

**Calendar No. 523**

105TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
105-286 }

WATER RESOURCES DEVELOPMENT  
ACT OF 1998

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REPORT

OF THE

COMMITTEE ON  
ENVIRONMENT AND PUBLIC WORKS  
UNITED STATES SENATE

together with  
ADDITIONAL VIEWS

TO ACCOMPANY

S. 2131

[Including cost estimate of the Congressional Budget Office]



AUGUST 25, 1998.—Ordered to be printed.

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## Calendar No. 523

105TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
105-286

### WATER RESOURCES DEVELOPMENT ACT OF 1998

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AUGUST 25, 1998.—Ordered to be printed.  
Filed under authority of the order of the Senate of July 31, 1998.

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

### REPORT

together with

### ADDITIONAL VIEWS

[To accompany S. 2131]

The Committee on Environment and Public Works, to which was referred the bill (S. 2131) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

### GENERAL STATEMENT

In reporting the Water Resources Development Act of 1998, the committee has chosen to adhere to the policies established in the 1986 Water Resources Development Act (P.L. 99-662), and continued in subsequent Acts, regarding the authorization of projects within the civil works program of the Army Corps of Engineers. This bill includes authorization for 27 new construction projects, for flood control, navigation, hurricane protection and beach erosion control, and environmental restoration.

The Water Resources Development Act of 1986, signed into law on November 17, 1986, marked the end of a 16-year deadlock, be-

tween the Congress and the Executive Branch regarding authorization of the public works program. In addition to authorizing numerous projects, the 1986 Act resolved longstanding disputes relating to cost-sharing, user fees, and environmental requirements.

Prior to 1986, disputes over these and other matters had prevented enactment of major civil works legislation since 1970. Between 1947 and 1970, civil works authorization bills were enacted every 2 to 3 years. This regular schedule had many advantages. It helped to avoid long delays between the planning and the execution of projects; assured that engineering work and economic analysis were applicable to current conditions; minimized the backlog of projects that have been considered but not authorized by Congress; and allowed the public works committees of the Congress to review proposed projects, programs and agency policies on a regular schedule.

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

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

Some of the major reforms included in the Water Resources Development Act of 1986 (and maintained in this legislation) are listed below:

Cost-sharing formulas were established for deep draft harbor dredging (section 101), flood control (section 103), shoreline protection (section 103), streambanks erosion control (section 603), and other projects. Local Cooperation Agreements were required for all such projects. Projects for enhancement of fish and wildlife resources were allowed to be carried out at up to 100 percent Federal expense under section 906 and environmental restoration at 75 percent Federal expense under section 1135.

The Harbor Maintenance Trust Fund, capitalized by a new Harbor Maintenance Fee, was established to pay 40 percent of the Federal cost of maintaining authorized deep draft navigation channels (sections 210, 1402 and 1403), and was subsequently increased to 100 percent under the 1990 Water Resources Development Act.

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

These policy changes applied to all projects contained in the Water Resources Development Acts of 1988 (P.L. 100-676); 1990 (P.L. 101-640); 1992 (P.L. 102-580); 1996 (P.L. 104-303) and will continue to apply to all projects contained in the Water Resources Development Act of 1998.

## STATEMENT OF COMMITTEE POLICY

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

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

If, after completion of the reconnaissance study, a project is deemed to be in the Federal interest, the Federal government and a non-Federal sponsor may enter into an equally cost-shared feasibility study. The feasibility study includes a more detailed set of engineering, economic and environmental analyses to determine whether a project is justified to advance to the construction phase. When the feasibility study is completed, the Corps District Engineer reviews the results and forwards a recommendation on the project to the Division Engineer. The Division Engineer issues a Division Engineer's notice and then submits the report to Corps Headquarters. Headquarters performs a final policy review and submits the report for the mandatory (33 U.S.C. 701 1(a)) 90-day State and agency review period. After these reviews are complete and the report is found favorable, a report is prepared for the final recommendation of the Chief of Engineers. The report of the Chief of Engineers is forwarded to the Assistant Secretary of the Army (Civil Works) for Administration review and submission to the Congress.

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

The review of projects by the Chief of Engineers is technical in nature and does not involve either a political or policy judgment. The committee practice of using Chief of Engineers' reports to measure the validity of projects does not represent a pre-clearance of projects with the Administration. If the technical Chief of Engineers' review process ever becomes unduly influenced by political

or policy-related considerations, the committee would reevaluate the practice of using Chief of Engineers' reports for the purpose of helping to determine project authorization.

The contingent authorization of water resources projects not expected to have final reports of the Chief of Engineers in the same calendar year as the Water Resources Development Act under consideration is contrary to the policy of the committee. Exceptions to this fundamental committee practice are not supported.

#### ADMINISTRATION'S PROPOSED CHANGES IN CIVIL WORKS MISSION

The Administration's Water Resources Development Act proposal, introduced as S. 2131 on June 4, 1998, by Senators Chafee, Warner, and Baucus by request, contains new project authorizations and new programs, as well as several modifications to existing projects and programs within its 20 sections. S. 2131, as reported by the committee, incorporates some of these provisions as outlined below.

##### *Shore Protection Projects*

The Administration proposed dramatic changes in cost sharing for coastal shore protection projects. The current cost sharing for shore protection projects is 65 percent Federal and 35 percent non-Federal for initial construction and for the 50-year renourishment life of the project. The Administration proposed to modify the cost share so that the renourishment work would be 35 percent Federal and 65 percent non-Federal. After conducting detailed budgetary, economic and equity analyses, the legislation reported by the committee instead proposes that the renourishment be cost shared equally at 50-50 between the Federal and non-Federal project sponsors. An amendment approved in committee and included in the reported legislation would apply the new equal cost share to those projects (that advance to construction) not having a completed feasibility study before January 1, 1999.

##### *Challenge 21 Flood Hazard Mitigation and Riverine Ecosystem Restoration Program*

One of the Administration's major proposals is to authorize a new continuing authorities program (wherein the individual projects do not require congressional authorization) for non-structural flood control and riverine ecosystem restoration projects. This section, also known as "Challenge 21," proposes a major new initiative which would authorize the Secretary of the Army to construct non-structural (upland water storage, voluntary buyouts, setback levees, flood warning systems) flood control projects at a cost share of 65 percent Federal and 35 percent non-Federal. The Administration proposed authorizing appropriations totaling \$325 million over 6 years with a \$75 million per project cap. The legislation reported by the committee instead recommends a two-year program with a total authorization level of \$75 million and a per project cap of \$25 million. Members of the committee reduced the cost and duration of the new program in order to better assess its efficacy after two years.

### *Recreational User Fees*

Additionally, the Administration proposes to modify the expenditure of fees collected at Corps recreation sites. The provision would allow the Corps to use any recreation fees it collects above an annual, national baseline level of \$34 million to remain at the park from which the fee originated. For the portion of the fee that remains at the park, the Corps can only fund maintenance activities, such as campground or trail upkeep. The legislation reported by the committee includes said provision.

### *Title II. Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and the State of South Dakota Terrestrial Wildlife Habitat Restoration*

This Title settles the claims of the Cheyenne River Sioux Tribe, the Lower Brule Sioux Tribe, and the State of South Dakota against the Federal government for the mitigation of terrestrial wildlife habitat losses incurred as a result of the construction of the Oahe and Big Bend Missouri River main stem dams nearly forty years ago. The Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and the State of South Dakota Terrestrial Wildlife Habitat Restoration title achieves this objective in two ways.

First, it transfers to the Department of Interior, to be held in trust for the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, the Federal lands located within their exterior reservation boundaries that were acquired for the Pick-Sloan project and that remain above the exclusive flood pool. Recreation areas currently operated by the Corps within the boundaries of those Indian reservations will be transferred into trust for the respective tribes. The title also transfers to the State of South Dakota the Federal Pick-Sloan project-lands above the exclusive flood pool and recreation areas located outside Indian reservation boundaries.

Second, the legislation establishes trust funds for the State of South Dakota and the two Indian tribes that are sufficient to mitigate all of the terrestrial wildlife habitat flooded as a result of construction of the mainstream Missouri River dams. Through the trust funds, the tribes and State will have a steady source of funding with which to implement formal wildlife habitat mitigation plans. Since there is insufficient Federal project land in South Dakota on which to perform the necessary wildlife habitat mitigation, the tribes and State will be able to use revenues from the trust funds to implement plans developed in consultation with the U.S. Fish and Wildlife Service and the Secretary of the Army to lease private lands for the protection of wildlife habitat, including habitat for threatened and endangered species.

In addition, the tribes and the State will be able to use proceeds from the trust funds to:

- 1) protect archeological, cultural, and historic sites located along the river;
- 2) operate the recreation areas transferred under the bill; and
- 3) develop and maintain public access to, and protect, wildlife habitat and recreation areas.

This title provides the annual interest revenue from a \$108 million trust fund to the State of South Dakota and the annual revenue from trust funds of roughly \$42 million for the Cheyenne River Sioux Tribe and roughly \$15 million for the Lower Brule Sioux Tribe. The trust fund amounts are based on the cost to fully mitigate the inundated terrestrial wildlife habitat.

The trust funds are capitalized through annual payments by the Treasury Department equal to 25 percent of the total revenues of the Pick-Sloan project, which are roughly \$250 million per year. The trust funds are expected to be fully capitalized after four years. Pick-Sloan power rates will be unaffected by the passage of the bill. The trust funds will be fully paid for using the Pay-As-You-Go Scorecard surplus and budget authority available to the Senate Committee on Environment and Public Works.

The transfer of the recreation areas to the State of South Dakota and the Indian tribes, combined with the willingness of the State of South Dakota and the tribes to use trust fund revenues to maintain the recreation areas, will ensure that a sufficient investment is made to meet the needs of the more than 5 million visitors to these facilities each year.

The rules governing jurisdiction over hunting and fishing on the waters of the Missouri River and the adjacent lands remain unaffected by the bill, except that the Indian tribes will gain full jurisdiction for hunting and fishing over the Federal lands that are transferred to the Interior Department to be held in trust for them. The jurisdiction over the waters of the Missouri River presently enjoyed by the State of South Dakota and the Indian tribes shall continue in perpetuity under this legislation.

The Corps of Engineers has noted that it has important statutory responsibilities regarding the operation of the dams and reservoirs to meet the purposes of the Pick-Sloan project, including providing flood control and generating hydropower. This legislation should not interfere with the ability of the Corps of Engineers to operate the Pick-Sloan project. Language is included to clarify that nothing in this title shall interfere with the Corps of Engineers operations of the project for any purpose authorized under the Flood Control Act of 1944 or other applicable law.

The title protects both Indian treaty rights and water rights, stating explicitly that both shall be unaffected by the passage of the legislation and preserves existing easements and rights-of-way on any lands transferred to the Interior Department for the Indian tribes and to the State of South Dakota.

## SECTION-BY-SECTION ANALYSIS

### TITLE I—WATER RESOURCES DEVELOPMENT

#### *Section 1. Short Title; Table of Contents*

This section designates the title of the bill as “The Water Resources Development Act of 1998” and lists the table of contents.

#### *Sec. 101. Definitions*

This section defines the term “Secretary” for the purposes of this Act as the Secretary of the Army.

*Sec. 102. Project Authorizations*

This section provides authority for the Secretary to carry out 6 projects for water resources development, conservation, and other purposes substantially in accordance with the plans recommended in the reports referenced in the bill language.

*American River Watershed, California.*—This provision authorizes the Secretary to undertake efforts for flood damage reduction described as the Folsom Stepped Release Plan in the United States Army Corps of Engineers Supplemental Information Report (SIR) for the American River Watershed Project, California, dated March 1996, at a total cost of \$464,600,000, with an estimated Federal cost of \$302,000,000 and an estimated non-Federal cost of \$162,600,000. The Stepped Release flood damage reduction project shall be implemented after the stabilization of existing levees and development of flood warning features, authorized in Water Resources Development Act of 1996, and after reviewing the design of such Stepped Release project features to determine if modifications are necessary to account for changes in hydrologic or other conditions. The committee has received assurances in a July 29, 1998, letter from the Assistant Secretary of the Army that the Corps has the discretionary authority to consider measures to minimize adverse project impacts or allow for more timely implementation of a project. The Assistant Secretary further confirms that the measures developed by the Corps as part of the Stepped Release Plan will adequately mitigate for all potential downstream impacts. Implementation of the remaining downstream elements may be undertaken only after the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed the elements to determine if modifications, as called for in the March 1996 SIR, including stepped operation of Folsom Dam and Reservoir, are necessary.

*Llagas Creek, California.*—This provision authorizes the Secretary to complete the remaining reaches of the National Resources Conservation Service flood control project at Llagas Creek, California, authorized in the Watershed Protection and Flood Prevention Act (16 U.S.C. 1005) at a total cost of \$34,300,000, with an estimated Federal cost of \$16,600,000 and an estimated non-Federal cost of \$17,700,000.

*Hillsboro and Okeechobee Aquifer Storage and Recovery Project, Florida.*—This provision authorizes the Secretary to construct related aquifer storage and recovery projects at Hillsboro and Okeechobee, described in the U.S. Army Corps of Engineers Central and Southern Florida Water Supply Study, dated April 1989, at a total cost of \$27,000,000, with an estimated Federal cost of \$13,500,000 and an estimated non-Federal cost of \$13,500,000. Aquifer storage and recovery has been identified as one of the most cost-effective methods of water storage. It is hoped that delivery of the two related projects at Hillsboro and Okeechobee will yield data to help determine the feasibility of constructing aquifer storage and recovery facilities at other locations throughout the United States.

*Baltimore Harbor Anchorages and Channels, Maryland and Virginia.*—This provision authorizes the Secretary to construct a

navigation project on the Baltimore Harbor Anchorages and Channels, Maryland and Virginia, as described in the report of the Chief, dated June 8, 1998, at a total cost of \$27,692,000, with an estimated Federal cost of \$19,126,000 and an estimated non-Federal cost of \$8,566,000.

*Red Lake River at Crookston, Minnesota.*—This provision authorizes the Secretary to construct a flood damage reduction project on the Red Lake River at Crookston, Minnesota, as described in the report of the Chief, dated April 20, 1998, at a total cost of \$8,720,000, with an estimated Federal cost of \$5,567,000 and an estimated non-Federal cost of \$3,153,000.

*Park River, North Dakota.*—This provision authorizes the Secretary to construct a flood control project on the Park River, Grafton, North Dakota at a total cost of \$27,300,000, with an estimated Federal cost of \$17,745,000 and an estimated non-Federal cost of \$9,555,000. This project was authorized in section 401(a) of Water Resources Development Act of 1986 (P.L. 99-662) and subsequently deauthorized on November 18, 1991, in accordance with section 1001(a) of Water Resources Development Act of 1986, therefore, no construction may be initiated unless the General Reevaluation report deems the project still to be technically sound, environmentally acceptable, and economically justified.

*Sec. 102(b)—Project Authorizations Subject to a Final Report*

Subsection (b) of Section 02 authorizes the following 21 projects for water resources and development and conservation and other purposes to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions recommended in a final report of the Chief of Engineers as approved by the Secretary, if the report of the Chief is completed not later than December 31, 1998.

*Hamilton Airfield Wetland Restoration, California.*—This provision authorizes the Secretary to conduct wetlands restoration and related environmental improvements at Hamilton Airfield, California, at a total cost of \$39,000,000, with an estimated Federal cost of \$29,000,000 and an estimated non-Federal cost of \$10,000,000.

The committee encourages the Secretary to coordinate remediation and closure of the Hamilton Air Field site in Marin County, California, under the Base Realignment and Closure Act to ensure that the site is cleaned to the level that will allow implementation of the wetlands restoration project and that any issues associated with base closure, such as impacts to surrounding properties, are resolved by January 1, 2000.

*Oakland Harbor, California.*—This provision authorizes the Secretary to construct a navigation project in Oakland Harbor, California at a total cost of \$202,000,000, with an estimated Federal cost of \$120,000,000 and an estimated non-Federal cost of \$82,000,000. In addition, the non-Federal interests shall provide berthing areas and other local service facilities at an estimated cost of \$43,000,000.

*South Sacramento County Streams, California.*—This provision authorizes the Secretary to construct a flood damage reduction, environmental restoration and recreation project in South Sac-

ramento County Streams, California at a total cost of \$64,770,000, with an estimated Federal cost of \$38,840,000, and an estimated non-Federal cost of \$25,930,000 at full Federal expense.

*Upper Guadalupe River, California.*—This provision authorizes the Secretary to construct the locally preferred plan for flood damage reduction and recreation on the Upper Guadalupe River, California, described as the Bypass Channel Plan of the Chief of Engineers, at a total cost of \$132,836,000, with an estimated Federal cost of \$42,869,000 and an estimated non-Federal cost of \$89,967,000.

*Yuba River Basin, California.*—This provision authorizes the Secretary to construct a flood damage reduction project in the Yuba River Basin, California, at a total cost of \$25,850,000 with an estimated Federal cost of \$16,775,000 and an estimated non-Federal cost of \$9,075,000.

*Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware.*—This provision authorizes the Secretary to construct a shore protection project for hurricane and storm damage reduction on the Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware at a total cost of \$8,871,000, with an estimated Federal cost of \$5,593,000 and an estimated non-Federal cost of \$3,278,000. In addition, this section authorizes periodic nourishment for a 50-year period at an estimated average annual cost of \$651,000, with an estimated annual Federal cost of \$410,000 and an estimated annual non-Federal cost of \$241,000.

*Delaware Bay Coastline: Delaware and New Jersey-Port Mahon, Delaware.*—This provision authorizes the Secretary to construct a shore protection project for ecosystem restoration on the Delaware Bay Coastline: Delaware and New Jersey-Port Mahon, Delaware at a total cost of \$7,563,000, with an estimated Federal cost of \$4,916,000 and an estimated non-Federal cost of \$2,647,000. In addition, this section authorizes periodic nourishment for a 50-year period at an estimated average annual cost of \$238,000, with an estimated annual Federal cost of \$155,000 and an estimated annual non-Federal cost of \$83,000.

*Delaware Bay Coastline: Delaware and New Jersey-Roosevelt Inlet-Lewes Beach, Delaware.*—This provision authorizes the Secretary to construct a shore protection project for navigation mitigation and hurricane and storm damage reduction on the Delaware Bay Coastline: Delaware and New Jersey-Roosevelt Inlet-Lewes Beach, Delaware at a total cost of \$3,326,000, with an estimated Federal cost of \$2,569,000 and an estimated non-Federal cost of \$2,647,000. In addition, this section authorizes periodic nourishment for a 50-year period at an estimated average annual cost of \$207,000, with an estimated annual Federal cost of \$159,000 and an estimated annual non-Federal cost of \$47,600.

*Delaware Coast From Cape Henlopen to Fenwick Island, Bethany Beach/South Bethany Beach, Delaware.*—This provision authorizes the Secretary to construct a shore protection project for hurricane storm damage reduction on the Delaware Coast From Cape Henlopen to Fenwick Island, Bethany Beach/South Beth-

any Beach, Delaware at a total cost of \$22,094,000, with an estimated Federal cost of \$14,361,000 and an estimated non-Federal cost of \$7,773,000. In addition, this section authorizes periodic nourishment for a 50-year period at an estimated average annual cost of \$1,573,000, with an estimated annual Federal cost of \$1,022,000 and an estimated annual non-Federal cost of \$551,000.

*Jacksonville Harbor, Florida.*—This provision authorizes the Secretary to construct a navigation project in Jacksonville Harbor, Florida at a total cost of \$27,758,000, with an estimated Federal cost of \$9,632,000 and an estimated non-Federal cost of \$18,126,000.

*Little Talbot Island, Duval County, Florida.*—This provision authorizes the Secretary to construct a shore protection project for hurricane and storm damage prevention on Little Talbot Island, Duval County, Florida at a total cost of \$5,802,000, with an estimated Federal cost of \$3,771,000 and an estimated non-Federal cost of \$2,031,000.

*Ponce De Leon Inlet, Volusia County, Florida.*—This provision authorizes the Secretary to construct a navigation and recreation project at Ponce De Leon Inlet, Volusia County, Florida at a total cost of \$5,533,000, with an estimated Federal cost of \$3,408,000, and an estimated non-Federal cost of \$2,125,000.

*Tampa Harbor-Big Bend Channel, Florida.*—This provision authorizes the Secretary to construct a navigation project at Tampa Harbor-Big Bend Channel, Florida at a total cost of \$11,348,000, with an estimated Federal cost of \$5,747,000 and an estimated non-Federal cost of \$5,601,000.

*Brunswick Harbor Deepening, Georgia.*—This provision authorizes the Secretary to construct a navigation project in Brunswick Harbor, Georgia at a total cost of \$49,433,000, with an estimated Federal cost of \$32,083,000 and an estimated non-Federal cost of \$17,350,000.

*Savannah Harbor Expansion, Georgia.*—This provision authorizes the Secretary to construct a navigation project in the Savannah Harbor, Georgia at a total cost of \$195,302,000, with an estimated Federal cost of \$84,423,000 and an estimated non-Federal cost of \$110,879,000.

*Grand Forks, North Dakota, and East Grand Forks, Minnesota.*—This provision authorizes the Secretary to construct a flood damage reduction and recreation project in Grand Forks, North Dakota, and East Grand Forks, Minnesota at a total cost of \$281,754,000, with an estimated Federal cost of \$140,877,000 and an estimated non-Federal cost of \$140,877,000.

*Bayou Cassotte Extension, Pascagoula Harbor, Pascagoula, Mississippi.*—This provision authorizes the Secretary to construct a navigation project in Pascagoula Harbor, Pascagoula, Mississippi at a total cost of \$5,700,000, with an estimated Federal cost of \$4,300,000 and an estimated non-Federal cost of \$1,400,000.

*Turkey Creek Basin, Kansas City, Missouri.*—This provision authorizes the Secretary to construct a flood damage reduction project in the Turkey Creek Basin, Kansas City, Missouri and Kansas

City, Kansas at a total cost of \$38,594,000 with and estimated Federal cost of \$22,912,000 and an estimated non-Federal cost of \$15,682,000.

*Lower Cape May Meadows, Cape May Point, New Jersey.*—This provision authorizes the Secretary to construct a navigation mitigation, ecosystem restoration and hurricane and storm damage reduction project on the Lower Cape May Meadows, Cape May Point, New Jersey at a total cost of \$14,885,000, with an estimated Federal cost of \$11,390,000 and an estimated non-Federal cost of \$3,495,000. In addition, this section authorizes periodic nourishment for a 50-year period at an estimated average annual cost of \$4,565,000, with an estimated annual Federal cost of \$3,674,000 and an estimated annual non-Federal cost of \$891,000.

*New Jersey Shore Protection, Brigantine Inlet to Great Egg Harbor, Brigantine Island, New Jersey.*—This provision authorizes the Secretary to construct a shore protection and hurricane and storm damage reduction project at the Brigantine Inlet to Great Egg Harbor, Brigantine Island, New Jersey at a total cost of \$4,861,000, with an estimated Federal cost of \$3,160,000 and an estimated non-Federal cost of \$1,701,000. In addition, this section authorizes periodic nourishment for a 50-year period at an estimated average annual cost of \$2,600,000, with an estimated annual Federal cost of \$1,700,000 and an estimated annual non-Federal cost of \$900,000.

*New Jersey Shore Protection, Townsends Inlet to Cape May Inlet, New Jersey.*—This provision authorizes the Secretary to construct a shore protection, ecosystem restoration and hurricane and storm damage reduction project on the Townsends Inlet to Cape May Inlet, New Jersey at a total cost of \$55,203,000, with an estimated Federal cost of \$35,882,000 and an estimated non-Federal cost of \$19,321,000. In addition, this section authorizes periodic nourishment for a 50-year period at an estimated average annual cost of \$6,319,000, with an estimated annual Federal cost of \$4,107,000 and an estimated annual non-Federal cost of \$2,212,000.

### *Sec. 103. Project Modifications*

(a) *Projects with Reports.*—This section provides authority for the Secretary to modify previously authorized projects for water resources development, conservation, and other purposes substantially in accordance with the plans recommended in the reports referenced in the bill language.

*Glenn-Colusa, California.*—This provision authorizes the Secretary to modify the project for flood control, Sacramento River, California, authorized by section 2 of the Act entitled “An Act to provide for the control of floods of the Mississippi River and the Sacramento River, and for other purposes”, approved March 1, 1917 (39 Stat. 949), as amended, to carry out a flood control project in Glenn-Colusa, California, in accordance with Corps report dated May 22, 1998, at a total cost of \$20,700,000, with an estimated Federal cost of \$15,570,000 and an estimated non-Federal cost of \$5,130,000.

*San Lorenzo River, California.*—This provision authorizes the Secretary to modify the flood control project for San Lorenzo River, California, authorized by section 101(a)(5) of Public Law 104–303, to include as part of the project, stream bank erosion control measures at a total estimated cost of \$4,000,000, with an estimated Federal cost of \$2,600,000 and an estimated non-Federal cost of \$1,400,000.

*Wood River, Grand Island, Nebraska.*—This provision authorizes the Secretary to modify the flood protection project authorized in section 101(a)(19) of the Water Resources Development Act of 1996 (P.L. 104–303) in accordance with the Corps report dated June 29, 1998, at a total cost of \$16,632,000, with an estimated Federal cost of \$9,508,000 and an estimated non-Federal cost of \$7,124,000.

*Absecon Island, New Jersey.*—This provision authorizes the Secretary to reimburse the non-Federal sponsor for work performed that would otherwise have been the responsibility of the Federal government at the project authorized at Absecon Island, New Jersey, by section 101(h)(13) of Water Resources Development Act of 1996 (P.L. 104–303).

*Waurika Lake, Oklahoma, Water Conveyance Facilities.*—This provision directs the Secretary to waive the requirement for the Waurika Project Master Conservancy District to repay the \$2,900,000 in costs resulting from the October 1991 settlement of the claim of the Travelers Insurance Company.

(b) *Projects Subject to Reports.*—The following projects are modified as follows, except that no funds may be obligated to carry out work under such modifications until completion of a final report by the Chief of Engineers, as approved by the Secretary, finding that such work is technically sound, environmentally acceptable, and economically justified, as applicable.

*Sacramento Metro Area, California.*—This provision modifies the Sacramento Metro Area flood control project authorized in section 101(4) of Water Resources Development Act of 1992 (P.L. 102–580), to authorize the Secretary to construct the project at a total cost of \$32,900,000, with an estimated Federal cost of \$24,700,000 and an estimated non-Federal cost of \$8,200,000.

*New York Harbor and Adjacent Channels, Port Jersey, New Jersey.*—This provision modifies the New York Harbor and Adjacent Channels, Port Jersey, New Jersey navigation project, authorized by section 202(b) of the Water Resource Development Act of 1986 (100 Stat. 4098) to authorize the Secretary to construct the project at a total cost of \$100,689,000, with an estimated Federal cost of \$74,998,000 and an estimated non-Federal cost of \$25,701,000.

*Arthur Kill, New York and New Jersey.*—This provision modifies the Arthur Kill, New York and New Jersey navigation project authorized in section 202(b) of Water Resources Development Act of 1986 (100 Stat. 4098) and modified by section 301(b)(11) of Water Resources Development Act of 1996 (110 Stat. 3711), to further modify the project to authorize funds for the project at a total cost of \$260,899,000 with an estimated Federal cost of \$195,705,000 and an estimated non-Federal cost of \$65,194,000

(c) *Flood Mitigation Near Pierre, South Dakota.*—Subsection (c) provides the Secretary of the Army with the authority to acquire lands and property from willing sellers in the vicinity of Pierre, South Dakota, or to floodproof or relocate such property within the local community that the Secretary determines are adversely affected by the full wintertime release from the Oahe Powerplant at full Federal expense. The Secretary must provide a report to Congress outlining the implementation plan for such nonstructural measures to mitigate the flooding problems. The Federal cost limit for all activities carried out under this subsection is \$35,000,000.

(d) *Payment Option, Moorefield, West Virginia.*—Subsection (d) authorizes the Secretary to permit the non-Federal sponsor for the Moorefield, West Virginia flood control project to pay, without interest, the remaining non-Federal cost of the project over a period to be determined by the Secretary, but not to exceed thirty years.

(e) *Elizabeth River, Chesapeake, Virginia.*—This subsection provides relief to the City of Chesapeake, Virginia for the annual cash payments made by the City for the navigation project on the Elizabeth River. The local sponsor has made the annual payments for twenty years.

(f) *Beach Erosion Control and Hurricane Protection, Virginia Beach, Virginia.*—This subsection directs the Secretary to accept additional annual payments from the City of Virginia Beach for the hurricane protection in an effort to maintain the projects construction schedule. Modification of the project cooperation agreement is not required. The Secretary is further directed to repay or credit the additional payments toward the non-Federal cost sharing requirements.

(g) *Beaver Lake, Arkansas, Water Supply Storage Reallocation.*—Subsection (g) authorizes the Secretary to reallocate approximately 31,000 additional acre-feet at Beaver Lake, Arkansas, to water supply storage at no cost to the Beaver Water District or the Carroll-Boone Water District, except that at no time shall the bottom of the conservation pool be at an elevation less than 1076 feet, NGVD.

(h) *Tolchester Channel S-Turn, Baltimore, Maryland.*—Subsection (h) authorizes the Secretary to straighten the Tolchester Channel S-Turn as part of the maintenance of the navigation project for Baltimore Harbor, authorized by section 101 of the River and Harbor Act of 1958.

(i) *Tropicana Wash and Flamingo Wash, Nevada.*—Subsection (i) directs the Secretary to reimburse any costs incurred by the non-Federal interest to accelerate or modify construction of the Tropicana Wash and Flamingo Wash, Nevada project.

#### *Sec. 104. Project Deauthorizations*

(a) *Bridgeport Harbor, Connecticut.*—The navigation project authorized by section 101 of the Rivers and Harbor Act of 1958 in Bridgeport Harbor, Connecticut, consisting of a 2.4 acre anchorage area 9 feet deep and an adjacent 0.60-acre anchorage 6 feet deep, located on the west side of the Johnsons River, Connecticut, is not authorized after the date of enactment of this Act.

(b) *Bass Harbor, Maine.*—The portions of the navigation project at Bass Harbor, Maine, authorized on May 7, 1962, and described in this legislation, are not authorized after the date of enactment of this Act.

(c) *East Boothbay Harbor, Maine.*—The remaining portions of the navigation project authorized by “and Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved June 25, 1910 (36 stat. 657) are not authorized after the date of enactment of this Act.

*Sec. 105. Studies*

(a) *Strawberry Creek, Berkeley, California.*—The Secretary shall conduct a study of the feasibility of restoring Strawberry Creek, Berkeley, California, to determine the Federal interest in environmental restoration, conservation of fish and wildlife resources, recreation, and water quality.

(b) *West Side Storm Water Retention Facility, City of Lancaster, California.*—The Secretary shall conduct a study to determine the feasibility of undertaking measures to construct the West Side Storm Water Retention Facility in the City of Lancaster, California.

(c) *Apalachicola River, Florida.*—The Secretary shall conduct a study for the purpose of identifying alternatives for the management of material dredged in connection with operation and maintenance of the Apalachicola River navigation project, as well as alternatives which reduce the requirements for such dredging.

(d) *Broward County, Sand Bypassing at Port Everglades Inlet, Florida.*—The Secretary shall conduct a study to determine the feasibility of constructing a sand bypassing project whether there is a Federal interest in constructing a sand bypassing project at the Port Everglades Inlet, Florida.

(e) *City of Destin—Noriega Point Breakwater, Florida.*—The Secretary shall conduct a study to determine the feasibility of restoring Noriega Point, Florida, to serve as a breakwater for Destin Harbor, including the feasibility of including Noriega Point as part of the East Pass, Florida, navigation project.

(f) *Gateway Triangle Redevelopment Area, Florida.*—The Secretary shall conduct a study to determine the feasibility of undertaking measures to reduce the flooding problems in the vicinity of Gateway Triangle Redevelopment Area, Florida. The study shall include a review and consideration of studies and reports completed by the non-Federal sponsor.

(g) *Hillsborough River, Withlacoochee River Basins, Florida.*—The Secretary shall conduct a study to identify appropriate measures which can be undertaken in the Green Swamp, Withlacoochee River, and the Hillsborough River, the Water Triangle of West Central Florida to address comprehensive watershed planning for water conservation, water supply, restoration and protection of environmental resources, and other water resource-related problems in the area.

(h) *City of Plant City, Florida*.—The Secretary shall conduct a study to determine the feasibility of a flood control project in the City of Plant City, Florida. In conducting this study, the Secretary shall review and consider studies and reports completed by the non-Federal sponsor.

(i) *St. Lucie County, Florida Shore Protection*.—The Secretary shall conduct a study to determine the feasibility of extending the current shore protection and hurricane and storm damage reduction project for Fort Pierce Beach, Florida, southward to the Martin County line.

(j) *Acadiana Navigation Channel, Louisiana*.—The Secretary shall conduct a study to determine the feasibility of assuming operations and maintenance for the Acadiana Navigational Channel located in Iberia and Vermillion Parishes, Louisiana.

(k) *Contraband Bayou Navigation Channel, Louisiana*.—The Secretary shall conduct a study to determine the feasibility of assuming the maintenance of Contraband Bayou, Calcasieu River Ship Canal, Louisiana.

(l) *Golden Meadow Lock, Louisiana*.—The Secretary shall conduct a study to determine the feasibility of converting the Golden Meadow floodgate into a navigation lock to be included in the Larose to Golden Meadow Hurricane Protection project.

(j) *Gulf Intercoastal Waterway Ecosystem Protection, Chef Menteur to Sabine River, Louisiana*.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration and protection measures along the Gulf Intracoastal Waterway from Chef Menteur to Sabine River, Louisiana. The study shall address saltwater intrusion, tidal scour, erosion and other water resource- related problems in this area.

(k) *Lake Pontchartrain, Louisiana, and Vicinity, St. Charles Parish Pumps*.—The Secretary shall conduct a study to determine the feasibility of modifying the Lake Pontchartrain Hurricane Protection project to include the St. Charles Parish Pumps and the modification of the seawall fronting protection along Lake Pontchartrain in Orleans Parish, from New Basin Canal on the west to the Inner Harbor Navigation Canal on the east.

(l) *Lake Pontchartrain, Louisiana, and Vicinity Seawall Restoration, Louisiana*.—The Secretary shall conduct a study to determine the feasibility of extending and structurally modifying the seawall for approximately 5 miles.

(m) *Louisiana State Penitentiary Levee, Louisiana*.—The Secretary shall conduct a study of the impacts of crediting the non-Federal sponsor for work performed in the project area of the Louisiana State Penitentiary Levee.

(n) *Tunica Lake Weir, Mississippi*.—The Secretary shall conduct a study to determine the feasibility of constructing an outlet weir for the purpose of stabilizing the water levels in the lake. The Secretary shall include the recreational uses and economic benefits associated with restoration of fish and wildlife habitat as a part of the economic analysis.

(o) *Yellowstone River, Montana*.—The Secretary shall conduct a comprehensive study to determine the hydrologic, biological and

socio-economic cumulative impacts on the Yellowstone river. The study shall be conducted in consultation with the United States Fish and Wildlife Service, United States Geological Survey, and the Natural Resources Conservation Service and with the full participation of the State of Montana, tribal and local entities, and provide public participation, and be submitted to Congress not later than five years after the date of enactment of this Act.

The study should be designed to recognize the river functions in relation to the cumulative effects of flood damage and the resulting stabilization projects through the assessment of river and riparian conditions and processes along the Yellowstone River floodplain from Gardiner to the confluence of the Missouri River. The study shall involve the public through input provided by local groups such as the Upper Yellowstone River Task Force.

(p) *Las Vegas Valley, Nevada.*—The Secretary shall conduct a comprehensive study to identify problems and opportunities related to ecosystem restoration, water quality, particularly the quality of surface run-off, water supply, and flood control within this area.

(q) *Oswego River Basin, New York.*—The Secretary shall conduct a study to determine the feasibility of establishing a flood forecasting system within the Oswego River basin, New York.

(r) *Port of New York-New Jersey Navigation Study and Environmental Restoration Study, Port of New York-New Jersey.*—The Secretary shall conduct a comprehensive study of navigational needs to address improvements, including deepening of existing channels. In determining navigational needs, the Secretary shall examine other reports concerning the New York Harbor to determine the Federal interest. Studies shall be completed by December, 1999.

(s) *Niobrara River and Missouri River Sedimentation Study, South Dakota.*—The Secretary shall conduct a study to determine the feasibility of alleviating the bank erosion, sedimentation, and related problems of the lower Niobrara River and the Missouri River below Fort Randall Dam.

(t) *City of Ocean Shores, Washington, Shore Protection Project.*—The Secretary shall conduct a study to determine the feasibility of undertaking a project for beach erosion and flood control, including relocation of a primary dune and periodic nourishment.

(u) *Protective Facilities for the St. Louis, Missouri, Riverfront Area, Missouri.*—The Secretary shall conduct a study to determine the optimal plan to protect facilities along the Mississippi River within the boundaries of St. Louis, Missouri. The Secretary is directed to identify alternatives which offer safety and security as well as use of state-of-the-art techniques. This report shall be submitted to Congress not later than April 15, 1999.

(v) *Escambia River, Alabama and Florida.*—The Secretary shall review the previous reports to determine whether project modifications are justified in the vicinity of Brewton and East Brewton, Alabama, for flood control, floodplain evacuation, flood warning and preparedness, environmental restoration and protection, and bank stabilization. This review shall be coordinated with other local and Federal agencies.

(w) *Baldwin County, Alabama, Watersheds*.—The Secretary shall review the report of the Chief of Engineers on the Alabama Coast and other pertinent reports to determine whether modification in the interest of flood damage reduction, environmental restoration and protection, water quality, and other purposes, to determine the feasibility of development of a comprehensive coordinated watershed management plan in Baldwin County, Alabama.

(x) *National Alternative Water Sources Study*.—This provision directs the Administrator of the United States Environmental Protection Agency to conduct a study of the water supply needs of States that are not currently eligible for assistance under title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992. The study is required to identify the water supply needs of each State through 2020, evaluate various alternatives water source technologies and their feasibility, and assess how alternative water sources technologies can be utilized. The Administrator shall make a report to Congress not more than 180 days after the enactment of this Act.

(y) *Camden and Gloucester Counties, New Jersey, Streams and Watersheds, New Jersey*.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration, floodplain management, flood control, water quality control, comprehensive watershed management, and other related purposes along tributaries of the Delaware River, Camden and Gloucester Counties, New Jersey.

*Sec. 106. Flood Hazard Mitigation and Riverine Ecosystem Restoration Program*

The purpose of this section is to address some of the broad range of issues concerning the wise use of water and related land resources. The development of high hazard floodplains, alteration of hydrologic regimes, and disturbance of riverine ecosystems has had adverse consequences for the nation's economic and environmental health. Each year billions of dollars, both public and private, are expended on costly repair and reconstruction of floodplain property and associated infrastructure following flood events. Development in upstream areas has altered hydrology, aggravated flooding, and contributed to the loss of important riverine, wetland and floodplain environmental values.

Failure to appreciate and incorporate economic, hydrologic and environmental considerations into local and regional growth policies has led to uses of high hazard floodplains and the loss of floodplain resources such as wetlands. Storm water management in upstream areas often has not been sufficiently comprehensive to avoid aggravating downstream flood problems and environmental degradation. In addition, while many Federal programs address these problems, they neither fully integrate Federal assistance nor always complement non-Federal activities. Consequently, opportunities to prevent or reduce flood damages, restore riverine ecosystem values and the wise use of floodplains and to conserve remaining hydrologic and ecological resources in developing areas are not fully utilized.

This provision provides authority for the Army Corps of Engineers to work with other Federal agencies to more efficiently and

effectively help local governments both reduce flood damages and conserve, restore, and manage riverine and related land resources.

This program will emphasize is to be placed on non-structural flood damage reduction measures and riverine and wetland ecosystem restoration measures that conserve, restore, and manage hydrologic and hydraulic regimes and restore the natural functions and values of the floodplain. Related benefits include prevention of future flood damages and Federal flood disaster assistance costs, reduced risks and exposure to flooding, reduced community displacement due to flooding, improved water quality, improved habitat along streams, additional open space, and overall improved community well being. Modifying the use of upstream areas to reduce storm water runoff is a key element in reducing future flood damages and achieving revitalization of our riverine resources.

In the carrying out of this program, the Secretary is expected to ensure that each comprehensive planning initiative emphasizes non-structural flood hazard reduction measures and is undertaken in collaboration and cooperation with the respective Federal, State and local agencies that have complementary programs and interests.

The Secretary may implement such projects after making a determination that the projects will significantly reduce potential flood damages, will improve the quality of the environment, and are justified based on the monetary (National Economic Development) and non-monetary environmental benefits that the project provides. Federal and non-Federal cost sharing for all studies and projects undertaken pursuant to this authority will be in accordance with current laws and regulations. No more than \$25,000,000 in Army Civil Works appropriations may be expended on any single project undertaken under this authority. All studies and projects undertaken under this authority from Army Civil Works appropriations shall be fully funded within the program funding levels provided in this subsection. Total Army Civil Works appropriations authorized under this section are \$75,000,000, to be expended over a total of two years.

The program established under this authority will be subject to an independent review, the purpose of which will be to evaluate the efficiency of the program in achieving the dual goals of flood hazard mitigation and ecosystem restoration.

This provision instructs the Secretary to examine the potential for flood damage reductions in the following high priority areas: Saint Genevieve, Missouri; Upper Delaware River Basin; New York; Tillamook County, Oregon; Providence County, Rhode Island; and Willamette River Basin, Oregon.

This provision authorizes \$75,000,000 for the period of fiscal years 2000 and 2001.

#### *Sec. 107. Shore Protection*

This provision creates a new cost sharing formula for the periodic nourishment of shore protection projects. The non-Federal share will be 50 percent of the cost of the periodic nourishment except that the cost of the periodic nourishment of privately owned shores will be borne by non-Federal interests, and the cost of periodic nourishment of federally owned shores will be borne by the Federal

government. The provision maintains the Federal and non-Federal cost sharing provisions of the Water Resources Development Act of 1986 for the initial construction of shore protection projects. In addition, this section makes it clear that those projects for shore protection that are authorized in this Act, as well as those projects that complete a feasibility study by December 31, 1998, shall be cost shared at the current 65 percent Federal and 35 percent non-Federal. –

This proposal will provide for the orderly continuation of the Federal and non-Federal partnerships on shore protection projects by providing affordable projects in the context of a balanced Federal budget. The majority of hurricane and storm damage reduction projects are built in coastal areas. These coastal projects most often involve the periodic nourishment of beach areas over a 50-year project life. Besides reducing hurricane and storm damages, which is essential to preserving the viability of coastal areas, many of these projects are also essential to the economic viability of State, regional, and local recreation and tourism activities. To reflect the long-term non-Federal benefits that accrue to such shoreline protection projects, the provision amends section 103(d) of the Water Resources Development Act of 1986 to increase the non-Federal contribution associated with the periodic nourishment of such projects.

*Sec. 108. Small Flood Control Projects*

The Army Corps of Engineers' small flood control project continuing authority program is a popular program that provides a means for quick implementation for flood damage reduction studies and projects. During fiscal year 1997, there were nine projects initiated under this program, and there is a demand for more. The Federal project limits for section 205 were last increased in the Water Resources Development Act of 1986. This proposed increase in the Federal share of project cost from \$5,000,000 to \$7,000,000 will offset the rise in costs due to inflation during that period. Additionally, the provision encourages consideration of non-structural flood control measures in implementing projects under the authority.

*Sec. 109. Use of Non-Federal Funds for Compiling and Disseminating Information on Flood and Flood Damages*

This provision allows the Secretary to accept and expend certain funds provided by States and local governments to compile and disseminate information on floods and flood damages. The Water Resources Development Act of 1990 prohibited the collection of fees from such entities; nevertheless, the demand for information on floods and flood damages continues to increase. There have been a number of instances where States and local governments have offered to contribute funds to expand the services provided pursuant to this authority, but the agency has been unable to accept such contributions because of the statutory prohibition on collecting fees for such services. This section will allow the agency to accept voluntary contributions from State and local governments. By clarifying that this statutory prohibition does not apply to funds voluntarily contributed, the agency will be able to disseminate informa-

tion on flooding and flood damages to a wider segment of the public.

*Sec. 110. Everglades and South Florida Ecosystem Restoration*

This provision amends section 528 of the Water Resources Development Act of 1996 (P.L. 104–303) to extend the authorization of appropriations for critical restoration projects in South Florida through fiscal year 2000. This is necessary because funds were not available to begin work on this project in fiscal year 1997 as anticipated.

*Sec. 111. Aquatic Ecosystem Restoration*

This provision will allow non-profit entities to participate as non-Federal project sponsors in aquatic ecosystem restoration and protection projects carried out under the authority of section 206 of the Water Resources Development Act of 1996 (P.L. 104–303), thereby expanding the universe for potential project sponsors beyond those that meet the definition of “non-Federal interest” as set forth in section 221 of the Flood Control Act of 1970.

*Sec. 112. Beneficial Uses of Dredged Materials*

This provision will allow non-profit entities to participate as non-Federal project sponsors in beneficial uses of dredged material projects carried out under the authority of section 204 of the Water Resources Development Act of 1992 (P.L. 102–580), thereby expanding the universe for potential project sponsors beyond those that meet the definition of “non-Federal interest” as set forth in section 221 of the Flood Control Act of 1970.

*Sec. 113. Voluntary Contributions by States and Political Subdivisions*

This provision expands the authority of the Secretary to receive funds from States and political subdivisions to be expended in connection with funds appropriated by the United States for any authorized flood control work to allow the Secretary to receive funds from States and political subdivisions to be expended in connection with funds appropriated by the United States for any authorized environmental restoration project.

*Sec. 114. Recreation User Fees*

This provision allows the Secretary to retain and expend, without further appropriation, 100 percent of recreation user fee revenues above the base line of \$34,000,000 for each fiscal year 1999 through 2002. The revenues retained by the Corps would be available through fiscal year 2005 for specific purposes, including repair and maintenance work and habitat for facility enhancement.

Under current law, all recreation user fee revenues collected at water resources development projects under the jurisdiction of the Department of the Army must be deposited into a special account in the Treasury and are made available to the Corps only after Congress provides an appropriation in subsequent fiscal years. Although the Corps has authority to collect recreation user fees and is encouraged to do so, to maximize revenues, the cost of collecting those revenues is provided for with funds that could be used for

other recreation activities. This reduces the funds available for those activities. It also reduces the incentive for project managers to pursue expanded fee collection aggressively, since the cost of that collection is not reimbursed.

*Sec. 115. Water Resources Development Studies for the Pacific Region*

This provision expands studies authorized for the Pacific Region that includes American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands to allow the Secretary to conduct studies in that region that cover the full panoply of water resources issues.

*Sec. 116. Missouri and Middle Mississippi Rivers Enhancement Project*

This provision authorizes the Secretary to develop projects to protect and enhance fish and wildlife habitat of the Missouri and middle Mississippi Rivers. The projects shall provide for such activities as are necessary to protect and enhance fish and wildlife habitat without adversely affecting flood control, navigation, recreation, enhancement of water supply and private property rights. \$30,000,000 is authorized to carry out the section for the period of fiscal years 2000 and 2001. The Federal share of the cost of each project shall not exceed \$5,000,000 and the non-Federal share of the cost of each project shall be 35 percent.

*Sec. 117. Outer Continental dredging*

This provision amends section 8(k)(2)(B) of the Outer Continental Shelf Lands Act to prohibit the Department of Interior from assessing fees on non-Federal sponsors of water resource projects. Currently, the Department of Interior is precluded from collecting fees from other Federal agencies who receive minerals, sand or other natural resources from the outer continental shelf.

This section reimburses the City of Virginia Beach, Virginia, for fees assessed by the Department of Interior for use of Outer Continental Shelf sand for the Sandbridge Hurricane Protection project.

*Sec. 118. Environmental Dredging*

This provision adds Snake Creek in Bixby, Oklahoma, to the list of rivers contained in the Water Resources Development Act of 1990 (P.L. 101-640) where the Corps is authorized to conduct dredging to restore environmental resources.

*Sec. 119. Benefit of Primary Flood Damages Avoided Included in Benefit Cost Analysis*

This provision amends section 308(a) of the Water Resources Development Act of 1990 (P.L. 101-640) to direct the Secretary to include primary flood damage reduction benefits in the benefit base for justifying non-structural flood damage reduction projects. Failure to count these essential benefits in economic benefit cost evaluations has resulted in an unwarranted impediment to justification of non-structural flood damage reduction projects. These benefits, such as flood plain evacuation and relocation, are appropriate to be

counted in benefit cost analysis for such projects. This provision does not modify the existing calculation of benefits for structural flood control projects.

*Sec. 120. Control of Aquatic Plant Growth*

This provision adds two plants, *Arundo donax*, and *tamarix*, to the list of noxious weeds that the Secretary has authority to control and eradicate.

*Sec. 121. Environmental Infrastructure*

This provision amends section 219(c) of the Water Resources Development Act of 1992 (P.L. 102–580) by adding Lake Tahoe, California and Nevada; Lancaster, California, and San Ramon, California to the list of watersheds the Secretary is authorized to provide technical and planning and design assistance for water-related environmental infrastructure and resource protection and development.

*Sec. 122. Watershed Management, Restoration, and Development*

This provision amends section 503(d) of the Water Resources Development Act of 1996 (P.L. 104–303) by adding Clear Lake watershed, California; Fresno Slough watershed, California; Kaweah River watershed, California; Lake Tahoe, California, and Nevada; Malibu Creek watershed, California; Truckee River basin, Nevada; Walker River basin, Nevada; and Hayward Marsh, Southern San Francisco Bay watershed, California to the list of watersheds the Secretary is authorized to provide technical, planning and design assistance for watershed management, restoration and development projects.

*Sec. 123. Lakes Program*

This provision amends the existing silt and aquatic growth removal program at specified lakes in the United States, authorized by section 602(a) of the 1986 Water Resources Development Act (100 Stat. 4148), by adding two additional lakes, located in Clear Lake, Lake County, California; and Osgood Pond, Milford, New Hampshire.

*Sec. 124. Dredging of Salt Ponds in the State of Rhode Island*

This provision authorizes the Secretary to acquire a small dredge for the State of Rhode Island to perform dredging for environmental mitigation purposes at numerous coastal salt ponds in the State.

*Sec. 125. Upper Susquehanna River Basin, Pennsylvania and New York*

This provision amends section 567(a) of the Water Resources Development Act of 1996 (P.L. 104–303) by adding the Chemung River watershed, New York, to the list of watersheds the Secretary, in cooperation with the Secretary of Agriculture and the States of Pennsylvania and New York, is authorized to conduct a study and develop 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.

*Sec. 126. Repaupo Creek and Delaware River, Gloucester County, New Jersey*

This provision amends section 102 of the Water Resources Development Act of 1996 (P.L. 104–303) by adding Repaupo Creek and Delaware River, Gloucester County, New Jersey, and Tioga County, Pennsylvania to the list of small flood control projects the Secretary is authorized to study, and, if feasible, carry out under section 205 of the Flood Control Act of 1948.

*Sec. 127. Small Navigation Projects*

This provision amends section 104 of the Water Resources Development Act of 1996 (P.L. 104–303) by adding Fortescue Inlet, Delaware Bay, New Jersey, to the list of small navigation projects the Secretary is authorized to study, and, if feasible, carry out under section 107 of the River and Harbor Act of 1960.

*Sec. 128. Streambank Protection Projects*

This provision directs the Secretary to carry out a small emergency streambank stabilization project to prevent eroded debris underlying Coulson Park from being released into the Yellowstone River at Billings, Montana.

*Sec. 129. Aquatic Ecosystem Restoration, Springfield, Oregon*

This provision authorizes the Secretary to reconfigure the existing pond at Springfield, Oregon, if the Secretary determines harmful impacts are a result of a previously constructed flood control project by the Corps of Engineers.—

*Sec. 130. Guilford and New Haven, Connecticut*

This provision urges the Corps of Engineers to expeditiously complete the activities authorized under section 346 of the Water Resources Development Act of 1992 (P.L. 102–580) at Sluice Creek in Guilford, Connecticut, and Lighthouse Point Park in New Haven, Connecticut. In July 1998, the Corps completed a reconnaissance study for Coastal Connecticut Ecosystem Restoration. The completion of a feasibility study is consistent with the long-term goal of the Corps' water resources development program for increasing the quality and quantity of the Nation's wetlands and is of ecological significance for the State of Connecticut, including Long Island Sound. The Corps is urged to complete the feasibility study within 48 months of the date of enactment of this Act.

*Sec. 131. Francis Bland, Arkansas Floodway Ditch No. 5*

This provision names the Eight Mile Creek, Paragould, Arkansas, flood control project the “Francis Bland, Arkansas Floodway Ditch No. 5”.

*Sec. 132. Point Judith Breakwater*

This provision directs the Secretary to restore the breakwater located at Point Judith, Rhode Island authorized by the “River and Harbor Appropriations Act of 1907” (34 stat. 1075, chapter 2509) and the “River and Harbor Appropriations Act of 1910” (36 stat. 632, chapter 382), at a total estimated cost of 10,000,000 with an estimated Federal cost of 6,500,000, and an estimated non-Federal

cost of 3,500,000. Operation and maintenance shall be the responsibility of the non-Federal sponsor.

*Sec. 133. Caloosahatchee River Basin, Florida*

This provision amends section 528(e)(4) of the Water Resources Development Act of 1996 (104–303) by adding the Caloosahatchee River Basin as a potential area which may be acquired by the non-Federal sponsor for water storage purposes within the Everglades and South Florida Ecosystem Restoration project area. The terms of crediting the non-Federal sponsor for land acquisition are not changed by this section.

*Sec. 134. Cumberland, Maryland, Flood Project Mitigation*

This provision authorizes the Secretary to participate in the restoration of the Chesapeake and Ohio Canal, consistent with the recommendations of the National Park Service’s Rewatering Design Analysis. The project will be cost shared and operations and maintenance of the canal will be the full responsibility of the National Park Service. The project will be authorized at 65 percent Federal, 35 percent non-Federal.

*Sec. 135. Sediments Decontamination Policy*

This provision amends section 405 of the Water Resources Development Act of 1992 (P.L. 102–580) by requiring that sediment decontamination technologies result in practical end-use products and increases the authorized program level from \$5,000,000 to \$22,000,000.

*Sec. 136. City of Miami Beach, Florida*

This provision amends section 5(b)(3)(C)(i) of the Act of August 13, 1946 (33 U.S.C. 426h) by adding the city of Miami Beach, Florida, to those areas eligible for assistance under the National Shoreline Erosion Control Development and Demonstration Program.

*Sec. 137. Small Storm Damage Reduction Projects*

This provision amends section 3 of the Act of August 13, 1962 (33 U.S.C. 426g) by increasing the authorized level for Federal funding of small storm damage reduction projects from \$2,000,000 to \$3,000,000.

*Sec. 138. Sardis Reservoir, Oklahoma*

This provision authorizes the Secretary to accept a prepayment of the full costs of water supply storage the project at Sardis Reservoir, Oklahoma. The amount to be paid by the State of Oklahoma will be determined through an independent audit.

*Sec. 139. Upper Mississippi River and Illinois Waterway System Navigation Modernization*

This provision directs the Secretary, in accordance with the Upper Mississippi River-Illinois Waterway System Navigation Study, to proceed immediately to prepare preconstruction engineering design, plans and specifications for 1,200 foot extensions of locks 20–25 on the Mississippi River and the LaGrange and Peoria Locks on the Illinois River. This provision does not authorize con-

struction and does not preempt the future findings of the Secretary on the engineering, economic and environmental feasibility of any specific approach to improve navigation along these waterways.

This provision also includes “Findings” to emphasize what is at stake should the United States fail to modernize this critical transportation option to meet the needs of the next century. The United States is anticipated to experience increased trade activity over the next 50 years that will place greater demands on our transportation system. It should be the policy of the U.S. Army Corps of Engineers to aggressively pursue modernization of water transportation infrastructure authorized by the Congress to promote the relative competitive position of the United States in the international marketplace.

*Sec. 140. Disposal of Dredged Material on Beaches*

This provision amends section 145 of Water Resources Development Act of 1976 ( 33 U.S.C. 426j) by changing the non-Federal cost share for beneficial reuse projects from 50 percent to 35 percent. This change is necessary to allow the use of dredged materials from navigation projects on nearby shoreline projects at a lower overall cost to the Federal government and State or local entities. It is noted that local communities need to be advised of the cost-share provisions of such beneficial use in a timely manner to budget for their cost-share of such use.

*Sec. 141. Fish and Wildlife Mitigation*

This provision amends section 906(e) of Water Resources Development Act of 1986 to allow non-Federal project sponsors to contribute in-kind facilities, supplies and services for up to 80 percent of allowable first costs of enhancement projects. The committee is including such modifications to make the cost-sharing requirements with respect to Environmental Management Program enhancements consistent with all other Corps enhancement cost-share requirements,

*Sec. 142. Upper Mississippi River Management*

This provision amends section 1103 of the Water Resources Development Act of 1986 (P.L. 99-662) by extending the existing authorization for the Upper Mississippi River Environmental Management Program for the period from 2002 through 2009. In addition, this provision increases the authorization level for fish and wildlife habitat rehabilitation and enhancement activities, from 8,200,000 to 22,750,000 for each of fiscal years 1999 through 2009. For the long term resources monitoring program action the authorization level is increased from 7,680,000 to 10,420,000 for each of fiscal years 1999 to 2009. For all enhancement and mitigation projects carried out on non-Federal land, the non-Federal share of the cost of each project shall be 35 percent and the cost of operation and maintenance of each project shall also be 100 percent non-Federal responsibility.

In addition this provision authorizes the Secretary to investigate, and, if appropriate, carry out restoration of urban wildlife habitat in the St. Louis, Missouri, area with an emphasis on greenways. To the extent possible this project should include reclamation and

wetlands restoration opportunities such as that at the Columbia Bottoms and the Rivers South Restoration Project near the River des Peres in LeMay in St. Louis County.

*Sec. 143. Construction of Flood Control Projects by Non-Federal Interest*

This provision amends section 211(e) of the Water Resources Development Act of 1996 (P.L. 104–303) to clarify the Secretary’s authority to reimburse non-Federal interests under the special rules provided in section 211(e)(2)(A).

*Sec. 144. Research and Development Program for Columbia and Snake Rivers Salmon Survival*

This provision amends section 511 of the Water Resources Development Act of 1996 (P.L. 104–303) by increasing the existing authorization level in subsection 511(b)(2) from \$12,000,000 to \$35,000,000 for the Advanced Turbine Development program. Additionally, section 511 of P.L. 104–303 is modified by providing the Secretary of the Army with authority to develop and carry out methods to reduce Caspian Tern and cormorant nesting populations on and in the vicinity of certain Army Corps dredge spoil islands in the Columbia River. An authorization level of \$1,000,000 is provided for this purpose. Nothing in this section shall interrupt or preclude any ongoing salmon recovery program. It is noted that the report requested in 1999 on activities under subsection 511(a) remains unchanged.

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE,  
AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT  
RESTORATION

*Sec. 201. Definitions*

This section defines the terms restoration, Secretary, terrestrial wildlife habitat, and wildlife.

*Sec. 202. Terrestrial Wildlife Habitat Restoration*

This section requires the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe, as a condition of receipt of funds under this title, to prepare plans for the restoration of wildlife habitat that was lost as a result of construction of the Big Bend and Oahe dams. Plans are to be submitted to the Secretary of the Army and to the two Congressional committees. Upon receipt of the plans, the respective committees are required to notify the Secretary of the Treasury, who then is required to make funds available for the implementation of the plans from trust funds established under this title. To supplement the formal habitat restoration plans, the State and tribes are authorized to lease wildlife habitat from private landowners, based on plans developed cooperatively with the Secretary of the Army and the U.S. Fish and Wildlife Service.

In addition, this provision clarifies that the establishment of the trust funds and the implementation of the terrestrial wildlife habitat plans developed under this section satisfies the Federal obligation for wildlife habitat mitigation by the State of South Dakota,

the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe for the Oahe and Big Bend projects under the Fish and Wildlife Habitat Coordination Act of 1958.

*Sec. 203. South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund*

This section establishes a trust fund of \$108 million for use by the State of South Dakota to 1) implement its terrestrial wildlife habitat restoration plan, 2) protect archaeological and cultural sites threatened by the operation of the Pick-Sloan project, 3) operate and develop Corps of Engineers recreation areas transferred to the State under this title, 4) implement the wildlife habitat leasing plan, and 5) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River. The Secretary of the Treasury is required to provide the annual interest revenue from the trust fund to the State of South Dakota for these purposes.

*Sec. 204. Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Funds.*

This section establishes trust funds of roughly \$42 million for use by the Cheyenne River Sioux Tribe and roughly \$15 million for use by the Lower Brule Sioux Tribe to 1) implement their terrestrial wildlife habitat restoration plans, 2) protect archaeological and cultural sites threatened by the operation of the Pick-Sloan project, 3) operate and develop Corps of Engineers recreation areas transferred to the respective tribes under this title, 4) implement the wildlife habitat leasing plan, and 5) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River. The Secretary of the Treasury is required to provide the annual interest revenue from the trust fund to the tribes for these purposes.

*Sec. 205. Transfer of Federal Land to State of South Dakota*

This section transfers to the State of South Dakota the Federal lands located outside of the Indian reservation boundaries that were acquired for the Pick-Sloan project and that remain above the exclusive flood pool and recreation areas outside reservation boundaries. It requires the State of South Dakota to use the transferred lands for wildlife habitat restoration and recreation development. The transfer is required to occur no later than one year after the full capitalization of the trust fund. The section preserves existing easements and rights-of-way on any lands transferred to the Interior Department for the Indian tribes and to the State of South Dakota.

On the lands transferred to the State of South Dakota, the State retains its current jurisdiction in perpetuity for hunting and fishing over these lands, and over the waters of the Missouri River for all areas outside reservation boundaries and for non-Indians within reservation boundaries.

*Sec. 206. Transfer of Corps of Engineers Land for Indian Tribes*

This provision transfers to the Interior Department to be held in trust for the Indian tribes the Federal lands located within reserva-

tion boundaries that were acquired for the Pick-Sloan project and that remain above the exclusive flood pool and recreation areas inside reservation boundaries. The transfer is required to occur no later than one year after the full capitalization of the trust fund. The section preserves existing easements and rights-of-way on any lands transferred to the Interior Department for the Indian tribes and to the State of South Dakota.

Jurisdiction over hunting and fishing on the waters of the Missouri River and the adjacent lands remain unaffected by the bill, except that the Indian tribes will gain full jurisdiction for the regulation of hunting and fishing on the Federal lands that are transferred to the Interior Department to be held in trust for them.

The provisions of this title, including the jurisdictional provisions, are not intended to serve as precedent with regard to any tribe not included in such title. The provisions of the Native American Indian Graves Protection and Repatriation Act shall apply to all lands transferred under this Act.

#### *Sec. 207. Administration*

The section clarifies that Indian water rights, treaty rights, and reservation boundaries shall remain unaffected by enactment of this title, and that nothing in this legislation waives the applicability of Federal laws related to the lands and waters affected by this title.

#### *Sec. 208. Authorization of Appropriations*

This section authorizes appropriations to pay the administrative expenses of the Secretaries of the Interior and the Army in carrying out the requirements of this title.

### HEARINGS

On June 23, 1998, the Subcommittee on Transportation and Infrastructure held a hearing on the Administration's Water Resources Development Act proposal, S. 2131 and to examine the President's budget request for fiscal year 1999 for the U.S. Army Corps of Engineers. Testimony received from the Honorable Joseph Westphal, Assistant Secretary for Civil Works, U.S. Department of the Army; accompanied by Mr. Michael L. Davis, Deputy Assistant Secretary of Civil Works for Policy and Legislation and General Russell L. Fuhrman, Director of Civil Works; Mr. Kurt J. Nagle, President, American Association of Port Authorities, Alexandria, Virginia; Mr. Scott E. Faber, Director of Floodplain Programs, American Rivers; the Honorable Louisa M. Strayhorn, Councilwoman, Virginia, Beach, Virginia; Mr. Grover Fugate, Executive Director, Rhode Island Coastal Resources Management Council, Wakefield, Rhode Island; the Honorable Kenneth Pringle, Mayor, Borough of Belmar, New Jersey; and Mr. Stephen Higgins, Beach Erosion Administrator, Broward County, Florida.

### ROLLCALL VOTES

The Committee on Environment and Public Works met on July 22, 23, and 29, 1998 to consider S. 2131, the Water Resources Development Act of 1998. On July 22, the committee agreed en bloc

to the chairman's mark, two managers' amendments, and a second degree amendment to the first managers' amendment; all managers' amendments were agreed to by voice vote. Also on July 22, Senator Graham offered an amendment to strike the provisions of Sec. 131 from the chairman's mark (authorizing certain highway funds). The Graham amendment was agreed to by a rollcall vote of 12 ayes to 6 noes. Voting in the affirmative were Senators Al- lard, Bond, Boxer, Graham, Hutchinson, Inhofe, Kempthorne, Lau- tenberg, Reid, Smith of New Hampshire, Thomas, and Wyden. Vot- ing in the negative were Senators Baucus, Chafee, Lieberman, Moynihan, Sessions, and Warner.

On July 23, 1998, the committee continued consideration of S. 2131. An amendment offered by Senator Kempthorne relative to salmon conservation was agreed to by voice vote. No rollcall votes on S. 2131 occurred at this meeting of the committee.

On July 29, 1998, the committee continued consideration of S. 2131, and the bill was ordered reported, as amended, by voice vote. No rollcall votes on S. 2131 occurred at this meeting of the commit- tee.

#### REGULATORY IMPACT STATEMENT

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires publication in the report the committee's estimate of the regulatory impact made by the bill as reported. No regulatory im- pact is expected by the passage of S. 2131. The bill will not affect the personal privacy of individuals.

#### MANDATES ASSESSEMENT

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

#### COST OF LEGISLATION

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 20, 1998.*

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has pre- pared the enclosed cost estimate for S. 2131, the Water Resources Development Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Gary Brown (for Fed-

eral costs), who can be reached at 226–2860, and Marjorie Miller (for the State and local impact), who can be reached at 225–3220.

Sincerely,

JUNE E. O'NEILL,  
*Director.*

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CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 2131, Water Resources Development Act of 1998, as ordered reported by the Senate Committee on Environment and Public Works on July 29, 1998*

*Summary*

S. 2131 would authorize the appropriation of about \$1.9 billion (in 1998 dollars) over the 1999–2008 period for the Secretary of Army, acting through the Army Corps of Engineers, to conduct studies and undertake projects for flood control, port development, inland navigation, storm damage reduction, and environmental restoration. Adjusting for anticipated inflation, CBO estimates that implementing the bill would require appropriations of \$2.1 billion over that period the bill also would authorize prepayment of or waive amounts owed to the Federal Government and make a portion of the fees collected at Corps recreation sites available for spending without further appropriation.

The bill also would settle potential claims of the Cheyenne River and Lower Brule Sioux Tribes and the State of South Dakota against the Federal Government for losses of terrestrial (land) habitat incurred as a result of the construction of the Missouri River Basin Pick-Sloan project. The bill would transfer to the Department of the Interior, to be held in trust for the tribes, and to the State, Federal lands that were acquired for the Pick-Sloan project. The United States would relinquish all fees associated with recreation, permits, easements, and rights-of-way, on these lands. S. 2131 would establish funds for the tribes and the State and make interest from the funds available for restoring habitat flooded as a result of the project.

CBO estimates that implementing S. 2131 would result in additional outlays of about \$1.5 billion over the 1999–2003 period, assuming the appropriation of the necessary amounts. The remaining amounts authorized by the bill would be spent after 2003. Enacting the bill would affect direct spending, therefore, pay-as-you-go procedures would apply. CBO estimates that enacting S. 2131 would reduce direct spending by \$17 million in 1999, but would cause a net increase in direct spending of \$21 million over the 1999–2003 period. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

*Estimated Cost to the Federal Government*

The estimated budgetary impact of S. 2131 is shown in the following table. For constructing, operating, and maintaining projects that are already authorized, CBO estimates that the Corps will need about \$4 billion annually over the 1999–2003 period (roughly

the level appropriated in 1998). The table shows the estimates of additional spending necessary to implement the bill. The costs of this legislation fall within budget function 300 (natural resources and environment).

By Fiscal Year, in Millions of Dollars

|                                              | 1999 | 2000 | 2001 | 2002 | 2003 |
|----------------------------------------------|------|------|------|------|------|
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION |      |      |      |      |      |
| Estimated Authorization Level .....          | 340  | 425  | 403  | 273  | 132  |
| Estimated Outlays .....                      | 170  | 332  | 401  | 341  | 222  |
| CHANGES IN DIRECT SPENDING                   |      |      |      |      |      |
| Estimated Budget Authority .....             | -17  | 6    | 10   | 13   | 14   |
| Estimated Outlays .....                      | -17  | 4    | 8    | 12   | 14   |

### *Basis of Estimate*

For the purposes of this estimate, CBO assumes that S. 2131 will be enacted at or near the beginning of fiscal year 1999, and that all amounts estimated to be authorized by the bill will be appropriated for each fiscal year.

### *Spending Subject to Appropriation*

Estimates of annual budget authority needed to meet design and construction schedules were provided by the Corps. CBO adjusted the estimates to reflect the impact of anticipated inflation during the time between authorization and appropriation. Estimated outlays are based on historical spending rates for Corps activities.

### *Direct Spending*

*Prepayments and Waivers of Payments.* S. 2131 would authorize the State of Oklahoma to pay the present value of its outstanding obligation to the United States for water supply. CBO estimates that, if the bill is enacted, a prepayment of about \$20 million would be made in 1999 and that payments forgone would be about \$2 million a year over the 1999–2033 period. The bill would authorize the Corps to partly or fully waive payments from the Waurika Project Master Conservancy District and the cities of Chesapeake, Virginia, and Moorefield, West Virginia, for other projects. CBO estimates that, under current law, payments from these entities would total less than \$500,000 annually over the 1999–2031 period. Thus, any forgone payments from those activities would not be significant.

*Spending of Recreational Fees.* S. 2131 would authorize the Corps to retain and spend each year any recreation fees that are in excess of \$34 million, the amount that the Administration and CBO estimate will be collected under current law. At present, all recreation fees are deposited as offsetting receipts in the Treasury and are unavailable for spending unless appropriated. By allowing the Corps to spend receipts in excess of \$34 million, this provision creates the possibility of new direct spending. Because recreation fees do not vary significantly from year to year, CBO estimates that the expected increase in spending from any annual receipts collected in excess of \$34 million would be less than \$500,000 a year.

*Land Transfers and Trust Funds.* S. 2131 would direct the Corps to transfer lands to the Department of the Interior, to be held in trust for the Cheyenne River and Lower Brule Sioux Tribes, and to the State of South Dakota. The United States would relinquish all revenues from permits, easements, rights-of-way, and recreational use of these lands. CBO anticipates that the transfers would occur over the 2000–2002 period. CBO estimates that the amount of offsetting receipts forgone under this provision would total less than \$500,000 in 2000 and about \$1 million annually thereafter.

S. 2131 also would establish habitat restoration funds for the Cheyenne River and Lower Brule Tribes and the State of South Dakota. Beginning with the year that S. 2131 is enacted, the bill would direct the Secretary of the Treasury to deposit 25 percent of the previous year's receipts from the Pick-Sloan Missouri River basin program into separate accounts in the U.S. Treasury on behalf of the Tribes and the State. Once a total of \$165 million is deposited—\$57 million for the tribes and \$108 million for the State—no further principal deposits would be made. The bill would direct that principal amounts be invested in interest-bearing Treasury securities and that the funds' interest earnings be made available to the tribes and the State without fiscal year limitation or the need for further appropriation.

Based on information from the Western Area Power Administration—which markets electricity produced from the Pick-Sloan Missouri River Basin—CBO estimates that receipts from the Pick-Sloan project will total about \$250 million annually over the 1998–2001 period; therefore, if S. 2131 is enacted in fiscal year 1999, the funds would be fully capitalized in fiscal year 2001. The deposits to the trust funds would be intragovernmental transfers, and thus, there would be no net outlays associated with them.

S. 2131 would make the interest on the amounts in the funds available to the tribes and the State for restoring terrestrial habitat. For the purpose of this estimate, CBO assumes that deposits into the funds will be made by January 1 of each year; the initial deposits would be made by January 1, 1999, and earn interest for three quarters of fiscal year 1999. Interest earnings would first become available for spending in fiscal year 2000. We assume that the balances in the funds would earn interest at an annual rate of about 6.2 percent, which is CBO's baseline projection of the interest rate on 30-year Treasury bonds. Unspent interest in the accounts also would earn interest, but as a lower (short-term) rate of about 5 percent.

As a result, CBO estimates the interest earnings in the following amounts would be made available to the tribes and the State: \$3 million in 2000, \$7 million in 2001, \$10 million in 2002, and \$11 million a year thereafter. Estimated outlays are based on historical spending rates for similar programs.

It is possible that enacting S. 2131 would allow the United States to avoid potential costs from possible claims by the tribes and South Dakota related to the restoration of terrestrial habitat. The State has indicated that it may file suit against the United States for failing to restore such wildlife habitat affected by the construction of the Missouri River Basin Pick-Sloan project if provisions

similar to those included in S. 2131 are not enacted. It is possible that the tribes would do the same. Because the bill would provide for completely restoring such habitat affected by the project, CBO estimates that enacting the bill would probably be more costly than any potential judgment (which might provide for only partial restoration). However, CBO has no basis for estimating the likelihood, timing or amount of any judgment. Enacting the bill would not settle any potential claims related to aquatic habitat. The impact of the project on these resources is still under evaluation.

#### *Pay-as-you-go Considerations*

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. (The bill would not affect governmental receipts.) For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

| By Fiscal Year in Millions of Dollars |      |      |      |      |      |      |      |      |      |      |      |
|---------------------------------------|------|------|------|------|------|------|------|------|------|------|------|
|                                       | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
| Changes in outlays .....              | 0    | -17  | 4    | 8    | 12   | 14   | 14   | 14   | 14   | 14   | 14   |
| Changes in receipts <sup>1</sup>      |      |      |      |      |      |      |      |      |      |      |      |

<sup>1</sup> Not applicable

#### *Estimated Impact on State, Local, and Tribal Governments*

S. 2131 contains no intergovernmental mandates as defined in UMRA. State and local governments that choose to participate in water resources development projects and programs carried out by the Corps would incur costs as described below. In addition, some State, local, and tribal governments would benefit from provisions in this bill that would alter their obligations to make payments to the Federal Government, order transfers of land, and increase habitat restoration trust funds.

#### *Authorizations of New Projects*

CBO estimates the non-Federal entities (primarily State and local governments) that choose to participate in the projects authorized by this bill would spend about \$1.1 billion during fiscal years 1999 through 2010 to help construct these projects. These estimates are based on information provided by the Corps. In addition to these costs, non-Federal entities would pay for the operation and maintenance of many of the projects after they are constructed.

#### *Changes in Cost-Sharing Policies*

S. 2131 would make a number of changes to Federal laws that specify the share of water resources project costs borne by State and local governments. Section 107 would increase the non-Federal share of recurring costs associated with new coastal shore protection projects from 35 percent to 50 percent. This change would not affect the initial construction of these projects. In the case of projects to place on beaches sand that has been dredged from adja-

cent navigation inlets and channels, section 140 of this bill would reduce the non-Federal share of costs from 50 percent to 35 percent.

Several provisions in S. 2131 would expend the opportunities State and local governments to participate in water resources projects. Other parts of the bill would alter the responsibility of specific State and local governments to pay amounts owed to the Federal Government in association with water resource projects, either by allowing the prepayment of amounts owed or by waiving amounts owed under current law.

#### *New Programs*

S. 2131 would authorize two new programs that would assist State and local governments. Specifically, the bill would authorize total appropriations of \$75 million for fiscal years 2000 and 2001 for a program to reduce flood hazards and \$30 million for the same period for activities to protect and enhance fish and wildlife habitat of the Missouri River and the middle Mississippi River. State and local governments choosing to participate in these programs would have to provide 35 percent of the initial cost of any funded project and all the subsequent operation and maintenance costs.

#### *Land Transfers and Trust Funds*

S. 2131 would direct the Corps to transfer certain lands to the State of South Dakota and to the Department of the Interior. The latter lands would be held in trust for two tribes in that State—the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe. Further, the bill would create habitat restoration funds for the State and the tribes. The interest earnings of those funds would be made available to those governments for restoration activities. The amounts available would reach about \$11 million a year by 2003. In addition, the State, the tribes, and affected counties in the State would receive all the revenues now collected by the Federal Government on the lands to be transferred—about \$1 million per year.

The State and the tribes would incur some costs initially to complete plans for restoration of wildlife habitat. Based on information provided by State and tribal officials, CBO estimates that these costs would total less than \$500,000.

*Estimated Impact on the Private Sector:* This bill would impose no new private-sector mandates as defined UMRA.

*Estimate Prepared by:* Federal Costs: Gary Brown (226–2860); Impact on State, Local, and Tribal Governments: Marjorie Miller (225–3220).

*Estimate Approved by:* Paul A. Van de Water, Assistant Director for Budget Analysis.

### ADDITIONAL VIEWS OF SENATORS BOXER AND GRAHAM

In recent years the Environment and Public Works Committee has blazed new trails in terms of innovative financing for transportation infrastructure in the United States. In the National Highway System Designation Act of 1995, it developed the State Infrastructure Bank pilot program. This year the Transportation Equity Act for the 21st Century established the Transportation Infrastructure Finance and Innovation program to provide Federal loans and lines of credit. Innovative financing was also extended to Intelligent Transportation Systems.

We believe that it is also time that we extend innovative financing to maritime investments, particularly for small craft harbors and medium-sized ports. These harbors and ports face eroding support in Federal assistance. Meanwhile, obtaining conventional financing at affordable rates for high-cost navigation and other improvements has proved difficult.

In some cases, ports have been unable to take advantage of new benefits. For example, two years ago the Committee provided much needed relief for local ports by inserting Section 201 of WRDA 1996 to provide cost-sharing for upland disposal sites. Still, the financing of the local share of these upland sites, or other navigation projects, is a challenging endeavor for which public and private capital markets charge a considerable premium, if financing can be obtained at all.

A revolving fund is an ideal financing alternative to increase the availability and cost of maritime infrastructure financing.

Several states already have innovative financing for their ports. California has established the California Maritime Infrastructure Authority and its development arm, the nonprofit California Maritime Infrastructure Bank, as a mechanism for addressing infrastructure needs for 12 general cargo and deep draft ports and 24 small craft harbor districts. Other existing revolving funds include the Florida Seaport Transportation and Economic Development Bond Program, the Oregon Port Revolving Fund, the Maryland Boating Revolving Fund, and the Virginia Small Port Development Fund.

State assistance to these revolving loan programs is minimal. However, the ports and harbors provide significant economic benefits. In California, for example, every \$1 spent on Federal port and harbor maintenance generates more than \$160 in Federal revenues, according to a 1997 economic benefit study conducted for the California Marine Affairs and Navigation Conference. While major ports provide important national benefits from international trade, even smaller ports and harbors contribute economically from commercial fishing, marine construction, mineral extraction, ocean research, recreational boating and public safety.

We urge the Administration to propose innovative financing for our ports when it submits to the Congress an overhaul of the Harbor Maintenance Trust Fund. Reform should include help for the needs of the neediest sector of the national port network, the shallow draft harbors that clearly contribute to national well being even though they do not contribute to the harbor trust fund.

One option to finance this Federal assistance is the use of the only Federal fuel tax revenue not devoted for transportation purposes. Under current law, 5 cents of the 18 ½ cents paid by recreational vessel owners as the motorboat fuel tax is currently deposited in the General Fund of the U.S. Treasury. One penny of that 5 cents could be used as the source of matching funds for state maritime banks, revolving loan programs or similar entities. The Secretary of the Army could use this funding to enter into cooperative agreements with eligible entities in selected states to finance water resources development.

This is just one option for consideration. We urge the Administration to consider this and other alternatives for financing future construction, operations and maintenance of projects in small and medium ports. The State Infrastructure Bank program gives States the capacity to increase the efficiency of their transportation investment and significantly leverage Federal resources by attracting public and private investment. Our ports and harbors are part of our greater transportation network, and we believe the Federal government should provide similar assistance.

BARBARA BOXER.  
BOB GRAHAM.

## CHANGES IN EXISTING LAW

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

## UNITED STATES CODE

## TITLE 33—NAVIGATION AND NAVIGABLE WATERS

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

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**§ 426g. Authorization of small projects not specifically authorized; expenditures; local cooperation; work to be complete; exceptions**

The Secretary of the Army is authorized to undertake construction of small shore and beach restoration and protection projects not specifically authorized by Congress, which otherwise comply with section 426e of this title, when he finds that such work is advisable, and he is further authorized to allot from any appropriations hereafter made for civil works, not to exceed \$30,000,000 for any one fiscal year for the Federal share of the costs of construction of such projects: Provided, That not more than **[\$2,000,000]** *\$3,000,000* shall be allotted for this purpose for any single project and the total amount allotted shall be sufficient to complete the Federal participation in the project under this section including periodic nourishment as provided for under section 426e(c) of this title: Provided further, That the provisions of local cooperation specified in section 426e of this title shall apply: And provided further, That the work shall be complete in itself and shall not commit the United States to any additional improvement to insure its successful operation, except for participation in periodic beach nourishment in accordance with section 426e(c) of this title, and as may result from the normal procedure applying to projects authorized after submission of survey reports.

**§ 426h. “Shores” defined**

As used in sections 426e to 426h of this title, the word “shores” includes all the shorelines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith, *including the city of Miami Beach, Florida.*

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**§ 426j. Placement on State beaches of sand dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches**

The Secretary of the Army, acting through the Chief of Engineers, is authorized upon request of the State, to place on the beaches of such State beach-quality sand which has been dredged

in constructing and maintaining navigation inlets and channels adjacent to such beaches, if the Secretary deems such action to be in the public interest and upon payment by such State of ~~【50】~~ 35 percent of the increased cost thereof above the cost required for alternative methods of disposing of such sand. At the request of the State, the Secretary may enter into an agreement with a political subdivision of the State to place sand on the beaches of the political subdivision of the State under the same terms and conditions required in the first sentence of this section; except that the political subdivision shall be responsible for providing any payments required under such sentence in lieu of the State. In carrying out this section, the Secretary shall give consideration to the schedule of the State, or the schedule of the responsible political subdivision of the requesting State, for providing its share of funds for placing such sand on the beaches of the State or the political subdivision and shall, to the maximum extent practicable, accommodate such schedule.

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## CHAPTER 12—RIVER AND HARBOR IMPROVEMENTS GENERALLY

### SUBCHAPTER IV—PARTICULAR WORK OR IMPROVEMENTS

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#### **§ 610. Control of aquatic plant growths**

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

(b) There are authorized to be appropriated such amounts, not in excess of \$12,000,000 annually, as may be necessary to carry out the provisions of this section. Any such funds employed for control operations shall be allocated by the Chief of Engineers on a priority basis, based upon the urgency and need of each area, and the availability of local funds.

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## CHAPTER 15—FLOOD CONTROL

\* \* \* \* \*

**§ 701h. Contributions by states and political subdivisions**

The Secretary of the Army is authorized to receive from States and political subdivisions thereof, such funds as may be contributed by them to be expended in connection with funds appropriated by the United States for any authorized flood control *or environmental restoration* work whenever such work and expenditure may be considered by the Secretary of the Army, on recommendation of the Chief of Engineers, as advantageous in the public interest, and the plans for any reservoir project may, in the discretion of the Secretary of the Army, on recommendation of the Chief of Engineers, be modified to provide additional storage capacity for domestic water supply or other conservation storage, on condition that the cost of such increased storage capacity is contributed by local agencies and that the local agencies agree to utilize such additional storage capacity in a manner consistent with Federal uses and purposes: Provided, That when contributions made by States and political subdivisions thereof, are in excess of the actual cost of the work contemplated and properly chargeable to such contributions, such excess contributions may, with the approval of the Secretary of the Army, be returned to the proper representatives of the contributing interests.

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**§ 701s. Small flood control projects; appropriations; amount limitation for single locality; conditions**

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$40,000,000 for any one fiscal year, for the [construction of small projects] *implementation of small structural and non-structural projects* for flood control and related purposes not specifically authorized by Congress, which come within the provisions of section 701a of this title, when in the opinion of the Chief of Engineers such work is advisable. The amount allotted for a project shall be sufficient to complete Federal participation in the project. Not more than [\$5,000,000] *\$7,000,000* shall be allotted under this section for a project at any single locality. The provisions of local cooperation specified in section 701c of this title shall apply. The work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports.

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**§ 709a. Information on floods and flood damage**

(a) COMPILATION AND DISSEMINATION.—In recognition of the increasing use and development of the flood plains of the rivers of the United States and of the need for information on flood hazards to serve as a guide to such development, and as a basis for avoiding

future flood hazards by regulation of use by States and political subdivisions thereof, and to assure that Federal departments and agencies may take proper cognizance of flood hazards, the Secretary of the Army, through the Chief of Engineers, is hereby authorized to compile and disseminate information on floods and flood damages, including identification of areas subject to inundation by floods of various magnitudes and frequencies, and general criteria for guidance of Federal and non-Federal interests and agencies in the use of flood plain areas; and to provide advice to other Federal agencies and local interests for their use in planning to ameliorate the flood hazard. Surveys and guides will be made for States and political subdivisions thereof only upon the request of a State or a political subdivision thereof, and upon approval by the Chief of Engineers, and such information and advice provided them only upon such request and approval.

(b) FEES.—The Secretary of the Army is authorized to establish and collect fees from Federal agencies and private persons for the purpose of recovering the cost of providing services pursuant to this section. Funds collected pursuant to this section shall be deposited into the account of the Treasury of the United States entitled “Contributions and Advances, Rivers and Harbor, Corps of Engineers (8862)” and shall be available until expended to carry out this section. No fees shall be collected from State, regional, or local governments or other non-Federal public agencies for services provided pursuant to this section, *but the Secretary of the Army may accept funds voluntarily contributed by such entities for the purpose of expanding the scope of the services requested by the entities.*

(c) FISCAL YEAR LIMITATION ON EXPENDITURES.—The Secretary of the Army is authorized to expend not to exceed \$15,000,000 per fiscal year for the compilation and dissemination of information under this section.

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## UNITED STATES CODE—TITLE 43—PUBLIC LANDS

### CHAPTER 29—SUBMERGED LANDS

#### SUBCHAPTER III—OUTER CONTINENTAL SHELF LANDS

\* \* \* \* \*

#### § 1337. Grant of leases by Secretary

(a) \* \* \*

(k) OTHER MINERAL LEASES; AWARD TO HIGHEST BIDDER; TERMS AND CONDITIONS; AGREEMENTS FOR USE OF RESOURCES FOR SHORE PROTECTION, BEACH OR COASTAL WETLANDS RESTORATION, OR OTHER PROJECTS.—

(1) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources—

(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or in part by or authorized by the Federal Government.

(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against an agency of the Federal Government *or any other non-Federal interest subject to an agreement entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b)*.

(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in section 1453 of title 16, that promote the policy set forth in section 1452 of title 16.

(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this subchapter shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources.

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## *Public Law 99-662*

### **WATER RESOURCES DEVELOPMENT ACT OF 1986**

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

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

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

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#### **SEC. 103. FLOOD CONTROL AND OTHER PURPOSES.**

(a) FLOOD CONTROL.—

\* \* \* \* \*

(d) CERTAIN OTHER COSTS ASSIGNED TO PROJECT PURPOSES.—  
**【Costs of constructing】**

(1) CONSTRUCTION.—*Costs of construction* projects or measures for beach erosion control and water quality enhancement

shall be assigned to appropriate project purposes listed in subsections (a), (b), and (c) and shall be shared in the same percentage as the purposes to which the costs are assigned, except that all costs assigned to benefits to privately owned shores (where use of such shores is limited to private interests) or to prevention of losses of private lands shall be borne by non-Federal interests and all costs assigned to the protection of federally owned shores shall be borne by the United States.

(2) *PERIODIC NOURISHMENT.*—*In the case of a project authorized for construction after December 31, 1998, or for which a feasibility study is completed after that date, the non-Federal cost of the periodic nourishment of projects or measures for shore protection or beach erosion control shall be 50 percent, except that—*

(A) *all costs assigned to benefits to privately owned shores (where use of such shores is limited to private interests) or to prevention of losses of private land shall be borne by non-Federal interests; and*

(B) *all costs assigned to the protection of federally owned shores shall be borne by the United States.*

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## **SEC. 202. GENERAL CARGO AND SHALLOW HARBOR PROJECTS.**

(a) **AUTHORIZATION OF CONSTRUCTION.**— \* \* \*

### **ARTHUR KILL, NEW YORK AND NEW JERSEY**

The project for navigation, Arthur Kill, New York and New Jersey, Report of the Board of Engineers for Rivers and Harbors, dated March 31, 1986, at a [total cost of \$42,600,000, with an estimated first Federal cost of \$27,500,000, and an estimated first non-Federal cost of \$15,100,000] *total cost of \$260,899,000, with an estimated Federal cost of \$195,705,000 and an estimated non-Federal cost of \$65,194,000.* At such time as construction may be initiated in accordance with the terms of this subsection, the project shall be included in and joined with the Kill van Kull and Newark Bay Channel, New York and New Jersey project under subsection (a) of this section.

### **NEW YORK HARBOR AND ADJACENT CHANNELS, NEW YORK AND NEW JERSEY**

The project for (1) an access channel 45 feet deep below mean low water and generally 450 feet wide with suitable bends and turning areas to extend from deep water in the Anchorage Channel, New York Harbor, westward approximately 12,000 feet along the southern boundary of the Port Jersey peninsula to the head of navigation in Jersey City, New Jersey, at [a total cost of \$29,700,000, with an estimated first Federal cost of \$21,000,000 and an estimated first non-Federal cost of \$8,700,000; and (2) for a channel 42 feet deep below mean low water and generally 300 feet wide with suitable bends and turning areas to extend from deep water in the Anchorage Channel westward approximately 11,000 feet to the head of navigation in Claremont Terminal Chan-

nel, at a total cost of \$16,000,000, with an estimated first Federal cost of \$11,300,000 and an estimated first non-Federal cost of \$4,700,000] *at a total cost of \$100,689,000, with an estimated Federal cost of \$74,998,000 and an estimated non-Federal cost of \$25,701,000.* No disposal of dredged material from construction, operation, and maintenance of such project shall take place at Bowery Bay, Flushing Bay, Powell's Cove, Little Bay, or Little Neck Bay, Queens, New York.

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#### SEC. 401. AUTHORIZATION OF PROJECTS.

(a) AUTHORIZATION FOR CONSTRUCTION.—\* \* \*

##### EIGHT MILE CREEK, PARAGOULD, ARKANSAS

The project for flood control, [Eight Mile Creek, Paragould, Arkansas] *Francis Bland, Arkansas Floodway Ditch No. 5: Report of the Chief of Engineers, dated August 10, 1979, at a total cost of \$16,100,000, with and estimated first Federal cost of \$11,200,000, and an estimated first non-Federal cost of \$4,900,000.*

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#### SEC. 602. LAKES PROGRAM.

(a) \* \* \*

(1) \* \* \*

*(17) Clear Lake, Lake County, California, removal of silt and aquatic growth and development of a sustainable weed and algae management program.*

*(18) Osgood Pond, Milford, New Hampshire, removal of excessive aquatic vegetation.*

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#### SEC. 906. FISH AND WILDLIFE MITIGATION.

(a)(1) \* \* \*

(e) In those cases when the Secretary, as part of any report to Congress, recommends activities to enhance fish and wildlife resources, the fish costs of such enhancement shall be a Federal cost when—

(1) such enhancement provides benefits that are determined to be national, including benefits to species that are identified by the National Marine Fisheries Service as of national economic importance, species that are subject to treaties or international convention to which the United States is a party, and anadromous fish;

(2) such enhancement is designed to benefit species that have been listed as threatened or endangered by the Secretary of the Interior under the terms of the Endangered Species Act, as amended (16 U.S.C. 1531, et seq.), or

(3) such activities are located on lands managed as a national wildlife refuge.

When benefits of enhancement do not qualify under the preceding sentence, 25 percent of such first costs of enhancement shall be provided by non-Federal interests under a schedule of reimburse-

ment determined by the Secretary. The non-Federal share of operation, maintenance, and rehabilitation of activities to enhance fish and wildlife resources shall be 25 percent. *Not more than 80 percent of the non-Federal share of such first costs may be in kind, including a facility, supply, or service that is necessary to carry out the enhancement project.*

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### SEC. 1103. UPPER MISSISSIPPI RIVER PLAN.

(a)(1) This section may be cited as the "Upper Mississippi River Management Act of 1986."

\* \* \* \* \*

[(e)(1) The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake, as identified in the master plan—

[(A) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement;

[(B) implementation of a long-term resource monitoring program; and

[(C) implementation of a computerized inventory and analysis system.

[(2) Each program referred to in paragraph (1) shall be carried out for ten years. Before the last day of such ten-year period, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall conduct an evaluation of such programs and submit a report on the results of such evaluation to Congress. Such evaluation shall determine each such program's effectiveness, strengths, and weaknesses and contain recommendations for the modification and continuance or termination of such program.]

(e) UNDERTAKINGS.—

(1) IN GENERAL.—

(A) AUTHORITY.—*The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may undertake, as identified in the master plan—*

*(i) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement;*

*(ii) implementation of a long-term resource monitoring, computerized data inventory and analysis, and applied research program; and*

*(iii) for each pool and the open reach, a natural resource blueprint to guide habitat rehabilitation and long-term resource monitoring.*

(B) REQUIREMENTS FOR PROJECTS.—*Each project carried out under subparagraph (A) shall—*

*(i) to the maximum extent practicable, simulate natural river processes; and*

*(ii) include an outreach and education component.*

(C) *REVIEW COMMITTEE.*—In carrying out subparagraph (A), the Secretary shall create an independent technical review committee to review projects, monitoring plans, and blueprints.

(D) *CRITERIA FOR HABITAT REHABILITATION.*—In carrying out subparagraph (A), the Secretary shall revise criteria for habitat rehabilitation for projects to promote the simulation of natural river processes, to the maximum extent practicable.

(E) *BLUEPRINTS.*—

(i) *DATA.*—The natural resource blueprint shall, to the maximum extent practicable, use data in existence on the date of enactment of this subparagraph.

(ii) *TIMING.*—The Secretary shall complete a natural resource blueprint for each pool not later than 6 years after the date of enactment of this subparagraph.

(F) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this paragraph \$350,000 for each of fiscal years 1999 through 2009.

(2) *REPORTS.*—On December 31, 2004, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, the Secretary shall prepare and submit to Congress a report that—

(A) contains an evaluation of the programs described in paragraph (1);

(B) describes the accomplishments of each program;

(C) provide updates of a systemic habitat needs assessment; and

(D) identifies any needed adjustments in the authorization under paragraph (1) or the authorized appropriations under paragraphs (3) and (4).

(3) For purposes of carrying out paragraph [1(A)] 1(A)(i) of this subsection, there is authorized to be appropriated to the [Secretary not to exceed \$8,200,000 for the first fiscal year beginning after the date of enactment of this Act, not to exceed \$12,400,000 for the second fiscal year beginning after the date of enactment of this Act, and not to exceed \$13,000,000 per fiscal year for each of the succeeding eight fiscal years] Secretary not to exceed \$22,750,000 for each of fiscal years 1999 through 2009.

(4) For purposes of carrying out paragraph [1(B)] (1)(A)(ii) of this subsection, there is authorized to be appropriated to the Secretary not to exceed [\$7,680,000 for the first fiscal year beginning after the date of enactment of this Act and not to exceed \$5,080,000 per fiscal year for each of the succeeding nine fiscal years] \$10,420,000 for each of fiscal years 1999 through 2009.

[(5) For purposes of carrying out paragraph 1(C) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$40,000 for the first fiscal year beginning after the enactment of this Act, not to exceed \$280,000 for the second fiscal year beginning after the enactment of this Act, not to exceed \$1,220,000 for the third fiscal year beginning after the enactment of this Act, and not to exceed \$875,000 per fiscal year for each of the succeeding seven fiscal years.

[(6)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 906 of this Act.

[(B) Notwithstanding the provisions of subsection (a)(2) of this section, the cost of implementing the activities authorized by paragraphs (1)(B) and (1)(C) of this subsection shall be allocated in accordance with the provisions of section 906 of this Act, as if such activity was required to mitigate losses of fish and wildlife.

(5) *TRANSFER OF AMOUNTS.*—*For each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer appropriated amounts between the programs under subparagraphs (A) and (B) of paragraph (1).*

[(7)] (6) (A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 2283(e) of this title; except that the costs of operation and maintenance of projects located on Federal lands or lands owned or operated by a State or local government shall be borne by the Federal, State, or local agency that is responsible for management activities for fish and wildlife on such lands and, in the case of any project carried out on non-Federal land, the non-Federal share of the cost of the project shall be 35 percent and the non-Federal share of the cost of operation and maintenance of the project shall be 100 percent.

(B) Notwithstanding the provisions of subsection (a)(2) of this section, the cost of implementing the activities authorized by [paragraphs (1)(B) and (1)(C) of this subsection] *paragraph (1)(B)* shall be allocated in accordance with the provisions of section 2283 of this title, as if such activity was required to mitigate losses to fish and wildlife.

[(8)] (7) None of the funds appropriated pursuant to any authorization contained in this subsection shall be considered to be chargeable to navigation.

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(k) *ST. LOUIS AREA URBAN WILDLIFE HABITAT.*—*The Secretary shall investigate and, if appropriate, carry out restoration of urban wildlife habitat, with a special emphasis on the establishment of greenways in St. Louis, Missouri, area and surrounding communities.*

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*Public Law 101-640***WATER RESOURCES DEVELOPMENT ACT OF 1990**

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

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

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

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**SEC. 101. PROJECT AUTHORIZATIONS.**

Except as provided in this section, 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 the respective reports designated in this section:

(1) **SOUTHEAST ALASKA HARBORS OF REFUGE, ALASKA.**— \* \*

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(4) **SACRAMENTO METRO AREA, CALIFORNIA.**—The project for flood control, Sacramento Metro Area, California: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of \$17,000,000, with an estimated Federal cost of \$12,800,000 and an estimated non-Federal cost of \$4,200,000, *is modified to authorize the Secretary to construct the project at a total cost of \$32,900,000, with an estimated Federal cost of \$24,700,000 and an estimated non-Federal cost of \$8,200,000.*

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**SEC. 308. FLOOD PLAIN MANAGEMENT.**

(a) **[BENEFIT-COST ANALYSIS] ELEMENTS EXCLUDED FROM COST-BENEFIT ANALYSIS.**—The Secretary shall not include in the benefit base for justifying Federal flood damage reduction projects—

(1)(A) any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 100-year flood plain with a first floor elevation less than the 100-year flood elevation after July 1, 1991; or

(B) in the case of a county substantially located within the 100-year flood plain, any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 10-year flood plain after July 1, 1991; and

(2) any structure which becomes located in the 100-year flood plain with a first floor elevation less than the 100-year flood elevation or in the 10-year flood plain, as the case may be, by virtue of constrictions placed in the flood plain after July 1, 1991.

(b) **ELEMENTS INCLUDED IN COST-BENEFIT ANALYSIS.**—*The Secretary shall include primary flood damages avoided in the benefit base for justifying Federal nonstructural flood damage reduction projects.*

[(b)] (c) COUNTIES SUBSTANTIALLY LOCATED WITHIN 100-YEAR FLOOD PLAIN.—For the purposes of subsection (a), a county is substantially located within the 100-year flood plain—

(1) if the county is comprised of lands of which 50 percent or more are located in the 100-year flood plain; and

(2) if the Secretary determines that application of the requirement contained in subsection (a)(1)(A) with respect to the county would unreasonably restrain continued economic development or unreasonably limit the availability of needed flood control measures.

[(c)] (d) COST SHARING.—Not later than January 1, 1992, the Secretary shall transmit to Congress a report on the feasibility and advisability of increasing the non-Federal share of costs for new projects in areas where new or substantially improved structures and other constrictions are built or placed in the 100-year flood plain or the 10-year flood plain, as the case may be, after the initial date of the affected governmental unit's entry into the regular program of the national flood insurance program of the National Flood Insurance Act of 1968.

[(d)] (e) REGULATIONS.—Not later than 6 months after the date on which a report is transmitted to Congress under subsection (b), the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall issue regulations to implement subsection (a). Such regulations shall define key terms, such as new or substantially improved structure, constriction, 10-year flood plain, and 100-year flood plain.

[(e)] (f) APPLICABILITY.—The provisions of this section shall not apply to any project, or separable element thereof, for which a final report of the Chief of Engineers has been forwarded to the Secretary before the last day of the 6-month period beginning on the date on which regulations are issued pursuant to subsection (a) but not later than July 1, 1993.

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## SEC. 312. ENVIRONMENTAL DREDGING.

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

(f) PRIORITY WORK.—In carrying out this section, the Secretary shall give priority to work in the following areas:

- (1) Brooklyn Waterfront, New York.
- (2) Buffalo Harbor and River, New York.
- (3) Ashtabula River, Ohio.
- (4) Mahoning River, Ohio.
- (5) Lower Fox River, Wisconsin.
- (6) *Snake Creek, Bixby, Oklahoma.*

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*Public Law 102-580***WATER RESOURCES DEVELOPMENT ACT OF 1992**

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

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

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

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**SEC. 204. BENEFICIAL USES OF DREDGED MATERIAL.**

(a) **IN GENERAL.**— \* \* \*

(g) *NONPROFIT ENTITIES.*—*Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), 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.*

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**SEC. 405. SEDIMENTS DECONTAMINATION TECHNOLOGY.**

(a) **DECONTAMINATION PROJECT.**—

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

(2) **RECOMMENDED PROGRAM.**—Upon selection of technologies, the Administrator and the Secretary shall jointly recommend a program of selected technologies to assess their effectiveness in rendering sediments acceptable for unrestricted ocean disposal or beneficial reuse, or both.

(3) **PROJECT PURPOSE.**—The purpose of the project to be carried out under this section is to provide for the development of 1 or more sediment decontamination technologies on a pilot scale demonstrating a capacity of at least 500,000 cubic yards per year.

(4) *PRACTICAL END-USE PRODUCTS.*—*Technologies selected for demonstration at the pilot scale shall result in practical end-use products.*

(5) *ASSISTANCE BY THE SECRETARY.*—*The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity.*

(b) **DECONTAMINATION DEFINED.**—For purposes of this section, ‘decontamination’ may include local or remote prototype or production and laboratory decontamination technologies, sediment pre-treatment and post-treatment processes, and siting, economic, or other measures necessary to develop a matrix for selection of in-

terim prototype of long-term processes. Decontamination techniques need not be preproven in terms of likely success.

(c) AUTHORIZATION OF APPROPRIATIONS.—**[**There is authorized to be appropriated to carry out this section \$5,000,000 for fiscal years beginning after September 30, 1992**]** *There is authorized to be appropriated to carry out this section a total of \$22,000,000 to complete technology testing, technology commercialization, and the development of full scale processing facilities within the New York-New Jersey Harbor.* Such sums shall remain available until expended.

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## SEC. 219. ENVIRONMENTAL INFRASTRUCTURE.

(a) IN GENERAL.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out water-related environmental infrastructure and resource protection and development projects described in subsection (c), including waste water treatment and related facilities and water supply, storage, treatment, and distribution facilities. Such assistance may be in the form of technical and planning and design assistance. If the Secretary is to provide any design or engineering assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—

(1) the service would require the use of a new technology unavailable in the private sector; or

(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of projects for which assistance is provided under this section shall not be less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.

(c) PROJECT DESCRIPTIONS.—The projects for which the Secretary is authorized to provide assistance under subsection (a) are as follows:

(1) LAKE TAHOE, CALIFORNIA AND NEVADA.—*Regional water system for Lake Tahoe, California and Nevada.*

(2) LANCASTER, CALIFORNIA.—*Fox Field Industrial Corridor water facilities, Lancaster, California.*

(3) SAN RAMON, CALIFORNIA.—*San Ramon Valley recycled water project, San Ramon, California.*

**[(1)]** (4) WASHINGTON, D.C. AND MARYLAND.—Measures to alleviate adverse water quality impacts resulting from storm water discharges from Federal facilities in the Anacostia River watershed, Washington, D.C. and Maryland.

**[(2)]** (5) ATLANTA, GEORGIA.—A combined sewer overflow treatment facility for the city of Atlanta, Georgia.

**[(3)]** (6) HAZARD, KENTUCKY.—A water system (including a 13,000,000 gallon per day water treatment plant), intake structures, raw water pipelines and pumps, distribution lines, and pumps and storage tanks for Hazard, Kentucky.

[(4)] (7) ROUGE RIVER, MICHIGAN.—Completion of a comprehensive streamflow enhancement project for the Western Townships Utility Authority, Rouge River, Wayne County, Michigan.

[(5)] (8) JACKSON COUNTY, MISSISSIPPI.—Provision of an alternative water supply for Jackson County, Mississippi.

[(6)] (9) EPPING, NEW HAMPSHIRE.—Evaluation and assistance in addressing expanded and advanced wastewater treatment needs for Epping, New Hampshire.

[(7)] (10) MANCHESTER, NEW HAMPSHIRE.—Elimination of combined sewer overflows in the city of Manchester, New Hampshire.

[(8)] (11) ROCHESTER, NEW HAMPSHIRE.—Provision of advanced wastewater treatment for the city of Rochester, New Hampshire.

[(9)] (12) PATERSON AND PASSAIC COUNTY, NEW JERSEY.—Drainage facilities to alleviate flooding problems on Getty Avenue in the vicinity of St. Joseph's Hospital for the city of Paterson, New Jersey, and Passaic County, New Jersey.

[(10)] (13) STATE OF NEW JERSEY AND NEW JERSEY WASTEWATER TREATMENT TRUST.—The development of innovative beneficial uses of sewage sludge and conventional and innovative facilities to dispose of sewage sludge or to make reusable products from sewage sludge for local government units that ceased the discharge of sewage sludge in the Atlantic Ocean.

[(11)] (14) ERIE COUNTY, NEW YORK.—A tunnel from North Buffalo, New York, to Amherst Quarry to relieve flooding and improve water quality.

[(12)] (15) ERIE COUNTY, NEW YORK.—A sludge processing disposal facility to serve the Erie County Sewer District 5, New York.

[(13)] (16) OTSEGO COUNTY, NEW YORK.—A water storage tank and an adequate water filtration system for the Village of Milford, Otsego County, New York.

[(14)] (17) CHENANGO COUNTY, NEW YORK.—A primary source water well and improvement of a water distribution system for New Berlin, Chenango County, New York.

[(15)] (18) GREENSBORO AND GLASSWORKS, PENNSYLVANIA.—A sewage treatment plant for the borough of Greensboro, Pennsylvania, and the unincorporated village of Glassworks, Pennsylvania.

[(16)] (19) LYNCHBURG, VIRGINIA.—Alleviation of combined sewer overflows for Lynchburg, Virginia, in accordance with combined sewer overflow control plans adopted by, and currently being implemented by, the non-Federal sponsor.

[(17)] (20) RICHMOND, VIRGINIA.—Alleviation of combined sewer overflows for Richmond, Virginia, in accordance with combined sewer overflow control plans adopted by, and currently being implemented by, the non-Federal sponsor.

[(18)] (21) COLONIAS ALONG UNITED STATES-MEXICO BORDER.—Wastewater treatment facilities, water systems (including water treatment plants), intake structures, raw water pipelines and pumps, distribution lines, and pumps and storage

tanks for colonias in the United States along the United States-Mexico border.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing assistance under this section \$5,000,000. Such sums shall remain available until expended.

(e) AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION ASSISTANCE.—There are authorized to be appropriated for providing construction assistance under this section—

- (1) \$10,000,000 for the project described in subsection (c)(5);
- (2) \$2,000,000 for the project described in subsection (c)(6);
- (3) \$10,000,000 for the project described in subsection (c)(7);
- (4) \$11,000,000 for the project described in subsection (c)(8);
- (5) \$20,000,000 for the project described in subsection (c)(16); and
- (6) \$20,000,000 for the project described in subsection (c)(17).

\* \* \* \* \*

#### *Public Law 104–303*

### **WATER RESOURCES DEVELOPMENT ACT OF 1996**

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

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

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

\* \* \* \* \*

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

(a) PROJECTS WITH CHIEF’S REPORTS.— \* \* \*

(5) SAN LORENZO RIVER, CALIFORNIA.—The project for flood control, San Lorenzo River, California: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of \$21,800,000, with an estimated Federal cost of \$10,900,000 and an estimated non-Federal cost of \$10,900,000 and habitat restoration, at a total cost of \$4,050,000, with an estimated Federal cost of \$3,040,000 and an estimated non-Federal cost of \$1,010,000; *is modified to authorize the Secretary to include as a part of the project streambank erosion control measures to be undertaken substantially in accordance with the report entitled “Bank Stabilization Concept, Laurel Street Extension”, dated April 23, 1998, at a total cost of \$4,000,000, with an estimated Federal cost of \$2,600,000 and an estimated non-Federal cost of \$1,400,000.*

\* \* \* \* \*

(19) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska: Report of the Chief of Engineers, dated May 3, 1994, at a total cost of \$11,800,000, with an estimated Federal cost of \$6,040,000

and an estimated non-Federal cost of \$5,760,000; *is modified to authorize the Secretary to construct the project in accordance with the Corps of Engineers report dated June 29, 1998, at a total cost of \$16,632,000, with an estimated Federal cost of \$9,508,000 and an estimated non-Federal cost of \$7,124,000.*

\* \* \* \* \*

#### SEC. 102. SMALL FLOOD CONTROL PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) SOUTH UPLAND, SAN BERNADINO COUNTY, CALIFORNIA.—  
\* \* \*

(15) REPAUPO CREEK AND DELAWARE RIVER, GLOUCESTER COUNTY, NEW JERSEY.—*Project for tidegate and levee improvements for Repaupo Creek and the Delaware River, Gloucester County, New Jersey.*

(16) TIOGA COUNTY, PENNSYLVANIA.—*Project for flood control, Tioga River and Cowanesque River and their tributaries, Tioga County, Pennsylvania.*

[(15)] (17) BUFFALO CREEK, ERIE COUNTY, NEW YORK.—Project for flood control, Buffalo Creek, Erie County, New York.

[(16)] (18) CAZENOVIA CREEK, ERIE COUNTY, NEW YORK.—Project for flood control, Cazenovia Creek, Erie County, New York.

[(17)] (19) CHEEKTOWAGA, ERIE COUNTY, NEW YORK.—Project for flood control, Cheektowaga, Erie County, New York.

[(18)] (20) FULMER CREEK, VILLAGE OF MOHAWK, NEW YORK.—Project for flood control, Fulmer Creek, village of Mohawk, New York.

[(19)] (21) MOYER CREEK, VILLAGE OF FRANKFORT, NEW YORK.—Project for flood control, Moyer Creek, village of Frankfort, New York.

[(20)] (22) SAUQUOIT CREEK, WHITESBORO, NEW YORK.—Project for flood control, Sauquoit Creek, Whitesboro, New York.

[(21)] (23) STEELE CREEK, VILLAGE OF ILION, NEW YORK.—Project for flood control, Steele Creek, village of Ilion, New York.

[(22)] (24) WILLAMETTE RIVER, OREGON.—Project for non-structural flood control, Willamette River, Oregon, including floodplain and ecosystem restoration.

\* \* \* \* \*

#### SEC. 104. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) AKUTAN, ALASKA.— \* \* \*

(9) *FORTESCUE INLET, DELAWARE BAY, NEW JERSEY.*—*Project for navigation for Fortesque Inlet, Delaware Bay, New Jersey.*

[(9)] (10) *BROOKLYN, NEW YORK.*—Project for navigation, Brooklyn, New York, including restoration of the pier and related navigation support structures, at the Sixty-Ninth Street Pier.

[(10)] (11) *BUFFALO INNER HARBOR, BUFFALO, NEW YORK.*—Project for navigation, Buffalo Inner Harbor, Buffalo, New York, including enlargement of the existing harbor and bank stabilization measures.

[(11)] (12) *GLENN COVE CREEK, NEW YORK.*—Project for navigation, Glenn Cove Creek, New York, including bulkheading.

[(12)] (13) *UNION SHIP CANAL, BUFFALO AND LACKAWANNA, NEW YORK.*—Project for navigation, Union Ship Canal, Buffalo and Lackawanna, New York.

\* \* \* \* \*

## SEC. 206. AQUATIC ECOSYSTEM RESTORATION.

(a) GENERAL AUTHORITY.— \* \* \*

(c) AGREEMENTS.—[Construction]

(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(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.*

\* \* \* \* \*

## SEC. 211. CONSTRUCTION OF FLOOD CONTROL PROJECTS BY NON-FEDERAL INTERESTS.

(a) AUTHORITY.— \* \* \*

(e) REIMBURSEMENT.—

(1) GENERAL RULE.— \* \* \*

(2) SPECIAL RULES.—

(A) REIMBURSEMENT.—For work (including work associated with studies, planning, design, and construction) carried out by a non-Federal interest with respect to a project described in subsection (f), the Secretary shall, [subject to amounts being made available in advance in appropriations Acts] *subject to the availability of appropriations*, reimburse, without interest, the non-Federal interest an amount equal to the estimated Federal share of

the cost of such work if such work is later recommended by the Chief of Engineers and approved by the Secretary.

\* \* \* \* \*

### SEC. 301. PROJECT MODIFICATIONS.

(a) PROJECTS WITH REPORTS.— \* \* \*

(b) PROJECTS SUBJECT TO REPORTS.—The following projects are modified as follows, except that no funds may be obligated to carry out work under such modifications until completion of a report by the Corps of Engineers finding that such work is technically sound, environmentally acceptable, and economic, as applicable:

(1) ALAMO DAM, ARIZONA.— \* \* \*

(3) GLENN-COLUSA, CALIFORNIA.—The project for flood control, Sacramento River, California, authorized by section 2 of the Act entitled “An Act to provide for the control of the floods of the Mississippi River and of the Sacramento River, California, and for other purposes”, approved March 1, 1917 (39 Stat. 949), and modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), *and further modified by section 301(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3709)*, **is further modified to authorize the Secretary to carry out the portion of the project at Glenn-Colusa, California, at a total cost of \$14,200,000** *is further modified to authorize the Secretary to carry out the portion of the project in Glenn-Colusa, California in accordance with the Corps of Engineers report dated May 22, 1998, at a total cost of \$20,700,000, with an estimated Federal cost of \$15,570,000 and an estimated non-Federal cost of \$5,130,000.*

\* \* \* \* \*

### SEC. 364. PROJECT DEAUTHORIZATIONS.

The following projects are not authorized after the date of the enactment of this Act:

(1) BRANFORD HARBOR, CONNECTICUT.— \* \* \*

**[(9) EAST BOOTHBAY HARBOR, MAINE.—**The following portion of the navigation project for East Boothbay Harbor, Maine, authorized by the 1st section of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved June 25, 1910 (36 Stat. 657), containing approximately 1.15 acres and described in accordance with the Maine State Coordinate System, West Zone: Beginning at a point noted as point number 6 and shown as having plan coordinates of North 9, 722, East 9, 909, on the plan entitled, “East Boothbay Harbor, Maine, examination, 8- foot area”, and dated August 9, 1955, Drawing Number F1251 D-6- 2, that point having Maine State Coordinate System, West Zone coordinates of Northing 74514, Easting 698381. Thence, North 58 degrees, 12 minutes, 30 seconds East a distance of 120.9 feet to a point. Thence, South 72 degrees, 21 minutes, 50 seconds East a distance of 106.2 feet to a point. Thence, South 32 degrees, 04 minutes, 55 seconds East a distance of 218.9 feet to a point. Thence, South 61 degrees, 29 minutes, 40 sec-

onds West a distance of 148.9 feet to a point. Thence, North 35 degrees, 14 minutes, 12 seconds West a distance of 87.5 feet to a point. Thence, North 78 degrees, 30 minutes, 58 seconds West a distance of 68.4 feet to a point. Thence, North 27 degrees, 11 minutes, 39 seconds West a distance of 157.3 feet to the point of beginning.】

(9) *EAST BOOTHBAY HARBOR, MAINE.*—*The project for navigation, East Boothbay Harbor, Maine, authorized by the first section of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved June 25, 1910 (36 Stat. 657).*

\* \* \* \* \*

#### **SEC. 444. PACIFIC REGION.**

The Secretary may conduct studies in the [interest of navigation] *interests of water resources development (including navigation, flood damage reduction, and environmental restoration)* in that part of the Pacific region that includes American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

\* \* \* \* \*

#### **SEC. 503. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.**

(a) *IN GENERAL.*—The Secretary may provide technical, planning, and design assistance to non-Federal interests for carrying out watershed management, restoration, and development projects at the locations described in subsection (d).

(b) *SPECIFIC MEASURES.*—Assistance provided under subsection (a) may be in support of non-Federal projects for the following purposes:

- (1) Management and restoration of water quality.
- (2) Control and remediation of toxic sediments.
- (3) Restoration of degraded streams, rivers, wetlands, and other waterbodies to their natural condition as a means to control flooding, excessive erosion, and sedimentation.
- (4) Protection and restoration of watersheds, including urban watersheds.
- (5) Demonstration of technologies for nonstructural measures to reduce destructive impacts of flooding.

(c) *Non-Federal Share.*—The non-Federal share of the cost of assistance provided under subsection (a) shall be 50 percent.

(d) *PROJECT LOCATIONS.*—The Secretary may provide assistance under subsection (a) for projects at the following locations:

- (1) Gila River and Tributaries, Santa Cruz River, Arizona.
- (2) Rio Salado, Salt River, Phoenix and Tempe, Arizona.
- (3) Colusa basin, California.
- (4) Los Angeles River watershed, California.
- (5) Napa Valley watershed, California.
- (6) Russian River watershed, California.
- (7) Sacramento River watershed, California.
- (8) San Pablo Bay watershed, California.
- (9) Santa Clara Valley watershed, California.

(10) Nancy Creek, Utoy Creek, and North Peachtree Creek and South Peachtree Creek basin, Georgia.

(11) Lower Platte River watershed, Nebraska.

(12) Juniata River watershed, Pennsylvania, including Raystown Lake.

(13) Upper Potomac River watershed, Grant and Mineral Counties, West Virginia.

(14) *Clear Lake watershed, California.*

(15) *Fresno Slough watershed, California.*

(16) *Hayward Marsh, Southern San Francisco Bay watershed, California.*

(17) *Kaweah River watershed, California.*

(18) *Lake Tahoe watershed, California and Nevada.*

(19) *Malibu Creek watershed, California.*

(20) *Truckee River basin, Nevada.*

(21) *Walker River basin, Nevada.*

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

\* \* \* \* \*

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

[(a) SALMON SURVIVAL ACTIVITIES.—

[(1) IN GENERAL.—The Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia River Basin.

[(2) ACCELERATED ACTIVITIES.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

[(A) impacts from water resources projects and other impacts on salmon life cycles;

[(B) juvenile and adult salmon passage;

[(C) light and sound guidance systems;

[(D) surface-oriented collector systems;

[(E) transportation mechanisms; and

[(F) dissolved gas monitoring and abatement.

[(3) ADDITIONAL ACTIVITIES.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

[(A) marine mammal predation on salmon;

[(B) studies of juvenile salmon survival in spawning and rearing areas;

[(C) estuary and near-ocean juvenile and adult salmon survival;

[(D) impacts on salmon life cycles from sources other than water resources projects; and

[(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

[(4) COORDINATION.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

[(5) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

[(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 to carry out research and development activities under paragraph (3).

[(b) ADVANCED TURBINE DEVELOPMENT.—

[(1) IN GENERAL.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing innovative, efficient, and environmentally safe hydropower turbines, including design of “fish-friendly” turbines, for use on the Columbia River hydrosystem.

[(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$12,000,000 to carry out this subsection.

[(c) Implementation.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.]

(a) *SALMON SURVIVAL ACTIVITIES.*—

(1) *IN GENERAL.*—*In conjunction with the Secretary of Commerce and Secretary of the Interior, the Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia/Snake River Basin.*

(2) *ACCELERATED ACTIVITIES.*—*Accelerated research and development activities referred to in paragraph (1) may include research and development related to—*

(A) *impacts from water resources projects and other impacts on salmon life cycles;*

(B) *juvenile and adult salmon passage;*

(C) *light and sound guidance systems;*

(D) *surface-oriented collector systems;*

(E) *transportation mechanisms; and*

(F) *dissolved gas monitoring and abatement.*

(3) *ADDITIONAL ACTIVITIES.*—*Additional research and development activities referred to in paragraph (1) may include research and development related to—*

(A) *studies of juvenile salmon survival in spawning and rearing areas;*

(B) *estuary and near-ocean juvenile and adult salmon survival;*

(C) *impacts on salmon life cycles from sources other than water resources projects;*

(D) *cryopreservation of fish gametes and formation of a germ plasm repository for threatened and endangered populations of native fish; and*

(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

(4) *COORDINATION.*—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

(5) *REPORT.*—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

(6) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated \$10,000,000 to carry out research and development activities under paragraph (3).

(b) *ADVANCED TURBINE DEVELOPMENT.*—

(1) *IN GENERAL.*—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing and installing in Corps of Engineers operated dams innovative, efficient, and environmentally safe hydropower turbines, including design of “fish-friendly” turbines, for use on the Columbia/Snake River hydrosystem.

(2) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated \$35,000,000 to carry out this subsection.

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

(1) *NESTING AVIAN PREDATORS.*—In conjunction with the Secretary of Commerce and Secretary of the Interior, and consistent with a management plan to be developed by the United States Fish and Wildlife Service, the Secretary shall carry out methods to reduce nesting populations of avian predators on dredge spoil islands in the Columbia River under the jurisdiction of the Secretary.

(2) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated \$1,000,000 to carry out research and development activities under this subsection.

(d) *IMPLEMENTATION.*—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.

\* \* \* \* \*

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

(a) *DEFINITIONS.*— \* \* \*

(b) *RESTORATION ACTIVITIES.*—

(1) *COMPREHENSIVE PLAN.*— \* \* \*

(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 pro-

tection 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, [1999] 2000, 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) \$75,000,000 for the period consisting of fiscal years 1997 through [1999] 2000.

(ii) FEDERAL SHARE.—The Federal share of the cost of carrying out any 1 project under subparagraph (A) shall be not more than \$25,000,000.

\* \* \* \* \*

(e) COST SHARING.—

(1) IN GENERAL.— \* \* \*

(4) CREDIT.—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, *including potential land acquisition in the Caloosahatchee River basin or other areas*. Such value shall be determined by the Secretary.

\* \* \* \* \*

#### **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 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) The Juniata River watershed, Pennsylvania, at an estimated Federal cost of \$8,000,000.

(2) The Susquehanna River watershed upstream of the Chemung River, New York, at an estimated Federal cost of \$5,000,000.

(3) *The Chemung River watershed, New York, at an estimated cost of \$5,000,000.*

