

## **Water Resources Development Act of 1996**

[Public Law 104–303]

[As Amended Through P.L. 118–272, Enacted January 4, 2025]

【Currency: This publication is a compilation of the text of Public Law 104–303. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

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## **TITLE I—WATER RESOURCES PROJECTS**

### **SEC. 101. PROJECT AUTHORIZATIONS.**

(a) \* \* \*

(b) **PROJECTS SUBJECT TO REPORT.**—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in a final report (or in the case of the project described in paragraph (10), a Detailed Project Report) of the Corps of Engineers, if the report is completed not later than December 31, 1996:

(1) **CHIGNIK ALASKA.**—The project for navigation, Chignik, Alaska, at a total cost of \$10,365,000, with an estimated Federal cost of \$4,282,000 and an estimated non-Federal cost of \$6,083,000.

(2) **COOK INLET, ALASKA.**—The project for navigation, Cook Inlet, Alaska, at a total cost of \$5,700,000, with an estimated Federal cost of \$3,700,000 and an estimated non-Federal cost of \$2,000,000.

(3) **ST. PAUL ISLAND HARBOR, ST. PAUL, ALASKA.**—The project for navigation, St. Paul Harbor, St. Paul, Alaska, at a total cost of \$52,300,000, with an estimated Federal cost of \$45,558,000 and an estimated non-Federal cost of \$6,742,000.

(4) **NORCO BLUFFS, RIVERSIDE COUNTY, CALIFORNIA.**—The project for bluff stabilization, Norco Bluffs, Riverside County,

California, at a total cost of \$8,600,000, with an estimated Federal cost of \$6,450,000 and an estimated non-Federal cost of \$2,150,000.

(5) TERMINUS DAM, KAWEAH RIVER, CALIFORNIA.—The project for flood control and water supply, Terminus Dam, Kaweah River, California, at a total cost of \$34,500,000, with an estimated Federal cost of \$20,200,000 and an estimated non-Federal cost of \$14,300,000.

(6) REHOBOTH BEACH AND DEWEY BEACH, DELAWARE.—The project for storm damage reduction and shoreline protection, Rehoboth Beach and Dewey Beach, Delaware, at a total cost of \$9,423,000, with an estimated Federal cost of \$6,125,000 and an estimated non-Federal cost of \$3,298,000, and an estimated average annual cost of \$282,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of \$183,000 and an estimated annual non-Federal cost of \$99,000.

(7) BREVARD COUNTY, FLORIDA.—The project for shoreline protection, Brevard County, Florida, at a total cost of 76,620,000, with an estimated Federal cost of \$36,006,000 and an estimated non-Federal cost of \$40,614,000, and an estimated average annual cost of \$2,341,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of \$1,109,000 and an estimated annual non-Federal cost of \$1,232,000.

(8) LAKE WORTH INLET, FLORIDA.—The project for navigation and shoreline protection, Lake Worth Inlet, Palm Beach Harbor, Florida, at a total cost of \$3,915,000.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Miami, Florida, at a total cost of \$3,221,000, with an estimated Federal cost of \$1,800,000 and an estimated non-Federal cost of \$1,421,000.

(10) NEW HARMONY, INDIANA.—The project for streambank erosion protection, Wabash River at New Harmony, Indiana, at a total cost of \$2,800,000, with an estimated Federal cost of \$2,100,000 and an estimated non-Federal cost of \$700,000.

(11) WESTWEGO TO HARVEY CANAL, LOUISIANA.—The project for hurricane damage prevention and flood control, West Bank Hurricane Protection (Lake Cataouatche Area), Jefferson Parish, Louisiana, at a total cost of \$14,375,000, with an estimated Federal cost of \$9,344,000 and an estimated non-Federal cost of \$5,031,000.

(12) CHESAPEAKE AND DELAWARE CANAL, MARYLAND AND DELAWARE.—The project for navigation and safety improvements, Chesapeake and Delaware Canal, Baltimore Harbor Connecting Channels, Delaware and Maryland, at a total cost of \$82,800,000, with an estimated Federal cost of \$29,852,000 and an estimated non-Federal cost of \$28,948,000.

(13) ABSECON ISLAND, NEW JERSEY.—The project for storm damage reduction and shoreline protection, Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey, at a total

cost of \$52,000,000, with an estimated Federal cost of \$34,000,000 and an estimated non-Federal cost of \$18,000,000.

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## TITLE II—GENERAL PROVISIONS

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### SEC. 206. AQUATIC ECOSYSTEM RESTORATION.

#### (a) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary may carry out a project to restore and protect an aquatic ecosystem or estuary if the Secretary determines that the project—

(A)(i) will improve the quality of the environment and is in the public interest; or

(ii) will improve the elements and features of an estuary (as defined in section 103 of the Estuaries and Clean Waters Act of 2000 (33 U.S.C. 2902)); and

(B) is cost-effective.

(2) DAM REMOVAL.—A project under this section may include removal of a dam.

#### (3) ANADROMOUS FISH HABITAT AND PASSAGE.—

(A) MEASURES.—A project under this section may include measures to improve habitat or passage for anadromous fish, including—

(i) installing fish bypass structures on small water diversions;

(ii) modifying tide gates; and

(iii) restoring or reconnecting floodplains and wetlands that are important for anadromous fish habitat or passage.

(B) BENEFITS.—A project that includes measures under this paragraph shall be formulated to maximize benefits for the anadromous fish species benefitted by the project.

(4) DROUGHT RESILIENCE.—A project under this section may include measures that enhance drought resilience through the restoration of wetlands or the removal of invasive species.

#### (b) COST SHARING.—

(1) IN GENERAL.—Non-Federal interests shall provide 35 percent of the cost of construction of any project carried out under this section, including provision of all lands, easements, rights-of-way, and necessary relocations.

(2) FORM.—Before October 1, 2003, the Federal share of the cost of a project under this section may be provided in the form of reimbursements of project costs.

(3) ANADROMOUS FISH.—Notwithstanding paragraph (1), for projects carried out under subsection (a)(3), the non-Federal interest shall provide 15 percent of the cost of construction, including provision of all lands, easements, rights-of-way, and necessary relocations.

#### (c) AGREEMENTS.—

(1) IN GENERAL.—Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary to pay the non-Federal share of the costs of construction required by this section and to pay 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to the project in accordance with regulations prescribed by the Secretary.

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

(d) COST LIMITATION.—Not more than \$15,000,000 in Federal funds may be allotted under this section for a project at any single locality.

(e) USE OF NATURAL AND NATURE-BASED FEATURES.—In carrying out a project to restore and protect an aquatic ecosystem or estuary under subsection (a), the Secretary shall consider, and may include, with the consent of the non-Federal interest, a natural feature or nature-based feature, as such terms are defined in section 1184 of the Water Resources Development Act of 2016, if the Secretary determines that inclusion of such features is consistent with the requirements of subsection (a).

(f) FUNDING.—There is authorized to be appropriated to carry out this section \$75,000,000 for each fiscal year.

(g) PRIORITIZATION.—The Secretary shall give projects that include measures described in subsection (a)(3) equal priority for implementation as other projects under this section.

[22 U.S.C. 2330]

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#### SEC. 208. RECREATION POLICY AND USER FEES.

(a) RECREATION POLICY.—

(1) IN GENERAL.—The Secretary shall provide increased emphasis on, and opportunities for recreation at, water resources projects operated, maintained, or constructed by the Corps of Engineers.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on specific measures taken to implement this subsection.

(b) USER FEES.—

(1)

(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report, with respect to fiscal years 1995 and 1996, on—

(A) the amount of day-use fees collected under section 210(b) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)) at each water resources development project; and

(B) the administrative costs associated with the collection of the day-use fees at each water resources development project.

(c) **ALTERNATIVE TO ANNUAL PASSES.**—

(1) **IN GENERAL.**—The Secretary shall evaluate the feasibility of implementing an alternative to the \$25 annual pass that the Secretary currently offers to users of recreation facilities at water resources projects of the Corps of Engineers.

(2) **ANNUAL PASS.**—The evaluation under paragraph (1) shall include the establishment on a test basis of an annual pass that costs \$10 or less for the use of recreation facilities, including facilities at Raystown Lake, Pennsylvania.

(3) **REPORT.**—Not later than December 31, 1999, the Secretary shall transmit to Congress a report on the results of the evaluation carried out under this subsection, together with recommendations concerning whether annual passes for individual projects should be offered on a nationwide basis.

(4) **EXPIRATION OF AUTHORITY.**—The authority to establish an annual pass under paragraph (2) shall expire on the<sup>1</sup> December 31, 2003.

[16 U.S.C. 460d]

#### **SEC. 209. RECOVERY OF COSTS.**

Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) for any response action taken by the Secretary in support of the civil works program of the Department of the Army and any other amounts recovered by the Secretary from a contractor, insurer, surety, or other person to reimburse the Department of the Army for any expenditure for environmental response activities in support of the Army civil works program shall be credited to the appropriate trust fund account from which the cost of such response action has been paid or will be charged.

[42 U.S.C. 9607 nt]

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#### **SEC. 212. ENGINEERING AND ENVIRONMENTAL INNOVATIONS OF NATIONAL SIGNIFICANCE.**

(a) **SURVEYS, PLANS, AND STUDIES.**—To encourage innovative and environmentally sound engineering solutions and innovative environmental solutions to problems of national significance, the Secretary may undertake surveys, plans, and studies and prepare reports that may lead to work under existing civil works authorities or to recommendations for authorizations.

(b) **FUNDING.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 1997 through 2000.

(2) **FUNDING FROM OTHER SOURCES.**—The Secretary may accept and expend additional funds from other Federal agencies, States, or non-Federal entities for purposes of carrying out this section.

<sup>1</sup> So in law. Probably should strike “the”.

**Sec. 213 WATER RESOURCES DEVELOPMENT ACT OF 1996****6**

[33 U.S.C. 2313a]

**SEC. 213. LEASE AUTHORITY.**

Notwithstanding any other provision of law, the Secretary may lease space available in buildings for which funding for construction or purchase was provided from the revolving fund established by the 1st section of the Civil Functions Appropriations Act, 1954 (33 U.S.C. 576; 67 Stat. 199), under such terms and conditions as are acceptable to the Secretary. The proceeds from such leases shall be credited to the revolving fund for the purposes set forth in such Act.

[33 U.S.C. 576b]

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**SEC. 215. NATIONAL DAM SAFETY PROGRAM.**

(a) **PURPOSE.**—The purpose of this section is to reduce the risks to life and property from dam failure in the United States through the establishment and maintenance of an effective national dam safety program to bring together the expertise and resources of the Federal and non-Federal communities in achieving national dam safety hazard reduction. It is not the intent of this section to preempt any other Federal or State authorities nor is it the intent of this section to mandate State participation in the grant assistance program to be established under this section.

(b) **EFFECT ON OTHER DAM SAFETY PROGRAMS.**—Nothing in this section (including the amendments made by this section) shall preempt or otherwise affect any dam safety program of a Federal agency other than the Federal Emergency Management Agency, including any program that regulates, permits, or licenses any activity affecting a dam.

[33 U.S.C. 467 nt]

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**SEC. 216. HYDROELECTRIC POWER PROJECT UPRATING.**

(a) **IN GENERAL.**—In carrying out the operation, maintenance, rehabilitation, and modernization of a hydroelectric power generating facility at a water resources project under the jurisdiction of the Department of the Army, the Secretary may, to the extent funds are made available in appropriations Acts or in accordance with subsection (c), take such actions as are necessary to optimize the efficiency of energy production or increase the capacity of the facility, or both, if, after consulting with the heads of other appropriate Federal and State agencies, the Secretary determines that such actions—

- (1) are economically justified and financially feasible;
- (2) will not result in any significant adverse effect on the other purposes for which the project is authorized;
- (3) will not result in significant adverse environmental impacts;
- (4) will not involve major structural or operational changes in the project; and
- (5) will not adversely affect the use, management, or protection of existing Federal, State, or tribal water rights.

(b) **CONSULTATION.**—Before proceeding with any proposed uprating under subsection (a), the Secretary shall provide affected State, tribal, and Federal agencies with a copy of the proposed determinations under subsection (a). If the agencies submit comments, the Secretary shall accept those comments or respond in writing to any objections those agencies raise to the proposed determinations.

(c) **USE OF FUNDS PROVIDED BY PREFERENCE CUSTOMERS.**—In carrying out this section, the Secretary may accept and expend funds provided by preference customers under Federal law relating to the marketing of power.

(d) **APPLICATION.**—This section does not apply to any facility of the Department of the Army that is authorized to be funded under section 2406 of the Energy Policy Act of 1992 (16 U.S.C. 839d–1).

(e) **EFFECT ON OTHER AUTHORITY.**—This section shall not affect the authority of the Secretary and the Administrator of the Bonneville Power Administration under section 2406 of the Energy Policy Act of 1992 (16 U.S.C. 839d–1; 106 Stat. 3099).

[33 U.S.C. 2321a]

#### **SEC. 217. DREDGED MATERIAL DISPOSAL FACILITY PARTNERSHIPS.**

##### **(a) ADDITIONAL CAPACITY OR REPLACEMENT CAPACITY.—**

###### **(1) PROVIDED BY SECRETARY.—**

(A) **IN GENERAL.**—Subject to subparagraph (B), at the request of a non-Federal interest with respect to a project, the Secretary may—

(i) provide additional capacity at a dredged material disposal facility constructed by the Secretary beyond the capacity that would be required for project purposes; or

(ii) permit the use of dredged material disposal facility capacity required for project purposes by the non-Federal interest if the Secretary determines that replacement capacity can be constructed at the facility or another facility or site before such capacity is needed for project purposes.

(B) **AGREEMENT.**—Before the Secretary takes an action under subparagraph (A), the non-Federal interest shall agree to pay—

(i) all costs associated with the construction of the additional capacity or replacement capacity in advance of construction of such capacity; and

(ii) in the case of use by a non-Federal interest of dredged material disposal capacity required for project purposes under subparagraph (A)(ii), any increase in the cost of operation and maintenance of the project that the Secretary determines results from the use of the project capacity by the non-Federal interest in advance of each cycle of dredging.

(C) **CREDIT.**—In the event the Secretary determines that the cost to operate or maintain the project decreases as a result of use by the non-Federal interest of dredged material disposal capacity required for project purposes under subparagraph (A)(ii), the Secretary, at the request of

the non-Federal interest, shall credit the amount of the decrease toward any cash contribution of the non-Federal interest required thereafter for construction, operation, or maintenance of the project, or of another navigation project.

(2) **COST RECOVERY AUTHORITY.**—The non-Federal interest may recover the costs assigned to the additional capacity under paragraph (1)(A)(i) through fees assessed on third parties whose dredged material is deposited at the facility and who enter into agreements with the non-Federal interest for the use of the facility. The amount of such fees may be determined by the non-Federal interest.

(3) **SPECIAL RULE FOR DESIGNATION OF REPLACEMENT CAPACITY FACILITY OR SITE.**—

(A) **IN GENERAL.**—Subject to such terms and conditions as the Secretary determines to be necessary or advisable, an agreement under paragraph (1)(B) for use permitted under paragraph (1)(A)(ii) shall reserve to the non-Federal interest—

(i) the right to submit to the Secretary for approval at a later date an alternative to the facility or site designated in the agreement for construction of replacement capacity; and

(ii) the right to construct the replacement capacity at the alternative facility or site at the expense of the non-Federal interest.

(B) **REQUIREMENT.**—The Secretary shall not reject a site for the construction of replacement capacity under paragraph (1)(A)(ii) that is submitted by the non-Federal interest for approval by the Secretary before the date of execution of the agreement under paragraph (1)(B), or thereafter, unless the Secretary—

(i) determines that the site is environmentally unacceptable, geographically unacceptable, or technically unsound; and

(ii) provides a written basis for the determination under clause (i) to the non-Federal interest.

(4) **PUBLIC COMMENT.**—The Secretary shall afford the public an opportunity to comment on the determinations required under this subsection for a use permitted under paragraph (1)(A)(ii).

(b) **NON-FEDERAL USE OF DISPOSAL FACILITIES.**—

(1) **IN GENERAL.**—

(A) **NON-FEDERAL USE.**—The Secretary—

(i) at the request of a non-Federal entity, may permit the use of any dredged material disposal facility under the jurisdiction of, or managed by, the Secretary by the non-Federal entity if the Secretary determines that such use will not reduce the availability of the facility for the authorized water resources development project on a channel in the vicinity of the disposal facility;

(ii) at the request of a non-Federal entity, shall permit the non-Federal entity to use a non-Federal



disposal facility for the disposal of material dredged by the non-Federal entity, regardless of any connection to a Federal navigation project, if—

(I) permission for such use has been granted by the owner of the non-Federal disposal facility; and

(II) the Secretary determines that the dredged material disposal needs required to maintain, perform authorized deepening, or restore the navigability and functionality of authorized navigation channels in the vicinity of the non-Federal disposal facility for the 20-year period following the date of the request, including all planned and routine dredging operations necessary to maintain such channels for the authorized purposes during such period, can be met by the available gross capacity of other dredged material disposal facilities in the vicinity of the non-Federal disposal facility; and

(iii) shall impose fees to recover capital, operation, and maintenance costs associated with such uses.

(B) DETERMINATIONS.—The Secretary shall—

(i) delegate determinations under clauses (i) and (ii)(II) of subparagraph (A) to the District Commander of the district in which the relevant disposal facility is located; and

(ii) make such determinations not later than 90 days after receiving the applicable request.

(2) FEES.—

(A) USE.—Notwithstanding section 401(c) of the Federal Water Pollution Control Act (33 U.S.C. 1341(c)) but subject to advance appropriations, any monies received through collection of fees under this subsection shall be available to the Secretary, and shall be used by the Secretary, for the operation and maintenance of the disposal facility from which the fees were collected.

(B) REDUCTION IN AMOUNT.—In collecting any fee under this subsection, the Secretary shall reduce the amount imposed under paragraph (1)(A)(iii) to account for improvements made to the non-Federal disposal facility by the non-Federal entity to recover the capacity of the non-Federal disposal facility.

(3) DISPOSITION STUDIES.—

(A) REQUIREMENT.—Upon request by the owner of a non-Federal disposal facility, the Secretary shall carry out a disposition study of the non-Federal disposal facility, in accordance with section 1168 of the Water Resources Development Act of 2018 (33 U.S.C. 578b), if—

(i) the Secretary has not used the non-Federal disposal facility for the disposal of dredged material during the 20-year period preceding the date of the request; and

(ii) the Secretary determines that the non-Federal disposal facility is not needed for such use by the Sec-

retary during the 20-year period following the date of the request.

(B) CONCLUSIVE PRESUMPTIONS.—For purposes of carrying out a disposition study required under subparagraph (A), the Secretary shall—

(i) consider the non-Federal disposal facility to be a separable element of a project; and

(ii) consider a Federal interest in the non-Federal disposal facility to no longer exist.

(4) DEFINITIONS.—In this subsection:

(A) GROSS CAPACITY.—The term “gross capacity” means the total quantity of dredged material that may be placed in a dredged material disposal facility, taking into consideration any additional capacity that can be constructed at the facility.

(B) NON-FEDERAL DISPOSAL FACILITY.—The term “non-Federal disposal facility” means a dredged material disposal facility under the jurisdiction of, or managed by, the Secretary that is owned by a non-Federal entity.

(c) DREDGED MATERIAL FACILITY.—

(1) IN GENERAL.—The Secretary may enter into a partnership agreement under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) with one or more non-Federal interests with respect to a water resources project, or group of water resources projects within a geographic region, if appropriate, for the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility (including any facility used to demonstrate potential beneficial uses of dredged material, which may include effective sediment contaminant reduction technologies) using funds provided in whole or in part by the Federal Government.

(2) PERFORMANCE.—One or more of the parties to a partnership agreement under this subsection may perform the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility.

(3) MULTIPLE PROJECTS.—If appropriate, the Secretary may combine portions of separate water resources projects with appropriate combined cost-sharing among the various water resources projects in a partnership agreement for a facility under this subsection if the facility serves to manage dredged material from multiple water resources projects located in the geographic region of the facility.

(4) SPECIFIED FEDERAL FUNDING SOURCES AND COST SHARING.—

(A) SPECIFIED FEDERAL FUNDING.—A partnership agreement with respect to a facility under this subsection shall specify—

(i) the Federal funding sources and combined cost-sharing when applicable to multiple water resources projects; and

(ii) the responsibilities and risks of each of the parties relating to present and future dredged material managed by the facility.

(B) MANAGEMENT OF SEDIMENTS.—

(i) IN GENERAL.—A partnership agreement under this subsection may include the management of sediments from the maintenance dredging of Federal water resources projects that do not have partnership agreements.

(ii) PAYMENTS.—A partnership agreement under this subsection may allow the non-Federal interest to receive reimbursable payments from the Federal Government for commitments made by the non-Federal interest for disposal or placement capacity at dredged material processing, treatment, contaminant reduction, or disposal facilities.

(C) CREDIT.—A partnership agreement under this subsection may allow costs incurred by the non-Federal interest before execution of the partnership agreement to be credited in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b).

(5) CREDIT.—

(A) EFFECT ON EXISTING AGREEMENTS.—Nothing in this subsection supersedes or modifies an agreement in effect on the date of enactment of this paragraph between the Federal Government and any non-Federal interest for the cost-sharing, construction, and operation and maintenance of a water resources project.

(B) CREDIT FOR FUNDS.—Subject to the approval of the Secretary and in accordance with law (including regulations and policies) in effect on the date of enactment of this paragraph, a non-Federal interest for a water resources project may receive credit for funds provided for the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility to the extent the facility is used to manage dredged material from the project.

(C) NON-FEDERAL INTEREST RESPONSIBILITIES.—A non-Federal interest entering into a partnership agreement under this subsection for a facility shall—

(i) be responsible for providing all necessary lands, easements, relocations, and rights-of-way associated with the facility; and

(ii) receive credit toward the non-Federal share of the cost of the project with respect to which the agreement is being entered into for those items.

(d) PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary may carry out a program to evaluate and implement opportunities for public-private partnerships in the design, construction, management, or operation and maintenance of dredged material processing, treatment, contaminant reduction, or disposal facilities in connection with construction or maintenance of Federal navigation projects. If a non-Federal interest is a sponsor of the project,

the Secretary shall consult with the non-Federal interest in carrying out the program with respect to the project.

(2) PRIVATE FINANCING.—

(A) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into an agreement with a non-Federal interest with respect to a project, a private entity, or both for the acquisition, design, construction, management, or operation and maintenance of a dredged material processing, treatment, contaminant reduction, or disposal facility (including any facility used to demonstrate potential beneficial uses of dredged material) using funds provided in whole or in part by the private entity.

(B) REIMBURSEMENT.—If any funds provided by a private entity are used to carry out a project under this subsection, the Secretary may reimburse the private entity over a period of time agreed to by the parties to the agreement through the payment of subsequent user fees. Such fees may include the payment of a disposal or tipping fee for placement of suitable dredged material at the facility.

(C) AMOUNT OF FEES.—User fees paid pursuant to subparagraph (B) shall be sufficient to repay funds contributed by the private entity plus a reasonable return on investment approved by the Secretary in cooperation with the non-Federal interest with respect to the project and the private entity.

(D) FEDERAL SHARE.—The Federal share of such fees shall be equal to the percentage of the total cost that would otherwise be borne by the Federal Government as required pursuant to existing cost-sharing requirements, including section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) and section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2325).

(E) BUDGET ACT COMPLIANCE.—Any spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2))) authorized by this section shall be effective only to such extent and in such amounts as are provided in appropriation Acts.

[33 U.S.C. 2326a]

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**SEC. 229. SUPPORT OF ARMY CIVIL WORKS PROGRAM.**

(a) GENERAL AUTHORITY.—In carrying out research and development in support of the civil works program of the Department of the Army, the Secretary may utilize contracts, cooperative research and development agreements, cooperative agreements, and grants with non-Federal entities, including State and local governments, colleges and universities, consortia, professional and technical societies, public and private scientific and technical foundations, research institutions, educational organizations, and non-profit organizations.

(b) COMMERCIAL APPLICATION.—With respect to contracts for research and development, the Secretary may include requirements that have potential commercial application and may use such potential application as an evaluation factor where appropriate.

【33 U.S.C. 2313b】

**SEC. 230. BENEFITS TO NAVIGATION.**

In evaluating potential improvements to navigation and the maintenance of navigation projects, the Secretary shall consider, and include for purposes of project justification, economic benefits generated by cruise ships as commercial navigation benefits.

【33 U.S.C. 2284a】

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**SEC. 232. SCENIC AND AESTHETIC CONSIDERATIONS.**

In conducting studies of potential water resources projects, the Secretary shall consider measures to preserve and enhance scenic and aesthetic qualities in the vicinity of such projects.

【33 U.S.C. 2284b】

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**SEC. 234. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY.**

(a) **IN GENERAL.**—The Secretary may engage in activities (including contracting) in support of Federal departments or agencies, nongovernmental organizations, international organizations, or foreign governments to address problems of national significance to the United States.

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

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

(d) **FUNDING.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to carry out this section \$2,500,000 for fiscal year 2008 and each fiscal year thereafter.

(2) **ACCEPTANCE OF FUNDS.**—The Secretary may accept and expend additional funds from Federal departments or agencies, nongovernmental organizations, international organizations, or foreign governments to carry out this section.

【33 U.S.C. 2323a】

**SEC. 235. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.**

(a) **PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) **NOTICE TO RECIPIENTS OF ASSISTANCE.**—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).

【33 U.S.C. 2201 nt】

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## TITLE IV—STUDIES

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### SEC. 444. PACIFIC REGION.

The Secretary may conduct studies in the interest of water resources development including navigation, flood damage reduction, environmental restoration, and coastal storm risk management in that part of the Pacific region that includes American Samoa, Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands.

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## TITLE V—MISCELLANEOUS PROVISIONS

### SEC. 501. LAND CONVEYANCES.

(a)

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(g) BOARDMAN, OREGON.—

(1) IN GENERAL.—The Secretary shall convey to the the Boardman Park and Recreation District, Boardman, Oregon, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 141 acres acquired as part of the John Day Lock and Dam project in the vicinity of the city of Boardman currently under lease to the Boardman Park and Recreation District.

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### SEC. 507. DESIGN AND CONSTRUCTION ASSISTANCE.

(a) IN GENERAL.—The Secretary shall provide design and construction assistance to non-Federal interests for each of the following projects if the Secretary determines that the project is feasible:

(1) Correction of structural deficiencies of the Lower Girard Lake Dam, Girard, Ohio, and the appurtenant features to meet the dam safety standards of the State of Ohio, at an estimated total cost of \$16,000,000.

(b) SPECIAL RULES.—The project for Lower Girard Lake Dam, Girard, Ohio, authorized by subsection (a)(1) is justified on the basis of public safety.

### SEC. 509. MAINTENANCE OF NAVIGATION CHANNELS.

(a) IN GENERAL.—Upon request of the non-Federal interest, the Secretary shall be responsible for maintenance of the following navigation channels constructed or improved by non-Federal interests if the Secretary determines that such maintenance is economically justified and environmentally acceptable and that the channel was constructed in accordance with applicable permits and appropriate engineering and design standards:

(1) Humboldt Harbor and Bay, Fields Landing Channel, California.

(2) Mare Island Strait, California. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(3) East Fork, Calcasieu Pass, Louisiana.

(4) Mississippi River Ship Channel, Chalmette Slip, Louisiana.

(5) Greenville Inner Harbor Channel, Mississippi.

(6) New Madrid Harbor, Missouri. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(7) Providence Harbor Shipping Channel, Rhode Island, from the vicinity of the Fox Point hurricane barrier to the vicinity of the Francis Street bridge in Providence, Rhode Island. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(8) Matagorda Ship Channel, Point Comfort Turning Basin, Texas.

(9) Corpus Christi Ship Channel, Rincon Canal System, Texas.

(10) Brazos Island Harbor, Texas, connecting channel to Mexico.

(11) Blair Waterway, Tacoma Harbor, Washington.

(12) Acadiana Navigation Channel, Louisiana.

(13) Contraband Bayou, Louisiana, as part of the Calcasieu River and Pass Ship Channel.

(14) Lake Wallula Navigation Channel, Washington.

(15) Wadley Pass (also known as "McGriff Pass"), Suwanee River, Florida.

(16) Cameron Loop, Louisiana, as part of the Calcasieu River and Pass Ship Channel.

(17) Morehead City Harbor, North Carolina.

(18) Second harbor at New Madrid County Harbor, Missouri.

(19) Yabucoa Harbor, Puerto Rico.

(20) Everett Harbor and Snohomish River, Boat Launch Connector Channel, Washington.

(21) Port Townsend, Boat Haven Marina Breakwater, Washington.

(22) Segment 1B of Houston Ship Channel, Texas.

(23) West Dundalk Branch Channel and Dundalk-Seagirt Connecting Channel, Baltimore Harbor Anchorages and Channels, Maryland.

(24) Crown Bay Marina Channel, United States Virgin Islands.

(25) Pidgeon Industrial Area Harbor, Memphis, Tennessee.

(26) McGriff Pass Channel, Florida.

(27) Oak Harbor Channel and Breakwater, Washington.

(b) COMPLETION OF ASSESSMENT.—Not later than 6 months after receipt of a request from a non-Federal interest for Federal assumption of maintenance of a channel listed in subsection (a), the Secretary shall make a determination as provided in subsection (a) and advise the non-Federal interest of the Secretary's determination.

**SEC. 510. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.****(a) ESTABLISHMENT.—**

(1) **IN GENERAL.**—The Secretary shall establish a program to provide environmental assistance to non-Federal interests in the basin States described in subsection (f) and the District of Columbia in the Chesapeake Bay watershed.

(2) **FORM.**—The assistance under paragraph (1) shall be in the form of design and construction assistance for water-related infrastructure and resource protection and restoration projects affecting the Chesapeake Bay estuary, based on the comprehensive plan under subsection (b), including projects for—

- (A) sediment and erosion control;
- (B) protection of eroding shorelines and streambanks;
- (C) ecosystem restoration, including restoration of submerged aquatic vegetation;
- (D) protection of essential public works;
- (E) wastewater treatment and related facilities;
- (F) water supply and related facilities;
- (G) stormwater and drainage systems;
- (H) beneficial uses of dredged material; and
- (I) other related projects that may enhance the living resources of the estuary.

**(b) COMPREHENSIVE PLAN.—**

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of the Water Resources Reform and Development Act of 2014, the Secretary, in cooperation with State and local governmental officials and affected stakeholders, shall develop a comprehensive Chesapeake Bay restoration plan to guide the implementation of projects under subsection (a)(2).

(2) **COORDINATION.**—The restoration plan described in paragraph (1) shall, to the maximum extent practicable, consider and avoid duplication of any ongoing or planned actions of other Federal, State, and local agencies and nongovernmental organizations.

(3) **PRIORITIZATION.**—The restoration plan described in paragraph (1) shall give priority to projects eligible under subsection (a)(2) that will also improve water quality or quantity or use natural hydrological features and systems.

**(c) LOCAL COOPERATION AGREEMENT.—**

(1) **IN GENERAL.**—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest for the design and construction of a project carried out pursuant to the comprehensive Chesapeake Bay restoration plan described in subsection (b).

(2) **REQUIREMENTS.**—Each local cooperation agreement entered into under this subsection shall provide for—

- (A) the development by the Secretary, in consultation with appropriate Federal, State, and local officials, of facilities or a resource protection and restoration plan, including appropriate engineering plans and specifications and an estimate of expected resource benefits; and



(B) the establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(3) PROJECTS ON FEDERAL LAND.—A project carried out pursuant to the comprehensive Chesapeake Bay restoration plan described in subsection (b) that is located on Federal land shall be carried out at the expense of the Federal agency that owns the land on which the project will be carried out.

(4) NON-FEDERAL CONTRIBUTIONS.—A Federal agency carrying out a project described in paragraph (3) may accept contributions of funds from non-Federal entities to carry out that project.

(d) COST SHARING.—

(1) FEDERAL SHARE.—Except as provided in paragraph (2)(B), the Federal share of the total project costs of each local cooperation agreement entered into under this section shall be 75 percent.

(2) NON-FEDERAL SHARE.—

(A) VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—In determining the non-Federal contribution toward carrying out a local cooperation agreement entered into under this section, the Secretary shall provide credit to a non-Federal interest for the value of lands, easements, rights-of-way, and relocations provided by the non-Federal interest, except that the amount of credit provided for a project under this paragraph may not exceed 25 percent of the total project costs.

(B) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the costs of operation and maintenance of activities carried out under an agreement under this section shall be 100 percent.

(e) COOPERATION.—In carrying out this section, the Secretary shall cooperate with—

(1) the heads of appropriate Federal agencies, including—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Commerce, acting through the Administrator of the National Oceanographic and Atmospheric Administration;

(C) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(D) the heads of such other Federal agencies as the Secretary determines to be appropriate; and

(2) agencies of a State or political subdivision of a State, including the Chesapeake Bay Commission.

(f) PROJECTS.—The Secretary shall establish, to the maximum extent practicable, at least 1 project under this section in—

(1) regions within the Chesapeake Bay watershed of each of the basin States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; and

(2) the District of Columbia.

(g) PROTECTION OF RESOURCES.—A project established under this section shall be carried out using such measures as are necessary to protect environmental, historic, and cultural resources.

(h) PROJECT CAP.—The total cost of a project carried out under this section may not exceed \$15,000,000.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$90,000,000.

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**SEC. 511. RESEARCH AND DEVELOPMENT PROGRAM TO IMPROVE SALMON SURVIVAL.**

(a) SALMON SURVIVAL ACTIVITIES.—

(1)

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(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated o \$43,400,000 to carry out research and development activities under paragraph (3).

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(c) MANAGEMENT OF PREDATION ON COLUMBIA/SNAKE RIVER SYSTEM NATIVE FISHES.—

(1)

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 to carry out research and development activities under this subsection.

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**SEC. 516. SEDIMENT MANAGEMENT.**

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

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

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

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

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

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

(d) DREDGED MATERIAL DISPOSAL.—

(1) STUDY.—The Secretary shall conduct a study to determine the feasibility of constructing and operating an under-water confined dredged material disposal site in the Port of

New York-New Jersey that could accommodate as much as 250,000 cubic yards of dredged material for the purpose of demonstrating the feasibility of an underwater confined disposal pit as an environmentally suitable method of containing certain sediments.

(2) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with any recommendations of the Secretary that may be developed in a strategy under subsection (a).

(e) GREAT LAKES TRIBUTARY MODEL.—

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

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

(3) REPORT.—Not later than December 31, 2003, the Secretary shall transmit to Congress a report on the Secretary's activities under this subsection.

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

(g) COASTAL MAPPING.—The Secretary shall develop and carry out a plan for the recurring mapping of coastlines that are experiencing rapid change, including such coastlines in—

(1) Alaska;

(2) Hawaii; and

(3) any territory or possession of the United States.

(h) AUTHORIZATION OF APPROPRIATIONS.—

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

(2) GREAT LAKES TRIBUTARY MODEL.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out subsection (e) \$5,000,000 for each of fiscal years 2002 through 2012.

(3) COASTAL MAPPING.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out subsection (g) with respect to Alaska, Hawaii, and the territories and possessions of the United States, \$10,000,000, to remain available until expended.

[33 U.S.C. 2326b]

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**SEC. 527. FAULISNER ISLAND, CONNECTICUT.**

In consultation with the Director of the United States Fish and Wildlife Service, the Secretary shall design and construct shoreline protection measures for the coastline adjacent to the Faulkner Island Lighthouse, Connecticut, at a total cost of \$8,000,000.

**SEC. 528. EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION.**

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **CENTRAL AND SOUTHERN FLORIDA PROJECT.**—The term “Central and Southern Florida Project” means the project for Central and Southern Florida authorized under the heading “CENTRAL AND SOUTHERN FLORIDA” in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), and any modification to the project authorized by law.

(2) **COMMISSION.**—The term “Commission” means the Governor’s Commission for a Sustainable South Florida, established by Executive Order of the Governor dated March 3, 1994.

(3) **GOVERNOR.**—The term “Governor” means the Governor of the State of Florida.

(4) **SOUTH FLORIDA ECOSYSTEM.**—The term “South Florida ecosystem” means the area consisting of the lands and waters within the boundary of the South Florida Water Management District, including the Everglades, the Florida Keys, and the contiguous near-shore coastal waters of South Florida.

(5) **TASK FORCE.**—The term “Task Force” means the South Florida Ecosystem Restoration Task Force established by subsection (f).

(b) **RESTORATION ACTIVITIES.**—

(1) **COMPREHENSIVE PLAN.**—

(A) **DEVELOPMENT.**—

(i) **PURPOSE.**—The Secretary shall develop, as expeditiously as practicable, a proposed comprehensive plan for the purpose of restoring, preserving, and protecting the South Florida ecosystem. The comprehensive plan shall provide for the protection of water quality in, and the reduction of the loss of fresh water from, the Everglades. The comprehensive plan shall include such features as are necessary to provide for the water-related needs of the region, including flood control, the enhancement of water supplies, and other objectives served by the Central and Southern Florida Project.

(ii) **CONSIDERATIONS.**—The comprehensive plan shall—

(I) be developed by the Secretary in cooperation with the non-Federal project sponsor and in consultation with the Task Force; and

(II) consider the conceptual framework specified in the report entitled “Conceptual Plan for the Central and Southern Florida Project Restudy”, published by the Commission and approved by the Governor.

(B) SUBMISSION.—Not later than July 1, 1999, the Secretary shall—

(i) complete the feasibility phase of the Central and Southern Florida Project comprehensive review study as authorized by section 309(l) of the Water Resources Development Act of 1992 (106 Stat. 4844), and by 2 resolutions of the Committee on Public Works and Transportation of the House of Representatives, dated September 24, 1992; and

(ii) submit to Congress the plan developed under subparagraph (A)(i) consisting of a feasibility report and a programmatic environmental impact statement covering the proposed Federal action set forth in the plan.

(C) ADDITIONAL STUDIES AND ANALYSES.—Notwithstanding the completion of the feasibility report under subparagraph (B), the Secretary shall continue to conduct such studies and analyses as are necessary, consistent with subparagraph (A)(i).

(2) USE OF EXISTING AUTHORITY FOR UNCONSTRUCTED PROJECT FEATURES.—The Secretary shall design and construct any features of the Central and Southern Florida Project that are authorized on the date of the enactment of this Act or that may be implemented in accordance with the Secretary's authority to modify an authorized project, including features authorized under sections 315 and 316, with funds that are otherwise available, if the Secretary determines that the design and construction—

(A) will accelerate the restoration, preservation, and protection of the South Florida ecosystem;

(B) will be generally consistent with the conceptual framework described in paragraph (1)(A)(ii)(II); and

(C) will be compatible with the overall authorized purposes of the Central and Southern Florida Project.

(3) CRITICAL RESTORATION PROJECTS.—

(A) IN GENERAL.—In addition to the activities described in paragraphs (1) and (2), if the Secretary, in cooperation with the non-Federal project sponsor and the Task Force, determines that a restoration project for the South Florida ecosystem will produce independent, immediate, and substantial restoration, preservation, and protection benefits, and will be generally consistent with the conceptual framework described in paragraph (1)(A)(ii)(II), the Secretary shall proceed expeditiously with the implementation of the restoration project.

(B) INITIATION OF PROJECTS.—After September 30, 2003, no new projects may be initiated under subparagraph (A).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated to the Department of the Army to pay the Federal share of the cost of carrying out projects under subparagraph (A) \$95,000,000.

(ii) FEDERAL SHARE.—

(I) IN GENERAL.—Except as provided in subclauses (II) and (III), the Federal share of the cost of carrying out a project under subparagraph (A) shall not exceed \$25,000,000.

(II) SEMINOLE WATER CONSERVATION PLAN.—The Federal share of the cost of carrying out the Seminole water conservation plan shall not exceed \$30,000,000.

(III) TEN MILE CREEK WATER PRESERVE AREA.—The Federal share of the cost of the Ten Mile Creek Water Preserve Area may exceed \$25,000,000 by an amount equal to not more than \$3,500,000, which shall be used to pay the Federal share of the cost of—

(aa) the completion of a post authorization change report; and

(bb) the maintenance of the Ten Mile Creek Water Preserve Area in caretaker status through fiscal year 2013.

(D) CREDIT AND REIMBURSEMENT OF PAST AND FUTURE ACTIVITIES.—The Secretary may provide credit to or reimburse the non-Federal project sponsor (using funds authorized by subparagraph (C)) for the reasonable costs of any work that has been performed or will be performed in connection with a study or activity meeting the requirements of subparagraph (A) if—

(i) the Secretary determines that—

(I) the work performed by the non-Federal project sponsor will substantially expedite completion of a critical restoration project; and

(II) the work is necessary for a critical restoration project; and

(ii) the credit or reimbursement is granted pursuant to a project-specific agreement that prescribes the terms and conditions of the credit or reimbursement.

(4) GENERAL PROVISIONS.—

(A) WATER QUALITY.—In carrying out activities described in this subsection and sections 315 and 316, the Secretary—

(i) shall take into account the protection of water quality by considering applicable State water quality standards; and

(ii) may include in projects such features as are necessary to provide water to restore, preserve, and protect the South Florida ecosystem.

(B) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in this subsection and subsection (c), the Secretary shall comply with any applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(C) PUBLIC PARTICIPATION.—In developing the comprehensive plan under paragraph (1) and carrying out the activities described in this subsection and subsection (c),

the Secretary shall provide for public review and comment on the activities in accordance with applicable Federal law.

(5)<sup>2</sup> The Seminole Tribe of Florida shall receive a mitigation credit for 50 percent of the net wetland benefits derived within the footprint of the Big Cypress Seminole Reservation Water Conservation Plan Project. Such credit may be used to meet the mitigation requirements of section 404 of the Clean Water Act as they may apply to future projects proposed by the Seminole Tribe of Florida.

(c) INTEGRATION OF OTHER ACTIVITIES.—

(1) IN GENERAL.—In carrying out activities described in subsection (b), the Secretary shall integrate such activities with ongoing Federal and State projects and activities, including—

(A) the project for the ecosystem restoration of the Kissimmee River, Florida, authorized by section 101 of the Water Resources Development Act of 1992 (106 Stat. 4802);

(B) the project for modifications to improve water deliveries into Everglades National Park authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8);

(C) activities under the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note; 104 Stat. 3089); and

(D) the Everglades Construction Project of the State of Florida.

(2) STATUTORY CONSTRUCTION.—

(A) EXISTING AUTHORITY.—Except as otherwise expressly provided in this section, nothing in this section affects any authority in effect on the date of the enactment of this Act, or any requirement of the authority, relating to participation in restoration activities in the South Florida ecosystem, including the projects and activities specified in paragraph (1), by—

- (i) the Department of the Interior;
- (ii) the Department of Commerce;
- (iii) the Department of the Army;
- (iv) the Environmental Protection Agency;
- (v) the Department of Agriculture;
- (vi) the State of Florida; and
- (vii) the South Florida Water Management District.

(B) NEW AUTHORITY.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity authorized by this section.

(d) JUSTIFICATION.—

(1) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out the activities to restore, preserve, and

<sup>2</sup>Placement of paragraph (5) of subsection (b) reflects the probable intent of Congress. Section 6012 of Public Law 109–13 provides to insert such paragraph in section 528(b)(3) but probably should have been to insert such paragraph at the end of subsection (b).

protect the South Florida ecosystem described in subsection (b), the Secretary may determine that the activities—

(A) are justified by the environmental benefits derived by the South Florida ecosystem in general and the Everglades and Florida Bay in particular; and

(B) shall not need further economic justification if the Secretary determines that the activities are cost-effective.

(2) APPLICABILITY.—Paragraph (1) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the South Florida ecosystem.

(e) COST SHARING.—

(1) IN GENERAL.—Except as provided in sections 315 and 316 and paragraph (2), the non-Federal share of the cost of activities described in subsection (b) shall be 50 percent.

(2) WATER QUALITY FEATURES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the non-Federal share of the cost of project features to improve water quality described in subsection (b) shall be 100 percent.

(B) EXCEPTION.—

(i) IN GENERAL.—Subject to clause (ii), if the Secretary determines that a project feature to improve water quality is essential to Everglades restoration, the non-Federal share of the cost of the feature shall be 50 percent.

(ii) APPLICABILITY.—Clause (i) shall not apply to any feature of the Everglades Construction Project of the State of Florida.

(3) OPERATION AND MAINTENANCE.—The operation and maintenance of projects carried out under this section shall be a non-Federal responsibility.

(4) CREDIT.—

(1)<sup>3</sup> LAND ACQUISITION.—Regardless of the date of acquisition, the value of lands or interests in land acquired by non-Federal interests for any activity described in subsection (b) shall be included in the total cost of the activity and credited against the non-Federal share of the cost of the activity if the Secretary determines that the acquisition is compatible with and an integral component of the Everglades and South Florida ecosystem restoration, including potential acquisition of land or interests in land in the Caloosahatchee River basin or other areas. Such value shall be determined by the Secretary.

(2)<sup>3</sup> IN-KIND WORK.—

(A) IN GENERAL.—During the preconstruction, engineering, and design phase and the construction phase of the Central and Southern Florida Project, the Secretary shall allow credit against the non-Federal share of the cost of activities described in subsection (b) for work performed by non-Federal interests at the request of the Secretary in furtherance of the design of features included in the comprehensive plan under that subsection.

<sup>3</sup> So in law. See amendments made by section 208(d) of Public Law 106–53.



(B) AUDITS.—In-kind work to be credited under subparagraph (A) shall be subject to audit.

(f) SOUTH FLORIDA ECOSYSTEM RESTORATION TASK FORCE.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established the South Florida Ecosystem Restoration Task Force, which shall consist of the following members (or, in the case of a Federal agency, a designee at the level of assistant secretary or an equivalent level):

(A) The Secretary of the Interior, who shall serve as chairperson.

(B) The Secretary of Commerce.

(C) The Secretary.

(D) The Attorney General.

(E) The Administrator of the Environmental Protection Agency.

(F) The Secretary of Agriculture.

(G) The Secretary of Transportation.

(H) 1 representative of the Miccosukee Tribe of Indians of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the tribal chairman.

(I) 1 representative of the Seminole Tribe of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the tribal chairman.

(J) 3 representatives of the State of Florida, including at least 1 representative of the Florida Department of Environmental Protection and 1 representative of the Florida Fish and Wildlife Conservation Commission, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(K) 1 representative of the South Florida Water Management District, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(L) 2 representatives of local government in the State of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(2) DUTIES OF TASK FORCE.—The Task Force—

(A) shall consult with, and provide recommendations to, the Secretary during development of the comprehensive plan under subsection (b)(1);

(B) shall coordinate the development of consistent policies, strategies, plans, programs, projects, activities, and priorities for addressing the restoration, preservation, and protection of the South Florida ecosystem;

(C) shall exchange information regarding programs, projects, and activities of the agencies and entities represented on the Task Force to promote ecosystem restoration and maintenance;

(D) shall establish a Florida-based working group which shall include representatives of the agencies and entities represented on the Task Force as well as other governmental entities as appropriate for the purpose of formulating, recommending, coordinating, and implementing the

policies, strategies, plans, programs, projects, activities, and priorities of the Task Force;

(E) may, and the working group described in subparagraph (D), may—

(i) establish such advisory bodies as are necessary to assist the Task Force in its duties, including public policy and scientific issues; and

(ii) select as an advisory body any entity, such as the Commission, that represents a broad variety of private and public interests;

(F) shall facilitate the resolution of interagency and intergovernmental conflicts associated with the restoration of the South Florida ecosystem among agencies and entities represented on the Task Force;

(G) shall coordinate scientific and other research associated with the restoration of the South Florida ecosystem;

(H) shall provide assistance and support to agencies and entities represented on the Task Force in their restoration activities;

(I) shall, using existing amounts appropriated to the Task Force, develop and update, as appropriate, a priority list of invasive species that—

(i) reflects an assessment of ecological risk that the listed invasive species represent;

(ii) includes populations of invasive plants and animals that—

(I) are significantly impacting the structure and function of ecological communities, native species, or habitat within the South Florida ecosystem; or

(II) demonstrate a strong potential to reduce, obscure, or otherwise alter key indicators used to measure Everglades restoration progress; and

(iii) shall be used by the Task Force and agencies and entities represented on the Task Force to focus cooperative and collaborative efforts—

(I) to guide applied research;

(II) to develop innovative strategies and tools to facilitate improved management, control, or eradication of listed invasive species;

(III) to implement specific management, control, or eradication activities at the appropriate periodicity and intensity necessary to reduce or neutralize the impacts of listed invasive species, including the use of qualified skilled volunteers when appropriate; and

(IV) to develop innovative strategies and tools to prevent future introductions of nonnative species;

(J) shall prepare an integrated financial plan and recommendations for coordinated budget requests for the funds proposed to be expended by agencies and entities represented on the Task Force for the restoration, preser-

vation, and protection of the South Florida ecosystem, including the activities described in subparagraph (I); and

(K) shall submit a biennial report to Congress that summarizes—

(i) the activities of the Task Force, including the priority list under subparagraph (I) and the activities described in that subparagraph;

(ii) the policies, strategies, plans, programs, projects, activities, and priorities planned, developed, or implemented for the restoration of the South Florida ecosystem; and

(iii) progress made toward the restoration.

(3) PROCEDURES AND ADVICE.—

(A) PUBLIC PARTICIPATION.—

(i) IN GENERAL.—The Task Force shall implement procedures to facilitate public participation in the advisory process, including providing advance notice of meetings, providing adequate opportunity for public input and comment, maintaining appropriate records, and making a record of the proceedings of meetings available for public inspection.

(ii) OVERSIGHT.—The Secretary of the Interior shall ensure that the procedures described in clause (i) are adopted and implemented and that the records described in clause (i) are accurately maintained and available for public inspection.

(B) ADVISORS TO THE TASK FORCE AND WORKING GROUP.—The Task Force or the working group described in paragraph (2)(D) may seek advice and input from any interested, knowledgeable, or affected party as the Task Force or working group, respectively, determines necessary to perform the duties described in paragraph (2).

(C) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—

(i) TASK FORCE AND WORKING GROUP.—The Task Force and the working group shall not be considered advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

(ii) ADVISORS.—Seeking advice and input under subparagraph (B) shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(4) COMPENSATION.—A member of the Task Force shall receive no compensation for the service of the member on the Task Force.

(5) TRAVEL EXPENSES.—Travel expenses incurred by a member of the Task Force in the performance of services for the Task Force shall be paid by the agency, tribe, or government that the member represents.

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#### SEC. 531. SOUTHERN AND EASTERN KENTUCKY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for providing environmental assistance to non-Federal interests in southern and eastern Kentucky.

(b) **FORM OF ASSISTANCE.**—Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure, environmental restoration, and resource protection and development projects in southern and eastern Kentucky, including projects for wastewater treatment and related facilities, water supply and related facilities, surface water resource protection and development, and small stream flooding, local storm water drainage, and related problems.

(c) **PUBLIC OWNERSHIP REQUIREMENT.**—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) **PROJECT COOPERATION AGREEMENTS.**—

(1) **IN GENERAL.**—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance. Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project undertaken under this section, with the consent of the affected local government, a non-Federal interest may include a nonprofit entity.

(2) **REQUIREMENTS.**—Each agreement entered into under this subsection shall provide for the following:

(A) **PLAN.**—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities development plan or resource protection plan, including appropriate plans and specifications.

(B) **LEGAL AND INSTITUTIONAL STRUCTURES.**—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) **COST SHARING.**—

(A) **IN GENERAL.**—Total project costs under each agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(B) **CREDIT FOR DESIGN WORK.**—The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest before entering into the agreement with the Secretary.

(C) **CREDIT FOR CERTAIN FINANCING COSTS.**—In the event of a delay in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest and other associated financing costs necessary for such non-Federal interest to provide the non-Federal share of the project's cost.

(D) **LANDS, EASEMENTS, AND RIGHTS-OF-WAY.**—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward its share of project costs (including costs associated with obtaining permits necessary for the placement of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed under an agreement entered into under this subsection shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(g) SOUTHERN AND EASTERN KENTUCKY DEFINED.—In this section, the term “southern and eastern Kentucky” means Morgan, Floyd, Pulaski, Wayne, Laurel, Knox, Pike, Menifee, Perry, Harlan, Breathitt, Martin, Jackson, Wolfe, Clay, Magoffin, Owsley, Johnson, Leslie, Lawrence, Knott, Bell, McCreary, Rockcastle, Whitley, Lee, Boyd, Carter, Elliott, Lincoln, Bath, Rowan, and Letcher Counties, Kentucky.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$100,000,000.

(i) CORPS OF ENGINEERS EXPENSES.—Not more than 10 percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at Federal expense.

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#### SEC. 539. RESTORATION PROJECTS FOR<sup>4</sup>.

(a) IN GENERAL.—

(1) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to non-Federal interests, in cooperation with Federal and State agencies, for reclamation and water quality protection projects for the purpose of abating and mitigating surface water quality degradation caused by abandoned mines along—

(A) the North Branch of the Potomac River, Maryland, Pennsylvania, and West Virginia;

(B) the New River, West Virginia, watershed;

(C) the Lackawanna River, Pennsylvania;

(D) the Soda Butte Creek, Silver Creek, and Elkhorn Mountain drainages, Montana;

(E) the Pemigewasset River watershed, New Hampshire;

(F) the Hocking River, Ohio; and

(G) the Clinch River watershed and Powell River watershed, Virginia.

(2) ADDITIONAL MEASURES.—Projects under paragraph (1) may also include measures for the abatement and mitigation of surface water quality degradation caused by the lack of sani-

<sup>4</sup> Probably should read “RESTORATION PROJECTS”

tary wastewater treatment facilities or the need to enhance such facilities.

(3) CONSULTATION WITH FEDERAL ENTITIES.—Any project under paragraph (1) that is located on lands owned by the United States shall be undertaken in consultation with the Federal entity with administrative jurisdiction over such lands.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under subsection (a)(1) shall be 50 percent; except that, with respect to projects located on lands owned by the United States, the Federal share shall be 100 percent.

(c) EFFECT ON AUTHORITY OF SECRETARY OF THE INTERIOR.—Nothing in this section is intended to affect the authority of the Secretary of the Interior under title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$1,500,000 for projects undertaken under subsection (a)(1)(A), \$1,500,000 for projects undertaken under subsection (a)(1)(B), \$5,000,000 for projects undertaken under subsection (a)(1)(C), \$5,000,000 for projects undertaken under subsection (a)(1)(D), \$1,500,000 for projects undertaken under subsection (a)(1)(E), \$2,500,000 for projects undertaken under subsection (a)(1)(F), and \$5,000,000 for projects undertaken under subsection (a)(1)(G).

#### **SEC. 552. NEW YORK CITY WATERSHED.**

(a) ENVIRONMENTAL ASSISTANCE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program for providing environmental assistance to non-Federal interests in the New York City Watershed.

(2) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of design, repair, replacement, and construction assistance for water-related environmental infrastructure and resource protection and development projects in the New York City Watershed, including projects for water supply, storage, treatment, stormwater management, and water distribution facilities, and surface water resource protection and development.

(3) CONSIDERATIONS.—In carrying out this section, the Secretary may consider natural and nature-based infrastructure.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) ELIGIBLE PROJECTS.—

(1) CERTIFICATION.—A project shall be eligible for financial assistance under this section only if the State director for the project certifies to the Secretary that the project will contribute to the protection and enhancement of the quality or quantity of the New York City water supply.

(2) SPECIAL CONSIDERATION.—In certifying projects to the Secretary, the State director shall give special consideration to those projects implementing plans, agreements, and measures that preserve and enhance the economic and social character of the communities in the New York City Watershed.

(3) **PROJECT DESCRIPTIONS.**—Projects eligible for assistance under this section shall include the following:

(A) Implementation of intergovernmental agreements for coordinating regulatory and management responsibilities.

(B) Acceleration of whole farm planning to implement best management practices to maintain or enhance water quality and to promote agricultural land use.

(C) Acceleration of whole community planning to promote intergovernmental cooperation in the regulation and management of activities consistent with the goal of maintaining or enhancing water quality.

(D) Natural resources stewardship on public and private lands to promote land uses that preserve and enhance the economic and social character of the communities in the New York City Watershed and protect and enhance water quality.

(d) **COOPERATION AGREEMENTS.**—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement with the State director, or a public entity designated by the State director, to carry out the project with the assistance, subject to the project's meeting the certification requirement of subsection (c)(1).

(e) **COST SHARING.**—

(1) **IN GENERAL.**—Total project costs under each agreement entered into under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(2) **CREDIT FOR DESIGN WORK.**—Total project costs under each agreement entered into under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(3) **CREDIT FOR INTEREST.**—In the event of a delay in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest costs incurred to provide the non-Federal share of a project's cost.

(4) **LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.**—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward its share of project costs (including direct costs associated with obtaining permits necessary for the placement of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(5) **OPERATION AND MAINTENANCE.**—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) **APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.**—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(g) REPORT.—Not later than December 31, 2000, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether such program should be implemented on a national basis.

(h) NEW YORK CITY WATERSHED DEFINED.—In this section, the term “New York City Watershed” means the land area within the counties of Delaware, Greene, Schoharie, Ulster, Sullivan, Westchester, Putnam, and Dutchess, New York, that contributes water to the water supply system of New York City.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$42,500,000.

\* \* \* \* \*

#### SEC. 553. NEW YORK STATE CANAL SYSTEM.

(a)

\* \* \* \* \*

(c) NEW YORK STATE CANAL SYSTEM DEFINED.—In this section, the term “New York State Canal System” means the 524 miles of navigable canal that comprise the New York State Canal System, including the Erie, Cayuga-Seneca, Oswego, and Champlain Canals and the historic alignments of these canals, including the cities of Albany, Rochester, and Buffalo.

\* \* \* \* \*

#### SEC. 554. ORCHARD BEACH, BRONX, NEW YORK.

The Secretary shall conduct a study for a project for shoreline protection, Orchard Beach, Bronx, New York, and, if the Secretary determines that the project is feasible, may carry out the project, at a total cost of \$20,000,000.

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#### SEC. 563. HOPPER DREDGE MCFARLAND.

(a) PLACEMENT IN READY RESERVE STATUS.—Not before October 1, 2009, and not after December 31, 2009, the Secretary shall—

(1) place the Federal hopper dredge McFarland (referred to in this section as the “vessel”) in a ready reserve status; and

(2) use the vessel solely for urgent and emergency purposes in accordance with existing emergency response protocols.

(b) ROUTINE TESTS AND MAINTENANCE.—

(1) IN GENERAL.—The Secretary shall periodically perform routine underway dredging tests of the equipment (not to exceed 70 days per year) of the vessel in a ready reserve status to ensure the ability of the vessel to perform urgent and emergency work.

(2) MAINTENANCE.—The Secretary—

(A) shall not assign any scheduled hopper dredging work to the vessel other than dredging tests in the Delaware River and Bay; but

(B) shall perform any repairs, including any asbestos abatement, necessary to maintain the vessel in a ready reserve fully operational condition.



(c) ACTIVE STATUS FOR DREDGING.—The Secretary, in consultation with affected stakeholders, shall place the vessel in active status in order to perform dredging work if the Secretary determines that private industry has failed—

(1) to submit a responsive and responsible bid for work advertised by the Secretary; or

(2) to carry out a project as required pursuant to a contract between the industry and the Secretary.

\* \* \* \* \*

**SEC. 566. SOUTHEASTERN PENNSYLVANIA AND LOWER DELAWARE RIVER BASIN.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a pilot program for providing environmental assistance to non-Federal interests in southeastern Pennsylvania and the Lower Delaware River Basin.

(b) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance for water related environmental infrastructure and resource protection and development projects in southeastern Pennsylvania and the Lower Delaware River Basin, including projects for wastewater treatment and related facilities (including sewer overflow infrastructure improvements and other stormwater management), water supply and related facilities, and surface water resource protection and development.

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) LOCAL COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive, credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a

project. The credit for such design work shall not exceed 6 percent of the total construction costs of the project.

(C) CREDIT FOR INTEREST.—In the event of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of a project's cost.

(D) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(g) AREAS DEFINED.—In this section:

(1) LOWER DELAWARE RIVER BASIN.—The term “Lower Delaware River Basin” means the Schuylkill Valley, Upper Estuary, Lower Estuary, and Delaware Bay subwatersheds of the Delaware River Basin in the Commonwealth of Pennsylvania and the States of New Jersey and Delaware.

(2) SOUTHEASTERN PENNSYLVANIA.—The term “southeastern Pennsylvania” means Philadelphia, Bucks, Chester, Delaware, and Montgomery Counties, Pennsylvania.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$50,000,000 to provide assistance under this section to non-Federal interests in southeastern Pennsylvania, and \$20,000,000 to provide assistance under this section to non-Federal interests in the Lower Delaware River Basin.

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#### **SEC. 567. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.**

(a) STUDY AND STRATEGY DEVELOPMENT.—The Secretary, in cooperation with the Secretary of Agriculture, the State of Pennsylvania, and the State of New York, shall conduct a study, and develop and carry out a strategy, for using wetland restoration, soil and water conservation practices, and nonstructural measures to reduce flood damage, improve water quality, and create wildlife

habitat in the following portions of the Upper Susquehanna River basin:

(1)

(2) The Susquehanna River watershed upstream of the Chemung River, New York, at an estimated Federal cost of \$20,000,000, of which the Secretary may utilize not more than \$5,000,000 to design and construct feasible pilot projects during the development of the strategy to demonstrate alternative approaches for the strategy. The total cost for any single pilot project may not exceed \$500,000. The Secretary shall evaluate the results of the pilot projects and consider the results in the development of the strategy.

\* \* \* \* \*

(c) PARTNERSHIP AGREEMENTS.—In conducting the study and developing and carrying out the strategy under this section, the Secretary shall enter into cost-sharing and partnership agreements to provide financial assistance to appropriate Federal, State, and local government agencies and appropriate nonprofit, nongovernmental organizations with expertise in wetland restoration, with the consent of the affected local government. Financial assistance provided may include activities for the implementation of wetlands restoration projects and soil and water conservation measures.

(d) IMPLEMENTATION OF STRATEGY.—

(1) IN GENERAL.—The Secretary shall undertake development and implementation of the strategy under this section in cooperation with local landowners and local government officials. Projects to carry out the strategy shall be designed to take advantage of ongoing or planned actions by other agencies, local municipalities, or nonprofit, nongovernmental organizations with expertise in wetlands restoration that would increase the effectiveness or decrease the overall cost of carrying out recommended projects and may include the acquisition of wetlands, from willing sellers, that contribute to the Upper Susquehanna River basin ecosystem.

(2) PRIORITY PROJECT.—In carrying out projects to implement the strategy, the Secretary shall give priority to the project for ecosystem restoration, Cooperstown, New York, described in the Upper Susquehanna River Basin—Cooperstown Area Ecosystem Restoration Feasibility Study, dated December 2004, prepared by the Corps of Engineers and the New York State department of environmental conservation.

(e) CREDIT.—The Secretary shall credit toward the non-Federal share of the cost of a project under this section—

(1) in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), the cost of design and construction work carried out by the non-Federal interest for the project before the date of the partnership agreement for the project; and

(2) the cost of in-kind services and materials provided for the project by the non-Federal interest.

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**Sec. 577 WATER RESOURCES DEVELOPMENT ACT OF 1996****36**

【Section 575 was repealed by section 341 of division AA of Public Law 116–260.】

**SEC. 577. TANGIER ISLAND, VIRGINIA.**

(a) IN GENERAL.—The Secretary shall design and construct a breakwater at the North Channel on Tangier Island, Virginia, at a total cost of \$3,600,000.

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**SEC. 579. GREENBRIER RIVER BASIN, WEST VIRGINIA, FLOOD PROTECTION.**

(a)

\* \* \* \* \*

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$99,000,000.

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**SEC. 581. WEST VIRGINIA AND PENNSYLVANIA FLOOD CONTROL.**

(a) IN GENERAL.—The Secretary may design and construct—

(1) structural and nonstructural flood control, streambank protection, stormwater management, and channel clearing and modification measures in the Cheat and Tygart River basins, West Virginia, at a level of protection that is sufficient to prevent any future losses to communities in the basins from flooding such as occurred in January 1996, but not less than a 100-year level of protection with respect to measures that incorporate levees or floodwalls; and

\* \* \* \* \*

(b) PRIORITY COMMUNITIES.—In carrying out this section, the Secretary shall give priority to the communities of—

(1)

\* \* \* \* \*

(5) Patton, Barnesboro, Coalport, and Spangler, Pennsylvania, in the West Branch Susquehanna River Basin;

(6) Bedford, Linds Crossings, and Logan Township in the Juniata River Basin;

(7) Etna, Pennsylvania, in the Pine Creek watershed; and

(8) Millvale, Pennsylvania, in the Girty's Run River basin.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$90,000,000.

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**SEC. 586. PRIVATIZATION OF INFRASTRUCTURE ASSETS.**

(a) IN GENERAL.—Notwithstanding the provisions of title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.), Executive Order 12803, or any other law or authority, an entity that received Federal grant assistance for an infrastructure asset under the Federal Water Pollution Control Act shall not be required to repay any portion of the grant upon the lease or concession of the asset only if—

(1) ownership of the asset remains with the entity that received the grant; and

(2) the Administrator of the Environmental Protection Agency determines that the lease or concession furthers the purposes of such Act and approves the lease or concession.

(b) LIMITATION.—The Administrator shall not approve a total of more than 5 leases and concessions under this section.

【33 U.S.C. 1281 note】

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