



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 18, 2007
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 1495 – Water Resources Development Act of 2007

(Rep. Oberstar (D) MN and 3 cosponsors)

As reported by the House Transportation and Infrastructure Committee, H.R. 1495, the Water Resources Development Act (WRDA) of 2007, would increase the cost to the Federal government by 50 percent or more relative to the House-passed WRDA from the 109th Congress. The Administration estimates that it would cost at least \$15 billion and possibly substantially more to implement the hundreds of new projects and programs that H.R. 1495 contains. The bill would increase the Federal cost-share for many projects, authorize projects outside of the Army Corps of Engineers' (Corps) mission, and not ensure that projects yield high economic and environmental returns. In a time of much-needed fiscal restraint, the additional spending in this bill is unacceptable. For these reasons, the Administration strongly opposes H.R. 1495 in its current form.

Spending Concerns

To maintain fiscal discipline, the Administration urges the House to limit the number of authorizations in the bill substantially – to those within the three main mission areas that are the most compelling based on their overall economic and environmental return to the nation.

To further reduce the cost of this bill, the Administration urges the House to delete or amend the following provisions:

- Section 2002, which would significantly lower the cost-share paid by non-Federal entities to deepen and maintain coastal harbors and channels below 45 feet, adding more than \$500 million to the costs paid by the general taxpayer just for the projects that are underway or already proposed;
- Sections 2009 and 2019, which together would potentially add billions of dollars in Federal costs and undermine cost-sharing by providing non-Federal interests “credit” for work performed prior to the signing of a project cooperation agreement, and would add new liquidated damages against the Federal government;
- Section 2018 and subsection 7007(b), which would allow Federal funds to count as non-Federal cost-shares – thereby eviscerating the purpose of cost-sharing;
- Section 2032, which would establish a costly commitment to the periodic nourishment of sand beaches; and

- Section 2036, which would reverse efforts to optimize national economic and environmental returns.

In addition, the House should set the cost-share paid by the general taxpayer for the aquatic ecosystem restoration work in coastal Louisiana and along the Upper Mississippi River and Illinois Waterway at no more than 50 percent, as it is for the Everglades restoration effort.

Planning for the Future

The Administration supports expanded use of external independent review and new authority for the Secretary of the Army to use external independent peer review panels. Sections 2037 and 7009 would unduly restrict current authority to use such panels. The Administration urges the House to delete section 7009. The Administration urges the House to revise section 2037 to: (1) extend the tenure of review panels if the Corps proposes substantial changes to a project not previously considered by the panel; (2) provide sufficient flexibility to the Secretary and to the Chief of Engineers to convene a review panel following a final report by the District Corps office when needed; (3) establish a higher dollar threshold for triggering a mandatory review; and (4) authorize the Secretary, as well as the Chief of Engineers, to initiate a discretionary review.

Section 2027 and subsections 2028(h) and (i) would change the environmental review process by imposing requirements that are cumbersome and restrictive of basic practices under the National Environmental Policy Act of 1969, and by imposing arbitrary time deadlines on decisions by Federal agencies, state and local agencies, and Native American tribes.

Aquatic Ecosystem Restoration

The bill would significantly expand the current Federal effort to restore the aquatic ecosystem of coastal Louisiana, which the Administration supports. At the same time, the Administration has concerns with section 1001(21), which would authorize construction of a 72-mile Federal levee in coastal Louisiana. The project, which was developed pre-Katrina, could require re-formulation to ensure consistency with the conclusions of the ongoing comprehensive Louisiana Coastal Protection and Restoration study and with the long-term Federal effort to restore the coastal ecosystem.

The Administration urges the House to delete section 8005, which would tie new spending for the Upper Mississippi River and Illinois Waterway aquatic ecosystem restoration to the amounts appropriated for new locks, rather than to the individual merits of each project.

The Administration is committed to restoring the Everglades in partnership with the State of Florida and supports the bill's authorization to construct the Indian River Lagoon and Picayune Strand projects, as part of the South Florida aquatic ecosystem restoration effort. The Administration, however, opposes section 6008 regarding the Modified Water Deliveries project, which would establish a strict formula to govern how the Corps and the Department of the Interior would share these costs and restrict options concerning the scope of the work performed under the authorization for this project.

Constitutional Concerns

Subsections 2027(c), 7004(b), 7004(c), and other provisions that purport to direct the substance of, and/or determine the chain of command for, internal Executive Branch deliberations should be deleted as inconsistent with the President's authority to supervise the unitary Executive Branch.

Subsections 2027(h), 2028(a), 4002, and 4003(c) purport to require the Secretary of the Army or other Executive Branch officials to submit legislative recommendations to the Congress and should be deleted as inconsistent with the President's exclusive authority under the Constitution to recommend for Congressional consideration such measures as the President judges necessary and expedient.

Subsections 7006(c)(3), 7006(e)(3), and 7012(c) purport to give congressional committees the power to control the execution of certain provisions of the bill after it has been enacted as well as the power to appropriate funds by committee resolution. These subsections should be modified so as not to violate the constitutional separation of powers and not contradict the Supreme Court's ruling in *INS v. Chadha*.

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