsection.] *section*.

(Nov. 28, 1990, P.L. 101–640, Title III, § 310, 104 Stat. 4639.)

§ 2325. Voluntary contributions for environmental and recreation projects

(a) ACCEPTANCE.—In connection with carrying out a water resources project for environmental protection and restoration or a water resources project for recreation, the Secretary is authorized to accept contributions of cash, funds, materials, and services from persons, including governmental entities but excluding the project sponsor.

(b) DEPOSIT.—Any cash or funds received by the Secretary under subsection (a) shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers [8662] *8862*" and shall be available until expended to carry out water resources projects described in subsection (a).

(Oct. 31, 1992, P.L. 102–580, Title II, § 203, 106 Stat. 4826.)

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§ 2328. Challenge cost-sharing program for the management of recreation facilities

(a) IN GENERAL.—The Secretary is authorized to develop and implement a program to share the cost of managing recreation facilities and natural resources at water resource development projects under the Secretary's jurisdiction.

(b) COOPERATIVE AGREEMENTS.—To implement the program under this section, the Secretary is authorized to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of recreation facilities and natural resources at civil works projects under the Secretary's jurisdiction where such facilities and resources are being maintained at complete Federal expense.

(c) CONTRIBUTIONS.—For purposes of carrying out this section the Secretary may accept contributions of funds, materials, and services from non-Federal public and private entities. Any funds received by the Secretary under this section shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers

[8662] *8862*" and shall be available until expended to carry out the purposes of this section.

(Oct. 31, 1992, P.L. 102–580, Title II, § 225, 106 Stat. 4838.)

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PUBLIC LAW 99–662

AN ACT To provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

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

* * * * * * *

SEC. 840. JACKSON HOLE SNAKE RIVER, WYOMING.

The project for Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbors Act of 1950 (Public Law 81–516), is modified to provide that the operation and maintenance of the project, and additions and modifications thereto constructed by non-Federal sponsors, shall be the responsibility of the [Secretary: *Provided,* That] *Secretary. In carrying out this section, the Secretary may enter into agreements with the non-Federal sponsors permitting the non-Federal sponsors to perform operation and maintenance for the project on a cost-reimbursable basis. The* non-Federal sponsors shall pay the initial $35,000 in cash or materials of any such cost expended in any one year, plus inflation as of the date of enactment of this Act.

* * * * * * *

PUBLIC LAW 100–676

AN ACT To provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1988".

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SEC. 52. PROJECT DEAUTHORIZATIONS.

[(a) EXTENSION OF LIMITATION ON PERIOD OF AUTHORIZATION.—

[(1) PROJECTS IN THIS ACT.—The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall apply to the projects authorized for construction by this Act, except that the 5-year period during

which funds must be obligated to prevent deauthorization shall begin on the date of the enactment of this Act.

[(2) PROJECTS THEREAFTER.—The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall also apply to projects authorized for construction subsequent to this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the authorization of such projects.]

[(b)] *(a)* SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date of enactment or is under construction on such date of enactment:

(1) ROCKLAND LAKE, TEXAS.—The Rockland Lake water resources project, Texas, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public work on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 18).

(2) WHITE RIVER NAVIGATION TO BATESVILLE, ARKANSAS.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139).

(3) CHICAGO RIVER TURNING BASIN, CHICAGO HARBOR, ILLINOIS.—The inner basin of Chicago Harbor, Illinois, known as the Chicago River Turning Basin, authorized by the first section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871", approved July 11, 1870 (16 Stat. 226).

[(c)] *(b)* ALGOMA, WISCONSIN, OUTER HARBOR.—

(1) DEAUTHORIZATION.—Except as provided in paragraph (2), the outer harbor basin feature of the navigation project for Algoma, Wisconsin, authorized by the Act entitled "An Act making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (34 Stat. 1101), is not authorized after the date of the enactment of this Act.

(2) RETENTION OF MAINTENANCE RESPONSIBILITIES FOR BREAKWATERS AND CHANNEL.—The Secretary shall retain all responsibilities of the Secretary existing on the date of the enactment of this Act for maintenance of the breakwaters and channel of the harbor at Algoma, Wisconsin.

[(d)] *(c)* CONTINUATION OF PROJECT AUTHORIZATIONS.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1))—

(1) the navigation project for Monterey Harbor (Monterey Bay), California, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 483),

(2) the navigation project for the North Branch of the Chicago River, Illinois, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 636),

(3) the element of the Missouri River Basin Project authorized by section 228 of the River and Harbor Act of 1970, and

(4) the navigation project for the James River, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1174),

shall remain authorized after December 31, 1989. Such projects and elements shall not be authorized for construction after the last day of the 5-year period beginning on the date of the enactment of this Act unless during such period funds have been obligated for construction, including planning and designing, of such projects and elements.

[(e)] *(d)* NOTICE.—The Secretary shall publish in the Federal Register notice as to any project which would no longer have been authorized pursuant to the provisions of section 1001 of the Water Resources Development Act of 1986 or subsection (a) of this section but remains authorized due to enactment of law by Congress.

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PUBLIC LAW 102–580

AN ACT To provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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. 339. NUISANCE AQUATIC VEGETATION IN LAKE GASTON, VIRGINIA AND NORTH CAROLINA.

(a) IN GENERAL.—The Secretary is authorized to undertake a program to control nuisance aquatic vegetation for the purpose of preserving the recreational uses of the waters of Lake Gaston, Virginia and North Carolina.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Federal share of the cost of the program authorized by this section $200,000 per fiscal year for each of fiscal years [1993 and 1994] *1995 and 1996.*

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