

Lesson 15

CIVIL WORKS PROGRAM
DEVELOPMENT AND EXECUTION COURSE
LESSON NUMBER 15

6. CIVIL WORKS PROGRAM EXECUTION

TOPIC: a. Committee Reports, Bills, and Acts
(1) Legislative Process
(2) Document Use
(3) Implementing Congressional Changes to Budget

TIME ALLOTTED: 1¼ hours, including time for questions and answers

HANDOUTS: H 15-1 How a Bill Becomes a Law
H 15-2 Extract from the Water Resources Development Act of 2007 (P.L. 110-114)
H 15-3 Extract from H.R. 2605, as amended by the Senate (FY 2000, EXAMPLE ONLY)
H 15-4 Extract from the House Appropriations Committee Report accompanying H.R. 2419 (109th Congress)
H 15-5 Extract from the Senate Appropriations Committee Report accompanying H.R. 2419 (109th Congress)
H 15-6 Extract from the Conference Committee Report accompanying H.R. 2419 (109th Congress)
H 15-7 Extract from the Energy and Water Development Appropriations Act, 2006 (P.L. 109-103)

REFERENCES: Energy and Water Development Appropriations Acts and the accompanying Committee Reports
Water Resources Development Acts and the accompanying Committee Reports

DETAILED OUTLINE

A. INTRODUCTION

Objective: To provide familiarization with the Civil Works legislative process after the hearings, the legislative documents that result, and the significance and use of these documents.

B. TYPICAL CIVIL WORKS ACTS

1. Energy and Water Development Appropriations Act - by the Appropriations Committees.

2. Water Resources Development Act (WRDA) - by the Public Works Committees (authorizing committees).

a. Senate Committee on Environment and Public Works

b. House Committee on Transportation and Infrastructure

C. POST-HEARING PROCESS

1. Appropriations only:

a. Appropriations and Public Works Committees report and recommend budget levels of their programs to the Budget Committees.

b. Budget Committees report Concurrent Resolution on the Budget to their respective houses, which includes the budget level for Natural Resources and Environment.

c. Congress passes Concurrent Budget Resolution.

2. All legislation (including appropriations):

a. Subcommittees make recommendations to the full Committees (proposed reports and bills).

b. Committee Reports and Bills.

c. Floor passage.

d. Report of Committee on Conference.

e. Final enactment.

f. Approval (or veto) by President.

D. DOCUMENT USE

1. Appropriations.

a. Read Act Language.

b. Look for special instructions in Conference Report.

c. Look for special instructions in Senate and House Reports.

d. Read the Congressional Record for discussions, debate and colloquies on the floor.

- Colloquies are formal questions or requests for clarification put to the Chairman of the Committee or Subcommittee whose bill is on the floor.
- The Chairman's reply is "for the record" and carries the same weight as Report language.
- Colloquies are usually prearranged.

e. Reconcile differences.

- Act language governs.
- Conference Report governs over House and Senate Reports.
- Conference Report resolves differences between House and Senate Reports.
- Separate House and Senate Report language, not in disagreement, is incorporated by reference into the Conference Report.

2. Project Authorizations.

a. Note citations in Act; (e.g., "...as recommended in the Report of the Chief of Engineers dated...").

b. Read the Report and the recommendations of the Assistant Secretary of the Army (Civil Works), Chief of Engineers, Board of Engineers for Rivers and Harbors (BERH), Division Commander and District Commander.

c. Read the Conference, Senate and House Reports for possible discussions and clarifications of special projects or general authorities. Clarification or guidance sometimes contained in hearings record or floor colloquies.

E. IMPLEMENTING CONGRESSIONAL CHANGES TO THE BUDGET

1. HQUSACE analysis of Congressional changes to the budget, identification of alternative courses of action, and making recommendations to the ASA(CW).

2. ASA(CW) reviews and approves.

3. Notification of OMB and Appropriation Committees.

H. R. 1495

**One Hundred Tenth Congress
of the
United States of America**

AT THE FIRST SESSION

*Begun and held at the City of Washington on Thursday,
the fourth day of January, two thousand and seven*

An Act

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.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Water Resources Development Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Secretary.

TITLE I—WATER RESOURCES PROJECTS

- Sec. 1001. Project authorizations.
- Sec. 1002. Small projects for flood damage reduction.
- Sec. 1003. Small projects for emergency streambank protection.
- Sec. 1004. Small projects for navigation.
- Sec. 1005. Small projects for improvement of the quality of the environment.
- Sec. 1006. Small projects for aquatic ecosystem restoration.
- Sec. 1007. Small projects for shoreline protection.
- Sec. 1008. Small projects for snagging and sediment removal.
- Sec. 1009. Small projects to prevent or mitigate damage caused by navigation projects.
- Sec. 1010. Small projects for aquatic plant control.

TITLE II—GENERAL PROVISIONS

- Sec. 2001. Non-Federal contributions.
- Sec. 2002. Funding to process permits.
- Sec. 2003. Written agreement for water resources projects.
- Sec. 2004. Compilation of laws.
- Sec. 2005. Dredged material disposal.
- Sec. 2006. Remote and subsistence harbors.
- Sec. 2007. Use of other Federal funds.
- Sec. 2008. Revision of project partnership agreement; cost sharing.
- Sec. 2009. Expedited actions for emergency flood damage reduction.
- Sec. 2010. Watershed and river basin assessments.
- Sec. 2011. Tribal partnership program.
- Sec. 2012. Wildfire firefighting.
- Sec. 2013. Technical assistance.
- Sec. 2014. Lakes program.
- Sec. 2015. Cooperative agreements.
- Sec. 2016. Training funds.
- Sec. 2017. Access to water resource data.
- Sec. 2018. Shore protection projects.
- Sec. 2019. Ability to pay.
- Sec. 2020. Aquatic ecosystem and estuary restoration.
- Sec. 2021. Small flood damage reduction projects.
- Sec. 2022. Small river and harbor improvement projects.
- Sec. 2023. Protection of highways, bridge approaches, public works, and nonprofit public services.

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- Sec. 2024. Modification of projects for improvement of the quality of the environment.
- Sec. 2025. Remediation of abandoned mine sites.
- Sec. 2026. Leasing authority.
- Sec. 2027. Fiscal transparency report.
- Sec. 2028. Support of Army civil works program.
- Sec. 2029. Sense of Congress on criteria for operation and maintenance of harbor dredging projects.
- Sec. 2030. Interagency and international support authority.
- Sec. 2031. Water resources principles and guidelines.
- Sec. 2032. Water resource priorities report.
- Sec. 2033. Planning.
- Sec. 2034. Independent peer review.
- Sec. 2035. Safety assurance review.
- Sec. 2036. Mitigation for fish and wildlife and wetlands losses.
- Sec. 2037. Regional sediment management.
- Sec. 2038. National shoreline erosion control development program.
- Sec. 2039. Monitoring ecosystem restoration.
- Sec. 2040. Electronic submission of permit applications.
- Sec. 2041. Project administration.
- Sec. 2042. Program administration.
- Sec. 2043. Studies and reports for water resources projects.
- Sec. 2044. Coordination and scheduling of Federal, State, and local actions.
- Sec. 2045. Project streamlining.
- Sec. 2046. Project deauthorization.
- Sec. 2047. Federal hopper dredges.

TITLE III—PROJECT-RELATED PROVISIONS

- Sec. 3001. Black Warrior-Tombigbee Rivers, Alabama.
- Sec. 3002. Cook Inlet, Alaska.
- Sec. 3003. King Cove Harbor, Alaska.
- Sec. 3004. Seward Harbor, Alaska.
- Sec. 3005. Sitka, Alaska.
- Sec. 3006. Tatitlek, Alaska.
- Sec. 3007. Rio De Flag, Flagstaff, Arizona.
- Sec. 3008. Nogales Wash and tributaries flood control project, Arizona.
- Sec. 3009. Tucson drainage area, Arizona.
- Sec. 3010. Osceola Harbor, Arkansas.
- Sec. 3011. St. Francis River Basin, Arkansas and Missouri.
- Sec. 3012. Pine Mountain Dam, Arkansas.
- Sec. 3013. Red-Ouachita River Basin Levees, Arkansas and Louisiana.
- Sec. 3014. Cache Creek Basin, California.
- Sec. 3015. CALFED stability program, California.
- Sec. 3016. Compton Creek, California.
- Sec. 3017. Grayson Creek/Murderer's Creek, California.
- Sec. 3018. Hamilton Airfield, California.
- Sec. 3019. John F. Baldwin Ship Channel and Stockton Ship Channel, California.
- Sec. 3020. Kaweah River, California.
- Sec. 3021. Larkspur Ferry Channel, Larkspur, California.
- Sec. 3022. Llagas Creek, California.
- Sec. 3023. Magpie Creek, California.
- Sec. 3024. Pacific Flyway Center, Sacramento, California.
- Sec. 3025. Petaluma River, Petaluma, California.
- Sec. 3026. Pinole Creek, California.
- Sec. 3027. Prado Dam, California.
- Sec. 3028. Redwood City Navigation Channel, California.
- Sec. 3029. Sacramento and American Rivers flood control, California.
- Sec. 3030. Sacramento Deep Water Ship Channel, California.
- Sec. 3031. Sacramento River bank protection, California.
- Sec. 3032. Salton Sea restoration, California.
- Sec. 3033. Santa Ana River Mainstem, California.
- Sec. 3034. Santa Barbara Streams, Lower Mission Creek, California.
- Sec. 3035. Santa Cruz Harbor, California.
- Sec. 3036. Seven Oaks Dam, California.
- Sec. 3037. Upper Guadalupe River, California.
- Sec. 3038. Walnut Creek Channel, California.
- Sec. 3039. Wildcat/San Pablo Creek Phase I, California.
- Sec. 3040. Wildcat/San Pablo Creek Phase II, California.
- Sec. 3041. Yuba River Basin project, California.
- Sec. 3042. South Platte River basin, Colorado.
- Sec. 3043. Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland.

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- Sec. 6002. Pilot projects.
- Sec. 6003. Maximum costs.
- Sec. 6004. Credit.
- Sec. 6005. Outreach and assistance.
- Sec. 6006. Critical restoration projects.
- Sec. 6007. Regional engineering model for environmental restoration.

TITLE VII—LOUISIANA COASTAL AREA

- Sec. 7001. Definitions.
- Sec. 7002. Comprehensive plan.
- Sec. 7003. Louisiana coastal area.
- Sec. 7004. Coastal Louisiana Ecosystem Protection and Restoration Task Force.
- Sec. 7005. Project modifications.
- Sec. 7006. Construction.
- Sec. 7007. Non-Federal cost share.
- Sec. 7008. Project justification.
- Sec. 7009. Independent review.
- Sec. 7010. Expedited reports.
- Sec. 7011. Reporting.
- Sec. 7012. New Orleans and vicinity.
- Sec. 7013. Mississippi River-Gulf Outlet.
- Sec. 7014. Hurricane and storm damage reduction.
- Sec. 7015. Larose to Golden Meadow.
- Sec. 7016. Lower Jefferson Parish, Louisiana.

TITLE VIII—UPPER MISSISSIPPI RIVER AND ILLINOIS WATER-WAY SYSTEM

- Sec. 8001. Definitions.
- Sec. 8002. Navigation improvements and restoration.
- Sec. 8003. Authorization of construction of navigation improvements.
- Sec. 8004. Ecosystem restoration authorization.
- Sec. 8005. Comparable progress.

TITLE IX—NATIONAL LEVEE SAFETY PROGRAM

- Sec. 9001. Short title.
- Sec. 9002. Definitions.
- Sec. 9003. Committee on Levee Safety.
- Sec. 9004. Inventory and inspection of levees.
- Sec. 9005. Limitations on statutory construction.
- Sec. 9006. Authorization of appropriations.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 1001. PROJECT AUTHORIZATIONS.

Except as otherwise 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, described in the respective reports designated in this section:

(1) HAINES, ALASKA.—The project for navigation, Haines, Alaska: Report of the Chief of Engineers dated December 20, 2004, at a total cost of \$14,040,000, with an estimated Federal cost of \$11,232,000 and an estimated non-Federal cost of \$2,808,000.

(2) PORT LIONS, ALASKA.—The project for navigation, Port Lions, Alaska: Report of the Chief of Engineers dated June 14, 2006, at a total cost of \$9,530,000, with an estimated Federal cost of \$7,624,000 and an estimated non-Federal cost of \$1,906,000.

(3) SANTA CRUZ RIVER, PASEO DE LAS IGLESIAS, ARIZONA.—The project for environmental restoration, Santa Cruz River, Pima County, Arizona: Report of the Chief of Engineers dated March 28, 2006, at a total cost of \$97,700,000, with an estimated Federal cost of \$63,300,000 and an estimated non-Federal cost of \$34,400,000.

(4) TANQUE VERDE CREEK, PIMA COUNTY, ARIZONA.—The project for environmental restoration, Tanque Verde Creek, Pima County, Arizona: Report of the Chief of Engineers dated July 22, 2003, at a total cost of \$5,906,000, with an estimated Federal cost of \$3,836,000 and an estimated non-Federal cost of \$2,070,000.

(5) SALT RIVER (RIO SALADO OESTE), MARICOPA COUNTY, ARIZONA.—The project for environmental restoration, Salt River (Rio Salado Oeste), Maricopa County, Arizona: Report of the Chief of Engineers dated December 19, 2006, at a total cost of \$166,650,000, with an estimated Federal cost of \$106,629,000 and an estimated non-Federal cost of \$60,021,000.

(6) SALT RIVER (VA SHLY'AY AKIMEL), MARICOPA COUNTY, ARIZONA.—

(A) IN GENERAL.—The project for environmental restoration, Salt River (Va Shly'ay Akimel), Arizona: Report of the Chief of Engineers dated January 3, 2005, at a total cost of \$162,100,000, with an estimated Federal cost of \$105,200,000 and an estimated non-Federal cost of \$56,900,000.

(B) COORDINATION WITH FEDERAL RECLAMATION PROJECTS.—The Secretary, to the maximum extent practicable, shall coordinate the design and construction of the project described in subparagraph (A) with the Bureau of Reclamation and any operating agent for any Federal reclamation project in the Salt River Basin to avoid impacts to existing Federal reclamation facilities and operations in the Salt River Basin.

(7) MAY BRANCH, FORT SMITH, ARKANSAS.—The project for flood damage reduction, May Branch, Fort Smith, Arkansas: Report of the Chief of Engineers dated December 19, 2006, at a total cost of \$30,850,000, with an estimated Federal cost of \$15,010,000 and an estimated non-Federal cost of \$15,840,000.

(8) HAMILTON CITY, GLENN COUNTY, CALIFORNIA.—The project for flood damage reduction and environmental restoration, Hamilton City, Glenn County, California: Report of the Chief of Engineers dated December 22, 2004, at a total cost of \$52,400,000, with an estimated Federal cost of \$34,100,000 and estimated non-Federal cost of \$18,300,000.

(9) SILVER STRAND SHORELINE, IMPERIAL BEACH, CALIFORNIA.—The project for storm damage reduction, Silver Strand Shoreline, Imperial Beach, California: Report of the Chief of Engineers dated December 30, 2003, at a total cost of \$13,700,000, with an estimated Federal cost of \$8,521,000 and an estimated non-Federal cost of \$5,179,000, and at an estimated total cost of \$42,500,000 for periodic beach nourishment over the 50-year life of the project, with an estimated Federal cost of \$21,250,000 and an estimated non-Federal cost of \$21,250,000.

EXTRACT

106TH CONGRESS
1ST SESSION**H. R. 2605**

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 1999

Ordered to be printed with the amendments of the Senate numbered

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 2000, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 **(1)** That the following sums are appropriated, out of any
 4 money in the Treasury not otherwise appropriated, for the
 5 fiscal year ending September 30, 2000, for energy and
 6 water development, and for other purposes, namely:

7 **TITLE I**8 **DEPARTMENT OF DEFENSE—CIVIL**9 **DEPARTMENT OF THE ARMY**10 **CORPS OF ENGINEERS—CIVIL**

11 The following appropriations shall be expended under
 12 the direction of the Secretary of the Army and the super-

1 SEC. 507. None of the funds appropriated by this Act
 2 shall be used to propose or issue rules, regulations, de-
 3 crees, or orders for the purpose of implementation, or in
 4 preparation for implementation, of the Kyoto Protocol
 5 which was adopted on December 11, 1997, in Kyoto,
 6 Japan at the Third Conference of the Parties to the
 7 United Nations Framework Convention on Climate
 8 Change, which has not been submitted to the Senate for
 9 advice and consent to ratification pursuant to article II,
 10 section 2, clause 2, of the United States Constitution, and
 11 which has not entered into force pursuant to article 25
 12 of the Protocol.

13 This Act may be cited as the "Energy and Water De-
 14 velopment Appropriations Act, 2000".

15 *That the following sums are appropriated, out of any*
 16 *money in the Treasury not otherwise appropriated, for the*
 17 *fiscal year ending September 30, 2000, for energy and*
 18 *water development, and for other purposes, namely:*

19 **TITLE I**

20 **DEPARTMENT OF DEFENSE—CIVIL**

21 **DEPARTMENT OF THE ARMY**

22 **CORPS OF ENGINEERS—CIVIL**

23 *The following appropriations shall be expended under*
 24 *the direction of the Secretary of the Army and the super-*
 25 *vision of the Chief of Engineers for authorized civil func-*

EXTRACT

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS
 BILL, 2006

MAY 18, 2005.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HOBSON, from the Committee on Appropriations, submitted the following

R E P O R T

[To accompany H.R. 2419]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

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SUMMARY OF ESTIMATES AND RECOMMENDATIONS

The Committee has considered budget estimates which are contained in the Budget of the United States Government, 2006. The following table summarizes appropriations for fiscal year 2005, the budget estimates, and amounts recommended in the bill for fiscal year 2006. Amounts shown include mandatory, discretionary and emergency appropriations.

INTRODUCTION

The Energy and Water Development Appropriations bill for fiscal year 2006 totals \$29,746,000,000 the same as the President's budget request, and \$131,682,000 below the amount appropriated in fiscal year 2005.

Title I of the bill provides \$4,746,021,000 for the programs of the U.S. Army Corps of Engineers, a decrease of \$293,927,000 below the fiscal year 2005 enacted level and \$414,021,000 over the budget request of \$4,332,000. The fiscal year 2006 budget request for the Corps of Engineers totals \$4,513,000,000, which is composed of \$4,332,000,000 in new budget authority and \$181,000,000 in new offsetting collections. A proposal to provide direct financing of the operation and maintenance of Corps of Engineers' hydropower facilities as offsetting collections from the Power Marketing Administrations' power sales revenues is rejected by the Committee.

The fiscal year 2006 budget request for the Corps' Civil Works Program represents a significant departure from previous Administration requests for the Corps, as it applies a new performance-based system based on the ratio of remaining benefits-to-remaining costs. This performance-based system is intended to focus limited federal resources on the efficient completion of high economic-value projects while suspending or terminating work on other projects found not to be of as high an economic value and on Congressionally mandated projects that have been included in prior Administration requests. The Committee supports the concept of focusing limited resources on completing high-value projects already under construction, and the Committee's performance-based approach. The Committee bill and report also makes a number of changes to improve the Corps' project management and execution, particularly in the areas of reprogrammings, continuing contracts, and five-year budget planning.

Title II provides \$1,011,486,000 for the Department of Interior and the Bureau of Reclamation, an increase of \$60,431,000 above the budget request of \$951,055,000 and \$6,060,000 below the fiscal year 2005 enacted level. The Committee recommends \$977,136,000 for the Bureau of Reclamation, an increase of \$60,431,000 over the request and \$6,060,000 below the fiscal year 2005 enacted level. A proposal to provide direct financing of operation and maintenance costs associated with the power functions of Reclamation facilities that generate the power sold by the Western Power Administration

	2005	2006 estimate	2006 re- appropriation	2006 recommendation com- pared with—	
				2005 ap- propriation	2006 estimate
Title I—Department of Defense—Civil	\$5,039,948	\$4,332,000	4,746,021	-\$293,927	\$414,021
Title II—Department of the Interior	1,017,546	951,055	1,011,486	-6,060	60,431
Title III—Department of Energy	24,419,197	24,219,307	24,317,857	-101,340	104,550
Title IV—Independent Agencies	289,336	234,238	207,266	-82,070	-26,972
Subtotal	30,727,429	29,730,600	30,539,630	-187,799	-809,030
Scorekeeping adjustments	-849,747	16,128	-793,630	56,117	-809,758
Grand Total of bill	29,877,682	29,746,728	29,746,000	-131,682	-728

is rejected by the Committee. The Committee recommends \$34,350,000 for the Central Utah Project and \$946,000 for deposit into the Utah Reclamation Mitigation and Conservation Account, both the same as the budget request.

Title III provides \$24,574,857,000 for the Department of Energy (DOE), an increase of \$278,103,000 over fiscal year 2005 and \$361,550,000 over the budget request of \$24,213,307,000. Consistent with the reorganization of the subcommittees within the House Committee on Appropriations, all Department of Energy programs are funded within this bill. The Committee funds new initiatives on the consolidation of special nuclear materials, the interim storage and integrated recycling of spent nuclear fuel, and on creating a sustainable nuclear stockpile and the DOE complex necessary to support that stockpile.

The Energy Supply and Conservation account, which funds renewable energy, energy efficiency, nuclear energy, non-defense environment, safety, and health programs, and energy conservation, is funded at \$1,762,888,000, an increase of \$13,442,000 over the request and \$44,050,000 below the current year enacted level. The Committee recommends \$3,666,055,000 for the Office of Science, an increase of \$203,337,000 over the budget request and \$66,184,000 over the current year. Additional funds are provided for priority work on advanced scientific computing, high energy physics, and operation of user facilities at fiscal year 2005 levels.

Environmental management activities (i.e., non-defense environmental cleanup, uranium enrichment decontamination and decommissioning fund, and defense environmental cleanup) are funded at \$7,379,768,000, a decrease of \$395,675,000 below the fiscal year 2005 enacted level and an increase of \$423,292,000 over the budget request. A large portion of this increase results from the Committee retaining environmental cleanup responsibilities within Environmental Management for facilities under the National Nuclear Security Administration (NNSA), rather than transferring such responsibilities to the NNSA as proposed in the budget. The Committee recommendation also restores \$194,905,000 from the proposed reduction for cleanup of the Hanford site.

The Committee recommends a total of \$661,447,000 for the Yucca Mountain repository, which includes \$310,000,000 for Nuclear Waste Disposal, an increase of \$10,000,000 over the request, and \$351,447,000 for Defense Nuclear Waste Disposal, the same as the request. The additional funds are provided for the Department to begin to move spent nuclear fuel away from reactor sites to interim storage at one or more existing DOE sites.

Funding for the National Nuclear Security Administration (NNSA), which includes nuclear weapons activities, defense nuclear nonproliferation, naval reactors, and the Office of the NNSA Administrator, is \$8,848,449,000, an increase of \$23,990,000 over fiscal year 2005 and a decrease of \$548,792,000 from the budget request. Within the weapons activities account, the Committee provides no funds for the robust nuclear earth penetrator study, but provides significant increases for the Sustainable Stockpile Initiative, including development of the Reliable Replacement Warhead. Additional funds are also provided to accelerate the consolidation of special nuclear materials into a small number of secure sites. The Committee recommendation includes \$1,500,959,000 for De-

fense Nuclear Nonproliferation, an increase of \$7,926,000 over the current year and a decrease of \$136,280,000 from the request. Much of this reduction comes from the mixed oxide fuel facility at Savannah River, which has large uncosted balances and is delayed by the absence of a liability agreement with the Russian Federation.

Title IV provides \$207,266,000 for several Independent Agencies, a decrease of \$82,070,000 from fiscal year 2005 and \$26,972,000 below the budget request of \$234,238,000. The requested funding is provided for the Defense Nuclear Facilities Safety Board, the Delta Regional Authority, the Denali Commission, the Nuclear Regulatory Commission Inspector General, and the Nuclear Waste Technical Review Board. An additional \$21,000,000 is provided to the Nuclear Regulatory Commission for safety and security work. The request for the Appalachian Regional Commission is reduced by \$26,972,000, and no funds are provided for the Office of Inspector General for the Tennessee Valley Authority.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INTRODUCTION

The United States Army Corps of Engineers traces its history to June 1776, when Congress established the Continental Army with a provision for a Chief Engineer to oversee the construction of fortifications for the Battle of Bunker Hill. An Act of Congress permanently established the Corps in 1802. The Corps' Civil Works role and mission is grounded in a series of laws enacted since 1824. A brief legislative history of the Corps follows:

- The General Survey Act of 1824 authorized the President to have surveys made of routes for roads and canals of national importance, from a commercial or military point of view, or necessary for the transportation of public mail. The President assigned responsibility for the surveys to the Corps of Engineers. A second Act, also signed in 1824, appropriated \$75,000 to improve navigation on the Ohio and Mississippi rivers by removing sandbags, snags and other obstacles, and was subsequently amended to include other rivers such as the Missouri. This work was also given to the Corps of Engineers. Subsequent Acts of Congress expanded the Corps' responsibilities for navigation.

- The Rivers and Harbors Act of 1909 expanded the Corps' Civil Works authority by authorizing the consideration of hydroelectric power generation in the planning, design and construction of water resource development projects.

- The 1917 Flood Control Act established a role for the Corps in flood damage reduction, which became a national flood protection role for the Civil Works program in the 1936 Flood Control Act. The Flood Control Act of 1944 gave the Corps a recreation role that was added as part of flood control at Corps reservoirs. The 1962 River and Harbor Flood Act expanded that role by authorizing the Corps to build recreational facilities as part of all water resource development projects.

- The environmental role to protect, restore and manage the environment emanates from the Rivers and Harbors Act of 1899 that assigned the Corps the mission to prevent obstacles in navigable waterways. As concerns over the environment grew in the late 20th century, the Clean Water Act of 1972 broadened this responsibility by giving the Corps the authority and direction to regulate dredging and activities that result in fill being placed in the "waters of the United States," including many wetlands. The 1986 Water Re-

sources Development Act further expanded the Corps' environmental role to include enhancing and restoring natural resources at new and existing projects, and the Water Resources Development Act of 1990 made environmental protection one of the Corps' primary water resources development missions.

- The Water Supply Act of 1958 gave the Civil Works Program the authority to include water storage in new and existing reservoir projects for municipal and industrial uses.

- The Flood Control and Coastal Emergency Act (P.L. 84-99) and the Stafford Disaster and Emergency Assistance Act gave the Civil Works program direct authority to help the nation in times of national disaster. P.L. 84-99 directed the Corps to provide emergency assistance during or following flood events to protect lives, public facilities and infrastructure. The Stafford Act authorized the Corps to support the Federal Emergency Management Agency in carrying out the Federal Response Plan (now the National Response Plan), which requires 26 federal departments and agencies to provide coordinated disaster relief and recovery operations.

- Title 10 of the U.S. Code, (Navigation and Navigable Waterways), as further outlined in Title 33, enables the Civil Works program to provide services to other federal entities, states, or local governments on a reimbursable basis. This work includes flood control, the improvement of rivers and harbors, research, and support to private engineering and construction firms competing for, or performing, work outside the United States. The Support for Others program engages the Corps in reimbursable work that is determined to be in America's best interests.

Currently, the Corps accomplishes the Civil Works mission through the following major business programs:

Navigation.—The role of the U.S. Army Corps of Engineers with respect to navigation is to provide safe, reliable, and efficient waterborne transportation systems, such as channels, harbors and waterways, for movement of commerce, national security needs and recreation. The Corps seeks to accomplish this mission through a combination of capital improvements and the operation and maintenance of existing projects. Capital improvement activities include the planning, design, and construction of new navigation projects and major rehabilitation of existing projects. In fiscal year 2004, the Corps operated and maintained 12,000 miles of commercial inland navigation channels; owned and/or operated 257 navigation lock chambers at 212 sites; and maintained 926 coastal, Great Lakes and inland harbors.

Flood damage reduction.—Section 1 of the Flood Control Act of 1936 declared flood control to be a proper Federal activity since improvements for flood control purposes are in the interest of the general welfare of the public. The Act stipulated that, for Federal involvement to be justified, " * * * the benefits to whomsoever they may accrue (must be) in excess of the estimated costs, and * * * the lives and social security of people (must be) otherwise adversely affected." In fiscal year 2004, the Corps managed 383 major lakes and reservoirs; and constructed or controlled 8,500 miles of federal levees. Over the last ten years, the average annual damages prevented by Corps projects totaled \$21.1 billion.

Ecosystem restoration.—The Corps of Engineers incorporated ecosystem restoration as a project purpose within the Civil Works program in response to increasing national emphasis on environmental restoration and preservation. Historically, Corps involvement in environmental issues focused on compliance with National Environmental Protection Act requirements related to flood protection, navigation, and other project purposes. More recent efforts have involved pro-active restoration measures to damaged ecosystems, and the provision of local environmental infrastructure.

Hurricane and storm damage reduction.—Congress authorized Federal participation in the cost of restoring and protecting the shores of the United States, its territories and its possessions. Under current policy, shore protection projects are designed to reduce damages caused by wind-generated and tide-generated waves and currents along the nation's ocean coasts, Gulf of Mexico, Great Lakes, and estuary shores. Hurricane protection was added to the shared Federal participation in 1956 when Congress authorized cost-publicly owned shore areas. Federal assistance for periodic nourishment was also authorized on the same basis as new construction, for a period to be specified for each project, when it is determined that it is the most suitable and economical remedial measure.

Water supply.—National policy regarding water supply states that the primary responsibility for water supply rests with states and local entities. The Corps may participate and cooperate in developing water supplies in connection with construction, operation and modification of Federal navigation, flood damage reduction, or multipurpose projects. Certain conditions of non-federal participation are required.

Hydroelectric power generation.—Congress, through various statutes, has directed the Corps to consider the development of hydroelectric power in conjunction with other water resources development plans. The Corps owns and operates nearly one-quarter of the United States' hydropower capacity, with 75 projects in operation.

Recreation.—The Corps is one of the nation's largest providers of outdoor recreation opportunities, and ranks first among federal providers of outdoor recreation. Although known primarily for the opportunities managed at its lake projects, the Corps also participates in the planning, design and construction of recreation facilities at a wide variety of other types of water resource projects. Such facilities may include hiking and biking trails associated with a stream channel or levee primarily designed for flood damage reduction, though there is no general authority for Corps participation in a single purpose recreation project.

FISCAL YEAR 2006 BUDGET OVERVIEW

The fiscal year 2006 budget request for the Corps of Engineers totals \$4,513,000,000, which is composed of \$4,332,000,000 in new budget authority and \$181,000,000 in new offsetting collections. The Committee recommends a total of \$4,746,021,000 for the Corps of Engineers, an increase of \$78,473,000 from fiscal year 2005 enacted levels (adjusted for one-time emergency spending) and \$414,021,000 above the request. A proposal to provide direct financing of the operation and maintenance of Corps of Engineers'

hydropower facilities as offsetting collections from the Power Marketing Administrations' power sales revenues is again included in the request, and again rejected by the Committee. The budget request represents, in part, a divergence from previous Administration's requests for the Corps, as it applies a new performance-based system based on the ratio of remaining benefits-to-remaining costs. This performance-based system is intended to focus limited federal resources on the efficient completion of high economic-value projects while suspending or terminating work on other projects found not to be of as high an economic value and on Congressionally mandated projects that have been included in prior Administration requests.

A summary table illustrating the fiscal year 2005 enacted appropriation, the fiscal year 2006 budget request and the Committee recommended levels is shown below:

(Dollars in 000s)

Account	Fiscal year 2005 enacted	Fiscal year 2006 request	Committee recommendation
General investigations	\$143,344	\$95,000	\$100,000
Hurricane disasters assistance (emergency)	400		
Construction, general	1,781,720	1,637,000	1,900,000
Hurricane disasters assistance (emergency)	62,600		
Flood control, Mississippi River and tributaries	321,904	270,000	290,000
Hurricane disasters assistance (emergency)	6,000		
Operation and maintenance, general	1,943,428	1,979,000	2,000,000
Offsetting collections		-181,000	
Hurricane disasters assistance (emergency)	145,400		
Subtotal, operation and maintenance	2,098,828	1,798,000	2,000,000
REGULAR program	143,940	160,000	160,000
FUSRAP	163,680	140,000	140,000
Flood control and coastal emergencies	148,000	70,000	
Hurricane disasters assistance (emergency)	165,664	162,000	152,021
General expenses	3,968	(1)	4,000
Office of Assistant Secretary of the Army (Civil Works)	10,000		
Storm damage (emergency)	5,039,948	4,332,000	4,746,021
Total, Corps of Engineers			

¹The budget proposes to fund this office from funds appropriated to the Department of Defense, Army in the fiscal year 2006 Department of Defense Appropriations Act. For comparability purposes, the budget request includes \$4,700,000 for these activities in fiscal year 2006.

PROGRAM MANAGEMENT AND EXECUTION

Over the past year, the Committee has embarked on a concerted effort to improve general budgeting and project execution by the Corps. This effort was precipitated, in part, by a progressively tighter fiscal environment, the enormous backlog of Civil Works projects, and the realization that the Civil Works program has become an agglomeration of individual projects of interest to Congress and the Administration, with little or no systematic approach to the Nation's water and coastal infrastructure underlying the selection of which projects received funding. In the view of this Committee, the Civil Works program needs to be managed as a program and not as a collection of individual projects. The Corps needs to take a more sophisticated approach to project and contract management and must undertake immediate structural improvements and process changes to ensure that the Corps remains healthy and focused during a time of static or declining budgets. As part of the Committee's ongoing oversight activities, the Committee has identified

fied a number of issues requiring immediate attention. These issues include, but are not limited to:

- the development of a five-year comprehensive budget plan;
- a re-evaluation of the emphasis on expenditures;
- a fully transparent accounting of all movement of funds in project execution through the conservative use of reprogramming authorities;
- the development of performance-based guidelines for funding Corps construction projects;
- a more limited use of continuing contracts authorities which have the effect of obligating the federal government in anticipation of future appropriations for which the Corps does not budget fully; and
- a more thorough justification and improvement in the Corps' annual budget submission to the Congress.

Each of these areas is addressed more fully below. Collectively, the Congress, the Administration and the Corps of Engineers must work together to ensure that constrained Federal resources are spent efficiently, commitments to local sponsors are honored, projects do not drag on forever, and taxpayers receive the greatest return on their investment.

Five-year comprehensive budget planning.—In response to growing concern that the Civil Works program lacks a clear set of priorities to guide either development of the annual budget request or annual appropriations bills, last year the Committee directed the Corps to prepare and submit with the fiscal year 2006 budget submission a comprehensive five-year plan for the Civil Works program. Such a plan, in the view of the Committee, would begin to allay the concern that the Civil Works program has become nothing more than an assortment of individual projects lacking a coherent focus. In its direction to the Corps, the Committee specifically identified the five-year development plan (FYDP) of the Department of Defense as the model for the Corps to emulate; however, the Committee received an inadequate and disappointing submission—a seven-page table delineating hundreds of projects and their costs. Given the structured approach used by the Department of the Army to develop its military five-year budget plan, the Civil Works plan is surprisingly poor. Additionally, such a plan must clearly reflect the thorough engagement of all stakeholders; the Corps submission showed no evidence of such engagement.

The Committee reiterates its strong belief in the value of developing five-year plans and longer-term strategic visions to help guide budget requests and Congressional spending decisions. Many Corps projects last longer than five years and affect whole regions of the country such as the coast or the Gulf of Mexico or the watershed of the Ohio River. Such plans force discipline and regional integration in making budgetary decisions and encourage stability from year to year. By providing the Congress and the executive branch a view of what lies ahead in the Civil Works program, a comprehensive five-year plan may alleviate some of the pressure to fund every project in each fiscal year. The development of a plan will also require the Corps to make the necessary tradeoffs to integrate individual projects into a coherent future-years Civil Works program. In the absence of a rational and articulate strategy, the

long-term vitality of the Corps is placed at risk and scarce federal resources will be squandered on projects of limited national benefit.

The Committee notes that the preparation of the FYDP at the Department of Defense is not a one-time or static report; rather, it is updated regularly to reflect changing policies, fiscal realities and other factors. Accordingly, the Corps is directed to submit to the House and Senate Committees on Appropriations concurrent with each annual budget submission hereafter, an updated five-year plan. The Committee further expects that the plan will be just one part of a larger submission that articulates a clear program of priorities and is a result of a deliberative process within the Corps and with its stakeholders. The submission shall include documents similar to the Program Objective Memorandum (POM) and the Defense Planning Guidance used by the Department of Defense in developing its FYDP. The plan is to be financially constrained in the budget year only and shall show the effects of the proposed budget in the out-years. In addition, the plan shall include the full annual costs of all continuing contracts for which the Corps has obligated the Federal government in advance of appropriations.

Misplaced emphasis on expenditures.—In managing its national program, the Corps has sought to ensure the efficient expenditure of annual appropriations and has implemented a formal strategy to maximize expenditures, based in part on past Congressional guidance. While this strategy sounds reasonable in theory, the Corps has become inordinately focused on a 99-percent expenditure goal, which requires that program and project managers expend 99 percent of funds allocated to each project and, if they are unable to do so, excess funds are diverted to other projects so as to approach a national 99 percent expenditure rate. Program and project managers are then rated on their performance relative to this expenditure goal. This strategy, while it seeks to minimize annual carryover, ignores project financial requirements in future years and Congressional project allocations for the current year. This internal performance measure has resulted in the massive movements of funds and, in the aggregate, created significant payback requirements that are currently not budgeted. Taken to its extreme, the Government Accountability Office has determined that the Corps reprogrammed \$0.06 from one project to meet this performance measure. By the Corps' own admission, each year there may be as many as 20,000 transfers of funds among only 2,000 projects. (A more detailed discussion follows in the paragraphs below.) The Committee directs the Corps to abandon this internal directive and adopt a fiscal management practice that fully honors Congressional direction and accepts a higher level of carryover funds in order to achieve greatly increased transparency into project costs and multiyear funding commitments.

Reprogrammings.—The fiscal year 2005 conference report accompanying the Energy and Water Development Appropriations Act imposed new requirements on the Corps regarding the use of its reprogramming authorities. This action was deemed necessary as the Committee became more aware of a growing number of reprogrammings. This concern has not abated but intensified over the last several months as the Government Accountability Office (GAO) conducted an audit of the Corps' reprogramming actions and

compliance with the Committee's directives. The GAO has informed the Committee that the Corps has moved millions of dollars set aside for specific projects and has expended them on other activities, without the knowledge or approval of the Committee on Appropriations.

Based on a preliminary review by the GAO of the reprogramming procedures employed by the Corps, the Corps has generally followed its own and Congressional reprogramming guidelines. However, within those guidelines, the Corps has interpreted these guidelines so as to enable it to transfer funds between projects and programs without having to notify or receive approval from Congress. For example, the Corps does not consider most actions reprogramming funds into projects as reprogrammings. Instead, these actions are classified as restorations of current and prior years' revocations. Similarly, most actions reprogramming funds out of projects are classified as revocations. So, restorations and revocations are not counted as reprogrammings and therefore are not considered as counting toward the thresholds that trigger the need for Congressional notification or approval. The GAO further determined that the Corps uses different definitions of reprogramming depending on the appropriation account.

Reprogramming, although a useful and needed management tool, has become the Corps' routine way of doing business. However, the Corps manages funds using a "just-in-time" reprogramming strategy. This strategy has resulted in the Corps moving funds from projects that have currently available funds to projects with an immediate need, regardless of the donor project's future needs; placed an excessive administrative burden from processing and tracking thousands of transactions; and lacks a formal Corps-wide reprogramming prioritization and planning strategy. The GAO notes, "The Corps is using reprogramming as an ineffective substitute for a fiscally prudent financial planning and management system for its appropriations."

Reprogramming is defined in the GAO's *Principles of Federal Appropriations Law* as the "utilization of funds in an appropriation account for purposes other than those contemplated at the time of appropriation." It does not make distinctions for transfers of funds as defined as revocations, savings and slippage or restorations. Any movement of funds within an account for purposes other than for those purposes assumed at the time of the appropriation is a reprogramming.

The Committee believes the Corps' execution of Congressionally directed projects through its liberal use of reprogramming actions and its unbalanced emphasis on annual expenditures exhibit ongoing disregard of the specific program and project allocations provided by the Congress each year in report language. The Committee expects the Corps to honor Congressional directives contained in report language with the same reverence as those items contained in bill language. To ensure that the expenditure of funds in fiscal year 2006 is consistent with Congressional direction, to minimize the movement of funds and to improve overall budget execution, the bill incorporates by reference the projects identified in the report accompanying this Act into statute. In addition, the

bill includes a new section prohibiting the obligation or expenditure through a reprogramming of funds that:

- (1) creates or initiates a new program, project or activity;
- (2) eliminates a program, project or activity;
- (3) increases funds or personnel for any program, project or activity for which funds have been denied or restricted by this Act;
- (4) reduces funds that are directed to be used for a specific activity by this Act;
- (5) increases funds for any existing program, project or activity by more than \$2,000,000 or 10 percent, whichever is less; or
- (6) reduces funds for any program, project or activity by more than \$2,000,000 or 10 percent, whichever is less.

This provision shall not apply to the initiation of new projects or activities under the continuing authorities programs. However, it shall apply to the program levels for the individual continuing authorities programs. New projects under the continuing authorities program that are not identified in the conference agreement to accompany this Act must be submitted to the House and Senate Committees on Appropriations for approval. Reprogramming approvals shall also be required for changes in a project's scope and cost relative to what was submitted to the House and Senate Committees on Appropriations in the justification sheets. The guidelines contained in this report supersede all other reprogramming guidance provided in previous appropriations Acts or their accompanying reports and shall be applied to all accounts and all no-year funds within the Corps of Engineers.

The Committee recognizes special circumstances may arise that require an exception to these guidelines. In such circumstances, the Corps must provide prior notice to and approval by the House and Senate Committees on Appropriations.

When the Corps transfers funds from one project to another, it makes a promise to "repay" the borrowed amounts. These cumulative actions have created a significant financial obligation that the Corps has no way to honor except to continue the practice *ad infinitum* and to repay these borrowings from future appropriations. However, these repayments are not budgeted, nor can the Corps even provide an accurate accounting of these accumulated IOUs. This system may have worked well for the Corps in the past when budgets were rising and when the Corps carried over substantial unobligated balances from year to year. But, more recently, unobligated balances have all but disappeared, endangering the Corps' ability to honor its multitude of promises to "repay" borrowed funds to project sponsors except from new appropriations. The Committee is concerned that neither it nor the Corps knows the full extent of the payback required. Accordingly, the Corps is directed to submit a report to the House and Senate Committee on Appropriations, within 30 days of enactment of this Act summarizing, by project, the cumulative amount of repayments owed to the donor projects. The Committee further directs that these repayments be fully budgeted in the fiscal year 2007 budget presented to Congress.

Continuing contracts.—The Rivers and Harbors Appropriations Act of 1890 first authorized the Corps to award continuation contracts. Later, section 10 of the Rivers and Harbor Act of 1922 provided general authority to award continuing contracts for any public work on canals, rivers, and harbors adopted by Congress. These contracts are exempt from the Anti-Deficiency Act. When entering such contracts, the Corps obligates the Federal government to pay certain costs from future appropriations. Contractors may perform more work than is budgeted in any fiscal year, but when available appropriations for the current fiscal year are exhausted, work continues at the contractors' risk, with an expectation that payment will be made from subsequent appropriations. Simple interest may be added to any delayed payment that the contracting officer determines was actually earned under the terms of the contract and would have been made but for exhaustion of funds.

Over the last two years, the Committee has grown increasingly concerned with the Corps' liberal use of and inadequate budgeting for continuing contracts. First, the Committee believes that the use of continuing contracts may be the rule and not the exception, as the Corps has executed continuing contracts for small-scale projects that extend only a few months beyond the current fiscal year. The Corps has not demonstrated to the Committee that the use of a continuing contract as the preferred means is established by a sound acquisition planning including an analysis of alternative contract vehicles. After executing continuing contracts, the Corps has failed to budget properly for the out-year costs of these projects. In fact, the Corps currently plans to execute continuing contracts for projects that do not meet the Administration's own criteria and are proposed for termination in the budget request to Congress. The costs of these contracts are not reflected anywhere in the budget, yet the Corps is poised to obligate the Federal government for millions of dollars in contravention of the Administration's proposed policies.

Secondly, the Committee has learned that when a contractor exhausts the amounts reserved in a contract, the Corps has chosen to reprogram funds each year to satisfy the contractual obligations incurred under these contracts, though the Corps is not required to do so. When making such payments, the Corps borrows funds from other projects, creating an IOU, as discussed above under "Reprogrammings." Congress determines how much funding is to be available for a particular project in any given fiscal year, and the Corps must ensure that it manages its program within the funds provided each year. The Corps abrogates its management responsibilities and improperly intrudes upon Congressional prerogatives in determining annual appropriations levels when the Corps reserves insufficient funds to cover the work performed each fiscal year through the duration of the contract or when it makes available funds, through reprogramming, in excess of the amounts reserved in such contracts or appropriated in any fiscal year because of unbudgeted accelerated contractor earnings. The Federal government, not the contractor, must determine how much will be spent on each project each year.

The budget request includes language repealing statutory authority for the Corps to execute new continuing contracts and pro-

poses new multi-year contract authority with better controls on spending. The Committee does not adopt this proposal. In lieu of the Administration's proposal, the bill includes a provision that prohibits the use of funds provided in title I of this Act to execute any new continuing contract (or modifications to any existing continuing contract) that reserves an amount for a project in excess of the amount appropriated for such project in this Act. In addition, the Committee directs the Corps to:

- (1) discontinue the practice of reserving insufficient funds to cover the work to be performed each fiscal year through the duration of the contract;
- (2) discontinue the practice of reprogramming funds to satisfy contractor earnings in excess of the amounts reserved in the contract for the current fiscal year;
- (3) discontinue the practice of issuing continuing contracts for small-scale projects that are limited in scope, schedule, construction and funding requirements;
- (4) issue continuing contracts only when it is determined that such a contract is the preferred means, demonstrated by an alternative analysis, and only after the approval of the House and Senate Committees on Appropriations. Any new continuing contract shall be submitted by the Assistant Secretary for the Army (Civil Works) for approval to the House and Senate Committee on Appropriations, consistent with the reprogramming guidelines contained in this Act;
- (5) budget fully the out-year costs of all existing and new continuing contracts (or, if the budget year policy is to eliminate the authority to execute such contracts, fund fully the termination costs of such contracts in the budget year);
- (6) provide to the House and Senate Committees on Appropriations within 30 days of enactment of this Act a report identifying all existing continuing contracts and the amount, by project, of the out-year funding requirements of those contracts; and
- (7) provide a quarterly update to the report identified above in item (6).

The bill also includes a provision that prohibits the execution of any new continuing contract (or modifications to any existing continuing contract) after February 6, 2006 that obligates the Federal government during fiscal year 2007 to make payment under such contract for any project that is proposed for deferral or suspension in the fiscal year 2007 budget materials prepared by the Assistant Secretary of the Army (Civil Works) and submitted to Congress.

Congressional justification materials.—The congressional justifications submitted by the Corps in support of the annual budget request are woefully inadequate. To justify an appropriation of over \$4,513,000,000 for fiscal year 2006, the Corps submitted a 113-page "press book", which included 11 brief paragraphs of narrative and 111 pages of project tables distributed by state. In addition, justification materials supporting each of the projects included in the budget request were supplied to the Committee. These materials, in their totality, are incomplete, do not provide a clearly articulated discussion of the policy proposals included in the annual budget request, and reflect program delivery rather than project execution.

The justification materials provide little, if any, transparency of program activity in the current year or a comparison of the budget request to the enacted levels. For example, the Corps does not submit to the Committee on Appropriations justification materials for those programs, projects or activities for which the request seeks no appropriation but for which funding was provided in the current year. Without such information, the Committee is unable to determine the extent to which the agency is carrying out current-year programs and directives for which appropriations have been made. Similarly, the project fact sheets in many instances fail to include projected completion dates, without which the Committee cannot determine whether the Corps is meeting a project's planned construction schedule or track cost increases relative to the initial cost estimate or to the authorized project cost ceiling.

The Committee directs the Corps to improve its annual congressional budget submission by expanding the information presented to Congress each year and to present its budget estimate by mission area. That information shall include, but not be limited to, an analysis of appropriations language provisions and changes; comparative amounts available for obligation; comparative amounts showing obligations by object class; summary of changes from the enacted level; a delineation of responses to significant items included in the reports accompanying annual appropriations Acts; appropriations and authorizing histories; explanations of how individual projects fit in the context of larger regional objectives, and narrative and tabular summaries of program requests. The Corps is directed to transmit with its annual budget submission project justifications for those projects that are funded in the current year but for which no funds are requested in the budget estimate. In addition, justifications are to be provided for all activities of the Corps including regulatory and research function. The Corps is encouraged to review the materials submitted by the departments of Education and Transportation, as they are models for emulation. The Committee recognizes that the improvements needed in the budget justifications will need to be developed over time; however, the Committee expects major changes in the fiscal year 2007 budget submission and pledges to work with the Corps to develop implementing instructions to its program offices.

Performance-based budget proposal.—Last year, the Committee challenged the Corps of Engineers and the Office of Management and Budget (OMB) to engage the Committee on Appropriations in a constructive dialog in an attempt to close the gap between the enormous backlog of Civil Works projects—estimated to be \$50,000,000,000—and the limited financial resources available to address that backlog. This backlog has grown significantly in recent years and has resulted in some projects costing more than necessary and most projects being finished many months and sometimes years later than they could be. In response, the OMB proposed seven performance guidelines for funding Corps construction projects in order to generate greater benefits. The Committee appreciates the efforts of the Administration in developing a rationale for focusing limited federal resources on finishing the most important projects in a timely manner. The proposal is a performance-

based ranking system based primarily on the ratio of remaining benefits-to-remaining costs.

The Committee has several observations about the approach adopted by OMB. First, the budget proposes to fund fourteen dam safety projects at full capability, but one dam, Fern Ridge, categorized as aging infrastructure in active failure, was not funded at all. The second category of priority projects are those projects that have a remaining benefit-to-remaining cost ratio in excess of 6-to-1, which are nationally significant environmental restoration projects, or which can be completed in fiscal year 2006 with a final increment of funding. Those projects with an RBRC ratio in excess of 6 would receive 80 to 100 percent of the capability level of funding. The third category includes several projects with an RBRC ratio less than 5, and these projects receive something less than the capability level of funding, but the ratio of funding to capability is inconsistent across this set of projects. The budget proposes a fourth category of priority construction projects, or "special cases," which have RBRC ratios less than 3 but for which funding is requested. Lastly, for those 31 ongoing projects that received federal funding in fiscal year 2005 that did not meet the thresholds described above, the budget proposes to terminate or suspend them. With respect to beach nourishment, the budget proposes to undertake only that portion of renourishment that is attributable to the impacts of federal navigation structures.

Specifically, the ranking system appears to prejudice those projects that have completed initial segments where the benefits-to-costs ratios are greater than the remaining benefits-to-remaining costs on their unfinished segments. In addition, the RBRC ratio contains an inherent bias toward protecting expensive property as opposed to property that may be less valuable but involves the protection of more people; it does not consider how water resources infrastructure contributes to national economic development or multimodal transportation; and it ignores other related Federal investment in the project. The RBRC ratio is a good place to start, but the proposal has its limitations. It needs further refinement and consideration before the Committee can recommend that it be strictly applied. In determining the projects identified in this report, the Committee has used the ranking system as a guide but not as a final determinative factor in the allocation of funds. The Committee directs the Corps, working with the OMB, to refine further the performance measures to address the concerns outlined above as part of the fiscal year 2007 budget submission.

Savings and slippage.—Traditionally, savings and slippage referred to the amount of funds that were determined to be excess to project needs at a particular time during the project's development. Statistically, the Corps is unable to execute 100 percent of the appropriation for 100 percent of the projects, so a program appropriation would include a percentage reduction for savings and slippage to reflect this less-than-100-percent execution. The Congress has abused this historic average over the years, applying an inflated savings and slippage factor to squeeze more projects into programs with finite funding. The Corps, too, would abuse this average by taxing all projects to obtain funds to increase funding for particular programs and projects in excess of the levels included in

annual appropriations Acts. The Corps would subsequently restore these reductions through reprogramming actions.

The Committee has discontinued the practice of assuming an estimate for savings and slippage within the Corps of Engineers civil works program and has returned to the traditional definition of savings and slippage. As savings and slippage occurs on any project in the Corps civil works Construction and General Investigations programs and the general investigations and construction elements of the Flood Control, Mississippi River and Tributaries account in fiscal year 2006, resources excess to a project's needs shall remain with that project and shall be available for two years after the date of enactment of the Act containing appropriations for that project, after which time the unobligated balances may be transferred to other ongoing projects, consistent with the reprogramming guidelines contained in this Act. In addition, the Corps shall submit to the House and Senate Committees on Appropriations a quarterly report detailing project execution relative to stated capability and enacted appropriations.

GENERAL INVESTIGATIONS

Appropriation, 2005	\$143,344,000
Budget estimate, 2006	95,000,000
Recommended, 2006	100,000,000
Comparison:	

Appropriation, 2005	-43,344,000
Budget estimate, 2006	+5,000,000
¹ Excludes emergency appropriations of \$400,000.	

This appropriation funds studies to determine the need, the engineering and economic feasibility, and the environmental and social suitability of solutions to water and related land resource problems; and funds preconstruction engineering and design, data collection, interagency coordination, and research.

The Committee recommends an appropriation of \$100,000,000, a decrease of \$43,344,000 from the fiscal year 2005 enacted level, and \$5,000,000 over the budget estimate. The budget request and the approved Committee allowance are shown in the following table:

GENERAL INVESTIGATIONS
(in thousands of dollars)

	State	Budget Request		House Recommended	
		Investigations	Planning	Investigations	Planning
Hudson - Raritan estuary, Lower Passaic River, NJ	NJ	400		1,000	
New Jersey shore protection, Herford to Cape May Inlet, NJ	NJ	480		400	
Raritan Bay and Sandy Hook Bay, Leonardo, NJ	NJ	100		100	
Espanola Valley, Rio Grande and tributaries, NM	NM	250		250	
Middle Rio Grande bosque, NM	NM	250		250	
Southeast Valley flood damage reduction, Albuquerque, NM	NM	250		180	
Bronx River basin, NY	NY	250		500	
Buffalo River environmental dredging, NY	NY	200			
East River seawalls, NY	NY			175	
Flushing Bay and Creek, NY	NY			600	170
Hudson - Raritan estuary, Gowanus Canal, NY	NY	400			
Hudson - Raritan estuary, NY & NJ	NY	800		1,000	
North Shore of Long Island, Asharoken, NY	NY	30		30	
Onondaga Lake, NY	NY	200		1,500	
Columbus metropolitan area, OH	OH	53			
Ohio Riverfront, Cincinnati, Ohio	OH				500
Western Lake Erie basin, OH, IN, & MI	OH	580		650	
Ooibagh Lake watershed, OK & KS	OK	328		328	
Amazon Creek, OR	OR	264		264	
Lower Columbia River ecosystem restoration, OR & WA	OR	300		600	
Walla Walla River watershed, OR & WA	OR	500		600	
Willamette River environmental dredging, OR	OR	325			
Willamette River floodplain restoration, OR	OR	456		456	
Mahoning River environmental dredging, PA	PA	250			
Schuylkill River Basin estuarine, PA	PA	250			
Schuylkill River Basin, Wissahickon Creek Basin, PA	PA	200			
Susquehanna and Delaware River basins, PA	PA			170	
Edisto Island, SC	SC	100			
Reedy River, SC	SC	300			
Mill Creek watershed, Davidson County, TN	TN	450			
Brazos Island Harbor, Brownsville Channel, TX	TX	2,500		2,000	
Buffalo Bayou and tributaries	TX			100	
Freeport Harbor, TX	TX	500		750	
GTWW, High Island to Brazos River, TX	TX		500		500
Greens Bayou, TX	TX			150	
Grandlago and San Antonio river basins, TX	TX	300		1,000	
Lower Colorado River basin, TX	TX	300		400	
Middle Brazos River, TX	TX	300		400	
Neches River basin, TX	TX	500			
Nueces River and tributaries, TX	TX	500		575	
Raymondville drain, Texas	TX				300
Rezacas, Brownsville, TX	TX	150			
Rio Grande basin, TX	TX	30		50	
Stahne - Neches Waterway, TX	TX	419		800	
Saline Pass to Galveston Bay, TX	TX	788		788	
Spanish Arroyo Colonia, El Paso County, TX	TX	198		198	
Texas City channel (50-foot project), TX	TX		900		900
Upper Trinity River basin, TX	TX	700		1,000	
Cheapeake Bay shoreline erosion, Mathews County, VA	VA	40			
Dismal Swamp and Dismal Swamp Canal, VA	VA	150		150	
Elizabeth River basin, environmental restoration, VA (phase II)	VA	200			
Elizabeth River, Hampton Roads, VA	VA		500		
Four Mile Run restoration, VA	VA			800	
John H Kerr Dam and Reservoir, VA & NC (section 216)	VA	600			
Lynchhaven River basin, VA	VA	400		400	

GENERAL INVESTIGATIONS
(in thousands of dollars)

	State	Budget Request		House Recommended	
		Investigations	Planning	Investigations	Planning
Middle Potomac River Basin, Cameron/Holmes Run	VA		200		800
New River basin, Claytor Lake State Park, VA	VA			200	
Phihiom Lake, Virginia	VA		400		200
Powell River watershed, VA	VA		340		
Chetahs River basin, VA	WA		470		470
Lake Washington ship canal, WA	WA		470		500
Eugot Sound nearshore marine habitat restoration, WA	WA		470		200
Stokomash River, Washington	WA				120
St. Croix River, Wisconsin	WI				500
St. Croix River, Wisconsin relocation of endangered muskells	WI				
Little Kanawha River, WV	WV		110		
Panthersburg/Vienus Inverfront park, WV	WV				400

NATIONAL PROGRAMS					
American Heritage Rivers	XX	150		150	
Automated Information Systems Support	XX	402		402	
CALFED	XX	94		94	
Chesapeake Bay program	XX	75		75	
Coastal field data collection	XX	1,875		1,875	
Coordination with other water resources agencies	XX	246		246	
Environmental data studies	XX	94		94	
FERC licensing	XX	150		150	
Flood damage data program	XX	248		248	
Flood plain management services	XX	5,625		5,625	
Gulf of Mexico	XX	131		131	
Hydrologic studies	XX	300		300	
Interagency and international support	XX	113		113	
Interagency water resource development	XX	750		750	
International water studies	XX	300		300	
Inventory of dams	XX	222		222	
Lake Tahoe	XX	94		94	
National estuary program	XX	75		75	
National shoreline	XX	375		375	
North American waterfowl management plan	XX	75		75	
Pacific northwest forest case	XX	75		75	
Planning assistance to states	XX	4,650		4,650	
Precipitation studies (national weather service)	XX	225		225	
Remote sensing	XX	152		152	
Research and development	XX	22,000		19,643	
Scientific and technical information centers	XX	78		78	
Special investigations and reports	XX	1,649		1,649	
Stream gaging (US Geological Survey)	XX	600		600	
Transportation system	XX	375		375	
Reduction for savings and slippage	XX	-20,911			
TOTAL, GENERAL INVESTIGATIONS		95,000		100,000	

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Eastern Shore, Mid-Chesapeake Bay Island, Maryland.—The Committee has included \$500,000 to continue the Mid-Chesapeake Bay Island environmental restoration feasibility study. These funds are to be expended to identify and study existing natural islands in need of restoration and not artificial islands.

Southwest Valley Flood Damage Reduction, Albuquerque, New Mexico.—The Committee recommendation includes \$180,000 to complete preconstruction engineering and design for the Southwest Valley flood damage reduction project in Albuquerque, New Mexico.

Upper Trinity River Basin, Texas.—The Committee recommendation includes \$1,000,000 for Upper Trinity River Basin, Texas to facilitate the project component associated with improvements to the existing Dallas Floodway.

Remaining items, flood plain management services.—For fiscal year 2006, the Committee recommends \$5,625,000 for flood management services, the same level as requested. Within the funds provided, the Corps is directed to undertake the following activity with the amount allocated below:

Jackson, Tennessee GIS system \$500,000

Remaining items, research and development.—For fiscal year 2006, the Committee recommends \$19,643,000. Within the funds provided for research and development, the Committee directs the Corps to evaluate advanced polymer technologies in concert with the Construction Engineering Research Lab to establish compliance of these new material coatings to meet or exceed current performance of materials used by the Corps.

The Committee is frustrated by the lack of progress in the Corps' commitment to begin pilot testing of rapid deployment flood walls and reiterates its direction that, within available funds, the Corps begin pilot tests of these alternatives to sandbags within 90 days of enactment of this Act.

Remaining items, planning assistance to states.—For fiscal year 2006, the Committee recommends \$4,650,000 for planning assistance to states, the same level as requested. Within the funds provided, the Corps is directed to undertake the following studies with the amounts allocated below:

Assabet River sediment remediation study, Massachusetts	\$300,000
Bartlesville, Oklahoma water study	100,000
Lake Rogers, Creedmoor, North Carolina water quality study	60,000
Pike River, Wisconsin hydraulic and hydrological study	40,000
La Mirada, California flood control and drainage study	250,000
Memphis, Tennessee riverfront development	200,000
Lafayette Wabash River waterfront development, Indiana	100,000

CONSTRUCTION

Appropriation, 2005	\$1,781,720,000
Budget estimate, 2006	1,637,000,000
Recommended, 2006	1,900,000,000
Comparison:	
Appropriation, 2005	+118,280,000
Budget estimate, 2006	+263,000,000
Excludes emergency appropriations of \$62,600,000.	

This appropriation funds construction, major rehabilitation, and related activities for water resources projects whose principal purpose is to provide commercial navigation, flood and storm damage

reduction, or aquatic ecosystem restoration benefits to the nation. Portions of this account are funded from the Harbor Maintenance Trust and the Inland Waterways Trust funds.

For fiscal year 2006, the Committee recommends an appropriation totaling \$1,900,000,000, an increase of \$118,280,000 over the fiscal year 2005 enacted appropriation and \$263,000,000 over the budget estimate. The budget request and the Committee allowance are shown in the following table:

CONSTRUCTION
(In thousands of dollars)

	State	Budget Request	House Recommended
Robert C Byrd Locks and Dam, West Virginia	WV	914	914
Southern West Virginia environmental infrastructure	WV		1,000
West Virginia and Pennsylvania flood control, West Virginia	WV		1,000
Winfield Locks and Dam, Kanawha River, West Virginia	WV	2,400	
Subtotal, Construction		1,533,831	1,776,690
MISCELLANEOUS			
Aquatic Plant Control Program		3,000	4,500
Continuing Authorities Program			18,000
Aquatic Ecosystem Restoration Projects, Section 206		15,000	4,000
Beneficial Use of Dredged Material (Sec. 204 and 207, sec. 933)		3,000	
Mitigation of Shore Damages Attributable to Navigation Projects, Section 111		1,500	500
Project Modifications for Improvement of the Environment, Section 1135		15,000	17,400
Shoreline Protection, Section 103		500	1,000
Small Flood Control Projects, Section 205		13,000	25,000
Small Navigation Projects, Section 107			4,000
Snagging and Clearing, Section 208		400	400
Streambank and Shoreline Protection for Public Facilities, Section 14		4,000	8,000
Dam Safety and Seepage/Stability Correction Program		11,000	10,500
Dredged Material Disposal Facilities Program, Section 101		12,000	8,800
Estuary restoration program (P.L. 106-457)		5,000	
Employees Compensation (Payments to Department of Labor)		21,000	21,000
Inland Waterways Users Board:			
Board Expenses		40	40
Corps Expenses		170	170
Construction suspension fund		80,000	
Reduction for Anticipated savings and slippage		-81,441	
Subtotal, remaining items		103,169	123,310
TOTAL, CONSTRUCTION		1,637,000	1,900,000

H 15-23

Deferrals and suspensions.—The Committee has chosen not to re-store funding for nearly half of the 31 projects proposed for deferral or suspension in the budget request. For those projects that were proposed for deferral or suspension in the request and for which the Committee has recommended funds in this Act, funds are available only to complete elements currently under construction and are not be available to initiate new elements not presently underway unless such elements would result in a complete separable element of the project. The Committee directs the Corps to determine the costs to defer or suspend those projects for which the Committee has not provided appropriations in this Act and provide those estimates on a project-by-project basis to the House Committee on Appropriations by September 1, 2005.

Consistent with the budget or request, the Committee recommendation assumes the deferral or suspension of the following projects:

- Big Sioux River, Sioux Falls, South Dakota
- Cheyenne River Sioux Tribe, Lower Brule Sioux, South Dakota
- Delaware Coast, Rehobeth Beach to Dewey Beach, Delaware
- Larose to Golden Meadow, Louisiana
- Missouri River levee system, IA, NE, KS and MO
- New Orleans to Venice, Louisiana
- Nome Harbor improvements, Alaska
- Oates Creek, Richmond County, Georgia
- Sand Point Harbor, Alaska
- St. Paul Harbor, Alaska
- Upper St. John's River, Florida
- Whitney Lake powerhouse, Texas

American River watershed, California.—The Committee has provided \$28,960,000 for American River watershed activities. Within this amount, not less than \$7,000,000 shall be available for the permanent bridge below Folsom Dam.

Broward County, Florida.—Funds provided for Broward County, Florida, are solely for reimbursement to the local sponsor for the federal share of segment 3 renourishment.

Elk Creek Lake, Oregon.—The Committee has not recommended funding for the Elk Creek Lake project in Oregon given limited fiscal resources. The Committee reiterates its previous directive that any funding allocated to the project by the Corps through re-programming actions in fiscal year 2006 shall not be available to further work on the Corps' original proposal to remove a section of the dam for fish passage.

Folsom Dam, California.—The Committee notes that sections 128 and 134 of Public Law 108-137 authorize funds for the construction of a permanent bridge at Folsom Dam. These authorizations provide appropriate and ample authority for the Corps to construct the bridge, including the \$30,000,000 authorization contained in section 134 of Public Law 108-137. The Committee further notes that the appropriations Acts since fiscal year 2004 have appropriated funds pursuant to these authorizations and the Corps has carried out projects under these authorities. Accordingly, the Committee directs the Corps to budget for the permanent replacement at Folsom Dam.

Levisa and Tug Forks and Upper Cumberland River, WV, VA and KY.—For fiscal year 2006, the Committee recommends a total of \$20,000,000 for Levisa and Tug Forks and Upper Cumberland River, WV, VA and KY. Within the amounts provided, \$17,500,000

shall be for elements of the project in the Commonwealth of Kentucky and the remaining \$2,500,000 shall be available for the Grundy, Virginia element.

Miami Harbor Channel, Florida.—The Committee has not recommended any funding in fiscal year 2006 for the Miami Harbor Channel, Florida as the Committee has been informed by the Corps that it expects to reprogram sufficient funds to complete the project during fiscal year 2005.

Muddy River, Boston and Brookline, Massachusetts.—The Committee recommends \$1,500,000 for the Muddy River, Boston and Brookline, Massachusetts project. Funds are provided to continue project design, including ecosystem restoration features.

New York and New Jersey Harbor, New York and New Jersey.—Within the funds provided for New York and New Jersey Harbor, the Committee directs the Corps of Engineers to use up to \$2,000,000 to plan for and enter into an agreement with a state or non-Federal sponsor to develop a dredged material processing facility that would accomplish the objectives of reducing the cost of dredged material management in the port, preparing dredged material for beneficial uses, and implementing innovative dredged material management technologies.

New York City watershed, New York.—The Committee directs the Corps to make available unexpended balances from previous allocations contained in Energy and Water Development Acts for fiscal years 1998 and 1999 to dredge the Federal channel in the vicinity of Hudson City Light to the north dock at Union Street, Athens, New York for New York City watershed projects in the Catskill/Delaware watershed in Delaware and Greene Counties, New York.

Ohio environmental infrastructure.—The bill provides \$13,000,000 for Ohio environmental infrastructure for fiscal year 2006. These funds shall be distributed as follows:

Benton Ridge wastewater treatment	\$500,000
Brookfield Center South sanitary sewer	250,000
Cambridge sewer system east of I-77	425,000
Cuyahoga River environmental restoration	500,000
Elyria water treatment plant	200,000
Environmental infrastructure improvements to serve northern Pickaway County	1,000,000
Fulton County Elmira/Burlington wastewater collection and treatment	300,000
Gallia County water and sewer	300,000
Higginsport sanitary sewer	750,000
Lake County Madison Township Chapel Road Interceptor sewer	1,000,000
Licking County, Village of Alexandria sanitary sewer	1,000,000
Licking County, Village of Hanover wastewater collection	325,000
Marysville water treatment facility upgrades	1,000,000
Norwalk wastewater treatment plant	300,000
Rushsylvania wastewater treatment	500,000
Springfield Hospital water and sewer project	1,000,000
Springfield Nextedge Technology Park water and sewer	750,000
Toledo wastewater treatment plant	250,000
Trotwood storm drain and stream relocation	750,000
University of Dayton, Brown and Stewart Streets water and sewer	1,000,000
Village of Ottawa regional water line	300,000
Yellow Springs McGregor Center for Business and Education Park, water and sewer	435,000
Yellow Springs Morris Bean sanitary sewer	165,000

H 15-24

Ozark-Jeta Taylor powerhouse (major rehabilitation), Arkansas.—The Committee has not provided any funds for major rehabilitation of the Ozark-Jeta Taylor powerhouse in Arkansas. This project was proposed for termination in the budget request as the project did not meet the remaining benefits-to-remaining costs ratio threshold. The Committee is aware that, in correspondence from the Administrator of the Southwestern Power Administration to the Director of Civil Works of the Corps of Engineers dated April 1, 2005, the Southwestern Area Power Administration has committed to using the Jonesboro Memorandum of Agreement to fund the Ozark/Webbers Falls contract. The Committee expects the Corps to use these funds to pay the contractual obligations in fiscal year 2006 and not to reprogram any funds from any other project to meet such contractual obligations.

San Antonio channel improvement project, Texas.—The Committee has provided \$3,640,000 for continuation of design and construction of the ecosystem restoration and recreation features for the project in accordance with the report of the Fort Worth District Engineer titled: San Antonio River, San Antonio, Texas Channel Improvement Project Ecosystem and Recreation, General Reevaluation Report and Integrated Environmental Assessment, dated September 2004 for Plan DC3BB.

Santa Ana River mainstem, California.—In total, the Committee provides \$61,650,000 for Santa Ana River mainstem in California, of which \$6,000,000 is available to complete the San Timoteo Creek project; \$4,000,000 is available to repair damage caused by recent storms and to clean out debris basins; and \$650,000 is available for the repair of erosion damage to the outlet tunnel in Seven Oaks Dam that occurred during high flow testing; and \$1,000,000 is available for the Seven Oaks Dam water quality study.

South Florida Everglades Ecosystem Restoration.—The Committee recommendation includes \$137,000,000 for South Florida Ecosystem Everglades Restoration program, which includes the Central and Southern Florida Project, the Kissimmee River Restoration project, and the Everglades and South Florida Restoration projects, which were previously budgeted separately. In addition, this program incorporates a share of the federal costs of the Modified Water Deliveries Project, for which the Committee has provided \$35,000,000 in fiscal year 2006. Additional funds are budgeted and cost-shared by the Department of the Interior. The consolidated appropriation included herein includes the following separable elements: West Palm Beach Canal, South Dade County, Comprehensive Everglades Restoration Plan, Manatee Pass, Thru Gates, East Coast Canal Structures, Western C-111 Basin, Seminole Big Cypress, Ten Mile Creek, Tamiami Trail (Western Segment), Florida Keys Carrying Capacity, Lake Okeechobee Water Retention, Southern CREW, Lake Trafford, Kissimmee River Project and the Modified Water Deliveries to Everglades National Park Project. The Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410-r-8 and section 601 of the Water Resource Development Act of 2000 (Public Law 106-541)) provide sufficient authorizations for the Corps to expend Civil Works funds and proceed with the construction of modifications to improve water deliveries to Everglades National Park.

The Committee is very concerned about schedule delays and cost increases on the South Florida Everglades Ecosystem restoration projects, particularly Modified Water Deliveries to Everglades National Park. The Corps is directed to work with the Department of Interior, the Council on Environmental Quality and the Office of Management and Budget to improve oversight and project management; implement actions to achieve savings and develop an implementation schedule consistent with available funds, and to report to the Committee 60 days after the enactment of this Act on the project's revised cost, delivery schedule and actions planned to achieve savings. The Corps is further directed to work with the Department of Interior and the Department of Transportation to determine if the Department of Transportation's Federal Highway Administration is able to construct the most cost effective alternative to modify Tamiami Trail to ensure appropriate water flow between the park and the water conservation areas more cheaply than the Corps.

Stillwater, Minnesota (St. Croix River), Minnesota.—The Secretary of the Army, acting through the Chief of Engineers, is directed to use previously appropriated funds to proceed with design and construction to complete the Stillwater, Minnesota, levee and flood control project.

Upper Newport Bay Ecosystem Restoration project, California.—The Committee notes that recently the Corps of Engineers executed an agreement with the California Department of Fish and Game and Orange County, California, to provide at their discretion, funds to construct certain key features of the Upper Newport Bay Ecosystem Restoration project. A significant portion of the non-Federal share would be provided by the California Coastal Conservancy to the non-Federal sponsors in the forms of grants. These funds would be in excess of those funds required to maintain a cost-shared balance in the project expenditures, but would not exceed the total non-Federal share. The Committee recommends \$2,000,000 for this project in fiscal year 2006.

CONTINUING AUTHORITIES PROGRAM

The continuing authorities program (CAP) establishes a process by which the Corps of Engineers can respond to a variety of water resource problems without the need to obtain specific congressional authorization for each project. The CAP program is comprised of individual programs for nine different types of projects, each with its own program authority and strict limits on the Federal contribution, which are as follows:

Section 14 Emergency streambank and shoreline erosion.—Authorized by section 14 of the 1946 Flood Control Act, work under this authority allows emergency streambank and shoreline protection for public facilities, such as roads, bridges, hospitals, schools, and water/sewage treatment plants, that are in imminent danger of imminent danger of major damage. The cost share is 65% federal and 35% non-federal; and the federal share cannot exceed \$1,000,000 per project.

Section 103 Hurricane and storm damage reduction.—Authorized by section 103 of the 1962 River and Harbor Act, work under this authority provides for protection or restoration of

public shorelines by the construction of revetments, groins, and jetties, and may also include periodic sand replenishment. The cost share is 65% federal and 35% non-federal; and the federal share cannot exceed \$3,000,000 per project.

Section 107 Small navigation improvements.—Authorized by section 107 of the 1960 River and Harbor Act, work under this authority is intended to provide improvements to navigation including dredging of channels, widening of turning basins, and construction of navigation aids. The cost share is 80% federal and 20% non-federal; and the federal share may not exceed \$4,000,000 for each project.

Section 111 Storm damage attributable to Federal navigation works.—Authorized by section 111 of the 1968 River and Harbor Act, work under this authority provides for the prevention or mitigation of erosion damages to public or privately owned shores along the coastline of the United States when the damages are a result of a Federal navigation project. This authority cannot be used for shore damages caused by riverbank erosion or vessel-generated wave wash. It is not intended to restore shorelines to historic dimensions, but only to reduce erosion to the level that would have existed without the construction of a Federal navigation project. Cost sharing may not be required for this program. If the Federal cost limitation of \$2,000,000 per project is exceeded, specific congressional authorization is required.

Section 204 Beneficial uses of dredged material.—Authorized by section 204 of the Water Resources Development Act of 1992, work under this authority provides for the use of dredged material from new or existing federal projects to protect, restore, or create aquatic and ecologically related habitats, including wetlands. The cost sharing (25% non-federal, 75% Federal) would be applied to the incremental cost above the least cost method of dredged material disposal consistent with engineering and environmental criteria.

Section 205 Small flood control projects.—Authorized by section 205 of the 1948 Flood Control Act, work under this authority provides for local protection from flooding by the construction or improvement of flood control work such as levees, channels, and dams. Non-structural alternatives are also considered and may include measures such as installation of flood warning systems, raising and/or flood proofing of structures, and relocation of flood prone facilities. The cost share is 65% federal and 35% non-Federal; and the Federal share may not exceed \$7,000,000 per project.

Section 206 Aquatic ecosystem restoration.—Authorized by section 206 of the Water Resources Development Act of 1996, work under this authority may carry out aquatic ecosystem restoration projects that will improve the quality of the environment, are in the public interest, and are cost-effective. There is no requirement that a Corps project be involved. The cost share is 65% federal and 35% non-Federal; and the Federal share per project cannot exceed \$5,000,000 including studies, plans and specifications, and construction.

Section 208 Snagging and clearing for flood control.—Authorized by section 208 of the 1954 Flood Control Act, work under this authority provides for local protection from flooding by channel clearing and excavation, with limited embankment construction by use of materials from the clearing operation only. The cost share is 65% federal and 35% non-Federal; and the Federal share may not exceed \$500,000 for each project.

Section 1135 Project modifications for improvement of the environment.—Authorized by section 1135 of the Water Resources Development Act of 1986, work under this authority provides for modifications in the structures and operations of water resources projects constructed by the Corps of Engineers to improve the quality of the environment. Additionally, the Corps may undertake restoration projects at locations where a Corps project has contributed to the degradation. The primary goal of these projects is ecosystem restoration with an emphasis on projects benefiting fish and wildlife. The project must be consistent with the authorized purposes of the project being modified, environmentally acceptable, and complete within itself. A non-federal sponsor is required to provide 25% of the cost of the project; and the Federal share of each separate project may not exceed \$5,000,000, including studies, plans and specifications, and construction.

The continuing authorities program (CAP) remains an effective way for the Corps to address the Nation's water resource challenges. The various authorities allow the Corps to assist local communities in addressing in a timely manner issues ranging from flood damage reduction and navigation to stream and riverbank protection and environmental restoration. The demand on the program continues to grow, particularly in the area of environmental restoration and flood damage reduction where significant out-year financial requirements exist for projects currently underway.

In the fiscal year 2006 budget request, the Corps took steps to move to a performance-based budget for projects in the specifically authorized Construction account. The Committee asserts that the need for a prioritization process exists for all projects, regardless of their size or scope. While the criteria may prove different for projects pursued under the continuing authorities than that for the larger, more complex water resource projects, the fundamental principle remains the same—providing the largest benefit for the expenditure of Federal resources in the most efficient manner practicable. A well-articulated prioritization process will ensure that CAP projects that are undertaken are the most viable and beneficial projects the Corps has the ability and authority to execute.

The Committee endeavored last year to provide sufficient appropriations for to continue various Corps initiated CAP projects while also allocating funds for Congressionally directed CAP projects. The Committee remains concerned regarding the execution of projects detailed in this and past reports. The Committee is also troubled to learn that the Corps supplemented appropriated funds for the various CAP authorities by taxing other construction projects. While the Committee understands that the Corps has taken steps to address certain project execution issues, the Committee has not yet received a plan detailing the process by which the CAP pro-

gram is to be managed. Therefore, within 60 days of enactment of the Act and annually thereafter, concurrent with the budget submission, the Assistant Secretary of the Army (Civil Works) is directed to submit to the House and Senate Committees on Appropriations a program management plan detailing the specific actions the Corps will take to prioritize projects and to manage the program in the future. This management plan shall include at least a five-year time horizon consistent with the Five-Year Comprehensive Budget Plan and may, after the initial submission, be incorporated into the larger planning effort. Additionally, the Corps shall provide to the House and Senate Committees on Appropriations, concurrent with the annual budget submission, a status report delineating all ongoing projects, identifying on a project-by-project basis the annual out-year budgetary requirements to complete each project.

In last year's report, the Committee noted that many projects selected for funding in fiscal 2004 under the CAP program did not receive funding as directed in that report. Further, the report stipulated that those projects receive priority consideration for any available funds in fiscal 2005 and in the subsequent years. Again, the Committee notes the apparent disregard of report language identifying specific funding levels for CAP projects, and accordingly, has chosen to include, by reference, CAP projects in statutory language this year.

The following table includes the name of the project, the CAP authority under which the project is authorized and the amount of funding recommended by the Committee:

CONTINUING AUTHORITIES PROGRAMS
(In thousands of dollars)

	House Recommended
SMALL NAVIGATION PROJECTS (SECTION 107)	
Blytheville Harbor, AR	16
Knife River Harbor, Minnesota	54
MacInac Isle, harbor breakwater, Michigan	50
Northwestern Michigan College, Traverse City, Michigan	55
Northwest Tennessee Regional Harbor	390
Olcott Harbor, New York	70
Ontonagon Harbor Channel extension, Ontonagon, Michigan	184
Oyster Point Marina Breakwater Reconfiguration, California	2,100
St. Jerome Creek, Maryland	200
Westport River and Harbor, Massachusetts	70
Woods Hole Great Harbor, Falmouth, Massachusetts	100

SMALL BEACH EROSION CONTROL PROJECTS
(SECTION 103)

Philadelphia shipyard, Pennsylvania	200
Solana Beach, California (Fletcher Cove)	15
Whiting, Indiana	100

SMALL FLOOD CONTROL PROJECTS (SECTION 205)

Bristol, Tennessee and Virginia, Beaver Creek	200
Cedar Run Flood Control Project, Pennsylvania	193
City of 29 Palms Pinto Cove flood control channel, California	1,000
Cosgrove Creek, California	250
East Peoria, Illinois flood control project	3,600
Eureka Creek Local Flood Protection Project, Kansas	300
Flomar Storm Drain, Whittier, California	95
Fulmer Creek, New York	862
Hailey Creek, Oklahoma	100
Harbor Brook, Meriden, Connecticut	75
Huntsville Big Spring Branch debris removal, Alabama	100
Huntsville Dallas Branch bypass, Huntsville, Alabama	200
Jackson Brook, New Jersey	302
Litlbourn Outlet Ditch, Missouri	30
Little Fossil Creek, Haltom City, Texas	270
Little Mill Creek, Gravel Road, Pennsylvania	200

CONTINUING AUTHORITIES PROGRAMS
(In thousands of dollars)

	House Recommended
Livingston Yellowstone river flood plain study, Montana	135
Lower Lycoming Creek, Lycoming County, Pennsylvania	360
Montoursville, Pennsylvania flood damage reduction program	360
Moyer Creek, New York	763
Oak Creek, Florence, Colorado (Oak Creek Reservoir, CO)	175
South suburban areas of Chicago, Illinois	100
St. Mary's and Maumee Rivers, Fort Wayne, Indiana	200
Upper Passaic River, Long Hill Township, New Jersey	1,000
Van Bibber Creek, Colorado drainage project	318
West Burnt Mountain flood control improvements, California	2,000
Whitewater and Walnut Rivers, Augusta, Kansas	2,500

STREAMBANK AND SHORELINE PROTECTION
FOR PUBLIC FACILITIES (SECTION 14)

Big Bend Cemetery, Minnesota	255
Fox River, Highway 61 bridge protection, Missouri	146
Lake Ontario, Albion water treatment plant, New York	250
Lee Drive, Lenoir City, Tennessee	170
Malapardis Brook Mountain, Pleasant Avenue, Hanover, New Jersey	175
Marquette, Michigan shoreline protection	139
Newton Creek, Newton Avenue, Bainbridge, Chenango County, New York	197
Ohio River, South First Street, Rockport, Indiana	715
Otawa River Shoreland Avenue, Ohio	660
Rush Creek Bank Stabilization Project, Missouri	776
St. Joseph Shoreline Protection, Michigan	175
St. John's Landfill Dike Stabilization	500
Thieme Dr., Fort Wayne, Indiana	120
Tonawanda Creek, Minnick Road, New York	800
Wastewater plant, Intake Channel, Seguin Texas	390
Windsor Reservoir, Dalton, Massachusetts	100

PROJECT MODIFICATIONS FOR THE IMPROVEMENT
OF THE ENVIRONMENT (SECTION 1135)

Bayou DeSaird, Louisiana	250
Big Cypress Bayou Fish and Wildlife Habitat, Texas	530
Boyd's Marsh Salt Marsh Portsmouth, Rhode Island	500
Bull Creek Channel Ecosystem Restoration, California	2,000

CONTINUING AUTHORITIES PROGRAMS
(In thousands of dollars)

	House Recommended
Joe Creek ecosystem restoration, Oklahoma	100
Hoosic River, Adams, Massachusetts	500
Lake Jesup, Florida	533
O.C. Fisher Lake, Texas	250
Ocklawaha River prairie restoration, Florida	250
Prison Farm shoreline habitat, North Dakota	250
Rathbun Lake, South Fork wetland restoration, Iowa	550
Rillito River riparian and wetland development, Arizona	167
Sand Creek, Kansas	3,000
Shelbyville, Illinois	10
Smith Island/Union Slough Restoration Project, Washington	400
Spunky Bottoms Ecosystem Restoration, Illinois	350
Tujunga Wash Environmental Restoration, California	431

AQUATIC ECOSYSTEM RESTORATION PROJECTS
(SECTION 206)

Arkansas City ecosystem restoration, Kansas	180
Arkansas River Fisheries Habitat Restoration, Pueblo, Colorado	315
Big Fish Weir Creek, Florida	150
Bird Island habitat restoration, Massachusetts	100
Burgess Falls, Tennessee	116
Canonsburg Lake, Pennsylvania	250
Chattahoochee Fall Line ecosystem restoration, Georgia	250
Clear Lake Watershed/Clear Lake, Ventura Marsh, Iowa	165
Columbus, Ohio 5th Avenue dam removal Orientangy River	360
Concord, North Carolina stream bank restoration	350
Echo Bay, New Rochelle, New York	450
Efroymsen, Indiana	200
English Creek Aquatic Restoration, California	380
Eugene Field, Illinois	125
Greenbury Point, Maryland	185
Grover's Mill Pond, New Jersey	250
Hofmann Dam, Cook County, Illinois	235
Indian Creek Aquatic Ecosystem Restoration Project, Idaho	500
Kanakee River aquatic ecosystem restoration, Illinois	100
Lake Anna, Virginia	175
Lake Sawgrass and Lake Hell'n Blazes, Florida	1,100
Little River Watershed Aquatic Habitat Restoration, Georgia	100

CONTINUING AUTHORITIES PROGRAMS
(In thousands of dollars)

	House Recommended
Lockport prairie reserve, Illinois	300
Lynches River/Lake City Project, South Carolina	205
Malden River Ecosystem Restoration Project, Massachusetts	80
Millford Pond Restoration Project, Milford, Massachusetts	80
Mill River restoration, Stamford, Connecticut	153
Ninigret and Cross Mills Ponds, Charlestown, Rhode Island	750
North Hempstead, New York ecosystem restoration	500
Orland wetlands, Illinois	225
Pocotaligo Swamp Restoration	310
Port of Sunnyside wetland, Washington	100
Salt River restoration project, California	450
Soundview Park, Bronx, New York	400
South Park Lake Aquatic Ecosystem Restoration Project, New York	275
Springwater/Johnson Creek Watershed Improvements, Oregon	220
Stephenville Wetland, Texas	165
Storm Lake, Iowa Water Quality Project	100
Sweetwater Reservoir Ecosystem Rest, California	90
Treats Pond, Cohasset, Massachusetts	200
Tsala Apopka Littoral Shelf Restoration, Florida	300
Western Cary Stream Restoration Cary, North Carolina	175
Wilson Branch, South Carolina	79
Wolf Lake, Indiana	300

BENEFICIAL USE OF DREDGED MATERIAL
(SECTION 204)

Jamaica Bay, Marsh Islands, New York	1,000
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FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES
(In thousands of dollars)

	STATE	BUDGET REQUEST	HOUSE RECOMMENDED
YAZOO BASIN, BIG SUNFLOWER RIVER, MS	MS	210	200
YAZOO BASIN, ENID LAKE, MS	MS	5,232	4,975
YAZOO BASIN, GREENWOOD, MS	MS	620	590
YAZOO BASIN, GREENADA LAKE, MS	MS	5,674	5,395
YAZOO BASIN, MAINSTEM, MS	MS	1,080	1,027
YAZOO BASIN, SARDIS LAKE, MS	MS	7,153	6,802
YAZOO BASIN TRIBUTARIES, MS	MS	1,130	1,075
YAZOO BASIN, WILL M WHITTINGTON AUX CHAN, MS	MS	430	409
YAZOO BASIN, YAZOO BACKWATER AREA, MS	MS	470	447
YAZOO BASIN, YAZOO CITY, MS	MS	770	732
INSPECTION OF COMPLETED WORKS, MO	MO	182	173
WAPPAPELLO LAKE, MO	MO	4,676	4,446
INSPECTION OF COMPLETED WORKS, TN	TN	110	105
MEMPHIS HARBOR, MCKELLAR LAKE, TN	TN	992	943
EMERGENCY REPAIR RESERVES			1,700
MAPPING		1,384	1,316
SUB-TOTAL MAINTENANCE		162,822	160,152
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE		-12,918	
TOTAL, FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES		270,000	290,000

Bayou Meto Basin, Arkansas.—The Committee recommends \$1,640,000 to complete authorized preconstruction, engineering and design on this project.

Mississippi River levees, AE, IL, KY, LA, MS, MO, and TN.—Within the funds provided for Mississippi River levees construction activities, the Committee has included \$3,000,000 for St. Johns Bayou and New Madrid and box culverts in the State of Missouri. For maintenance, the Committee recommends \$9,902,000, of which \$1,100,000 shall be available for levee gravel placement at Commerce to Birds Point, Missouri.

St. Francis Basin, AR and MO.—The bill includes \$6,800,000 for construction activities in the St. Francis Basin, Arkansas and Missouri project, which includes \$4,160,000 to further 10/15 Mile Bayous; \$570,000 to complete Buffalo Island Inlet, Arkansas; \$390,000 for right of way acquisition for Piggott Seepage, Arkansas; and \$500,000 for work within the State of Missouri. The Committee recommendation also includes \$8,800,000 for St. Francis Basin, Arkansas and Missouri maintenance activities, of which \$2,000,000 shall be available to complete work on the floodway in the State of Missouri.

St. Johns Bayou and New Madrid floodway, Missouri.—The Committee has included \$5,500,000 for St. Johns Bayou and New Madrid floodway, Missouri project. These funds shall be available to further work on the New Madrid pumping station and shall not be available to initiate new construction on any remaining project elements.

Wolf River, Memphis, Tennessee.—The Committee provides \$3,500,000 for the Wolf River ecosystem restoration project, which shall be available only to complete construction of the weirs and access roads and not to initiate construction of any remaining project elements.

OPERATION AND MAINTENANCE

Appropriation, 2005	\$1,943,428,000
Budget estimate, 2006	2,179,000,000
Recommended, 2006	2,000,000,000

Appropriation, 2005	+56,572,000
Budget estimate, 2006	+21,000,000

¹ Excludes emergency appropriations of \$148,000,000.

² The budget proposes certain receipts from the Power Marketing Administration totaling \$181,000,000 be credited to this account as offsetting collections.

This appropriation funds operation, maintenance, and related activities at the water resources projects that the Corps of Engineers operates and maintains. Work to be accomplished consists of dredging, repair, and operation of structures and other facilities, as authorized in various River and Harbor, Flood Control, and Water Resources Development Acts. Related activities include aquatic plant control, monitoring of completed projects, removal of sunken vessels, and the collection of domestic waterborne commerce statistics. Portions of this account are financed through the Harbor Maintenance Trust Fund.

For fiscal year 2006, the Committee recommends an appropriation of \$2,000,000,000, an increase of \$6,572,000 over the fiscal year 2005 enacted level and \$21,000,000 over the budget estimate.

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The Committee recommendation does not include the proposal included in the budget estimate to reclassify certain receipts collected by the Southwestern Power Administration, the Southeastern Power Administration, and the Western Area Power Administration.

The budget request and the approved Committee allowance are shown in the following table:

OPERATION AND MAINTENANCE
(in thousands of dollars)

	State	Budget Request		House Recommended	
		Request	Recommended	Request	Recommended
Anchorage Harbor, AK	AK	11,470	11,470		
Chena River Lakes, AK	AK	3,051	3,051		
Dillingham Harbor, AK	AK	622	622		
Homer Harbor, AK	AK	299	299		
Inspection of completed works, AK	AK	45	45		
Ninilchik Harbor, AK	AK	248	248		
Nome Harbor, AK	AK	2,496	2,496		
Project condition surveys, AK	AK	588	588		
Alabama - Coosa comp water study, AL	AL	180	180		
Alabama - Coosa River, AL	AL	1,591	1,591		
Black Warrior and Tombigbee Rivers, AL	AL	22,117	22,117		
Gulf Intracoastal Waterway, AL	AL	4,050	4,050		
Inspection of completed works, AL	AL	50	50		
Millers Ferry lock and dam, William "Bill" Dannelly Lake, AL	AL	7,315	7,315		
Mobile Harbor, AL	AL	20,248	20,248		
Project condition surveys, AL	AL	100	100		
Robert F Henry lock and dam, AL	AL	7,125	7,125		
Scheduling reservoir operations, AL	AL	140	140		
Tennessee - Tombigbee Waterway wildlife mitigation, AL & MS	AL	1,400	1,400		
Tennessee - Tombigbee Waterway, AL & MS	AL	20,103	20,103		
Walter F George lock and dam, AL & GA	AL	7,171	7,171		
Beaver Lake, AR	AR	5,744	5,744		
Blakely Mt Dam, Lake Ouachita, AR	AR	10,084	10,084		
Blue Mountain Lake, AR	AR	1,292	1,292		
Bull Shoals Lake, AR	AR	6,392	6,392		
Dardanelle Lock and Dam, AR	AR	6,524	6,524		
Degray Lake, AR	AR	6,828	6,828		
Dequcen Lake, AR	AR	1,193	1,193		
Diets Lake, AR	AR	1,161	1,161		
Gilham Lake, AR	AR	1,093	1,093		
Greets Ferry Lake, AR	AR	5,608	5,550		
Helena Harbor, Phillips County, AR	AR	30	30		
Inspection of completed works, AR	AR	199	199		
McClellan - Kerr Arkansas River navigation system, AR & OK	AR	35,065	34,230		
Millwood Lake, AR	AR	1,782	1,782		
Narrows Dam, Lake Greeson, AR	AR	4,342	4,342		
Nimrod Lake, AR	AR	1,656	1,656		
Norfolk Lake, AR	AR	4,540	4,540		
Osceola Harbor, AR	AR	29	29		
Ouachita and Black Rivers, AR & LA	AR	8,500	10,400		
Ozark - Jeta Taylor lock and dam, AR	AR	5,151	5,151		
Project condition surveys, AR	AR	7	7		
White River, AR	AR	215	215		

OPERATION AND MAINTENANCE
(in thousands of dollars)

	State	Budget Request	House Recommended
REMAINING ITEMS			
Aquatic nuisance control research	XX	690	690
Automated budget system (abs)	XX	250	250
Coastal inlet research program	XX	2,475	2,475
Cultural resources (magr/gr/curation)	XX	1,391	1,391
Dredge wheeler ready reserve	XX	8,000	8,000
Dredging data and lock performance monitoring system	XX	1,062	1,000
Coastal inlet research program	XX	6,080	5,660
Dredging operations technical support program (doer)	XX	1,391	1,300
Earthquake hazards reduction program	XX	270	270
Key emergency maintenance/repair reserve	XX	20,000	10,000
Facility protection	XX	12,000	12,000
Great lakes sediment transport models	XX	900	900
Harbor maintenance fee data collection	XX	608	608
Inland waterway navigation charts	XX	3,708	3,708
Long term option assessment for low use navigation	XX	1,500	1,500
Monitoring of completed navigation projects	XX	1,575	1,500
National dam safety program	XX	250	250
National dam security program	XX	31	31
National emergency preparedness program (nepp)	XX	5,000	5,000
National lewis and clark commemoration coordinator	XX	319	319
Performance based budgeting support program	XX	2,540	734
Protect, clear and straighten channels (sec 3)	XX	45	45
Recreation management support program (rmsp)	XX	1,600	1,500
Regional sediment management demonstration program	XX	1,391	1,391
Reliability models program for major rehabilitation	XX	608	608
Removal of sunken vessels	XX	500	500
Water operations technical support (wots)	XX	653	653
Waterborne commerce statistics	XX	4,271	4,200
Reduction for savings and slippage	XX	-12,766	
Total Remaining Items		66,342	64,983
TOTAL OPERATION AND MAINTENANCE		1,979,000	2,000,000

Burns Harbor, Indiana.—Within available funds, the Committee directs the Corps to give priority consideration to the Bailly intake pipe.

Dry Creek (Warm Springs) Lake and Channel, California.—The Committee recommendation includes a total of \$5,825,000 for operation and maintenance at Dry Creek (Warm Springs) Lake and Channel, California. The amounts provided in excess of the request shall be available to complete outlet channel riprap repairs, control tower elevator shaft seepage repair, and spillway inlet channel repair.

Duluth—Superior Harbor, MN and WI.—For Duluth—Superior Harbor, Minnesota and Wisconsin, the Committee has provided \$5,381,000, of which \$300,000 shall be available for a freshwater corrosion study.

Garrison Dam, Lake Sakakawea, North Dakota.—Funds in excess of the budget request shall be for the removal of noxious weeds.

Grays Harbor and Chehalis River, WA.—The Committee has included \$9,000,000 to maintain the navigation channel of Grays Harbor, including the maintenance and improvement of the north and south jetties. The Corps is directed to identify operation and maintenance practices for the south jetty that will keep the breach closed and the Half Moon Bay shoreline stable.

Kinzua Dam and Allegheny Reservoir, PA.—For Kinzua Dam and Allegheny Reservoir, Pennsylvania, the Committee has provided \$1,447,000, of which \$300,000 shall be available for recreational improvements to include visitor center and fishing access improvements.

Hudson River, New York (O&C).—Within the funds provided, the Committee directs the Corps to conduct a reconnaissance study under section 216 authority of the Flood Control Act of 1970, as amended, for review of the completed projects for the Hudson River, Troy Lock and Dam, Troy, New York.

Miami River, Florida.—The Committee recommends \$1,000,000 for operations and maintenance of Miami River, Florida. The Committee is aware of the ongoing economic analysis of the Miami River maintenance project, and expects the Corps to complete and approve this analysis.

Ohio River Locks and Dams, Kentucky, Ohio and West Virginia.—Within the funds provided, the Corps of Engineers is directed to utilize \$2,500,000 in cooperation with Operation Response, a non-profit organization, to implement a project collecting and integrating imagery of a selected segment of the Ohio Basin, gathering data from Federal and non-Federal interests, and developing and testing software primarily for the use of emergency responders.

Ouchita and Black Rivers, AR & LA.—In total, the Committee recommends \$10,400,000, of which \$1,900,000 shall be available to complete annual maintenance dredging.

Whitney Lake, Texas.—For fiscal year 2006, the Committee recommends \$6,803,000, of which not less than \$900,000 of the funds in excess of the budget request shall be for Ham Creek Park and not more than \$300,000 of the funds in excess of the budget request shall be available for Kimball Bend Park.

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ENERGY AND WATER APPROPRIATIONS BILL, 2006

JUNE 16, 2005.—Ordered to be printed

Mr. DOMENICI, from the Committee on Appropriations,
submitted the following

REPORT

[To accompany H.R. 2419]

The Committee on Appropriations, to which was referred the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, reports the same to the Senate with an amendment and recommends that the bill as amended do pass.

Amount in new budget (obligational) authority, fiscal year 2006

Total of bill as reported to the Senate	\$31,245,000,000
Amount of 2005 appropriations	29,832,280,000
Amount of 2006 budget estimate	29,746,728,000
Amount of House allowance	29,746,000,000
Bill as recommended to Senate compared to—	
2005 appropriations	+ 1,412,720,000
2006 budget estimate	+ 1,498,272,000
House allowance	+ 1,499,000,000

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PURPOSE

The purpose of this bill is to provide appropriations for the fiscal year 2006 beginning October 1, 2005, and ending September 30, 2006, for energy and water development, and for other related purposes. It supplies funds for water resources development programs and related activities of the Department of the Army, Civil Functions—U.S. Army Corps of Engineers' Civil Works Program in title I; for the Department of the Interior's Bureau of Reclamation in title II; for the Department of Energy's energy research activities, including environmental restoration and waste management, and atomic energy defense activities of the National Nuclear Security Administration in title III; and for related independent agencies and commissions, including the Appalachian Regional Commission, Delta Regional Authority, Denali Commission, and the Nuclear Regulatory Commission in title IV.

SUMMARY OF ESTIMATES AND RECOMMENDATIONS

The fiscal year 2006 budget estimates for the bill total \$31,245,000,000 in new budget (obligational) authority. The recommendation of the Committee totals \$31,245,000,000. This is \$1,498,272,000 above the budget estimates and \$1,412,720,000 over the enacted appropriation for the current fiscal year.

SUBCOMMITTEE HEARINGS

The Appropriations Subcommittee on Energy and Water held four sessions in connection with the fiscal year 2006 appropriation bill. Witnesses included officials and representatives of the Federal agencies under the subcommittee's jurisdiction.

The subcommittee received numerous statements and letters from Members of the U.S. Senate and House of Representatives, Governors, State and local officials and representatives, and hundreds of private citizens of all walks of life throughout the United States. Information, both for and against many items, was presented to the subcommittee. The recommendations for fiscal year 2006 therefore, have been developed after careful consideration of available data.

VOICES IN THE COMMITTEE

By a vote of 28 to 0 the Committee on June 16, 2005, recommended that the bill, as amended, be reported to the Senate.

(4)

TITLE I—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INTRODUCTION

In 1802, responding to the need for engineering talent to support both the defense of the young United States and its civilian infrastructure, President Thomas Jefferson proposed a body of engineers within the U.S. Army, readily available to tackle assignments of national importance. To train them, he opened the first engineering school in the United States—the U.S. Military Academy at West Point, NY.

In the two centuries since, the expertise, the U.S. Army Corps of Engineers has gained, especially in water resources, has led administrations and Congress to assign it missions in navigation, flood control, shore protection, hydropower, water supply, recreation, and, most recently, environmental stewardship, cleanup and restoration work. The public has also relied on the Corps to respond rapidly with engineering services when disaster strikes.

Still, the question has often arisen why the Army of today carries out a Civil Works mission that appears, at first glance, far removed from its primary mission of deterring and winning wars. In fact, in the past 80 years there have been at least eight proposals to transfer the Civil Works mission to other Government agencies. All have been rejected after more careful consideration.

The Army has traditionally relied on its Civil Works mission to train combat engineers, and to complement and augment its warfighting competencies, providing the capability to respond to situations across the spectrum of conflict. Specifically, Civil Works provides the Army:

—A force in being of about 24,000 engineers and other professionals, familiar with the Army culture and responsive to the chain of command. The program provides attractive careers and professional challenges to maintain this force. This is a no cost asset to the Army until needed for warfighting.

—Established relationships with Federal, State and local officials, and with the Nation's engineering and construction industries—a force multiplier of hundreds of thousands. "On the shelf" contracts are available for emergencies.

—Deployability.—Corps members engaged in Civil Works activities are available where needed. Today scores of Civil Works personnel are deployed in Afghanistan and Iraq. Specialists in such activities as real estate were sent before the main force to secure needed facilities. Meanwhile, Corps "tele-engineering" systems link combat commanders to Corps labs and other stateside experts for immediate on-the-ground feedback.

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Support to Combat Forces.—Corps of Engineers knowledge of beach dynamics helps determine sites for landings over the shore, while expertise in soil mechanics determines the best routes for armored vehicles with technologies developed in the Civil Works program. Corps' work on winter navigation helps the Army cross frozen rivers—and was a major factor in its crossing of the Sava River in Bosnia. Its experience with roller compacted concrete for dams was used for runways and hardstands. Civil Works experience with harbors allows the Army to build ports to support U.S. forces in places such as Somalia where facilities are primitive to non-existent.

Expertise in natural and cultural resources, water quality, flood plain management or toxic waste control, helping the Army comply with more than 70 Federal environmental statutes, and a breadth of experience and workload in dozens of specialized fields that would not otherwise be possible.

A Power Projection Platform.—Nearly all military equipment deployed overseas passes through ports maintained by the Civil Works program. So do most Navy ships. Corps flood control projects also play a role in force projection by protecting key highway and rail links.

International Goodwill.—Army Engineers experienced in Civil Works play a major role in infrastructure in developing nations. They help to improve economic conditions and strengthen democratic institutions in these nations; allow the Army a presence in politically sensitive areas; and foster good will through contact between governments and armed forces. Today Corps personnel are working in more than 90 nations around the world. In most of these nations, no other U.S. forces are present.

Army management of the Nation's water resources, in turn, benefits the program and the Nation in a number of ways:

Responsiveness.—Corps members and contractors are available to deploy, often within hours, wherever the need arises. This was dramatically demonstrated in the aftermath of the September 11, 2001 attacks. Civil Works personnel were on the scene within hours. Corps vessels operated a ferry service taking survivors to New Jersey and bringing rescue workers into the city. Corps personnel assisted with rescue and recovery operations. Structural engineers evaluated which buildings were safe for re-entry. The 249th Engineer Battalion (Prime Power) provided the expertise necessary to set up emergency generators that had New York's financial district back in business the following Monday. The Corps also developed the plan for disposal of debris from "Ground Zero" and managed the Staten Island disposal site so that 1.35 million tons of material were safely disposed of months ahead of schedule and \$55,000,000 under budget.

A Bias For Action.—A unique mix of Army officers with a "can do" attitude working alongside world class engineering and scientific civilian expertise makes the Corps arguably the most positive and proactive agency in the Federal Government.

National Security Consideration in Planning for Infrastructure.—The Corps recently completed security assessments for

more than 300 of its key projects. It also led the establishment in March 2002 of The Infrastructure Security Partnership [TISP], bringing together government and private organizations representing about 1.6 million engineers and other professionals to focus on securing the infrastructure necessary to maintain normal American life. Corps "hardening" measures, meanwhile, were credited with saving hundreds of lives in the 9/11 attack on the Pentagon.

Impartiality in Recommendations for Projects, Permits, Etc.—Administrations and Congresses rely on the Corps to base investment recommendations on the best engineering, economic and environmental science available, not political considerations.

Concentration of Water Resources Expertise in One Agency.—The Corps, with the great majority of its civil works personnel located throughout the 50 States rather than in Washington, DC, is unique in the world in that it provides a common arena for water resources issues in the United States to be debated and solutions vetted. Governments of other countries study the Corps as they begin to understand the need for integrated solutions and seek to build the capability to achieve them by combining previously separate agency responsibilities. The Corps provides synergy among various uses of water, balance among uses and geographic areas, and the ability to plan water resources for watersheds as a whole instead of single projects for specific locations. Water resource planners and the public are increasingly coming to understand that water problems cannot be considered in isolation—the solution to one problem often generates others. Uses and protection of water resources cannot be separated, but require an integrated, watershed approach. Having different agencies in charge of water resource uses would guarantee conflicts among uses, while having all uses under the auspices of one agency is a major step in creating a balanced, holistic approach to the Nation's water needs—a step that was taken 200 years ago.

FISCAL YEAR 2006 BUDGET OVERVIEW

The fiscal year 2006 budget request for the Corps of Engineers is composed of \$4,332,000,000 in new budgetary authority and \$181,000,000 in offsetting collections from the Power Marketing Authorities for a total program of \$4,513,000,000. The Committee is unable to take advantage of the offsetting collections due to budgetary scoring impacts and therefore rejects this proposal for the fourth year in a row.

The Committee recommends a total of \$5,298,000,000 for the Corps of Engineers, an increase of \$612,452,000 from fiscal year 2005 enacted levels (adjusted for one-time emergency spending of \$372,400,000). The Committee recommendation is \$966,000,000 above the request. The Committee recommendation provides for a robust planning program as well as providing significant increases to the construction and operation and maintenance accounts. Unfortunately, even with this large increase the Committee recommendation falls short of what is actually needed to provide efficient levels of funding for all on-going work.

The Corps' budget proposal is a departure from previous years. This budget is the first to be developed as a full business line program prioritization and then cross-walked to the traditional account summary. Projects compete in each of the three main mission areas (Flood Damage Reduction, Navigation and Environmental Restoration) and are classified as follows:

- Coastal Navigation,
- Inland Navigation,
- Flood Damage reduction,
- Storm Damage reduction,
- Aquatic Ecosystem Restoration, and
- Other (including all major rehabilitation and Hydropower).

Categories 1-4 comprise 70 percent or more of the Construction, General Program; Category 5 is 25 percent or less; and Category 6 is 5 percent or more. Projects were ranked on two performance criteria—Remaining Benefits to Remaining Costs Ratio or effective use of resources to address significant ecological problems. Lower ranking projects are proposed for contract deferral, suspension or termination. The budget proposed another new shore protection policy, the fourth in 4 years. Additionally, the budget proposed repealing the current continuing contract language and replacing it with new multiple year contracting. Finally, the budget included a proposal that \$200,000,000 of the construction funds should be contingent upon Congress accepting the administration's budgetary prioritization criteria.

The Committee is disappointed that the administration has included another "new" beach policy. Beaches are the leading tourist destination in the United States. California beaches alone receive nearly 600 million tourist visits annually. This is more tourist visits than to all of the lands controlled by the National Park Service and the Bureau of Land Management combined. Beach tourists contribute \$260,000,000 to the U.S. economy and \$60,000,000 in Federal taxes. Last year Congress provided legislation that beach policies will not be changed except by congressional direction. Congress has repeatedly demonstrated that the current beach policy is satisfactory. The Committee has attempted to provide sufficient funding for a number of the most critical shore protection projects.

The Committee has chosen to reject all of these budget proposals. The Committee believes that this is no way to run a robust national infrastructure program. The Corps needs to seriously reexamine its "business line" budget model. The Corps program has always been a "big tent" where all aspects of water resource development were jointly discussed and budgeted. The business line approach segregates these interests and promotes discord among various water resource interests. There is already evidence of some "business lines" attempting to find ways to take funding from "business lines" with smaller constituent bases. This lack of unity will further the downward spiral of recent budget proposals.

The Committee believes that the budget proposal's blind emphasis on remaining benefits to remaining costs ratios to determine funding priorities is misplaced. The strict adherence to the metric of Remaining Benefit to Remaining Cost Ratio to the exclusion of all other possible metrics that could have been utilized such as

widespread project net benefits, inclusion of system-wide values, acknowledgement of regional benefits, recognition of a wider set of benefits over a longer planning period than just 1 year, calculations using other interest rates that are more in accordance with the projects authorizations, as well as the GI metric of 3.0 RBRRCR for the PED projects, is indeed narrow.

Also, funding only the "highest potential return" studies to the detriment of many other studies that provide a future vision or address far-reaching problems while not yet showing any BCR data, can also be considered "penny wise and pound foolish." These studies still add value and importance and have a place in the problem solving needs of the overall Nation's water community.

While this process may have led to a very focused performance-based set of final projects to study, design and construct, the metrics used led to a very skewed set of results with a few strong regional winners and many losers. Consideration of a more encompassing set of factors including those mentioned above, as well as a number still under development, would have provided a more comprehensive set of projects, yet continuing to deliver needed, effective, national water benefits.

These ratios provide a "snapshot" view of a project. They tell you nothing of the relative value of one project to another, projects in rural areas with fewer beneficiaries are penalized and no consideration is given to the workforce. Congress has repeatedly demonstrated that it desires to keep the structure of the Corps of Engineers as it is currently configured. Yet if the budget were enacted, there would be no way to maintain this workforce, due to how the ratios skewed the projects to certain areas of the country.

The program proposed in the budget is very unbalanced among planning, construction and maintenance. The planning program is decimated. The proposed program slows down the number of projects reaching construction by limiting funding for new study phases. The planning program is vital to a healthy Corps of Engineers; without a steady supply of new studies, eventually there will be no new construction projects, and then the Corps would gradually become an operation and maintenance organization with no real national capabilities. There is no shortage of water resource needs in the country today, and the Corps needs to maintain a robust planning program to be able to continue to address these needs.

Continuing Contracts

The Corps needs flexibility to manage their program. Unlike building a hospital or a barracks or a post office where the site is relatively contained, flood free, and accessible, water resource projects are constructed in physically challenging locations. By their nature, these projects involve large mobilization costs and great uncertainties. The Corps of Engineers has been tasked with providing hundreds of water infrastructure projects in challenging locations throughout the country. Historically, the Corps has done an outstanding job of managing these great water resource projects and has provided the water infrastructure that has greatly contributed to our economic security.

One of the greatest tools that the Corps of Engineers has for managing its nationwide water resources infrastructure program is the ability to award multiyear continuing contracts. When an agency is managing, literally, hundreds of construction projects throughout the country, problems are inevitable. These can range from flood, to drought, to funding shortfalls, to unanticipated hazardous wastes encountered in the construction site, or discovery of unanticipated cultural resources. Any one of these items can bring a project to a temporary halt or slow construction. By the same token, projects can be accelerated due to mild winters or below average flows on a river allowing a longer construction season with more work to be done and more funds to be utilized.

Water resources projects, because of the nature of the work involved, are funded on an incremental annual basis. As far back as 1922, the Congress recognized the need for flexibility in management and execution of the Civil Works program and provided the Army Corps of Engineers with legislation that allowed the use of continuing contracts for specifically authorized projects. In a 1977 decision, the Comptroller General confirmed that the authority found in the 1922 law constituted an exception to the Anti-deficiency Act. Accordingly, the Corps has had the discretion to use continuing contracts to execute any of its specifically authorized water resources projects since at least 1977.

In the Water Resources Development Act of 1999 (33 U.S.C. § 2331), the Congress enacted another provision of law relating to continuing contracts. This legislation requires the Corps to award a continuing contract for a water resources project for which initiation of construction has occurred, but for which sufficient funds are not available to complete the project. The statute defines initiation of construction as the date of the enactment of an appropriations act in which the project receives funds from either the Construction, General, Operation and Maintenance, General or Flood Control, Mississippi River and Tributaries lump sum appropriations. Since Congress rarely appropriates sufficient funds for each project, the practical effect of the statute is that it requires the use of continuing contracts for the majority of civil works water resource projects.

Continuing contracts allow the Corps to award large construction elements of a project to take advantage of the economies of scale available to construction contractors. Allowing these large construction elements to be managed over several years without requiring contracts to be fully funded before construction begins affords the Corps the ability to more efficiently manage multiple construction contracts. Multiyear funding, and the ability to reprogram funds, are tools that have allowed the Corps to maximize scarce resources to try to do as much as possible with the resources available to them; they also left the Corps open to charges that it has put contractors in charge of managing its funds.

The Congress has expressed its concerns in the past that Corps of Engineers construction projects may have used the continuing contracts clause and the ability to reprogram funds to award some construction contracts that may not have been fiscally prudent in light of current budget realities. However, many of these construction contracts were awarded when surplus funds were available al-

lowing reprogramming of funds to make up for budget shortfalls. This process has resulted in most surplus funds being expended, leaving the Corps with very little flexibility to cover the financial obligations of the construction contracts. As a result, an increased number of reprogrammings are necessary to satisfy as many of the Corps' financial obligations as possible.

In the Conference Report accompanying the fiscal year 2005 Consolidated Appropriations Act (House Report 108-792), the Congress expressed its belief that the Corps had made great strides in resolving these financial issues by applying more stringent controls on financial obligations allowed on continuing contracts and allowed the Corps to continue to resolve the situation. The Congress also cautioned the Corps that it must regain control of all aspects of program execution and execute the program which Congress appropriates. The Committee believes that the Corps has made progress in tightening controls on the use of continuing contracts. For example, these types of contracts have traditionally been executed at a district level. However, the decision has been elevated to Corps headquarters on whether or not to award a continuing contract. The Committee sees this as an appropriate but temporary necessity and expects continuing contracts to remain a generally available contracting tool for program execution.

The continuing contract clause has adequate controls to limit the future obligations of the Federal Government. The Committee expects the Corps to utilize these controls to limit Government exposure. The Committee expects the Corps to develop specific execution guidance to control and manage the implementation of continuing contracts, consistent with law and prudent fiscal policy, and to carry out the Civil Works program accordingly.

Reprogramming

The Committee expects the Corps to execute the Civil Works program following congressional direction. This includes moving individual projects forward in accordance with the funds annually appropriated. However, the Committee realizes that many factors outside the Corps' control may dictate the progress of any given project or study. Therefore, the Committee believes that it is imperative to allow the Corps ample flexibility to manage the program and to utilize excess funds as they become available on a particular project to move the entire program forward. With this flexibility comes a responsibility to insure that appropriated funds are available for projects when necessary. The Committee expects the Corps to develop specific execution guidance to control and manage the reprogramming of funds, which is consistent with law and prudent fiscal policy, and to carry out the Civil Works program accordingly. As there were some ambiguities in the reprogramming guidance provided with the fiscal year 2005 Omnibus Report, the Committee has elected to redraft that guidance and present it here.

Reprogramming is also to be used in very benign, fiscally responsible ways. The Corps financial management system uses thousands of work item codes to supply funding for everything from purchasing a screwdriver to ordering a computer to buying a miter gate for a lock and dam. As the Government cannot fund purchases in arrears, adequate funding estimates must be supplied into these

work items prior to purchases being made. Rarely are these estimates an exact match for these purchases. Often funding is left in these work items that must be cleaned up at the end of the fiscal year. The remaining funds from these accounts must be reprogrammed to other accounts in order to be used. These remaining funds can range from a few pennies to thousands of dollars. The same is true when a cost shared project is completed with a local sponsor. A final accounting must be made and all of the old work items must be cleaned out in order to dispose of leftover project funding.

Reprogramming Guidance

A reprogramming action may not be used to eliminate or initiate a program, project or activity.

General Investigations.—Reprogramming a cumulative total of up to 25 percent of the total General Investigations appropriation funding is permitted. Such reprogramming between studies and programs within the preceding limitation are permitted without approval of either House of Congress. However, the Chief of Engineers shall provide a quarterly report to both House and Senate Appropriations Committees of all reprogrammings for individual studies or programs with increases in excess of \$250,000 but less than or equal to \$500,000. Approval of both House and Senate Appropriations Committees is required for cumulative reprogramming increases greater than \$500,000. Restoration of all savings and slippage shall not count toward the cumulative total. The Committee does not object to reprogramming up to \$50,000 to any continuing study or program that did not receive an appropriation in the current year. All funds used to source reprogrammings described above should be surplus to current year needs for that effort. For the purpose of this section, the cumulative total is derived by summing the net increases of reprogrammings for only the gaining projects or programs.

Construction, General.—Reprogramming a cumulative total of up to 15 percent of the total Construction, General appropriation funding is permitted. Such reprogramming between projects and programs within the preceding limitation are permitted without approval of either House of Congress. However, the Chief of Engineers shall provide a quarterly report to both House and Senate Appropriations Committees of all reprogrammings for individual projects or programs with increases in excess of \$4,000,000 but less than or equal to \$7,000,000. Approval of both House and Senate Appropriations Committees is required for cumulative reprogramming increases greater than \$7,000,000. Restoration of all savings and slippage and prior year revocations shall not count toward the cumulative total. The Committee does not object to the restoration of prior year revocations or the additional reprogramming of up to \$500,000 to any continuing project or program that did not receive an appropriation in the current year. All funds used to source reprogrammings described above should be surplus to current year needs for that effort. For the purpose of this section, the cumulative total is derived by summing the net increases of reprogrammings for only the gaining projects or programs.

Operations and Maintenance.—Unlimited reprogramming authority is granted in order for the Corps to be able to respond to emergency. The Chief of Engineers must notify the House and Senate Appropriations Committees as soon as practicable of these emergency situations. For all other situations, reprogramming a cumulative total of up to 50 percent of the total Operations and Maintenance appropriation funding is permitted. Such reprogramming between projects and programs within the preceding limitation are permitted without approval of either House of Congress. However, the Chief of Engineers shall provide a quarterly report to both House and Senate Appropriations Committees of all reprogrammings for individual projects or programs with increases in excess of \$5,000,000 but less than or equal to \$10,000,000. Approval of both House and Senate Appropriations Committees is required for cumulative reprogramming increases greater than \$10,000,000. All funds used to source reprogrammings described above should be surplus to current year needs for that effort. For the purpose of this section, the cumulative total is derived by summing the net increases of reprogrammings for only the gaining projects or programs.

Mississippi River and Tributaries.—The Corps should follow the same reprogramming guidelines for the General Investigations, Construction, and Operation and Maintenance portions of the Mississippi River and Tributaries Account as listed above.

Formerly Utilized Sites Remedial Action Program.—The Corps may reprogram up to 15 percent of the appropriated funding level between FUSRAP projects without Committee approval. Restoration of prior year reprogramming amounts shall not count towards the cumulative total.

EXECUTIVE DIRECTION AND MANAGEMENT

The Committee is extremely disappointed in the general lack of leadership being exhibited by the Chief of Engineers, the Director of Civil Works and the Assistant Secretary of the Army (Civil Works) in execution of the Civil Works program. The Corps of Engineers has been provided clear guidance on program execution in a number of Acts of Congress over the years and is provided annual direction and guidance through the Energy and Water Appropriations Act. The ASAC[W] provides the Chief of Engineers advice about policy matters and is generally the political spokesperson for the administration's policies; however, the Chief of Engineers is responsible for carrying out the program. The Chief of Engineers receives his orders from the Army Chief of Staff and those orders flow through him to the Director of Civil Works and through the rest of the Civil Works hierarchy to carry out those orders. The Committee expects the Chief of Engineers to prepare management and execution plans in accordance with this guidance and to aggressively carry out those plans. The Committee has twice reprimanded the Chief of Engineers, in writing, of his obligations to execute the program for fiscal year 2005 contained in the Consolidated Appropriations Act of 2005 (Public Law 108-447). The Committee also directed that all guidance provided by the Congress should be adhered to in carrying out his responsibilities. It is a simple matter to determine the consensus judgments of the Congress as to how

executive branch programs should be administered. All one must do is look at the law and the accompanying reports as enacted. Any other congressional guidance should be viewed as suggestive and weighed in context with guidance that the Congress provided. The Committee expects the Chief of Engineers regain control and leadership over the Corps of Engineers and the Civil Works program immediately.

GENERAL INVESTIGATIONS

Appropriations, 2005	\$143,344,000
Budget estimate, 2006	95,000,000
House allowance	100,000,000
Committee recommendation	180,000,000

¹ Excludes emergency appropriations of \$400,000.

This appropriation funds studies to determine the need, engineering feasibility, economic justification, and the environmental and social suitability of solutions to water and related land resource problems; and for preconstruction engineering and design work, data collection, and interagency coordination and research activities.

The budget request and the recommended Committee allowance are shown on the following table:

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CORPS OF ENGINEERS—GENERAL INVESTIGATIONS

[In thousands of dollars]

Project title	Budget estimate	House allowance	Committee recommendation
ALABAMA	189	189	253
BREWTON AND EAST BREWTON, AL (BIRMINGHAM WATERSHED)			
ALASKA	300	300	500
AKUTAN HARBOR, AK			
ATKA HARBOR, AK			
ALASKA REGIONAL PORTS, AK			
ANCHORAGE HARBOR DEEPENING, AK			
BARROW COASTAL STORM DAMAGE DEEPENING, AK			
CRAIG HARBOR, AK			
DELONG MOUNTAIN HARBOR, AK			
EKLUTNA WATERSHED, AK			
HAINES HARBOR, AK			
HOMER HARBOR MODIFICATION, AK			
KENAI RIVER BLUFF EROSION, AK			
KETCHIKAN HARBOR, AK			
KLAMOCK HARBOR, AK			
KNIK BRIDGE CROSSING, AK			
KOIZEBUE SMALL BOAT HARBOR, AK			
LITTLE DIOMEDE HARBOR, AK			
MATANUSKA RIVER WATERSHED, AK			
MCGRATH, AK			
MEKORVUK HARBOR, AK			
PORT GRAHAM, AK			
PORT LIONS HARBOR, AK			
SANIT GEORGE HARBOR IMPROVEMENT, AK			
UNALAKLET, AK			
UNALASKA, AK			
VALDEZ HARBOR EXPANSION, AK			
WHITTIER BREAKWATER, AK			
YAKUTAT HARBOR, AK			

CORPS OF ENGINEERS—GENERAL INVESTIGATIONS—Continued

[in thousands of dollars]

Project title	Budget estimate		House allowance		Committee recommendation	
	Investiga- tions	Planning	Investiga- tions	Planning	Investiga- tions	Planning
ST. CROIX RIVER, WI			120			
ST. CROIX RIVER, RELOCATION OF ENDANGERED MUSSELS, WI					120	
WYOMING						
BEAR RIVER FEASIBILITY STUDY, WY			500			
MISCELLANEOUS						200
COASTAL FIELD DATA COLLECTION	1,875		1,875		6,375	
ENVIRONMENTAL DATA STUDIES	94		94		94	
FLOOD DAMAGE DATA	248		248		248	
FLOOD PLAIN MANAGEMENT SERVICES	5,625		5,625		8,935	
HYDROLOGIC STUDIES	300		300		300	
INTERNATIONAL WATER STUDIES	300		300		300	
NATIONAL SHORELINE	300		300		300	
OTHER COORDINATION PROGRAMS	375		375		375	
AMERICAN HERITAGE RIVERS	3,899		150		4,300	
CALLIED						
CHEESAPEAKE BAY PROGRAM			150			
COORDINATION WITH OTHER WATER RESOURCES AGENCIES			94			
FERC LICENSING			75			
GULF OF MEXICO			246			
INTERAGENCY AND INTERNATIONAL SUPPORT			150			
INTERAGENCY WATER RESOURCE DEVELOPMENT			131			
INVENTORY OF DAMS			113			
LAKE TAHOE			750			
NATIONAL ESTUARY PROGRAM			222			
NORTH AMERICAN WATERLOU MANAGEMENT PLAN			94			
PACIFIC NORTHWEST FOREST CASE			75			
SPECIAL INVESTIGATIONS AND REPORTS			75			
PLANNING ASSISTANCE TO STATES			75			
PRECIPITATION STUDIES (NATIONAL WEATHER SERVICE)			1,649			
REMOTE SENSING/GEOGRAPHIC INFORMATION SYSTEM SUPPORT			4,650		7,550	
RESEARCH AND DEVELOPMENT			152		152	
			225		225	
			152		152	
			19,643		34,500	
SCIENTIFIC AND TECHNICAL INFORMATION CENTERS	78		78		78	
STREAM GAGING (U.S. GEOLOGICAL SURVEY)	600		600		600	
TRANSPORTATION SYSTEMS	375		375		375	
TRI-SERVICE CAD/D/GIS TECHNOLOGY CENTER	402		402		402	
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-20,911				-40,126	
Total, General Investigations	87,896	7,104	88,597	12,362	138,662	41,338
	95,000		100,000		180,000	

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Knik Bridge Crossing, AK.—The Committee has included \$1,000,000 to initiate this technical study of the Federal channel.

Kotzebue Harbor, AK.—The Committee has provided \$500,000 to initiate this technical study to improve safety at the harbor.

Little Diomed Harbor, AK.—The Committee has included \$400,000 to initiate the technical study of navigation improvements.

Little River County (Ogden Levee), AR.—The Committee has included \$100,000 to initiate Preconstruction Engineering and Design [PED] studies. It is the Committee's understanding that Federal interest has been previously determined and that this project should proceed directly to PED.

Pine Mountain Dam, AR.—\$400,000 is provided to continue the General Reevaluation Report for the authorized project.

Red River Navigation, Southwest Arkansas, AR and LA.—The Committee has included \$400,000 to complete feasibility and initiate PED.

White River Minimum Flows, AR and MO.—The Committee recognizes the importance of providing minimum flows from various Corps projects as vital to aquatic ecosystem restoration efforts along the river. However, the Committee understands that there are serious issues that need to be resolved prior to significant progress being made on this project. Therefore, the Committee has provided \$100,000 to allow the Corps to continue to negotiate these contentious issues with the local sponsor.

Coyote, CA.—\$100,000 has been provided for this new reconnaissance study as provided in the budget request.

Napa Valley Watershed Management, CA.—The Committee has deleted funding for this study as local interests have indicated a desire to terminate the study in fiscal year 2005.

Orange County Special Area Management Plan [SAMP], CA.—\$169,000 has been provided to complete the SAMP.

San Joaquin Valley Area, CA.—The Committee has provided \$100,000 to initiate a reconnaissance study of the San Joaquin Valley in California (consisting of Stanislaus, Madera, Merced, Fresno, Kings, Tulare, and Kern Counties).

Tahoe Basin, CA and NV.—\$1,700,000 has been provided for continuation of PED.

Chesapeake and Delaware Canal Environmental Restoration, DE.—The Committee has provided \$100,000 for this reconnaissance study.

Daytona Beach Shores, Volusia County, FL.—The Committee has provided \$325,000 to continue the feasibility study.

Tybee Island, GA.—\$250,000 has been included to continue this storm damage reduction project.

Des Moines and Raccoon Rivers, IA.—\$400,000 has been included PED.

Upper Mississippi and Illinois Rivers Navigation Improvements, IL, IA, MN, MO, and WI.—The Committee recognizes the importance of modernizing our Nation's waterways and has provided \$20,000,000 for the continued PED on this important project.

Rocky Ripple, IN.—The Committee has provided \$100,000 for this feasibility study.

Missouri River Degradation Study, KS and MO.—The Committee has provided \$1,000,000 to initiate this study to investigate the scour problems and degradation of the riverbed.

Salt Lick Creek, KY.—\$100,000 is provided for this reconnaissance study.

Louisiana Coastal Area, LA.—The Committee recognizes the tremendous value of these coastal wetlands to the Nation. Much of our national oil and gas infrastructure is protected by these wetlands which are being lost at an alarming rate. The Committee has provided the full budget request of \$20,000,000 to further studies to determine ways to stop and reverse wetland loss.

Pearl River Navigation, LA and MS.—The committee has provided \$100,000 for reconnaissance studies directed towards development of this outdated project and to determine appropriate authorization of project facilities.

Great Lakes Navigation Study, MI, IL, IN, MN, NY, OH, PA, and WI.—\$315,000 has been provided to continue this study. These funds are to be used to complete the supplement to the reconnaissance report of Great Lakes St. Lawrence Seaway Navigation Study, which, based on previous agreement between the secretary, the ministry of transportation Canada, and the Secretary of the U.S. Department of Transportation, is to be limited in scope to evaluating the economic, engineering and environmental impacts of maintaining the great lakes St. Lawrence Seaway at current size draft and length of locks. The Secretary is directed to complete the supplemental report by September 2006, after which Congress, interested State and Federal agencies, and the public shall review the report for 1 year to determine whether additional study is warranted.

Pearl River Watershed, MS.—\$650,000 is provided to complete the feasibility study.

St. Louis Watershed, MO.—The Committee has included the budget request for this new reconnaissance study.

Salt Creek Watershed, Lincoln, NE.—The Committee has provided \$100,000 for this reconnaissance study.

Truckee Meadows, NV.—The Committee has provided \$3,500,000 to continue PED for this important flood control project and encourages the Corps to complete the necessary studies as soon as possible.

Piscataqua River and Portsmouth Harbor, NH.—\$50,000 is provided to initiate the feasibility study.

East Mesa, Las Cruces, NM.—The Committee has included \$400,000 to pursue flood control and safety studies associated with aging flood control structures.

Espanola Valley, Rio Grande and Tributaries, NM.—The Committee has provided an additional \$250,000 to accelerate development of the environmental programs and other activities associated with the Espanola diversion project consistent with the cost-share agreement signed May 2005.

Rio Grande Basin, NM, CO & TX.—The Committee has provided \$250,000 for the feasibility study.

Santa Fe, NM.—The Committee has provided \$250,000 to continue on-going projects.

SW Valley Flood Damage Reduction, Albuquerque, NM.—The Committee has provided \$500,000 toward completion of this project.

Upper Ohio Navigation Study, PA.—The Committee has provided \$2,550,000 for this navigation feasibility study.

Lower Colorado River, TX.—The Committee has provided \$1,000,000 to continue the feasibility study.

Neches River Basin, TX.—The Committee has provided \$500,000 for this new reconnaissance study as proposed in the budget request.

Virgin and Sevier Watersheds, UT.—The Committee has provided \$100,000 for a reconnaissance study to investigate solutions to the devastating floods that recently occurred in these watersheds.

AJWW Bridges at Deep Creek, VA.—The Committee has provided \$104,000 to complete the PED studies for this project.

Coastal Field Data Collection.—The Committee has provided \$6,375,000 for this program. Within the funds provided, \$1,000,000 is for the Coastal Data Information Program, \$1,000,000 is for the Southern California Beach Processes Study, \$1,500,000 is for the Pacific Island Land Ocean Typhoon Experiment [PILOT] and \$1,000,000 is for the Surge and Wave Island Modeling Studies [SWIMS].

Other Coordination Studies.—The Committee has provided \$4,300,000 for this program. Within the funds provided, \$500,000 is to continue work associated with the Lake Tahoe Interagency Partnership.

Flood Plain Management Services.—The Committee has provided \$8,935,000 for this program. Within the funds provided, \$1,000,000 is for Hurricane Evacuation Studies in HI; \$1,250,000 for Livingston Parish, LA, GIS; \$160,000 to complete the East Baton Rouge Parish, LA, GIS; \$400,000 for Rancocas Creek, NJ; and \$500,000 for the Navajo Nation, NM, Flood Plain Delineation.

Planning Assistance to States.—The Committee has included \$7,550,000 for the program. Within the funds provided \$150,000 is for the Delaware Recreation Supply and Demand study; \$150,000 is for the Delaware Groundwater Investigation; \$250,000 is for the Hilo Bay, HI, Water Quality Model; \$100,000 is for Lafayette/West Lafayette, IN; \$400,000 is for the Rock Creek, KS, Basin Stormwater project; \$350,000 is for the Assabet River, MA, Sediment Remediation Study; \$1,000,000 is for New Mexico Photogrammetric Mapping; \$100,000 for the Bartlesville, OK, Water Supply Study; \$100,000 for the Mangum, OK, Lake Phase V study; \$50,000 is for the Waccamaw River Watershed Modeling, SC; \$50,000 is for the Surfside Beach, SC, Stormwater Drainage Study; and \$200,000 is for the Memphis Riverfront Development, TN.

Research and Development.—The Committee has provided \$34,500,000 for the Corps R&D program. Within the funds provided, \$1,000,000 is for Chesapeake Bay submerged aquatic vegetation research, \$1,000,000 is for the National Cooperative Modeling Demonstration Program (model based negotiation process piloted by the Institute for Water Resources), and \$3,500,000 is provided for innovative technology demonstrations for urban flooding and channel restoration in New Mexico and Nevada. These demonstrations will be conducted in close coordination and cooperation with

the Urban Water Research Program of the Desert Research Institute and the University of New Mexico. \$750,000 is provided for the Southwest Urban Flood Damage Program research in New Mexico. \$750,000 is provided for implementation of the Collaborative Planning and Management Demonstration Program within the Institute for Water Resources in collaboration with Sandia National Laboratories and the Idaho National Laboratory. An additional \$5,000,000 has been provided to counter declining research and development budgets.

CONSTRUCTION, GENERAL

Appropriations, 2005 1 \$1,781,720,000
 Budget estimate, 2006 1,637,000,000
 House allowance 1,900,000,000
 Committee recommendation 2,086,664,000

¹ Excludes emergency appropriations of \$62,600,000.

This appropriation includes funds for construction, major rehabilitation and related activities for water resources development projects having navigation, flood control, water supply, hydroelectric, environmental restoration, and other attendant benefits to the Nation. The construction and major rehabilitation projects for inland and costal waterways will derive one-half of the funding from the Inland Waterway Trust Fund. Funds to be derived from the Harbor Maintenance Trust Fund will be applied to cover the Federal share of the Dredged Material Disposal Facilities Program.

The appropriation provides funds for the Continuing Authorities Program (projects which do not require specific authorizing legislation), which includes projects for flood control (Section 205), emergency streambank and shoreline protection (Section 14), beach erosion control (Section 103), mitigation of shore damages (Section 111), navigation projects (Section 107), snagging and clearing (Section 208), aquatic ecosystem restoration (Section 206), beneficial uses of dredged material (Section 204), and project modifications for improvement of the environment (Section 1135).

The budget request and the approved Committee allowance are shown on the following table:

CORPS OF ENGINEERS—CONSTRUCTION, GENERAL

(In thousands of dollars)

Project title	Budget estimate	House allowance	Committee recommendation
ALABAMA			
MOBILE HARBOR, AL		2,000	4,000
TUSCALOOSA, AL			4,121
WALTER F. GEORGE POWERPLANT, AL AND GA (MAJOR REHA)	4,121	3,915	
ALASKA			
AKUTAN HARBOR, AK			1,000
ALASKA COASTAL EROSION, AK			2,400
BETHEL BANK STABILIZATION			5,000
CHENIK HARBOR, AK	2,000	1,900	2,000
GOFFMAN COVE, AK			600
DELONG MOUNTAIN HARBOR			3,000
DILLINGHAM EMERGENCY BANK STABILIZATION, AK			4,000
FALSE PASS HARBOR, AK			7,000
HANES HARBOR, AK			1,000

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CORPS OF ENGINEERS—CONSTRUCTION, GENERAL—Continued
(In thousands of dollars)

Project title	Budget estimate	House allowance	Committee recommendation
LAKE CHAMPLAIN WATERSHED, VT			2,000
VERMONT DAMS REMEDIATION, VT			130
VIRGINIA			
EMBLEY DAM, VA			2,000
JAMES RIVER CHANNEL, VA			1,300
JOHN H. KERR DAM AND RESERVOIR, VA AND NC (MAJOR REHAB)	14,000	13,300	14,000
LAKE MERRIWETHER, GOSHEN DAM AND SPILLWAY, VA			4,000
NORFOLK HARBOR AND CHANNELS, VA (DEEPENING)		5,000	4,295
ROANOKE RIVER UPPER BASIN, HEADWATERS AREA, VA	5,000		5,000
SANDBRIDGE, VA			4,000
VIRGINIA BEACH, VA (HURRICANE PROTECTION)	4,000		11,395
WASHINGTON			
CHEIF JOSEPH DAM GAS ABATEMENT, WA			8,000
COLUMBIA RIVER FISH MITIGATION, WA, OR, ID			85,000
COLUMBIA RIVER FISH RECOVERY, WA, OR AND ID		90,000	
DUNSMITH AND GREEN RIVER BASIN, WA			2,500
HOWARD HANSON DAM ECOSYSTEM RESTORATION, WA	14,100	14,100	14,100
LOWER SNAKE RIVER FISH AND WILDLIFE COMPENSATION, WA, OR	900		900
MT ST. HELENS SEDIMENT CONTROL, WA	360	360	660
MUD MOUNTAIN DAM, WA (DAM SAFETY)	4,400	4,400	4,400
PUGET SOUND AND ADJACENT WATERS RESTORATION			2,000
SHOALWATER BAY, WA			2,000
WEST VIRGINIA			
BLUESTONE LAKE, WV (DAM SAFETY)	21,500	20,425	21,500
CENTRAL WEST VIRGINIA, WV		750	
GREENBRIER RIVER BASIN, WV			3,000
ISLAND CREEK AT LOGAN, WV		20,000	14,100
LEWISA AND TUG FORKS AND UPPER CUMBERLAND RIVER, WV, V			1,250
LOWER MUD RIVER, WV			73,500
MARMET LOCK, KANAWHA RIVER, WV	68,830	68,830	914
ROBERT C. BYRD LOCKS AND DAM, OHIO RIVER, WV AND OH	914	914	914
SOUTHERN WEST VIRGINIA ENVIRONMENTAL INFRASTRUCTURE		1,000	
WEST VIRGINIA AND PENNSYLVANIA FLOOD CONTROL, WV		1,000	
WINFIELD LOCKS AND DAM, KANAWHA RIVER, WV			2,400
WISCONSIN			
NORTHERN WISCONSIN, WI		9,000	
MISCELLANEOUS			
ABANDONED MINE RESTORATION			1,705
AQUATIC ECOSYSTEM RESTORATION (SECTION 206)		18,000	25,000
AQUATIC PLANT CONTROL PROGRAM	15,000	4,500	4,500
BENEFICIAL USES OF DREDGED MATERIAL (SEC 204 SEC 207 SE	3,000	4,000	6,200
DAM SAFETY AND SEEPAGE/STABILITY CORRECTION PROGRAM	11,000	10,500	15,000
DREDGED MATERIAL DISPOSAL FACILITIES PROGRAM	12,000	8,800	12,000
EMERGENCY STREAMBANK AND SHORELINE PROTECTION (SECTION	4,000	8,000	15,000
EMPLOYEES COMPENSATION	21,000	21,000	21,000
ESTUARY RESTORATION PROGRAM (PUBLIC LAW 106-457)	5,000		5,000
FLOOD CONTROL PROJECTS (SECTION 205)	13,000	25,000	41,000
INLAND WATERWAYS USERS BOARD—BOARD EXPENSE	40	40	40
INLAND WATERWAYS USERS BOARD—CORPS EXPENSE	170	170	170
MITIGATION OF SHORE DAMAGES (SECTION 111)	1,500	500	2,000
PROJECT MODIFICATIONS FOR IMPROVEMENT OF THE ENVIRONMENT	15,000	17,400	25,000
SHORE PROTECTION PROJECTS (SECTION 103)	500	1,000	7,000
SHORELINE EROSION CONTROL DEVELOPMENT AND DEMO (SEC. 227)			3,800
SHAGGING AND CLEARING PROJECTS (SECTION 208)	400	400	400
SMALL NAVIGATION PROJECTS, SECTION 107		4,000	15,000
SUSPENSION FUND	80,000		

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CORPS OF ENGINEERS—CONSTRUCTION, GENERAL—Continued
(In thousands of dollars)

Project title	Budget estimate	House allowance	Committee recommendation
TRIBAL PARTNERSHIP PROGRAM			800
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE			-202,833
Total, Construction General	1,637,000	1,900,000	2,085,664

Tuscaloosa, AL.—The Committee has provided \$4,000,000 for the relocation project at Tuscaloosa, AL.

Akutan Harbor, AK.—The Committee has provided funding to initiate construction of this project.

Alaska Coastal Erosion, AK.—The Committee has provided \$2,400,000 for Alaska Coastal Erosion. The following communities are eligible recipients of these funds: Kivalina, Newtok, Shishmaref, Koyukuk, Barrow, Kaktovik, Point Hope, Unalakleet, and Bethel. Section 117 of Public Law 108-447 will apply to this project.

Chignik Harbor, AK.—The Committee has provided \$2,000,000 to complete the project.

Coffman Cove, AK.—The Committee has provided funding to prepare the decision document for design of a dock system.

Delong Mountain Harbor, AK.—The Committee has provided funding to complete the environmental documentation, plans and specifications and geotechnical investigations.

Nome Harbor, AK.—The Committee has included \$13,000,000 to continue construction of this project.

Sand Point Harbor, AK.—The Committee has included \$6,000,000 to continue construction of this project.

St. Paul Harbor, AK.—The Committee has included \$8,000,000 to continue construction of this project.

Rio Salado, Phoenix and Tempe Reaches, AZ.—The Committee has provided \$8,000,000 for construction of this project. The Committee encourages the Corps to reprogram previously revoked funds in fiscal year 2006 to complete this project if possible.

Ozark-Jeta Taylor Powerhouse, AR.—The Committee has provided \$4,500,000 to continue the rehab of the powerhouse. Red River Below Denison Dam, AR, LA, OK and TX.—The Committee has provided \$4,000,000 to continue levee rehabilitation work in Arkansas and Louisiana.

Red River Emergency Bank Protection, AR and LA.—The Committee has provided \$6,000,000 for bank stabilization along the Red River below Index, Arkansas.

American River Watershed, CA.—The Committee has chosen not to combine the various, separately authorized, components of the project into a single line item as was proposed in the budget. The Committee believes that it is prudent to maintain visibility of the various project elements in the budget process. However, for purposes of reprogramming actions, the three elements should be treated as a single project when considering the reprogramming guidance provided in an earlier section of this report.

American River Watershed (Folsom Dam, Miniraise), CA.—The Committee has provided \$12,000,000. Within the funds provided, \$7,000,000 is for construction of the bridge.

Kaweah River, CA.—The Committee has provided \$4,800,000 to complete this project.

Oakland Harbor, CA.—The Committee has provided \$42,000,000 to continue construction of this project. The reduction made to this project should not be viewed as any diminution of support for this project, rather an attempt to balance out the Corps of Engineers nationwide program among the various missions of the Corps.

Santa Ana River Mainstem, CA.—The Committee has provided \$42,500,000 to continue construction of this project. No funds are included for the San Timoteo reach of the project. The reduction made to this project should not be viewed as any diminution of support for this project, rather an attempt to balance out the Corps of Engineers nationwide program among the various missions of the Corps.

Upper Guadalupe River, CA.—The Committee has included \$3,500,000 to initiate construction of this project.

Delaware Bay Coastline, Bethany Beach to South Bethany Beach, DE.—\$4,000,000 is provided for construction of this shore protection project.

Delaware Coast, Cape Henlopen to Fenwick Island, DE.—The Committee has included \$1,700,000 to continue construction of this project.

Washington, DC and Vicinity, DC.—The Committee has provided \$400,000 to initiate construction as proposed in the budget request.

Everglades and South Florida Ecosystem Restoration, FL.—The Committee has chosen not to combine the various, separately authorized, components of the project into a single line item as was proposed in the budget. The Committee believes that it is prudent to maintain visibility of the various project elements in the budget process. However, for purposes of reprogramming actions, the Central and South Florida Project, the Everglades and South Florida Ecosystem Restoration Project and the Kissimmee River Project should be treated as a single project when considering the reprogramming guidance provided in an earlier section of this report.

The Committee has chosen not to fund the \$35,000,000 request for the Modified Waters Delivery Plan as proposed in the budget. The Committee does not believe sufficient current authorization exists for the Corps to fund this work. As the work involved primarily benefits Everglades National Park, budgeting for this work should be continued by the Interior Department as has been past practice. The Committee is unsure why this funding decision was made; however, much has been made of the increase in costs of the Modified Waters Delivery Plan since its authorization. The Committee understands that over 43 percent of cost growth is due to the extraordinary increase in real estate values in the Miami-Dade area. Prices for land and houses have been rising as much as 5 percent per month over the last 2 years. Another significant cost increase has been due to overseas demand for cement and high fuel prices that have driven up construction costs.

The other major contributor to the cost increase is the inclusion of bridge work for the Tamiami Trail. The 1992 design which Con-

gress approved was based on a determination that existing culverts under the Trail could carry the flow expected for the Modified Waters Delivery Plan without overtopping the Tamiami Trail. Since then, the Corps has worked with the sponsor, the South Florida Water Management District, and the United States Geological Survey to determine actual capacities of these culverts based on actual conditions that exist. The Corps has also worked with the Florida Department of Transportation on ensuring a safe design for the roadway. Based on these analyses and design refinements, the Tamiami Trail fix is much more involved than originally conceived. In order to provide appropriate water deliveries to Everglades National Park, both the Corps and the Department of Interior believe building a bridge of some length, as well as raising the roadway, is required to allow the design flows to pass as well as ensure a safe highway. This is a significant part of the cost increase as well. Over \$130,000,000 of the current estimate of \$398,000,000 is for the Trail work.

The Committee encourages the administration to include the Modified Waters Delivery Plan funding in the Interior budget in future budget submissions.

Everglades and South Florida Ecosystem Restoration, FL.—With the funds provided, the Corps may initiate construction of the Aquifer Storage and Recovery pilot projects.

Florida Keys Water Quality Improvements, FL.—The Committee has provided \$3,000,000 for continued implementation of this project. The Committee urges the administration to budget for this project due to the interrelationship of this work to the Everglades Restoration project, Biscayne Bay and all of the nearshore waters.

Jacksonville Harbor, FL.—The Committee has provided \$500,000 to continue work on the General Reevaluation Report.

Tampa Harbor, FL.—\$200,000 is provided to continue the General Reevaluation Report.

Atlanta, GA.—The Committee has included \$2,000,000 to initiate this project.

Brunswick Harbor, GA.—The Committee has included \$19,900,000 to continue construction of this project.

Oates Creek, Richmond County, GA.—The Committee has included \$500,000 to continue construction of this project.

Tybee Island, GA.—The Committee has provided \$18,000 to complete the Limited Reevaluation Report for the shore protection project in preparation for the next scheduled renourishment.

Kaunapau Harbor, Lanai, HI.—The Committee has provided \$13,000,000 to complete construction of this project.

Rural Idaho Environmental Infrastructure, ID.—The Committee has provided \$5,500,000 for this project. Within the funds provided the Corps should give consideration to projects at Emmett, Burley, Rupert, Bonners Ferry, Donnelly, Eastern Idaho Regional Water Authority, Driggs, and Smelterville. Other communities that meet the program criteria should be considered as funding allows.

Des Plaines River, IL.—The Committee has included \$4,000,000 to continue construction of this project.

McCook and Thornton Reservoirs, IL.—The Committee has included \$30,000,000 for continued construction of this project.

Olmsted Locks and Dam, Ohio River, IL and KY.—The Committee has provided \$85,000,000 to continue construction of this project. The reduction made to this project should not be viewed as any diminution of support for this project, rather an attempt to balance out the Corps of Engineers nationwide program among the various missions of the Corps. None of the funds provided for the Olmsted Locks and Dam Project are to be used to reimburse the Claims and Judgment Fund.

Missouri Fish and Wildlife Recovery, IA, KS, MO, MT, NE, ND and SD.—The Committee has provided \$60,000,000 for this project. This is a significant increase from fiscal year 2005 funding but considerably less than the request. The Committee is frustrated that the administration has not forwarded a legislative proposal to authorize endangered species recovery work along the Missouri River. Fish and Wildlife Mitigation for the lower river has been authorized for several years; however, habitat recovery for the upper river has yet to be addressed in authorization language. Estimates for recovery of species along the Missouri River are in excess of \$3,500,000,000. The Committee would not fund a \$3,500,000,000 construction project without a specific authorization and we do not believe it prudent for the budget to continue asking for annual budget increases to this project without clear authorization as to the actions necessary for recovery.

Missouri River Levee System, IA, NE, KS and MO.—The Committee has included \$750,000 to continue construction of this project.

Turkey Creek, KS and MO.—The Committee has included \$4,000,000 to continue construction of this project.

Kentucky Lock and Dam, Tennessee River, KY.—The Committee has included \$32,000,000 to continue construction of this project.

McAlpine Locks and Dam, Ohio River, KY and IN.—The Committee has provided \$65,000,000 to continue construction of this project. The reduction made to this project should not be viewed as any diminution of support for this project, rather an attempt to balance out the Corps of Engineers nationwide program among the various missions of the Corps.

Inner Harbor Lock and Dam, LA.—The Committee has included \$15,000,000 to continue construction of this project.

J. Bennett Johnston Waterway, LA.—The Committee has provided \$15,000 for navigation channel refinement features, land purchases and development for mitigation of project impacts, and construction of project recreation and appurtenant features.

Larose to Golden Meadow, LA.—The Committee has included \$1,000,000 to continue construction of this project.

New Orleans to Venice, LA.—The Committee has included \$3,600,000 to continue construction of this project.

West Bank and Vicinity, New Orleans, LA.—The Committee has provided \$25,000,000 to continue construction of this project. The reduction made to this project should not be viewed as any diminution of support for this project, rather an attempt to balance out the Corps of Engineers nationwide program among the various missions of the Corps.

Chesapeake Bay Environmental Program, MD, PA and VA.—The Committee has included \$2950 for continuation of this project.

Within the funds provided, \$273,000 is included to continue the environmental studies concerning non-native oysters.

Chesapeake Bay Oyster Recovery, MD and VA.—The Committee has included \$3,000,000 to continue construction of this project.

Rural Montana, MT.—The Committee has provided \$5,000,000 for this project. Within the funds provided the Corps should give consideration to projects at Livingston, Missoula (Grant Creek), Meagher County, Stevensville, Helena, Wisdom, Bigfork, Sheridan, Butte and Drummond. Other communities that meet the program criteria should be considered as funding allows.

Sand Creek, NE.—The Committee has included \$4,000,000 to continue construction of this project.

Rural Nevada, NV.—The Committee has provided \$25,000,000 for this project. Within the funds provided the Corps should give consideration to projects at North Lemmon Valley, Spanish Springs Valley, Phase II, Huffaker Hills Water Conservation, Lawton-Verdi, Boulder City, Lyon County, Gerlach, Searchlight, Incline Village, Esmeralda County, Churchill County, West Wendover, Yearnington, Virgin Valley Water District, Lovelock, and Carson City. Other communities that meet the program criteria should be considered as funding allows.

Tropicana and Flamingo Washes, NV.—The Committee has provided \$18,000,000 to continue construction of this flood control project. Within the funds provided \$3,000,000 is provided for work performed in accordance with Section 211 of Public Law 104-303. *Delaware Bay Coastline, Villas and Vicinity, NJ and DE.*—The Committee has provided \$2,450,000 to initiate construction of this project.

Raritan River Basin, Green Brook Sub-Basin, NJ.—The Committee has included \$5,000,000 to continue construction of this project.

Sandy Hook to Barnegat Inlet, NJ.—The Committee has provided \$4,000,000 to initiate construction of this project.

Acequias Irrigation System, NM.—The Committee has provided \$3,100,000 to continue restoration of these historic irrigation distribution systems.

Central New Mexico, NM.—The Committee has included \$5,000,000 to continue construction of this project.

New Mexico [EL], NM.—The Committee has included \$5,000,000 to continue construction of this project.

Fire Island to Montauk Point, NY.—Additional funds above the budget request have been provided for the reformulation study.

Dare County Beaches, NC.—\$2,500,000 is included for construction for this project.

Buford Trenton Irrigation District, ND.—The Committee has included \$1,500,000 to continue construction of this project.

Webber Falls Lock and Dam Powerhouse, OK.—The Committee has included \$4,000,000 for construction of the powerhouse major rehabilitation project.

Locks and Dams 2, 3, and 4, Monongahela River, PA.—The Committee has provided \$46,000,000 to continue construction of this project. The reduction made to this project should not be viewed as any diminution of support for this project, rather an attempt to bal-

ance out the Corps of Engineers nationwide program among the various missions of the Corps.

Presque Isle, PA.—The Committee has provided \$620,000 to continue this project.

Big Sioux River, SD.—The Committee has included \$2,000,000 to continue construction of this project.

Cheyenne River Sioux Tribe, Lower Brule Sioux, SD.—The Committee notes that Title IV of the Water Resources Development Act of 1999, Public Law 106-53 as amended, authorizes funding to pay administrative expenses, implementation of terrestrial wildlife plans, activities associated with land transferred or to be transferred, and annual expenses for operating recreational areas. The Committee has included \$5,000,000 for this effort. Within the funds provided, the Committee directs that not more than \$1,000,000 shall be provided for administrative expenses, and that the Corps is to distribute the remaining funds as directed by Title IV to the State of South Dakota, the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.

Chickamauga Lock, TN.—The Committee has provided \$10,000,000 to continue construction of this project.

Houston-Galveston Navigation Channels, TX.—The Committee has provided \$35,000,000 for continued construction of this project.

North Padre Island, Packery Channel, TX.—The Committee has provided \$5,438,000 to complete this project.

Red River Basin Chloride Control, TX, OK, AR and LA.—The Committee has included \$1,500,000 to continue construction.

Whitney Lake Powerhouse, TX.—The Committee has included \$4,551,000 to continue construction of the powerhouse rehabilitation.

Rural Utah, UT.—The Committee has included \$10,000,000 to continue construction of this project.

Burlington Harbor, VT.—The Committee has included \$500,000 to initiate removal of Oil bollards in the harbor.

The Committee has included \$2,000,000 for continued deconstruction and environmental restoration efforts at the Embrey Dam project.

Virginia Beach, VA.—The Committee has included \$11,395,000 to complete initial construction.

Columbia River Fish Recovery, WA, OR, and ID.—The Committee has chosen not to combine the various, separately authorized, components of the project into a single line item as was proposed in the budget. The Committee believes that it is prudent to maintain visibility of the various project elements in the budget process and has therefore funded the three traditional line items combined in this heading.

Mt. St. Helens Sediment Control, WA.—The Committee has included additional funds for the Corps to begin investigations for restoration actions in the Cowlitz and Toutle watersheds.

Mud Mountain, Washington.—Out of the funds provided, the Corps is directed to use up to \$600,000 to study fish passage.

Levisa and Trug Forks of the Big Sandy River and Cumberland River, WV, KY and VA.—The Committee has provided \$14,100,000 for the continuation of the project. Within the funds provided, the Committee recommendation includes \$9,500,000 for the Buchanan

County, Dickenson County, and Grundy, VA elements. Further, the recommendation includes \$4,600,000 for Kermitt, Lower Mingo County, McDowell County, Upper Mingo and Wayne County, WV.

Aquatic Plant Control Program.—The Committee has provided \$4,500,000 for this program. Within the funds provided, the Committee has provided \$850,000 for a cost shared program for Lake Gaston, NC and \$400,000 for a cost shared program for Lake Champlain, VT.

Beneficial Uses of Dredged Material.—The Committee recommendation includes \$6,200,000 for the program. Within the funds provided, \$200,000 is provided for Dauphin Island, AL, and \$3,000,000 for Morehead City Harbor, NC.

Dam Safety and Seepage/Stability Correction Program.—The Committee recommendation includes \$4,000,000 to complete the Waterbury dam repairs.

Shore Line Erosion Control Development and Demonstration Program.—The Committee has provided \$3,800,000 for this program. Within the funds provided, \$2,300,000 is for an Alternative Sand Test Beach and Breakwater Project in Florida and \$1,500,000 is for the Sacred Falls Demonstration project in Hawaii.

Ability to Pay.—Section 103(m) of the Water Resources Development Act of 1986 Public Law 99-662, as amended, requires that all project cooperation agreements for flood damage reduction projects, to which non-Federal cost sharing applies, will be subject to the ability of non-Federal sponsors to pay their shares. Congress included this section in the landmark 1986 Act to ensure that as many communities as possible would qualify for Federal flood damage reduction projects, based more on needs and less on financial capabilities. The Secretary published eligibility criteria in 33 CFR 241, which requires a non-Federal sponsor to meet an ability-to-pay test. However, the Committee believes that the Secretary's test is too restrictive and operates to exclude most communities from qualifying for relief under the ability-to-pay provision. For example, 33 CFR 241.4(f) specifies that the test should be structured so that reductions in the level of cost-sharing will be granted in "only a limited number of cases of severe economic hardship," and should depend not only on the economic circumstances within a project area, but also on the conditions of the state in which the project area is located.

CONTINUING AUTHORITIES PROGRAM

When Congress authorized the initial Continuing Authorities in the 1940s and 1950s, they were envisioned to provide a small pool of money available to the Corps of Engineers to solve very small localized problems without being encumbered by the longer study and project authorization process. As more programs were added to the Continuing Authorities Program [CAP] they became increasingly popular with congressional Members and the public. More and more congressionally directed projects began to appear in the annual appropriations bills. At first these congressionally directed projects were added to the base program. As more and more of these congressionally directed projects came into the program it became difficult for these congressionally directed projects to be added to the base and as such, the base program began to shrink.

Congressionally directed projects now dominate all sections of the CAP Program. Congressionally directed projects have proliferated to such an extent that several of the sections are over-subscribed. Below are the various CAP sections, their congressionally authorized appropriation limit and the current estimate of outstanding obligations:

CAP Section	Program Limit	Current Obligations
Section 103	\$30,000,000	\$6,000,000
Section 107	35,000,000	17,000,000
Section 1135	25,000,000	49,500,000
Section 14	15,000,000	19,000,000
Sections 204, 207, 933	15,000,000	9,000,000
Section 205	50,000,000	42,500,000
Section 206	25,000,000	50,500,000

The Committee directs that the Corps should prioritize projects in the following manner to try to get the backlog of these projects reduced. The first priority for funding should be for construction projects that already have an executed Project Cooperation Agreement. The next priority should be for projects with executed design agreements. Third priority would be for those with executed feasibility agreement. The last priority should be new starts. To further this end, the Committee directs a moratorium on execution of new cost share agreements during fiscal year 2006. Work should continue on all phases as funding and priority allows, but no project should advance to the next stage during fiscal year 2006, except, of course, project completions.

The Committee is aware that there are funding requirements for ongoing, continuing authorities projects that may not be accommodated within the funds provided for each program. It is not the Committee's intent that ongoing projects should be terminated. If additional funds are needed to keep ongoing work in any program on schedule, the Committee urges the Corps to reprogram the necessary funds.

CONTINUING AUTHORITIES PROGRAM

(In thousands of dollars)

Project Name	Committee Recommendation
Small Beach Erosion Control Projects—Section 103	
Unalakleet Seawall, AK	1,000
North Shore of Indian River Inlet, DE	600
Pleasure Island, MD	500
St. Mary's River, MD	630
Morris Island Lighthouse, SC	2,234
Small Navigation Projects—Section 107	
Gustavus Harbor, AK	100
Kokhanok Harbor, AK	34
Nanwalek Harbor, AK	100
Blytheville Harbor, AR	500
Kahoolawe Small Boat Harbor, HI	280
Laupahoehoe Harbor Project, HI	400
North Kohala Navigation Improvements, HI	150
Port Fuchon, LA	88
Nanticoke Harbor, MD	250

CONTINUING AUTHORITIES PROGRAM—Continued

(In thousands of dollars)

Project Name	Committee Recommendation
Project Modifications for the Improvement of the Environment—Section 1135	
Yazoo Diversion Canal, MS	2,900
Hampton Harbor, NH	55
Charlestown Beachway and Ninigret Pond, RI	90
Point Judith Harbor, Narragansett, RI	100
Northwest Tennessee Regional Harbor, TN	490
Wisconsin Lakeshore State Park Breakwater, WI	2,000
Ditch 28, AR	130
Horseshoe Lake, AR	160
Millwood Lake, Grassy Lake, AR	114.8
Rock Creek, Little Rock, AR	150
Bellaview Wetlands, CO	377
Chaffield Downstream, South Platte River, CO	138.5
Oyster Revitalization in the Delaware Bay, DE and NJ	2,000
Kanaha Pond Wildlife Sanctuary Restoration Project, HI	200
Kawaiuli Marsh Environmental Restoration Project, HI	700
Pelekane Bay Ecosystem Restoration Project, HI	400
Bayou Macon, LA	187
Frazier/Whitehorse Oxbow Lake Weir, LA	375
Lake St. Joseph, Tensas Parish, LA	130
Old River North, Concordia Parish, LA	10
Wild Cow Bayou, Concordia Parish, LA	10
Hart Miller Island, MD	200
Duck Creek, Stoddard County, MO	125
Kansas City Riverfront, Kansas City, Jackson County, MO	998
Lower Decatur Bend Environmental Improvement, NE	3,552
Salt Cedar Invasive Species Eradication/Restoration, NE	150
Albuquerque Biological Park Wetland Restoration Project, NM	400
Ecosystem Revitalization at Route 66, NM	465
Carlsbad, Pecos River, NM	150
Las Cruces Dam Environmental Restoration, Dona Ana County, NM	300
Pecos River, Chaves County	279
Riparian Wetland Restoration, Pueblo of Santa Ana Reservation, NM	200
Socorro County Floodplain Restoration, NM	210
Lower Truckee River, McCarran Ranch, NV	3,037
Farmount Dam Fishladder Project, PA	820
Upper Tunga River Watershed, PA	430
Allin's Cove, RI	300
Village of Oyster, VA Ecosystem Restoration, VA	300
City of Richland Ecosystem Restoration, VA	165
Manes Creek Habitat Enhancement Project, WA	400
Battle Island, Desoto, WI	270
Kaumakakai Stream Environmental Restoration, HI	40
300	300
Streambank and Shoreline Protection for Public Facilities—Section 14	
Deering Shoreline Protection, AK	900
Kweethluk, AK	55
27th Street Bridge (Glenwood Springs, CO)	353
Powers Boulevard (Colorado Springs, CO)	500
Coat Creek, Monroe County, IA	60
lowa River, Sac and Fox Tribes, IA	378
Raccoon River, Panora County, IA	92.3
Bayou Macon, Poverty Point, LA	469
Ouachita River, City of Monroe, LA	80
Patuxent River, Patuxent Beach Road, MD	700
Sturgeon River, Houghton County, MI	120
Water Treatment Plant, St. Joseph, MI	177
Red Lake River Bank Stabilization, MN	40
Eubanks Creek, Jackson, MS	275
Elizabeth River, Valleyview Road, Hillside, NJ	576
South Branch Railway River, Woodbridge, NJ	500

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CONTINUING AUTHORITIES PROGRAM—Continued

[In thousands of dollars]

	Committee recommendation
I-40 Bridge, Rio Puerco, NM	850
Shoreland Avenue Embankment Restoration, Toledo, OH	660
Stayton Riverfront Park Bank Stabilization, OR	250
Mt. Moriah Culvert, TN	305
Kenosha Harbor Retaining Wall, WI	281
Beneficial Uses of Dredged Material—Sections 204, 207 and 933	
Dauphin Island Aquatic Restoration Project, AL	439
Morehead City Harbor, NC	4,625
Small Flood Control Projects—Section 205	
Fort Yukon, AK	200
Salcha, AK	400
Bono, AR	80
Grubbs, AR	50
Wynne, AR	75
Heacock and Cactus Channels, CA	4,000
New Hogan Lake Reoperation, CA	600
Santa Venetia Flood Control, CA	91.5
Salmon River, CT	660
Delaware City Dragon Run Flood Mitigation Project, DE	300
Elsmere Stormwater Infrastructure, DE	250
Little Mill Creek, New Castle County, DE	2,018
Rutherford, New Castle County, DE	150
Kuluouou Stream Flood Damage Reduction, HI	250
Pala Stream Flood-Damage Reduction, HI	100
Waieka Stream Flood Damage Reduction Project, HI	200
Waieka Stream Flood Damage Reduction Project, HI	150
Cedar River (Time Check Area), Cedar Rapids, IA	300
Denson, IA	1,400
Delphi, IN	100
Fort Wayne, St. Marys and Maumee Rivers, IN	200
Braithwaite Park, LA	1,681
Jean Lafitte, Fisher School Basin, Jefferson Parish, LA	2,900
Oakville to LaReussite, LA	88
Red Chute Bayou, Bossier Parish, LA	425
Town of Carenco, Lafayette, LA	174
Elkton, MD	160
Canisteo Outflow Project, MN	100
Montevideo, MN	2,828
Rockford Levee Upgrade, MN	100
Blacksnake Creek, St. Joseph, MO	244
Little River Diversion, Duchitown, MO	175
Wilson, NC (Homing Swamp Flood Control)	100
Fargo Ridgewood Addition, ND	1,245.9
Gila River, Grants and Hidalgo Counties, NM	158
Hatch, NM	100
Little Puerco River, Gallup, NM	100
Little Puerco Wash, Gallup, NM	1,111.5
Battle Mountain, NV	300
City of Las Vegas, NV	140
North Spanish Springs, NV	3
Reno Flood Warning System, NV	200
North Park Lake, Flood Control Project	50
Sandy Creek, TN	42
Passumpsic River, Lyndonville, VT	200
West Virginia Statewide Flood Warning System	100
Henderson, WY Drainage Improvements	300
Aquatic Ecosystem Restoration Projects—Section 206	
Eklutna, AK	300
Northway, AK	350

CONTINUING AUTHORITIES PROGRAM—Continued

[In thousands of dollars]

	Committee recommendation
Chattahoochee Fall Line Ecosystem Restoration Project, AL and GA	250
St Helena-Napa River Restoration, CA	600
York Creek Dam Removal, CA	350
Bear Creek Reservoir, CO	100
Bow Tie Wetlands, CO	300
Goose Creek, CO	200
Kingfisher Point, CO	191
Lower Boulder Creek, CO	240
North Fork, Gunnison River, CO	2,201
Tamarisk Eradication, CO	400
Red Clay Creek Dam Realignment, DE	250
Rose Bay, FL	250
Mokuhina/Mokuila Ecosystem Restoration, HI	220
Indian Creek, Caldwell, ID	3,300
Paradise Creek Ecosystem Restoration Project, ID	611
Salmon River, Challis, ID	313
Emiquon Preserve, IL	600
South Fork of the South Branch of the Chicago River (Bubbly Creek), IL	160
Squaw Creek Aquatic Ecosystem Restoration, IL	10
Cocodrie Bayou, LA	200
University Lakes, Baton Rouge, LA	200
University Lakes, East Baton Rouge Parish, LA	500
Blackwater Refuge, MD	282
Paint Branch Fish Passage, MD	250
Tidal Middle Branch, MD	1,158
Western Branch, Patuxent River, MD	300
Painter Creek, MN	100
Confidence Point State Park, MO	200
Missouri Stream Restoration Pilot, MO	100
Central Bath Branch Tributary, Winston-Salem, NC	100
Ore Knob, NC	510
Heron Haven Wetland Restoration Project, NE	645
Bottomless Lakes State Park, Roswell, NM	350
Jemez River Aquatic and Riparian Habitat Restoration, La Pueblo, NM	211
Las Cruces Wetland Restoration, NM	300
Carson River, NV	75
Incline, Third, and Rosewood Creeks, NV	90
Arcola Creek Ecosystem Restoration, OH	528
Arrowhead Creek, OR	250
Camp Creek-Zumwalt Prairie, OR	333
Coffee Lake, OR	250
Ingham Spring Dam and Lake Reconstruction, PA	300
Neshamock Creek, PA	600
Sheraton Park and Charlies Creek, PA	300
Blackstone Fisheries Restoration, RI	150
Brush Neck Cove, Warwick, RI	150
Lower Blackstone River Fish Passage, RI	250
Narrow, Narragansett, RI	150
Ten Mile River, East Providence, RI	250
Winnapaug Pond, Westerly, RI	104
Patash Brook, South Burlington, VT	350
West Branch of the Little River, Stowe, Lamolle County, VT	200
Wild Branch of the Lamolle River, Town of Craftsbury, Orleans County and Town of Wolcott, Lamolle County, VT	200
Carpenter Creek, WA	300
Issaquah Salmon Hatchery, WA	300
Great Pierce Meadows, Essex and Morris Counties, NJ	460

Tribal Partnership Program.—The Committee has also included \$400,000 for Nevada to initiate cultural resource restoration on his-

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The Committee believes that it is essential to provide adequate resources and funding to the Mississippi River and Tributaries program in order to protect the large investment in flood control facilities. Although much progress has been made, considerable work remains to be done for the protection and economic development of the rich natural resources in the Valley. The Committee expects the additional funds to be used to advance ongoing studies, initiate new studies, and advance important construction and maintenance work.

General Investigations

Atchafalaya Basin Floodway System Land Study, LA.—The Committee has provided \$150,000 to initiate this study as recommended in the budget request.

Morganza to the Gulf, LA.—The Committee has provided \$5,000,000 to continue Preconstruction Engineering and Design for this study.

Quiver River, MS.—The Committee has provided \$150,000 to initiate this study.

Memphis Metro, Storm Water Management Study, TN and MS.—The Committee has provided \$150,000 to initiate this study.

Construction

Grand Prairie, AR.—The Committee has provided \$10,000,000 for continued construction of the project.

Mississippi River Levees, AR, IL, KY, LA, MS, MO and TN.—The Committee has provided \$59,000,000 to continue construction of this project. Within the funds provided, \$19,800,000 could be used to continue construction on St. Johns-New Madrid Levee Closure/Box Culvert, MO (\$3,000,000); Carlisle-Tallula, MS Item 488-L (\$6,000,000); and Above Cairo, IL Slurry Trench P-4 (\$600,000) and initiate construction on Willow Point-Youngs Point, LA Items 445-R (\$1,300,000); Pecan Point, AR, Relief Wells P-2 (\$200,000); Trotters, MS Berm P-2 (\$100,000); Council Bend, AR Relief Wells (\$200,000); Willow Point-Youngs Point, LA Items 450-R (\$1,500,000); Farrell, MS Relief Wells (\$200,000); Badger-Cottonwood Point, MO Seepage Control (\$200,000); Tallula-Magna Vista, LA Items 474-R (\$1,500,000) and (\$5,000,000) could be used to complete plans and specifications and initiate construction of the Lower Mississippi River Museum and Riverfront Interpretive Site.

Yazoo Basin, Backwater Pumping Plant, MS.—The Committee has provided \$25,000,000 to continue construction of the project.

Yazoo Basin, Upper Yazoo Project, MS.—The Committee has provided \$20,000,000 to accelerate completion of this project. Within the funds provided, \$1,000,000 is for bank stabilization.

Maintenance

Mississippi River Levees, AR, IL, KY, LA, MS, MO and TN.—The Committee has provided \$21,191,000 to continue construction of this project. Funds are provided to complete Levee Restoration,

Mellwood, AR; initiate and complete Levee Repairs, Torras, LA; Levee Slide Repairs, Above Old River, LA; initiate Slope Pavement Repairs, Various Locations, LA; Floodwall Renovations, Mound City, IL; Replacement of Cache Levee Culvert, IL; Provide Levee Gravel, AR, LA and MS; Provide Levee Gravel, Commerce to Birds Point, MO; Provide Levee Gravel, Below Helena, AR and Provide Levee Gravel, Main Line Levee, LA.

Atchafalaya Basin, LA.—The Committee has provided \$13,400,000 for maintenance of this project. Additional funds are provided for levee gravel.

The Committee has provided funding for necessary maintenance dredging for the harbor projects located along the main stem of the Mississippi River.

The Committee has provided additional funding to address the maintenance backlog at Arkabutla, Sardis, Enid and Grenada Lakes in Mississippi.

OPERATION AND MAINTENANCE, GENERAL

Appropriations, 2005	\$1,943,428,000
Budget estimate, 2006	1,979,000,000
House allowance	2,000,000,000
Committee recommendation	2,100,000,000

¹ Excludes emergency appropriation of \$156,400,000.

The Committee continues to believe that it is essential to provide adequate resources and attention to operation and maintenance requirements in order to protect the large Federal investment. Yet, current and projected budgetary constraints require the Committee to limit the amount of work that can be accomplished in the fiscal year. In order to cope with the current situation, the Corps has had to defer or delay scheduled maintenance activities.

Maintenance backlogs continue to grow, with much of the backlog being essential maintenance dredging needed to keep the Nation's ports, harbors, and waterways open and able to efficiently handle important national and international trade activities. Yet, the Committee is aware that out-year budget planning guidance for the Corps of Engineers' projects is such that the current appropriations for their critical operation and maintenance activities will continue to decline for the foreseeable future. If additional resources are not made available, the Corps will be forced to cut back on services, and begin to terminate and close many projects and activities.

The Committee is aware of the Corps' efforts to stretch the limited resources to cover all of its projects and to effect savings through a variety of means. With an increasing number of projects entering the inventory, and budgetary constraints increasing, it is clear that the Corps will have to find innovative ways of accomplishing required maintenance work, while reducing operational and other costs.

The budget request has proposed that no navigation project with less than 1 billion ton-miles of cargo be eligible for maintenance dredging. The Committee believes that this is in direct conflict with the way projects are evaluated, authorized, and analyzed. Project analysis is based upon Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation

Studies (1983), the Corps of Engineers Planning Guidance Notebook (2000), and other polices and procedures. For navigation studies, the analysis centers on transportation savings to the Nation considering the ultimate origins and destinations of commodities to be moved. Operation and maintenance costs are considered as a part of this analysis and are figured into the benefit to cost ratio utilized to make the investment decision. By applying an arbitrary ton-mile figure to determine O&M funding decisions, the budget request has essentially obviated the need for any of the previous studies undertaken to determine the investment decision.

The Committee is concerned about the annual proposals for reductions of maintenance funding for "low use waterways and ports". These tributary waterways naturally do not enjoy the same level of relative efficiencies as mainstem waterways. The Mississippi and Ohio Rivers handle tremendous volumes of traffic over long distances and so generate impressive ton-mile statistics. Tributaries, by nature, provide generally short, smaller channels with lower traffic densities. Consequently, "ton-mile" statistics for tributary waterways are dwarfed by statistics for the mainstem waterways. It is important to recognize that the commerce on the tributaries is usually only a small part of the total journey between producer and consumer. When these statistics are compared on a system basis, nearly all of these waterways appear to "pay their way" and are performing as the economic analysis indicated when they were originally authorized.

Uncertainties in maintenance funding for lower use projects seriously impacts their ability to compete and become higher use facilities. Without funding to provide a stable channel and authorized depths and widths, industries and shippers are reluctant to make the necessary investments in using these projects. The Committee believes that proposed elimination of maintenance funding for authorized projects is not only a serious disservice to the public, but it demonstrates a profound lack of respect for the Congressional oversight committees that have jurisdiction for authorization and deauthorization of such projects.

The Committee is not in favor of funding projects which are no longer economically viable nor environmentally sustainable. Unfortunately, the administration has chosen a path of underfunding, or an entire lack of funding, for projects in an effort to achieve de facto deauthorization through the appropriations process by utilizing the billion-ton-mile model.

Further, the Committee believes much could be learned by the open exchange of how "low-use" waterways and ports are calculated, for the billion-ton-mile does not adequately reflect the flow of commerce today. The Committee remains concerned about the economic impacts of not maintaining all of our waterways and ports at their authorized depths. As a result of waterways not being maintained at the authorized depths, shippers are forced to divide their cargo and place it on a number of smaller ships in order to make passage to the final destination. This adds significantly to the cost and time of the movement of products in and around our waterways, something which the administration does not appropriately take into account when formulating the budget for the Corps. Therefore, the Committee strongly encourages the

administration to put forth a proposal for a model which better reflects the flow of goods along all of our ports and waterways, including lightering. Until then, however, the Committee believes the administration has the responsibility to budget for each and every project such that the authorized widths and depths are maintained.

CORPS HOPPER DREDGE FLEET

During fiscal year 2002, the Committee requested the General Accounting Office [GAO] to review the benefits and effects of current and proposed restrictions on the Corps' hopper dredge fleet. The Committee faces significant future investments in the Corps hopper dredge fleet, as it is rapidly aging. The Committee believes that the investment decisions must take into consideration the subsequent use of the fleet. The final GAO report, released March, 2003, reviewed the impacts of operational changes to the fleet since fiscal year 1993. GAO's findings made it clear to the Committee that additional costs have been imposed upon the Corps with the decreased use of the fleet, but that the benefits have not been realized. Additionally, the GAO found that the Corps' contracting process for hopper dredges was not effective. Most importantly, the GAO reported that the Corps of Engineers did not have even a limited system to evaluate the costs and benefits of the varying operational levels of its hopper dredge fleet, nor did it have a means to make maintenance and repair decisions of the fleet taking operational use into consideration. The Committee remains concerned that since 2000, the Corps has provided a report to Congress which has been found to have no analytical basis, thus calling into question the ready reserve policy. Therefore, the Committee has provided legislative language which changes the current dredge policy.

DIRECT FUNDING OF OPERATIONS AND MAINTENANCE WORK AND THE PMAAS

The President's Budget includes user charge proposals to offset discretionary spending. In particular, the Administration proposes that, starting in 2006, receipts from the sale of hydroelectric power generated at certain Federal dams operated by the Corps of Engineers be used to finance the operation and maintenance of those facilities. This direct financing arrangement already exists for the Bonneville Power Administration. However, due to budgetary scoring impacts the Committee is unable to extend this proposal to the Southeastern, Southwestern, and Western Power Administrations in the Department of Energy.

The budget request and the approved Committee allowance are shown on the following table:

CORPS OF ENGINEERS—OPERATION AND MAINTENANCE—Continued
(In thousands of dollars)

Project title	Budget estimate	House allowance	Committee recommendation	Committee recommendation compared to (+ or -)	
				Budget estimate	House allowance
LOWER MONUMENTAL LOCK AND DAM, WA	1,996	1,996	1,996		
MILL CREEK LAKE, WA	1,041	1,041	1,041		
MT. ST. HELENS SEDIMENT CONTROL, WA	257	257	257		
MUD MOUNTAIN DAM, WA	2,516	2,516	3,419	+ 903	+ 903
NEAH BAY, WA			1,000	+ 1,000	+ 1,000
OLYMPIA HARBOR, WA	400	400	400		
PROJECT CONDITION SURVEYS, WA	403	403	403		
PUGET SOUND AND TRIBUTARY WATERS, WA	864	864	864		
QUILLAYUTE RIVER, WA	58	58	58		
SCHEDULING RESERVOIR OPERATIONS, WA	485	485	485		
SEATTLE HARBOR, WA	555	555	555		
STILLAGUAMISH RIVER, WA	226	226	226		
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, WA	66	66	66		
TACOMA, PUYALLUP RIVER, WA	112	112	112		
THE DALLES LOCK AND DAM, WA AND OR	3,667	3,667	3,877	+ 210	+ 210
WILLAPA RIVER AND HARBOR, WA	158	158	158		
WEST VIRGINIA					
BEECH FORK LAKE, WV	1,014	1,014	1,014		
BLUESTONE LAKE, WV	3,828	3,828	3,828		
BURNSVILLE LAKE, WV	1,517	1,517	1,517		
EAST LYNN LAKE, WV	1,799	1,799	1,799		
ELK RIVER HARBOR, WV	10	10	10		
ELKINS, WV	16	16	16		
INSPECTION OF COMPLETED WORKS, WV	117	117	117		
KANAWHA RIVER LOCKS AND DAMS, WV	13,661	13,661	13,661		
OHIO RIVER LOCKS AND DAMS, WV, KY AND OH	19,530	19,530	20,530	+ 1,000	+ 1,000
OHIO RIVER OPEN CHANNEL WORK, WV, KY AND OH	2,019	2,019	2,519	+ 500	+ 500
R. D. BAILEY LAKE, WV	1,515	1,515	1,515		
STONEWALL JACKSON LAKE, WV	640	640	640		
SUMMERSVILLE LAKE, WV	1,657	1,657	1,657		
SUTTON LAKE, WV	1,788	1,788	1,788		
TYGART LAKE, WV	2,950	2,950	2,950		
WISCONSIN					
ASHLAND HARBOR, WI			166	+ 166	+ 166
EAU GALLE RIVER LAKE, WI	647	647	647		
FOX RIVER, WI	1,748	1,748	1,748		
GREEN BAY HARBOR, WI	2,476	2,476	2,476		
INSPECTION OF COMPLETED WORKS, WI	40	40	40		
KEWAUNEE HARBOR, WI			288	+ 288	+ 288
MANITOWOC HARBOR, WI			450	+ 450	+ 450
MILWAUKEE HARBOR, WI	844	844	844		
PORT WASHINGTON HARBOR, WI			213	+ 213	+ 213
PROJECT CONDITION SURVEYS, WI	105	105	105		
STURGEON BAY HARBOR AND LAKE MICHIGAN SHIP CANAL, WI			257	+ 257	+ 257
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, WI	472	472	472		
TWO RIVERS HARBOR, WI		420			- 420
WYOMING					
INSPECTION OF COMPLETED WORKS, WY	11	11	11		
JACKSON HOLE LEVEES, WY	1,094	1,094	1,094		
SCHEDULING RESERVOIR OPERATIONS, WY	86	86	86		
MISCELLANEOUS					
AQUATIC NUISANCE CONTROL RESEARCH	690	690	690		
COASTAL INLET RESEARCH PROGRAM	2,475	2,475	2,475		
CULTURAL RESOURCES (NAGPRA/CURATION)	1,391	1,391	1,391		
DREDGE WHEELER READY RESERVE	8,000	8,000	8,000		
DREDGING DATA AND LOCK PERFORMANCE MONITORING SYSTEM	1,062	1,000	1,062		+ 62
DREDGING OPERATIONS AND ENVIRONMENTAL RESEARCH (DOER)	6,080	5,660	6,080		+ 420
DREDGING OPERATIONS TECHNICAL SUPPORT PROGRAM (DOTS)	1,391	1,300	1,391		+ 91
EARTHQUAKE HAZARDS REDUCTION PROGRAM	270	270	270		
FACILITY PROTECTION	12,000	12,000	12,000		
GREAT LAKES SEDIMENT TRANSPORT MODELS	900	900	900		
HARBOR MAINTENANCE FEE DATA COLLECTION	608	608	608		
INLAND WATERWAY NAVIGATION CHARTS	3,708	3,708	3,708		
LONG TERM OPTION ASSESSMENT FOR LOW USE NAVIGATION	1,500			- 1,500	
MONITORING OF COMPLETED NAVIGATION PROJECTS	1,575	1,500	1,575		+ 75
NATIONAL DAM SAFETY PROGRAM	250	250	250		
NATIONAL DAM SECURITY PROGRAM	31	31	31		
NATIONAL EMERGENCY PREPAREDNESS PROGRAM (NEPP)	5,000	5,000	5,000		

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Georgetown Harbor, SC.—The Committee has included additional funds for maintenance dredging of the harbor.

Oahe Dam, Lake Oahe, SD & ND.—The Committee understands that the Cheyenne River Sioux Tribe's water system is facing a potential water shortage due to extremely low water levels on the Missouri River. The tribe's water intake is likely to become inoperable, as the Corps of Engineers continues to draw down the water level on Lake Oahe. The Committee urges the Corps to take all necessary steps to relocate the tribe's water intake on the Missouri River to ensure continued operation of the water system and an uninterrupted water supply for the Reservation.

Chocolate Bayou, TX.—The Committee has provided additional funds for maintenance dredging of the channel.

Houston Ship Channel, TX.—The Committee has provided an additional \$7,795,000 for additional dredging and dredging related activities.

Texas Water Allocation Study, TX.—The Committee has provided additional funds for the ongoing study.

Norfolk Harbor, VA.—The Committee has provided an additional \$3,469,000 for maintenance dredging and to raise the containment dikes to provide the capacity needed for the Norfolk Harbor Deepening project.

Connecticut River Flood Control Dams, VT.—\$500,000 has been provided for continued work on fish passage facilities at these projects.

Lake Washington Ship Channel, WA.—The Committee has included an additional \$2,093,000 to maintain basic service levels at the Ballard Locks.

Mud Mountain, WA.—Out of the funds provided, the Corps is directed to use up to \$903,000 to satisfy Federal fish passage obligations for the term of the cooperative agreement with Puget Sound Energy.

The Dalles Lock and Dam, WA and OR.—The Committee has provided an additional \$210,000 for Lewis and Clark activities at Celilo Park.

Ohio River Locks and Dams, WV, KY and OH.—The Committee has provided \$600,000 for security monitoring and \$400,000 for full levels of service at the lock.

Ohio River Open Channel Work, WV, KY and OH.—The Committee has provided \$500,000 for channel condition surveys.

Long Term Option Assessment for Low Use Navigation.—The Committee has not provided funding for this study.

Regional Sediment Management Demonstration Program.—The Committee has provided \$10,016,000 for this program. Within the funds provided, \$500,000 is for the southeast coast of Oahu, HI; \$2,500,000 is for the Littoral Drift Restoration Program, Benson Beach, WA; \$375,000 is for Lido Key, Sarasota, FL, and Vicinity; and central and southern Brevard County to Dade County; \$350,000 is for South Jetty and Clatsop Spit, OR; and \$4,900,000 is for Coastal Zone Mapping and Imaging Laser to be conducted in accordance with the University of Southern Mississippi.

Removal of Sunken Vessels.—The Committee has provided \$275,000 to remove the sunken vessel State of Pennsylvania from the Christina River at Wilmington, DE.

FLOOD CONTROL AND COASTAL EMERGENCIES

Appropriations, 2005.....	(1)
Budget estimate, 2006.....	\$70,000,000
House allowance.....	
Committee recommendation.....	43,000,000
1 Exclude emergency appropriation of \$148,000,000.	

The Committee has included \$43,000,000 for the FCCE account. This account provides funds for preparedness activities for natural and other disasters, response, and emergency flood fighting and rescue operations, hurricane response, and emergency shore protection work. It also provides for emergency supplies of clean water where the source has been contaminated or where adequate supplies of water are needed for consumption.

REGULATORY PROGRAM

Appropriations, 2005.....	\$143,840,000
Budget estimate, 2006.....	160,000,000
House allowance.....	160,000,000
Committee recommendation.....	150,000,000

An appropriation of \$150,000,000 is recommended for the regulatory program of the Corps of Engineers.

This appropriation provides for salaries and costs incurred administering regulation of activities affecting U.S. waters, including wetlands, in accordance with the Rivers and Harbors Act of 1899, 33 U.S.C. § 401, the Clean Water Act of 1977 Public Law 95-217, and the Marine Protection, Research and Sanctuaries Act of 1972 Public Law 92-532.

The appropriation helps maintain program performance, protects important aquatic resources, and supports partnerships with States and local communities through watershed planning efforts.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

Appropriations, 2005.....	\$163,680,000
Budget estimate, 2006.....	140,000,000
House allowance.....	140,000,000
Committee recommendation.....	140,000,000

The Committee recommends an appropriation of \$140,000,000 to continue activities related to the Formerly Utilized Sites Remedial Action Program [FUSRAP] in fiscal year 2005.

The responsibility for the cleanup of contaminated sites under the Formerly Utilized Sites Remedial Action Program was transferred to the Army Corps of Engineers in the Fiscal Year 1998 Energy and Water Development Appropriations Act, Public Law 105-62.

FUSRAP is not specifically defined by statute. The program was established in 1974 under the broad authority of the Atomic Energy Act and, until fiscal year 1998, funds for the cleanup of contaminated defense sites had been appropriated to the Department of Energy through existing appropriation accounts. In appropriating FUSRAP funds to the Corps of Engineers, the Committee intended to transfer only the responsibility for administration and execution of cleanup activities at eligible sites where remediation had not been completed. It did not intend to transfer ownership of

and accountability for real property interests that remain with the Department of Energy.

The Corps of Engineers has extensive experience in the cleanup of hazardous, toxic, and radioactive wastes through its work for the Department of Defense and other Federal agencies. The Committee always intended for the Corps' expertise be used in the same manner for the cleanup of contaminated sites under FUSRAP. The Committee expects the Corps to continue programming and budgeting for FUSRAP as part of the Corps of Engineers—Civil program.

GENERAL EXPENSES

Appropriations, 2005	\$165,664,000
Budget estimate, 2006	162,000,000
House allowance	152,021,000
Committee recommendation	165,000,000

This appropriation finances the expenses of the Office, Chief of Engineers, the Division Offices, and certain research and statistical functions of the Corps of Engineers. The Committee recommendation is \$165,000,000. The Committee understands that the cost of the required financial audit of the Corps of Engineers may exceed \$20,000,000 for fiscal year 2006. Therefore, the Committee encourages the Corps to use the Revolving Fund to undertake this audit and budget appropriation for this audit in future years.

Executive Direction and Management.—The Office of the Chief of Engineers and eight division offices supervise work in 38 district offices.

Humphreys Engineer Center Support Activity.—This support center provides administrative services (such as personnel, logistics, information management, and finance and accounting) for the Office of the Chief of Engineers and other separate field operating activities.

Institute for Water Resources.—This institute performs studies, analyses, and develops planning techniques for the management and development of the Nation's water resources.

United States Army Corps of Engineers Finance Center.—This center provides centralized support for all Corps finance and accounting.

Office of Congressional Affairs.—The Committee has included statutory language for the past several years prohibiting any funds from being used to fund an Office of Congressional Affairs within the executive office of the Chief of Engineers. The Committee believes that an Office of Congressional Affairs for the Civil Works Program would hamper the efficient and effective coordination of issues with the Committee staff and Members of Congress. The Committee believes that the technical knowledge and managerial expertise needed for the Corps headquarters to effectively address Civil Works authorization, appropriation, and Headquarters policy matters resides in the Civil Works organization. Therefore, the Committee strongly recommends that the office of Congressional Affairs not be a part of the process by which information on Civil Works projects, programs, and activities is provided to Congress.

The Committee reminds the Corps that the General Expenses Account is to be used exclusively for executive oversight and management of the Civil Works Program.

In 1998, The Chief of Engineers issued a Command Directive transferring the oversight and management of the General Expenses account, as well as the manpower associated with this function, from the Civil Works Directorate to the Resource Management Office. General Expense funds are appropriated solely for the executive management and oversight of the Civil Works Program under the direction of the Director of Civil Works.

The Committee is pleased with the efforts of the Corps to restructure the management of general expense funds. It continues to believe that the general expense dollars are ultimately at the discretion of the Chief of Engineers and are intended to be utilized in his effort to carry out the Corps' mission. The new controls put in place to manage the general expense dollars and evaluate the needs of the Corps address the Committee's previous concerns. The Committee requests the Corps continue to provide biannual written notification of the dispersal of general expense funds.

GENERAL PROVISIONS—CORPS OF ENGINEERS—CIVIL

Section 101. The bill includes language limiting reimbursements.

Section 102. The bill includes language prohibiting the divesting or transferring Civil Works functions.

Section 103. The bill includes language prohibiting any steps to dismantle the St. Georges Bridge in Delaware.

Section 104. The bill includes language concerning report notifications.

Section 105. The bill includes language concerning report notifications.

Section 106. The bill includes language making a technical correction to the Baltimore Metropolitan Watershed Feasibility Study—Gwynns Falls, MD.

Section 107. The bill includes language that provides for increasing the cost ceiling for the Marnet Lock, Kanawha River, WV project.

Section 108. The bill includes language that provides for increasing the cost ceiling for the Lower Mud River, Milton, WV project.

Section 109. The bill includes language regarding water reallocation at Lake Cumberland, KY, the San Luis Unit and the Kesterson Reservoir in California.

Section 110. The bill includes language regarding the Lower Las Vegas Wash, NV.

Section 111. The bill includes language regarding the Yazoo Basin, Upper Yazoo Projects in Mississippi.

Section 112. The bill includes language regarding the Lower Mississippi River Museum and Riverfront Interpretive Site, MS.

Section 113. The bill includes language regarding the Central New Mexico, NM.

Section 114. The bill includes language regarding the Los Angeles Harbor, CA.

Section 115. The bill includes language regarding the Missouri and Middle Mississippi Rivers Enhancement Project.

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- Section 116. The bill includes language regarding the Missouri and Middle Mississippi Rivers Enhancement Project.
- Section 117. The bill includes language regarding the Missouri and Middle Mississippi Rivers Enhancement Project.
- Section 118. The bill includes language regarding the Missouri River Levee System, Unit L-15 Levee, MO.
- Section 119. The bill includes language regarding the Alpine, CA project.
- Section 120. The bill includes language regarding regulatory permit processing.
- Section 121. The bill includes language regarding the Middle Rio Grande Endangered Species Collaborative Program, NM.
- Section 122. The bill includes language regarding Bluestone Dam, WV.
- Section 123. The bill includes language deauthorizing a portion of a project in Washington.
- Section 124. The bill includes language regarding Fern Ridge Dam, WV.
- Section 125. The bill includes language regarding the Federal dredges.
- Section 126. The bill includes language regarding Federal dredges.
- Section 127. The bill includes language regarding a Dispersal Barrier in Vermont and New York.

TITLE II—DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

Appropriations, 2005	\$47,625,000
Budget estimate, 2006	34,350,000
House allowance	34,350,000
Committee recommendation	34,350,000

The Committee recommendation for fiscal year 2006 to carry out the provisions of the Central Utah Project Completion Act totals \$34,350,000. An appropriation of \$31,668,000 has been provided for Central Utah project construction; \$946,000 for fish, wildlife, and recreation, mitigation and conservation. The Committee recommendation provides \$1,736,000 for program administration and oversight.

The Central Utah Project Completion Act (titles II-VI of Public Law 102-575) provides for the completion of the central Utah project by the Central Utah Water Conservancy District. The Act also authorizes the appropriation of funds for fish, wildlife, recreation, mitigation, and conservation; establishes an account in the Treasury for the deposit of these funds and of other contributions for mitigation and conservation activities; and establishes a Utah Reclamation Mitigation and Conservation Commission to administer funds in that account. The Act further assigns responsibilities for carrying out the Act to the Secretary of the Interior and prohibits delegation of those responsibilities to the Bureau of Reclamation.

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

Appropriations, 2005	\$852,605,000
Budget estimate, 2006	801,569,000
House allowance	832,000,000
Committee recommendation	899,569,000

An appropriation of \$899,569,000 is recommended by the Committee for general investigations of the Bureau of Reclamation. The water and related resources account supports the development, management, and restoration of water and related natural resources in the 17 Western States. The account includes funds for operating and maintaining existing facilities to obtain the greatest overall level of benefits, to protect public safety, and to conduct studies on ways to improve the use of water and related natural resources. Work will be done in partnership and cooperation with non-Federal entities and other Federal agencies.

The Committee has divided underfinancing between the Resources Management Subaccount and the Facilities Operation and Maintenance Subaccount. The Committee directs that the underfinancing amount in each subaccount initially be applied uniformly

EXTRACT

109TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } 109-275

MAKING APPROPRIATIONS FOR ENERGY AND WATER DEVELOPMENT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2006, AND FOR OTHER PURPOSES

NOVEMBER 7, 2005.—Ordered to be printed

Mr. HOBSON, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2419]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2419) "making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for energy and water development and for other purposes, namely:

TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protec-

tion and storm damage reduction, aquatic ecosystem restoration, and related purposes.

INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$164,000,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, within the funds provided under this heading, \$1,000,000 shall be available for planning assistance to the state of Ohio for Stark County watershed basin study: Provided further, That using \$8,000,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a comprehensive hurricane protection analysis and design at full federal expense to develop and present a full range of flood control, coastal restoration, and hurricane protection measures exclusive of normal policy considerations for South Louisiana and the Secretary shall submit a preliminary technical report for comprehensive Category 5 protection within 6 months of enactment of this Act and a final technical report for Category 5 protection within 24 months of enactment of this Act: Provided further, That the Secretary shall consider providing protection for a storm surge equivalent to a Category 5 hurricane within the project area and may submit reports on component areas of the larger protection program for authorization as soon as practicable: Provided further, That the analysis shall be conducted in close coordination with the State of Louisiana and its appropriate agencies.

CONSTRUCTION

For expenses necessary for the construction of river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); \$2,372,000,000, to remain available until expended; of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects, (including the rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock 27, Mississippi River, Illinois; and Lock and Dam 3, Mississippi River, Minnesota) shall be derived from the Inland Waterways Trust Fund; and of which \$12,000,000 shall be exclusively for projects and activities authorized under section 107 of the River and

Harbor Act of 1960; and of which \$500,000 shall be exclusively for projects and activities authorized under section 111 of the River and Harbor Act of 1968; and of which \$7,000,000 shall be exclusively for projects and activities authorized under section 103 of the River and Harbor Act of 1962; and of which \$40,000,000 shall be exclusively available for projects and activities authorized under section 205 of the Flood Control Act of 1948; and of which \$15,000,000 shall be exclusively for projects and activities authorized under section 14 of the Flood Control Act of 1946; and of which \$300,000 shall be exclusively for projects and activities authorized under section 208 of the Flood Control Act of 1954; and of which \$30,000,000 shall be exclusively for projects and activities authorized under section 1135 of the Water Resources Development Act of 1986; and of which \$30,000,000 shall be exclusively for projects and activities authorized under section 206 of the Water Resources Development Act of 1996; and of which \$5,000,000 shall be exclusively for projects and activities authorized under sections 204 and 207 of the Water Resources Development Act of 1992 and section 933 of the Water Resources Development Act of 1986: Provided, That the Chief of Engineers is directed to use \$11,250,000 of the funds appropriated herein for the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: Provided further, That the Chief of Engineers is directed to use \$1,500,000 of the funds provided herein for the Hawaii Water Management Project: Provided further, That the Chief of Engineers is directed to use \$13,000,000 of the funds appropriated herein for the navigation project at Kaunapali Harbor, Hawaii: Provided further, That the Chief of Engineers is directed to use \$4,000,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program for seepage control features and repairs to the tainter gates at Waterbury Dam, Vermont: Provided further, That \$600,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program shall be available for Dover Dam, Ohio: Provided further, That the Chief of Engineers is directed to use \$9,500,000 of the funds appropriated herein for planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Chief of Engineers is directed to use \$5,600,000 of the funds appropriated herein for planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Chief of Engineers is directed to use \$5,600,000 of the funds appropriated herein for planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Chief of Engineers is directed to continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special consider-

ations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$16,000,000 of the funds appropriated herein for the Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Harlan County in accordance with the Draft Detailed Project Report dated January 2002, Floyd County, Martin County, Johnson County, and Knox County, Kentucky, detailed project report, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River: Provided further, That the Chief of Engineers is directed to proceed with work on the permanent bridge to replace Folsom Bridge Dam Road, Folsom, California, as authorized by the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137), and, of the \$15,000,000 available for the American River Watershed (Folsom Dam Mini-Raise), California, project, \$10,000,000 of those funds be directed for the permanent bridge, with all remaining devoted to the Mini-Raise: Provided further, That \$300,000 is provided for the Chief of Engineers to conduct a General Reevaluation Study on the Mount St. Helens project to determine if ecosystem restoration actions are prudent in the Cowlitz and Toutle watersheds for species that have been listed as being of economic importance and threatened or endangered: Provided further, That \$35,000,000 shall be available for projects and activities authorized under 16 U.S.C. 410-r-8: Provided further, That the Secretary is directed to use \$2,000,000 of the funds appropriated herein to provide a grant to the City of Caliente, Nevada, for the City to expend for the purpose of purchasing construction equipment to be used by the City in constructing local flood control measures.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$400,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: Provided, That the Chief of Engineers is directed to use \$20,000,000 of the funds provided herein for design and real estate activities and pump supply elements for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$9,000,000 appropriated herein for construction of water withdrawal features of the Grand Prairie, Arkansas, project, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund.

OPERATION AND MAINTENANCE

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by

law; for providing security for infrastructure owned and operated by, or on behalf of, the United States Army Corps of Engineers (the "Corps"), including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, \$1,989,000,000, to remain available until expended, of which such sums to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662 may be derived from that fund; of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601-6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104-303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: Provided, That utilizing funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58+00 to station 293+00 between October 1, 2005, and September 30, 2006: Provided further, That the Chief of Engineers is authorized to undertake, at full Federal expense, a detailed evaluation of the Albuquerque levees for purposes of determining structural integrity, impacts of vegetative growth, and performance under current hydrological conditions: Provided further, That using \$275,000 provided herein, the Chief of Engineers is authorized to remove the sunken vessel State of Pennsylvania from the Christina River in Delaware.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$160,000,000, to remain available until expended.

REVOLVING FUND

None of the funds in title I of this Act or otherwise available to the Corps of Engineers shall be available for the rehabilitation and lead and asbestos abatement of the dredge McFarland.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, \$154,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices: Provided further, That the Secretary is directed to use \$4,500,000 of the funds appropriated herein to conduct, at full federal expense and in close cooperation with state and local governments, comprehensive analyses that examine multi-jurisdictional use and management of water resources on a watershed or regional scale.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), \$4,000,000.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses not to exceed \$5,000; and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase not to exceed 100 for replacement only and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) None of the funds provided in title I of this Act, or provided by previous appropriations Acts to the agencies or entities funded in title I of this Act that remain available for obligation or expenditure in fiscal year 2006, shall be available for obligation or expenditure through a reprogramming of funds that:

- (1) creates or initiates a new program, project, or activity;*
- (2) eliminates a program, project or activity;*
- (3) increases funds or personnel for any program, project or activity for which funds have been denied or restricted by this Act;*
- (4) proposes to use funds directed for a specific activity by either the House or the Senate Committees on Appropriations for a different purpose;*
- (5) augments existing programs, projects or activities in excess of \$2,000,000 or 50 percent, whichever is less, unless prior approval is received from the House and Senate Committees on Appropriations;*
- (6) reduces existing programs, projects or activities in excess of \$2,000,000 or 50 percent, whichever is less, unless prior approval is received from the House and Senate Committees on Appropriations; or*
- (7) creates, reorganizes, or restructures a branch, division, office, bureau, board, commission, agency, administration, or*

department different from the budget justifications submitted to the Committees on Appropriations or the table accompanying the Statement of Managers accompanying this Act, whichever is more detailed, unless prior approval is received from the House and Senate Committees on Appropriations.

(b) Subsection (a)(1) shall not apply to any project or activity authorized under section 205 of the Flood Control Act of 1948; section 14 of the Flood Control Act of 1946; section 208 of the Flood Control Act of 1954; section 107 of the River and Harbor Act of 1960; section 103 of the River and Harbor Act of 1962; section 111 of the River and Harbor Act of 1968; section 1135 of the Water Resources Development Act of 1986; section 206 of the Water Resources Development Act of 1996; sections 204 and 207 of the Water Resources Development Act of 1992 or section 933 of the Water Resources Development Act of 1986.

(c) Not later than 60 days after the date of enactment of this Act, the Corps of Engineers shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: Provided, That the report shall include:

(1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) a delineation in the table for each appropriation both by object class and program, project and activity as detailed in the budget appendix for the respective appropriations; and

(3) an identification of items of special congressional interest: Provided further, That the amount appropriated for salaries and expenses of the Corps of Engineers shall be reduced by \$100,000 per day for each day after the required date that the report has not been submitted to the Congress.

(d) None of the funds received as a non-federal share for project costs by any agency funded in title I of this Act shall be available for reprogramming.

SEC. 102. Beginning in fiscal year 2006 and thereafter, agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the River and Harbor Act of 1915, Public Law 64-291; section 11 of the River and Harbor Act of 1925, Public Law 68-585; the Civil Functions Appropriations Act, 1936, Public Law 75-208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90-483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended, Public Law 99-662; section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102-580; section 211 of the Water Resources Development Act of 1996, Public Law 104-303; and any other specific project authority, shall be limited to total credits and reimbursements for all applicable projects not to exceed \$100,000,000 in each fiscal year.

SEC. 103. In order to protect and preserve the integrity of the water supply against further degradation, none of the funds made available under this Act and any other Act hereafter may be used by the Army Corps of Engineers to support activities related to any

proposed new landfill in the Muskingum Watershed if such landfill—

(1) has not received a permit to construct from the State agency with responsibility for solid waste management in the watershed;

(2) has not received waste for disposal during 2005; and

(3) is not contiguous or adjacent to a portion of a landfill that has received waste for disposal in 2005 and each landfill is owned by the same person or entity.

SEC. 104. None of the funds appropriated in this or any other Act shall be used to demonstrate or implement any plans divesting or transferring any Civil Works missions, functions, or responsibilities of the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 105. ST. GEORGES BRIDGE, DELAWARE.—None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

SEC. 106. Notwithstanding any other provision of law, the requirements regarding the use of continuing contracts under the authority of section 206 of the Water Resources Development Act of 1999 (33 U.S.C. 2331) shall apply only to projects funded under the Operation and Maintenance account and the Operation and Maintenance subaccount of the Flood Control, Mississippi River and Tributaries account.

SEC. 107. Within 75 days of the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

SEC. 108. None of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that commits an amount for a project in excess of the amount appropriated for such project pursuant to this Act: Provided, That the amounts appropriated in this Act may be modified pursuant to the authorities provided in section 101 of this Act or through the application of unobligated balances for such project.

SEC. 109. Within 90 days of the date of enactment of this Act, the Assistant Secretary of the Army (Civil Works) shall transmit to Congress his report on any water resources matter on which the Chief of Engineers has reported.

SEC. 110. Section 123 of Public Law 108-137 (117 Stat. 1837) is amended by striking "in accordance with the Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Feasibility Report" and all that follows and inserting the following language in lieu thereof: "in accordance with the Baltimore Metropolitan Water Resources Gwynns Falls Watershed Study—Draft Feasibility Report and Integrated Environmental Assessment prepared by the Corps of Engineers and the City of Baltimore, Maryland, dated April 2004. The non-Federal sponsor shall receive credit toward its share of project costs for work carried out by the non-Federal sponsor prior

to execution of a project cooperation agreement, if the Secretary determines that the work is integral to the project. The non-Federal sponsor may also receive credit for any work performed by the non-Federal sponsor pursuant to a project cooperation agreement. The non-Federal sponsor shall be reimbursed for any work performed by the non-Federal sponsor that is in excess of the non-Federal share of project costs."

SEC. 111. None of the funds in this Act may be expended by the Secretary of the Army to construct the Port Jersey element of the New York and New Jersey Harbor or to reimburse the local sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element.

SEC. 112. MARMET LOCK, KANAWHA RIVER, WEST VIRGINIA.—Section 101(a)(31) of the Water Resources Development Act of 1996 (110 Stat. 3666), is amended by striking "\$229,581,000" and inserting "\$358,000,000".

SEC. 113. TRUCKEE MEADOWS FLOOD CONTROL PROJECT, NEVADA.—The non-federal funds expended for purchase of lands, easements and rights-of-way, implementation of project monitoring and assessment, and construction and implementation of recreation, ecosystem restoration, and water quality improvement features, including the provision of 6700 acre-feet of water rights no later than the effective date of the Truckee River Operating Agreement for re-vegetation, reestablishment and maintenance of riverine and riparian habitat of the Lower Truckee River and Pyramid Lake, whether expended prior to or after the signing of the Project Cooperation Agreement (PCA), shall be fully credited to the non-federal sponsor's share of costs for the project: Provided, That for the purposes of benefit-cost ratio calculations in the General Reevaluation Report (GRR), the Truckee Meadows Nevada Flood Control Project shall be defined as a single unit and non-separable.

SEC. 114. WATER REALLOCATION, LAKE CUMBERLAND, KENTUCKY. (a) IN GENERAL.—Subject to subsection (b), none of the funds made available by this Act may be used to carry out any water reallocation project or component under the Wolf Creek Project, Lake Cumberland, Kentucky, authorized under the Act of June 28, 1938 (52 Stat. 1215, chapter 795) and the Act of July 24, 1946 (60 Stat. 636, chapter 595).

(b) EXISTING REALLOCATIONS.—Subsection (a) shall not apply to any water reallocation for Lake Cumberland, Kentucky, that is carried out subject to an agreement or payment schedule in effect on the date of enactment of this Act.

SEC. 115. Section 529(b)(3) of Public Law 106-541 is amended by striking "\$10,000,000" and inserting "\$20,000,000" in lieu thereof.

SEC. 116. YAZOO BASIN, BIG SUNFLOWER RIVER, MISSISSIPPI.—The Yazoo Basin, Big Sunflower River, Mississippi, project authorized by the Flood Control Act of 1944, as amended and modified, is further modified to include the design and construction at full Federal expense of such measures as determined by the Chief of Engineers to be advisable for the control and reduction of sedimentation, erosion and headcutting in watersheds of the Yazoo Basin: Yazoo Headwater and Big Sunflower.

SEC. 117. LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE, MISSISSIPPI.—The Water Resources Development Act of 1992 (106 Stat. 4811) is amended by—

(1) in section 103(c)(2) by striking “property currently held by the Resolution Trust Corporation in the vicinity of the Mississippi River Bridge” and inserting “riverfront property”; and
(2) in section 103(c)(7)—

(A) by striking “There is” and inserting the following:
“(A) **IN GENERAL.**—There is”; and

(B) by striking “\$2,000,000” and all that follows and inserting the following: “\$15,000,000 to plan, design, and construct generally in accordance with the conceptual plan to be prepared by the Corps of Engineers.

“(B) **FUNDING.**—The planning, design, and construction of the Lower Mississippi River Museum and Riverfront Interpretive Site shall be carried out using funds appropriated as part of the Mississippi River Levees feature of the Mississippi River and Tributaries Project, authorized by the Act of May 15, 1928 (45 Stat. 534, chapter 569).”

SEC. 118. Section 593(h) of Public Law 106-541 is amended by striking “\$25,000,000” and inserting “\$50,000,000” in lieu thereof.

SEC. 119. The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Chief of Engineers to carry out the project at a total cost of \$222,000,000.

SEC. 120. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106-53) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public Law 106-554; 114 Stat. 2763A-220), is further amended by adding at the end the following:

“(72) **ALPINE, CALIFORNIA.**—\$10,000,000 is authorized for a water transmission main, Alpine, CA.”

SEC. 121. (a) The Secretary of the Army may carry out and fund projects to comply with the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by subsection (b) and may award grants and enter into contracts, cooperative agreements, or interagency agreements with participants in the Endangered Species Act Collaborative Program Workgroup referenced in section 209(a) of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1850) in order to carry out such projects. Any project undertaken under this subsection shall require a non-Federal cost share of 25 percent, which may be provided through in-kind services or direct cash contributions and which shall be credited on a programmatic basis instead of on a project-by-project basis, with reconciliation of total project costs and total non-Federal cost share calculated on a three year incremental basis. Non-Federal cost share that exceeds that which is required in any calculated three year increment shall be credited to subsequent three year increments.

(b) Section 205(b) of Public Law 108-447 (118 Stat. 2949) is amended by adding "and any amendments thereto" after the word "2003".

SEC. 122. BLUESTONE, WEST VIRGINIA.—Section 547 of the Water Resources Development Act of 2000 (114 Stat. 2676) is amended—

(1) in subsection (b)(1)(A) by striking "4 years" and inserting "5 years";

(2) in subsection (b)(1)(B)(iii) by striking "if all" and all that follows through "facility" and inserting "assurance project";

(3) in subsection (b)(1)(C) by striking "and construction" and inserting ", construction, and operation and maintenance";

(4) by adding at the end of subsection (b) the following:

"(3) OPERATION AND OWNERSHIP.—The Tri-Cities Power Authority shall be the owner and operator of the hydropower facilities referred to in subsection (a).";

(5) in subsection (c)(1)—

(A) by striking "No" and inserting "Unless otherwise provided, no";

(B) by inserting "planning," before "design"; and

(C) by striking "prior to" and all that follows through "subsection (d)";

(6) in subsection (c)(2) by striking "design" and inserting "planning, design,";

(7) in subsection (d)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) APPROVAL.—The Secretary shall review the design and construction activities for all features of the hydroelectric project that pertain to and affect stability of the dam and control the release of water from Bluestone Dam to ensure that the quality of construction of those features meets all standards established for similar facilities constructed by the Secretary.";

(B) by redesignating paragraph (3) as paragraph (2);

(C) by striking the period at the end of paragraph (2) (as so redesignated) and inserting ", except that hydroelectric power is no longer a project purpose of the facility so long as Tri-Cities Power Authority continues to exercise its responsibilities as the builder, owner, and operator of the hydropower facilities at Bluestone Dam. Water flow releases and flood control from the hydropower facilities shall be determined and directed by the Corps of Engineers.";

and
(D) by adding at the end the following:

"(3) COORDINATION.—Construction of the hydroelectric generating facilities shall be coordinated with the dam safety assurance project currently in the design and construction phases.";

(8) in subsection (e) by striking "in accordance" and all that follows through "58 Stat. 890";

(9) in subsection (f)—

(A) by striking "facility of the interconnected systems of reservoirs operated by the Secretary" each place it appears and inserting "facilities under construction under such agreements"; and

(B) by striking "design" and inserting "planning, design";

(10) in subsection (f)(2)—

(A) by "Secretary" each place it appears and inserting "Tri-Cities Power Authority"; and

(B) by striking "facilities referred to in subsection (a)" and inserting "such facilities";

(11) by striking paragraph (1) of subsection (g) and inserting the following:

"(1) to arrange for the transmission of power to the market or to construct such transmission facilities as necessary to market the power produced at the facilities referred to in subsection (a) with funds contributed by the Tri-Cities Power Authority; and";

(12) in subsection (g)(2) by striking "such facilities" and all that follows through "the Secretary" and inserting "the generating facility"; and

(13) by adding at the end the following:

"(i) **TRI-CITIES POWER AUTHORITY DEFINED.**—In this section, the 'Tri-Cities Power Authority' refers to the entity established by the City of Hinton, West Virginia, the City of White Sulphur Springs, West Virginia, and the City of Philippi, West Virginia, pursuant to a document entitled 'Second Amended and Restated Intergovernmental Agreement' approved by the Attorney General of West Virginia on February 14, 2002."

SEC. 123. (a) IN GENERAL.—

(1) After the date of enactment of this Act, the Secretary of the Army shall carry out the project for wastewater infrastructure, DeSoto County, Mississippi, authorized by section 219(f)(30) of Public Law 102-580, as amended, in accordance with the provisions of this subsection.

(2) The non-Federal interest shall be primarily responsible for carrying out work on the project referred to in paragraph (1) that is not covered by the Project Cooperation Agreement executed on May 13, 2002 or any amendments thereto, including work associated with the design, construction, management, and administration of the project. The non-Federal interest may carry out work on the project subject to obtaining any permits required pursuant to Federal and State laws and subject to general supervision and administrative oversight by the Secretary of the Army.

(3) The Federal share of project costs incurred by the non-Federal interest in carrying out work on the project as provided for in paragraph (2) shall equal 75 percent of the total cost of the work and shall be in the form of grants or reimbursements, except that the total amount of Federal funds available for the project, including that portion of the project carried out as provided for in paragraph (2), may not exceed \$55,000,000.

(b) **TECHNICAL AMENDMENT.**—Section 6006 of the Emergency Supplemental Appropriations Act, 2005 (119 Stat. 282) is amended by striking "between May 13, 2002, and September 30, 2005" and inserting "after May 13, 2002" in lieu thereof.

SEC. 124. The project for flood control, Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), Nevada, authorized by section 101(13) of Public Law 102-580 and modified by Public

Law 108-7 (H.J. Res. 2) Consolidated Appropriations Resolution, 2003, section 107 is further modified to provide that the costs incurred for design and construction of the project channel crossings in the reach of the channels from Shelbourne Avenue proceeding north along the alignment of Durango Drive and continuing east along the Southern Beltway to Martin Avenue shall be added to the authorized cost of the project and such costs shall be cost shared and shall not be considered part of the non-Federal sponsor's responsibility to provide lands, easements, and rights-of-way, and to perform relocations for the project.

SEC. 125. RESTORATION OF THE LAKE MICHIGAN WATERFRONT AND RELATED AREAS, LAKE AND PORTER COUNTIES, INDIANA.—The Secretary of the Army, acting through the Chief of Engineers is authorized and directed to carry out a continuing program for the restoration of the Lake Michigan Waterfront and Related Areas, Lake and Porter Counties, Indiana.

(1) **DEFINITIONS.**—

(A) Related areas are defined as adjacent or close sites that have an impact or influence on the waterfront areas or aquatic habitat.

(B) Restore is defined as—

(i) activities that improve a site's ecosystem function, structure, and dynamic processes to a less degraded and more natural condition, and/or

(ii) the management of contaminants that allow the site to be safely used for ecological and/or economic purposes.

(2) **JUSTIFICATION.**—Projects can be justified by ecosystem benefits, clean-up of contaminated sites, public health, safety, economic benefits or any combination of these. Sites restored for economic purposes can be redeveloped by others. Restoration sites may include compatible recreation facilities that do not diminish the restoration purpose and do not increase the Federal cost share by more than 10 percent.

(3) **COST SHARING.**—The construction of projects are cost shared at 65 percent Federal and 35 percent non-Federal except when there is a demonstration of innovative technology. The cost share is then 85 percent Federal and 15 percent non-Federal.

(4) **CREDIT.**—

(A) The Secretary shall credit the non-Federal interest for the value of any lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas required for carrying out a project. When the cost of the provision of all lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas exceeds the non-Federal share, as identified in paragraph (3), the non-Federal interest may waive any right under Federal cost-sharing policy to receive cash reimbursement for any such value in excess of the non-Federal share as identified in paragraph (3).

(B) The non-Federal interest may provide up to 100 percent of the non-Federal share required under paragraph (3) in the form of services, materials, supplies, or other in-kind contributions including monies paid pursuant to, or

the value of any in-kind service performed under, an administrative order on consent or jurisdictional consent decree but may not include any monies paid pursuant to, or the value of any in-kind service performed under, a unilateral administrative order or court order.

(C) The total of non-Federal credit for services, materials, supplies, or other in-kind contributions when combined with lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas shall not exceed the non-Federal share identified in paragraph (3).

(5) OPERATION, MAINTENANCE, REPAIR, REPLACEMENT AND REHABILITATION.—Operation, maintenance, repair, replacement and rehabilitation is 100 percent non-Federal cost.

(6) HOLD HARMLESS.—Non-Federal interests hold and save harmless the United States free from claims or damages due to implementation of the project except for negligence of the government.

(7) AUTHORIZED APPROPRIATIONS.—There is authorized to be appropriated to carry out this program \$20,000,000 for each fiscal year.

SEC. 126. CHESAPEAKE BAY OYSTER RESTORATION, MARYLAND AND VIRGINIA.—The second sentence of section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b)) is amended by striking "\$20,000,000" and inserting "\$30,000,000".

SEC. 127. The project for flood control, Little Calumet River, Indiana, authorized by section 401(a) of Public Law 99-662 (100 Stat. 4115) is modified to authorize the Secretary of the Army to complete the project in accordance with the post authorization change report dated August 2000 at a total cost of \$198,000,000 with an estimated Federal cost of \$148,500,000 and an estimated non-Federal cost of \$49,500,000.

SEC. 128. AMERICAN RIVER WATERSHED, CALIFORNIA (FOLSOM DAM AND PERMANENT BRIDGE).—(a) COORDINATION OF FLOOD DAMAGE REDUCTION AND DAM SAFETY.—The Secretary of the Army and the Secretary of the Interior are directed to collaborate on authorized activities to maximize flood damage reduction improvements and address dam safety needs at Folsom Dam and Reservoir, California. The Secretaries shall expedite technical reviews for flood damage reduction and dam safety improvements. In developing improvements under this section, the Secretaries shall consider reasonable modifications to existing authorized activities, including a potential auxiliary spillway. In conducting such activities, the Secretaries are authorized to expend funds for coordinated technical reviews and joint planning, and preliminary design activities.

(b) SECRETARY'S ROLE.—Section 134 of Public Law 108-137 (117 Stat. 1842) is modified to read as follows:

"SEC. 134. BRIDGE AUTHORIZATION.

"There is authorized to be appropriated to the Secretary of the Army \$30,000,000 for the construction of the permanent bridge described in section 128(a), above the \$36,000,000 provided for in the recommended plan for bridge construction. The \$30,000,000 shall not be subject to cost sharing requirements with non-Federal interests."

(c) CONFORMING CHANGE.—Section 128(a) of Public Law 108-137 (117 Stat. 1838) is modified by deleting "above the \$36,000,000

provided for in the recommended plan for bridge construction," and inserting in lieu thereof the following: "above the sum of the \$36,000,000 provided for in the recommended plan for bridge construction and the amount authorized to be appropriated by section 134, as amended."

(d) **MAXIMUM COST OF PROJECT.**—The costs cited in subsections (b) and (c) shall be adjusted to allow for increases pursuant to section 902 of Public Law 99-662 (100 Stat. 4183). For purposes of making adjustments pursuant to this subsection, the date of authorization of the bridge project shall be December 1, 2003.

(e) **EXPEDITED CONSTRUCTION.**—The Secretary, in coordination with the Secretary of the Interior and affected non-federal officials (including the City of Folsom, California), shall expedite construction of a new bridge and associated roadway authorized in Public Law 108-137. The Secretary, to the extent practicable, may construct such work in a manner that is compatible with the design and construction of authorized projects for flood damage reduction and dam safety. The Secretary and the Secretary of the Interior shall expedite actions under their respective jurisdictions to facilitate timely completion of construction.

(f) **REPORT TO CONGRESS.**—The Secretary of the Army, in consultation with the Secretary of the Interior and non-federal interests, shall report to Congress within ninety days of the date of enactment of this Act, and at four-month intervals thereafter, on the status and schedule of planning, design and construction activity.

SEC. 129. JACKSONVILLE HARBOR, FLORIDA.—(a) The project for navigation, Jacksonville Harbor, Florida, authorized by section 101(a)(17) of the Water Resources Development Act of 1999 (113 Stat. 276), is modified to authorize the Secretary to extend the navigation features in accordance with the Report of the Chief of Engineers, dated July 22, 2003, at a total cost of \$14,658,000, with an estimated Federal cost of \$9,636,000 and an estimated non-Federal cost of \$5,022,000.

(b) The non-Federal share of the costs of the General Reevaluation Reports on the Jacksonville Harbor which were begun prior to August 2004, shall be consistent with the non-Federal costs in implementing the overall construction project.

SEC. 130. Section 594(g) of the Water Resources Development Act of 1999 (113 Stat. 383) is amended by striking "\$60,000,000" and inserting "\$240,000,000".

SEC. 131. ONONDAGA LAKE, NEW YORK.—Section 573 of the Water Resources Development Act of 1999 (113 Stat. 372) is amended—

(1) in subsection (f) by striking "\$10,000,000" and inserting "\$30,000,000";

(2) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(3) by inserting after subsection (e) the following:

"(f) **NONPROFIT ENTITIES.**—Notwithstanding section 221(b) 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."

SEC. 132. WHITE RIVER BASIN, ARKANSAS.—(a) **MINIMUM FLOWS.**—

(1) *IN GENERAL.*—The Secretary is authorized and directed to implement alternatives BS-3 and NF-7, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004.

(2) *COST SHARING AND ALLOCATION.*—Reallocation of storage and planning, design and construction of White River Minimum Flows project facilities shall be considered fish and wild-life enhancement that provides national benefits and shall be a Federal expense in accordance with section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)). The non-Federal interests shall provide relocations or modifications to public and private lakeside facilities at Bull Shoals Lake and Norfork Lake to allow reasonable continued use of the facilities with the storage reallocation as determined by the Secretary in consultation with the non-Federal interests. Operations and maintenance costs of the White River Minimum Flows project facilities shall be 100 percent Federal. All Federal costs for the White River Minimum Flows project shall be considered non-imbursable.

(3) *IMPACTS ON NON-FEDERAL PROJECT.*—The Administrator of Southwestern Power Administration, in consultation with the project licensee and the relevant state public utility commissions, shall determine any impacts on electric energy and capacity generated at Federal Energy Regulatory Commission Project No. 2221 caused by the storage reallocation at Bull Shoals Lake, based on data and recommendations provided by the relevant state public utility commissions. The licensee of Project No. 2221 shall be fully compensated by the Corps of Engineers for those impacts on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project. Such costs shall be included in the costs of implementing the White River Minimum Flows project and allocated in accordance with subsection (a)(2) above.

(4) *OFFSET.*—In carrying out this subsection, losses to the Federal hydropower purpose of the Bull Shoals and Norfork Projects shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Such reduction shall be determined by the Administrator of the Southwestern Power Administration on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

(b) *FISH HATCHERY.*—In constructing, operating, and maintaining the fish hatchery at Beaver Lake, Arkansas, authorized by section 105 of the Water Resources Development Act of 1976 (90 Stat. 2921), losses to the Federal hydropower purpose of the Beaver Lake Project shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Such reduction shall be determined by the Administrator of the Southwestern Power Administration based on the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time operation of the hatchery begins.

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(c) **REPEAL.**—Section 374 of the Water Resources Development Act of 1999 (113 Stat. 321) and section 304 of the Water Resources Development Act of 2000 (Public Law 106-541) are repealed.

SEC. 133. CALCASIEU SHIP CHANNEL, LOUISIANA.—(a) **IN GENERAL.**—At such time as Pujo Heirs and Westland Corporation convey all right, title, and interest in and to the real property described in paragraph (b)(1) to the United States, the Secretary shall convey all right, title, and interest of the United States in and to the real property described in paragraph (b)(2) to Pujo Heirs and Westland Corporation.

(b) **LAND DESCRIPTION.**—The parcels of land referred to in paragraph (a) are the following:

(1) **NON-FEDERAL INTEREST IN LAND.**—An easement for placement of dredged materials over a contiguous equivalent area to the real property described in subparagraph (2). The parcels on which such an easement may be exchanged is all of the area within the diked or confined boundaries of the Corps of Engineers Dredge Material Placement Area M comprising Tract 128E, Tract 129E, Tract 131E, Tract 41A, Tract 42, Tract 132E, Tract 130E, Tract 134E, Tract 133E-3, Tract 140E, or some combination thereof.

(2) **FEDERAL INTEREST IN LAND.**—An easement for placement of dredged materials over an area in Cameron Parish, Louisiana, known as portions of Government Tract Numbers 139E-2 and 48 (both tracts on the west shore of the Calcasieu Ship Channel), and other tracts known as Corps of Engineers Dredge Material Placement Area O.

(c) **CONDITIONS.**—The exchange of real property under paragraph (a) shall be subject to the following conditions:

(1) **DEEDS.**—

(A) **NON-FEDERAL LAND.**—The conveyance of the real property described in paragraph (b)(1) to the Secretary shall be by a warranty deed acceptable to the Secretary.

(B) **FEDERAL LAND.**—The conveyance of the real property described in paragraph (b)(2) to Pujo Heirs and Westland Corporation shall be by a quitclaim deed.

(2) **TIME LIMIT FOR EXCHANGE.**—The land exchange under paragraph (a) shall be completed not later than six months after the date of enactment of this Act.

(3) **INCREMENTAL COSTS.**—As determined by the Secretary, incremental costs to the Lake Charles Harbor and Terminal District associated with the preparation of the area and the placement of dredge material in the new disposal easement area, paragraph (b)(1), including, site preparation costs, associated testing, permitting, mitigation and diking costs associated with such new disposal easement over the costs that would have been incurred in the placement of dredge material in the old disposal easement area, paragraph (b)(2) (comprising all of Corps of Engineers Dredge Material Placement Area O) up to the disposal capacity equivalent of the property described in paragraph (b)(2), shall be made available by the Owners. Owners shall make appropriated guarantees, as agreed to by the Secretary, that funds will be available as needed to cover such incremental costs. The Lake Charles Harbor and Terminal District, as local sponsor for the Calcasieu Ship Channel Project,

shall not be assessed or caused to incur any costs arising out of, associated with or as a consequence of the land exchange authorized under paragraph (a).

(d) **VALUE OF PROPERTIES.**—If the appraised fair market value, as determined by the Secretary, of the real property conveyed to Pujo Heirs and Westland Corporation by the Secretary under paragraph (a) exceeds the appraised fair market value, as determined by the Secretary, of the real property conveyed to the United States by Pujo Heirs and Westland Corporation under paragraph (a), Pujo Heirs and Westland Corporation shall make a payment to the United States equal to the excess in cash or a cash equivalent that is satisfactory to the Secretary.

SEC. 134. PROJECT MODIFICATION.—(a) **IN GENERAL.**—The project for flood damage reduction, environmental restoration, recreation, Johnson Creek, Arlington, Texas, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280–281) is modified—

(1) to deauthorize the ecosystem restoration portion of the project that consists of approximately 90 acres of land located between Randol Mill and the Union Pacific East/West line; and

(2) to authorize the Secretary of the Army to design and construct an ecosystem restoration project on lands identified in subsection (c) that will provide the same or greater level of national ecosystem restoration benefits as the portion of the project described in paragraph (1).

(b) **CREDIT TOWARD FEDERAL SHARE.**—The Secretary of the Army shall credit toward the Federal share of the cost of the modified project the costs incurred by the Secretary to carry out the project as originally authorized under section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280). The non-Federal interest shall not be responsible for reimbursing the Secretary for any amount credited under this subsection.

(c) **COMPARABLE PROPERTY.**—Not later than 6 months after the date of enactment of this Act, the City of Arlington, Texas, shall identify lands, acceptable to the Secretary of the Army, amounting to not less than 90 acres within the City, where an ecosystem restoration project may be constructed to provide the same or greater level of National ecosystem restoration benefits as the land described in subsection (a)(1).

SEC. 135. Funds made available in Public Law 105–62 and Public Law 105–245 for Hudson River, Athens, New York, shall be available for projects in the Catskill/Delaware watersheds in Delaware and Greene Counties, New York, under the authority of the New York City Watershed Environmental Assistance Program.

SEC. 136. None of the funds contained in title I of this Act shall be available to permanently reassign or to temporarily reassign in excess of 180 days personnel from the Charleston, South Carolina district office: Provided, That this limitation shall not apply to voluntary change of station.

SEC. 137. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to design and construct until hereafter completed, the recreation and access features designated as Phase II of the Louisville Waterfront Park, Kentucky, as described in the Louisville Waterfront Park, Phases II and III, Detailed Project Report, by the Louisville District of the Corps of

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement to the House and Senate in explanation of the action agreed upon by the managers and recommend in the accompanying conference report.

The language and allocations set forth in House Report 109-86 and Senate Report 109-84 should be complied with unless specifically addressed to the contrary in the conference report and statement of managers. Report language included by the House which is not contradicted by the report of the Senate or the conference, and Senate report language which is not contradicted by the report of the House or the conference is approved by the committee of conference. The statement of managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House report and Senate report address a particular issue not specifically addressed in the conference report or joint statement of managers, the conferees have determined that the House report and Senate report are not inconsistent and are to be interpreted accordingly. In cases in which the House or Senate have directed the submission of a report, such report is to be submitted to both House and Senate Committees on Appropriations.

Senate amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

TITLE I—DEPARTMENT OF DEFENSE—CIVIL DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The summary tables included in this title set forth the conference agreement with respect to the individual appropriations, programs, and activities of the Corps of Engineers. Additional items of the conference agreement are discussed below.

WATER RESOURCE NEEDS IN THE WAKE OF HURRICANES KATRINA AND RITA

The conferees' funding recommendations in this statement of managers have been shaped by the occurrence of Hurricanes Katrina and Rita, their profound effects on the Gulf Coast of the United States, and what these storms revealed about our country's

vulnerability to natural disasters. Accordingly, total funding levels for Energy and Water Development Appropriations for fiscal year 2006 are \$749,000,000 above the levels requested by the Administration, and the conferees have designated almost all of this increase for strengthening the water infrastructure of our nation. Dam safety, flood protection, and maintenance of vital navigation systems have been given priority.

The situation on the Gulf Coast in the wake of the 2005 hurricanes requires balance among competing forces. There is an urgent need for rapid restoration of flood control measures before the next storm season. The US Army Corps of Engineers has testified that it can accomplish these repairs by June 2006. However, extensive flooding occurred in the region despite the existence of flood control measures designed to withstand Category 3 hurricanes. Fully understanding what caused the flooding will require time, and the design and implementation of an improved protection system will take years. This means that some interim protection will be in place soon and better protection will be provided later.

This Act provides considerable support for on-going improvements to flood control projects along the Gulf Coast, particularly in Louisiana and Mississippi. The hurricanes have altered the underlying justifications for these projects and brought into question existing approaches and designs. The physical situation on the ground has changed, the nature and value of the communities and infrastructure to be protected have changed, and the engineering requirements for providing given levels of flood protection have changed. While the Corps of Engineers proceeds to reestablish pre-existing flood control works using funds provided on an emergency basis, a revised plan for providing an improved flood control system for the future is needed. Accordingly, the conferees direct the Secretary of the Army, acting through the Chief of Engineers, to provide the House and Senate Committees on Appropriations with a report detailing an integrated approach to flood control, navigation, and environmental restoration for the Gulf Coast region of Louisiana and Mississippi within 120 days of enactment. This report should present the overall approach for future spending and identify specific changes to on-going projects as well as proposals for future work. Hopefully, this vision can be in place to guide appropriations for next year and inform the five-year funding plan that is to accompany the Administration's fiscal year 2007 budget request.

The conferees expect additional resources will be provided in subsequent supplemental appropriations bills to respond to the aftermath of Hurricane Katrina and shall be considered in the broader context of flood reduction for and reconstruction of the City of New Orleans as hurricane data analysis is completed and as a consensus on how best to protect the City of New Orleans emerges.

The budget request from the Administration recommended funding various projects based on seven performance guidelines, based principally on the ratio of remaining-benefits-to-remaining-costs. The conferees have endeavored to identify the most critical flood damage reduction and navigation projects in the allocation of resources provided, but in the absence of the Corps of Engineers being able to provide to the Congress its professional engineering judgment on which priority infrastructure needs should be ad-

dressed this fiscal year, the conferees have largely provided the budget request for individual water resource projects.

PROGRAM MANAGEMENT AND EXECUTION

The conferees agree that improvements in the Corps' program management and execution are necessary and appropriate. The conferees expect the civilian and military leadership of the Corps of Engineers to manage the Corps of Engineers and the Civil Works program.

Five-year comprehensive budget planning.—The Corps is directed to submit to the House and Senate Committees on Appropriations concurrent with each annual budget hereafter an updated five-year development plan, as delineated in the House report.

Emphasis on expenditures.—The Corps is directed to adopt a fiscal management practice that fully honors Congressional direction and accepts a higher level of carryover funds in order to achieve greatly increased transparency into project costs and multiyear funding commitments.

Congressional justification materials.—The conferees direct the Corps to improve its annual congressional budget submission by expanding the information presented to the Congress each year and to present its budget estimate by mission area. That information shall include, but not be limited to, those items more fully discussed in the House report. Such information shall include a detailed analysis of activities and projects funded in the current year but for which no funds are requested in the budget estimate. It is incumbent upon the Administration and the Corps of Engineers to disclose fully how it plans to carry out the current year appropriation. Inclusion of such information in the budget justification materials in no way implies continuing support of such projects or activities by the Administration or the Corps of Engineers but is needed by Congress to determine if the Executive Branch is executing fully its appropriation by program, project and activity consistent with Congressional direction and intent. The conferees note that similar information is provided in other executive branch agencies' budget submissions and fail to understand why such information is not provided by the Corps of Engineers or cleared by the Office of Management and Budget for transmittal to the Congress.

Performance-based budgeting.—The conferees acknowledge the efforts of the Administration to develop a methodology for focusing limited federal resources on water resource projects, but recognize that the remaining-costs-to-remaining-benefits ratio used by the Administration has its limitations. In addition, the conferees note the inability of the Corps of Engineers to produce at the request of Congress a list of the ten most critical water resources needs in the country that need to be addressed given the Nation's experience with Hurricane Katrina. Accordingly, the Corps of Engineers is directed to contract with the National Academy of Public Administration to study and recommend factors, perhaps to include remaining-costs-to-remaining-benefits, which should be used in determining the allocation of limited resources for the construction of water resource projects.

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Savings and slippage.—The conferees acknowledge the existence of traditional savings and slippage, which may accrue either from unfavorable construction schedules and/or seasons or from delays in a project's delivery because of environmental issues, litigation or local financial limitations. Such funds may be available for reallocation, only on a project-by-project basis, within the reprogramming limitation contained in section 101 in title I of this Act.

In recent years the Congress has artificially increased the historical savings and slippage estimate, thereby increasing the across-the-board reduction. The conferees have discontinued this practice. The conference agreement eliminates the need for an across-the-board reduction resulting from project allocations in excess of the amount appropriated for such account. In addition, an across-the-board reduction for historical savings and slippage shall not be assessed. Savings and slippage shall be taken on a project-by-project basis, recognizing the unique characteristics of each project and its total annual funding requirements.

Reprogramming.—The conference agreement modifies section 101 of the House bill, which provides very specific instances and procedures by which the Corps may reprogram funds. The Senate bill contained no similar guidance. The guidance contained herein shall supercede all previous Congressional direction with respect to the reprogramming of appropriated funds and shall apply to all available balances in the Corps' accounts. For the purposes of carrying out this section, a reprogramming of funds is defined as any reallocation of funds into or from a line item set forth in the statement of managers accompanying this Act. No distinctions are to be made by the Corps for transfers or movements of funds, such as restorations or revocations, as has been the past practice. Any funds proposed for reprogramming shall be deemed to be excess to project needs, and shall be considered on a project-by-project basis.

Consistent with the recommendations found in a recent GAO report entitled "Improved Planning and Financial Management Should Replace Reliance on Reprogramming Actions to Manage Project Funds," the Corps is directed to develop immediately a financial planning and management system for the investigations, construction, and operation and maintenance appropriations that changes the way the Corps allocates funds from an annual basis to a quarterly basis that reflects actual schedule and project performance. This recommendation is most crucial to ensure increased certainty in execution of projects. Accordingly, the conferees expect that project funds shall be allocated to the field operating agencies by the headquarters office on a quarterly basis on the expected rate of execution for each quarter.

Not later than 60 days following the enactment of this Act, the Corps shall submit a report to the House and Senate Committees on Appropriations to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year. That report shall contain a table for each appropriation, showing among other items, each program, project and activity in each appropriation. For each day after the required date that the report has not been submitted to Congress, the amount appropriated for salaries and expenses of the Corps of Engineers shall be reduced

by \$100,000 per day for each day after the required date that the report has not been submitted to the Congress. In addition, the conferees direct the Corps to provide quarterly reports to the House and Senate Committees on Appropriations detailing all projects from which and to which funds were reprogrammed pursuant to the authorities provided in this Act. The report shall also include reasons for the transfer of funds. The thresholds contained in section 101 shall apply to cumulative totals on a project-by-project basis.

Further, the conferees direct that, when the Corps executes a reprogramming pursuant to the authorities of this Act, the Corps and the project sponsor shall treat each reprogramming as a one time transaction with no commitment or expectation to return funds to that project.

The conferees expect the reprogramming authorities provided in this Act will improve the fiscal management of the Corps' program. The conferees expect the Corps of Engineers to adhere to the letter and spirit of these reprogramming authorities. To the extent that the Corps is unable to improve its financial planning and management systems by the adoption of these authorities, the conferees will consider further restrictions in the Corps' reprogramming authorities in the context of the fiscal year 2007 Energy and Water Development Appropriations Act.

Continuing contracts.—The conference agreement modifies two provisions proposed by the House regarding continuing contracts. These provisions are discussed in greater detail under General Provisions.

INVESTIGATIONS

The conference agreement provides \$164,000,000 for Investigations, instead of \$100,000,000 as provided by the House and \$180,000,000 as proposed by the Senate. The conference agreement deletes a provision proposed by the House, which incorporates by reference the projects and activities specified in the statement of managers accompanying this Act. The Senate bill contained no similar provision.

The conference agreement includes a provision relating to planning assistance to the State of Ohio. In addition, the conference agreement includes a provision providing \$8,000,000 to conduct, at full federal expense, a comprehensive hurricane protection study.

The conference agreement deletes a provision proposed by the Senate relating to funding for a project in Laupahoehoe Harbor, Hawaii. The House bill contained no similar provision.

The conference agreement for investigations is shown in the following table:

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CORPS OF ENGINEERS - INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	INVESTIGATIONS	PLANNING	INVESTIGATIONS	CONFERENCE
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING	PLANNING
ALABAMA					
BREWTON AND EAST BREWTON, AL.....	189	---	---	75	---
VILLAGE CREEK, JEFFERSON COUNTY (BIRMINGHAM WATERSHED)	253	---	---	100	---
ALASKA					
AKUTAN HARBOR, AK.....	---	---	---	---	500
ANCHORAGE HARBOR DEEPENING, AK.....	---	---	---	500	---
BARROW COASTAL STORM DAMAGE DEEPENING, AK.....	---	---	---	800	---
COFFMAN COVE, AK.....	---	---	---	600	---
DELONG MOUNTAIN HARBOR, AK.....	---	---	---	490	760
HAINES HARBOR, AK.....	---	---	---	300	---
KENAI RIVER BLUFF EROSION, AK.....	---	---	---	500	---
KNIK BRIDGE CROSSING, AK.....	---	---	---	500	---
KOTZEBUE SMALL BOAT HARBOR, AK.....	---	---	---	250	---
LITTLE DIOMEDE HARBOR, AK.....	---	---	---	200	---
MCGRATH, AK.....	---	---	---	150	---
MEKORYUK HARBOR, AK.....	---	---	---	100	---
UNALAKLEET, AK.....	---	---	---	250	---
UNALASKA, AK.....	---	---	---	---	500
YAKUTAT HARBOR, AK.....	300	---	---	---	---

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Remaining items, flood plain management services.—The conference agreement includes \$6,407,000 for flood plain management services, instead of \$5,625,000 as proposed by the House and \$8,935,000 as proposed by the Senate. Within the funds provided, the Corps is directed to undertake the following activities with the amounts allocated below:

Hurricane evacuation studies, HI	\$500,000
Livingston Parish, LA geographic information system	625,000
Rancocas Creek, NJ	200,000
Jackson, TN geographic information system	250,000

Remaining items, planning assistance to states.—The conference agreement provides \$5,727,000 for planning assistance to states, instead of \$4,650,000 as proposed by the House and \$7,550,000 as proposed by the Senate. Within the funds provided, the Corps is directed to undertake the following activities with the amounts allocated below:

Assabet River sediment remediation study, MA	\$300,000
Bartlesville, Oklahoma water study	100,000
Lake Rogers, Creedmoor, North Carolina water quality study	30,000
Pike River, Wisconsin hydraulic and hydrological study	20,000
La Mirada, California flood control and drainage study	125,000
Memphis, Tennessee riverfront development	200,000
Lafayette Wabash River waterfront development, IN	50,000
Delaware recreation supply and demand study	75,000
Delaware groundwater investigation	75,000
Hilo Bay, Hawaii water quality model	125,000
Rock Creek, Kansas basin stormwater project	200,000
New Mexico photogrammetric mapping	500,000
Mangum, OK Lake Phase V study	50,000
Waccamaw River, SC watershed modeling	25,000
Surfside Beach, SC stormwater drainage study	25,000
Stark County, OH watershed drainage basin	1,000,000

New Mexico photogrammetric mapping.—The conferees have provided \$500,000 for New Mexico photographic mapping to be conducted utilizing the Corps' Center of Expertise for Photogrammetric Mapping in St. Louis, Missouri.

Remaining items, research and development.—The conference agreement includes \$26,583,000 for research and development activities, instead of \$19,643,000 as proposed by the House and \$34,500,000 as proposed by the Senate. Within the funds provided, the Corps is directed to undertake the following activities with the amounts allocated below:

Chesapeake Bay submerged aquatic vegetation research	\$500,000
National Cooperative Modeling Demonstration Program	500,000
Innovative technology demonstrations for urban flooding and channel restoration, New Mexico and Nevada	1,750,000
Southwest Urban Flood Damage Program Research, New Mexico ...	375,000
Collaborative Planning and Management Demonstration Program	375,000
Advanced polymer technologies compliance activities	500,000

The conferees further direct the Corps to begin pilot testing of rapid deployment flood walls, within available funds, not later than 30 days after enactment of this Act.

CONSTRUCTION

The conference agreement provides \$2,372,000,000 for Construction, instead of \$1,900,000,000 as proposed by the House and \$2,086,664,000 as proposed by the Senate. The conference agree-

ment includes a provision as proposed by the Senate that derives amounts to cover one-half of the costs of construction and rehabilitation of certain inland waterways projects from the Inland Waterways Trust Fund. The House bill contained a provision that specified the amount to be derived from the Inland Waterways Trust Fund.

The conference agreement deletes a provision proposed by the House, which would have incorporated by reference the projects and activities specified in the statement of managers accompanying this Act. The Senate bill contained no similar provision.

The conference agreement modifies several provisions proposed by the House that set aside specific funds for the various sections of the continuing authorities program. The Senate bill contained no similar provisions.

The conference agreement modifies several provisions relating to specific projects as proposed in the Senate bill. The House bill contained no similar provisions.

The conference agreement includes an appropriation of \$35,000,000 for Modified Water Delivery for the Everglades National Park. The House bill contained an appropriation of \$137,000,000 for the South Florida Ecosystem Everglades Restoration Program, which included several other projects and Modified Water Delivery. The Senate bill contained no similar appropriation. Funding for the Central and South Florida project, the Kissimmee River Restoration project, and the Everglades and South Florida Restoration project is provided as separate projects.

The conference agreement includes a provision providing funds to the City of Caliente, Nevada, to construct local flood control measures.

The conference agreement for construction is shown in the following table:

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CONSTRUCTION

Mississippi River Levees, AR, IL, KY, LA, MS, MO and TN.—Additional funds have been provided to continue construction of the St. Johns-New Madrid Levee Closure/Box Culvert, Missouri as well as other levee items and for the Lower Mississippi River Interpretive Center.

Yazoo Basin, Backwater Pumping Plant, Mississippi.—Within the funds provided, \$150,000 is provided for the Teddy Roosevelt Environmental Education Center.

Yazoo Basin, Big Sunflower River, Mississippi.—The conferees recognize the need to prevent erosion, reduce sedimentation and head-cutting in watersheds of the Yazoo Basin for purposes of improving water quality, fisheries and reducing maintenance. The conferees have provided \$4,000,000 for continued construction of the project. Within these funds, not more than \$1,500,000 shall be used for these water quality and sediment reduction measures and \$500,000 shall be used for establishment of water quality reference indicators for use as appropriate on Yazoo Basin Projects.

MAINTENANCE

Mississippi River Levees AR, IL, KY, LA, MS, MO and TN.—Additional funds have been provided for delivery of levee gravel in AR, LA, MS and MO as determined by need.

Additional funding has been provided for deferred maintenance at the four Mississippi Lakes.

OPERATION AND MAINTENANCE

The conference agreement provides \$1,989,000,000 for operation and maintenance, instead of \$2,000,000,000 as proposed by the House and \$2,100,000,000 as proposed by the Senate.

The conference agreement deletes a provision proposed by the House, which would have incorporated by reference the projects and activities specified in the statement of managers accompanying this Act. The Senate bill contained no similar provision.

The conference agreement includes several provisions proposed by the Senate relating to certain projects. The House bill contained no similar provisions.

The conference agreement for operation and maintenance is shown in the following table:

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE

PUGET SOUND AND TRIBUTARY WATERS, WA.....	864	778
QUILLAYUTE RIVER, WA.....	58	52
SCHEDULING RESERVOIR OPERATIONS, WA.....	485	437
SEATTLE HARBOR, WA.....	555	500
STILLAGUAMISH RIVER, WA.....	226	203
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, WA.....	86	58
TACOMA, PUYALLUP RIVER, WA.....	112	101
THE DALLES LOCK AND DAM, WA & OR.....	3,667	3,877
WILLAPA RIVER AND HARBOR, WA.....	158	142
WEST VIRGINIA		
BEECH FORK LAKE, WV.....	1,014	913
BLUESTONE LAKE, WV.....	3,828	3,445
BURNSVILLE LAKE, WV.....	1,517	1,365
EAST LYNN LAKE, WV.....	1,799	1,619
ELK RIVER HARBOR, WV.....	10	9
ELKINS, WV.....	18	14
INSPECTION OF COMPLETED WORKS, WV.....	117	105
KANAWHA RIVER LOCKS AND DAMS, WV.....	13,861	13,861
OHIO RIVER LOCKS AND DAMS, WV, KY & OH.....	19,530	20,530
OHIO RIVER OPEN CHANNEL WORK, WV, KY & OH.....	2,019	2,519
R D BAILEY LAKE, WV.....	1,515	1,384
STONEWALL JACKSON LAKE, WV.....	640	576
SUMMERSVILLE LAKE, WV.....	1,657	1,491
SUTTON LAKE, WV.....	1,788	1,609
TYGART LAKE, WV.....	2,950	2,655
WISCONSIN		
ASHLAND HARBOR, WI.....	---	149
EAU GALLE RIVER LAKE, WI.....	847	582
FOX RIVER, WI.....	1,748	1,573
GREEN BAY HARBOR, WI.....	2,476	2,228
INSPECTION OF COMPLETED WORKS, WI.....	40	36
KENAUWEE HARBOR, WI.....	---	259
MANITOWOC HARBOR, WI.....	---	405
MILWAUKEE HARBOR, WI.....	844	760
PORT WASHINGTON HARBOR, WI.....	---	192
PROJECT CONDITION SURVEYS, WI.....	106	95
STURGEON BAY HARBOR AND LAKE MICHIGAN SHIP CANAL, WI.....	---	231
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, WI.....	472	425
TWO RIVERS HARBOR, WI.....	---	378
WYOMING		
INSPECTION OF COMPLETED WORKS, WY.....	11	10
JACKSON HOLE LEVEES, WY.....	1,094	985
SCHEDULING RESERVOIR OPERATIONS, WY.....	66	77
MISCELLANEOUS		
AQUATIC NUISANCE CONTROL RESEARCH.....	690	621
COASTAL INLET RESEARCH PROGRAM.....	2,475	2,228
CULTURAL RESOURCES (NAGPRA/CURATION).....	1,391	1,252
DREDGE WHEELER READY RESERVE.....	8,000	8,000
DREDGING DATA AND LOCK PERFORMANCE MONITORING SYSTEM..	1,082	956
DREDGING OPERATIONS AND ENVIRONMENTAL RESEARCH (DOER)..	6,080	5,472
DREDGING OPERATIONS TECHNICAL SUPPORT PROGRAM (DOTS)..	1,391	1,252
EARTHQUAKE HAZARDS REDUCTION PROGRAM.....	270	270
FACILITY PROTECTION.....	12,000	12,000
GREAT LAKES SEDIMENT TRANSPORT MODELS.....	900	810
HARBOR MAINTENANCE FEE DATA COLLECTION.....	808	547
INLAND WATERWAY NAVIGATION CHARTS.....	3,708	3,337
LONG TERM OPTION ASSESSMENT FOR LOW USE NAVIGATION....	1,500	---
MONITORING OF COMPLETED NAVIGATION PROJECTS.....	1,576	1,418

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OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
NATIONAL DAM SAFETY PROGRAM.....	250	250
NATIONAL DAM SECURITY PROGRAM.....	31	31
NATIONAL EMERGENCY PREPAREDNESS PROGRAM (NEPP).....	5,000	5,000
NATIONAL LEWIS AND CLARK COMMEMORATION COORDINATION...	319	287
PERFORMANCE BASED BUDGETING SUPPORT PROGRAM.....	2,540	661
PROGRAM DEVELOPMENT TECHNICAL SUPPORT (ABS-P2).....	250	225
PROTECT, CLEAR AND STRAIGHTEN CHANNELS (SEC 3).....	45	41
RECREATION MANAGEMENT SUPPORT PROGRAM (RMSP).....	1,800	1,440
REGIONAL SEDIMENT MANAGEMENT DEMONSTRATION PROGRAM....	1,391	8,500
RELIABILITY MODELS PROGRAM FOR MAJOR REHABILITATION...	608	605
REMOVAL OF SUNKEN VESSELS.....	500	775
RESERVE FOR KEY EMERGENCY MAINTENANCE/REPAIRS.....	20,000	---
WATER OPERATIONS TECHNICAL SUPPORT (WOTS).....	653	588
WATERBORNE COMMERCE STATISTICS.....	4,271	3,844
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE.....	-12,786	---
TOTAL, OPERATION AND MAINTENANCE.....	1,979,000	1,989,000

H 15-83

Public Law 109-103
109th Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

Nov. 19, 2005

[H.R. 2419]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for energy and water development and for other purposes, namely:

Energy and
Water
Development
Appropriations
Act, 2006.

TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related purposes.

INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$164,000,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, within the funds provided under this heading, \$1,000,000 shall be available for planning assistance to the state of Ohio for Stark County watershed basin study: *Provided further*, That using \$8,000,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a comprehensive hurricane protection study at full Federal expense to develop and present a full range of flood, coastal and hurricane protection measures exclusive of normal policy considerations for south Louisiana and the Secretary shall submit a feasibility report for short-term

Reports.
Deadlines.

H 15-84

Louisiana.

protection within 6 months of enactment of this Act, interim protection within 12 months of enactment of this Act and long-term comprehensive protection within 24 months of enactment of this Act: *Provided further*, That the Secretary shall consider providing protection for a storm surge equivalent to a Category 5 hurricane within the project area and may submit reports on component areas of the larger protection program for authorization as soon as practicable: *Provided further*, That the analysis shall be conducted in close coordination with the State of Louisiana and its appropriate agencies.

CONSTRUCTION

For expenses necessary for the construction of river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); \$2,372,000,000, to remain available until expended; of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects, (including the rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock 27, Mississippi River, Illinois; and Lock and Dam 3, Mississippi River, Minnesota) shall be derived from the Inland Waterways Trust Fund; and of which \$12,000,000 shall be exclusively for projects and activities authorized under section 107 of the River and Harbor Act of 1960; and of which \$500,000 shall be exclusively for projects and activities authorized under section 111 of the River and Harbor Act of 1968; and of which \$7,000,000 shall be exclusively for projects and activities authorized under section 103 of the River and Harbor Act of 1962; and of which \$40,000,000 shall be exclusively available for projects and activities authorized under section 205 of the Flood Control Act of 1948; and of which \$15,000,000 shall be exclusively for projects and activities authorized under section 14 of the Flood Control Act of 1946; and of which \$300,000 shall be exclusively for projects and activities authorized under section 208 of the Flood Control Act of 1954; and of which \$30,000,000 shall be exclusively for projects and activities authorized under section 1135 of the Water Resources Development Act of 1986; and of which \$30,000,000 shall be exclusively for projects and activities authorized under section 206 of the Water Resources Development Act of 1996; and of which \$5,000,000 shall be exclusively for projects and activities authorized under sections 204 and 207 of the Water Resources Development Act of 1992 and section 933 of the Water Resources Development Act of 1986: *Provided*, That the Chief of Engineers is directed to use \$11,250,000 of the funds appropriated herein for the Dallas Floodway Extension, Texas, project, including the Cadillac Heights

H 15-85

feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: *Provided further*, That the Chief of Engineers is directed to use \$1,500,000 of the funds provided herein for the Hawaii Water Management Project: *Provided further*, That the Chief of Engineers is directed to use \$13,000,000 of the funds appropriated herein for the navigation project at Kaunapali Harbor, Hawaii: *Provided further*, That the Chief of Engineers is directed to use \$4,000,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program for seepage control features and repairs to the tainter gates at Waterbury Dam, Vermont: *Provided further*, That \$600,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program shall be available for Dover Dam, Ohio: *Provided further*, That the Chief of Engineers is directed to use \$9,500,000 of the funds appropriated herein for planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: *Provided further*, That the Chief of Engineers is directed to use \$5,600,000 of the funds appropriated herein for planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: *Provided further*, That the Chief of Engineers is directed to continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special considerations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$16,000,000 of the funds appropriated herein for the Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Harlan County in accordance with the Draft Detailed Project Report dated January 2002, Floyd County, Martin County, Johnson County, and Knox County, Kentucky, detailed project report, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River: *Provided further*, That the Chief of Engineers is directed to proceed with work on the permanent bridge to replace Folsom Bridge Dam Road, Folsom, California, as authorized by the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137), and, of the \$15,000,000 available for the American River Watershed (Folsom Dam Mini-Raise), California, project, \$10,000,000 of those funds be directed for the permanent bridge, with all remaining devoted to the Mini-Raise: *Provided further*, That \$300,000 is provided for the Chief of Engineers to conduct a General Reevaluation Study on the Mount St. Helens project to determine if ecosystem restoration actions are prudent in the Cowlitz and Toutle watersheds for species that have been listed as being of economic importance and threatened or endangered: *Provided further*, That \$35,000,000 shall be available for projects and activities authorized under 16 U.S.C. 410-r-8: *Provided further*, That the Secretary is directed to use \$2,000,000 of the funds appropriated herein to provide a grant to the City of Caliente, Nevada, for the City

to expend for the purpose of purchasing construction equipment to be used by the City in constructing local flood control measures.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$400,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided*, That the Chief of Engineers is directed to use \$20,000,000 of the funds provided herein for design and real estate activities and pump supply elements for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$9,000,000 appropriated herein for construction of water withdrawal features of the Grand Prairie, Arkansas, project, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund.

OPERATION AND MAINTENANCE

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for providing security for infrastructure owned and operated by, or on behalf of, the United States Army Corps of Engineers (the "Corps"), including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, \$1,989,000,000, to remain available until expended, of which such sums to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662 may be derived from that fund; of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601-6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104-303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: *Provided*, That utilizing funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58 + 00 to station

293 + 00 between October 1, 2005, and September 30, 2006: *Provided further*, That the Chief of Engineers is authorized to undertake, at full Federal expense, a detailed evaluation of the Albuquerque levees for purposes of determining structural integrity, impacts of vegetative growth, and performance under current hydrological conditions: *Provided further*, That using \$275,000 provided herein, the Chief of Engineers is authorized to remove the sunken vessel State of Pennsylvania from the Christina River in Delaware.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$160,000,000, to remain available until expended.

REVOLVING FUND

None of the funds in title I of this Act or otherwise available to the Corps of Engineers shall be available for the rehabilitation and lead and asbestos abatement of the dredge McFarland.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, \$154,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices: *Provided further*, That the Secretary is directed to use \$4,500,000 of the funds appropriated herein to conduct, at full Federal expense and in close cooperation with state and local governments, comprehensive analyses that examine multi-jurisdictional use and management of water resources on a watershed or regional scale.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), \$4,000,000.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses not to exceed \$5,000; and during the current fiscal year the Revolving Fund, Corps of Engineers,

shall be available for purchase not to exceed 100 for replacement only and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) None of the funds provided in title I of this Act, or provided by previous appropriations Acts to the agencies or entities funded in title I of this Act that remain available for obligation or expenditure in fiscal year 2006, shall be available for obligation or expenditure through a reprogramming of funds that—

- (1) creates or initiates a new program, project, or activity;
- (2) eliminates a program, project or activity;
- (3) increases funds or personnel for any program, project or activity for which funds have been denied or restricted by this Act;
- (4) proposes to use funds directed for a specific activity by either the House or the Senate Committees on Appropriations for a different purpose;
- (5) augments existing programs, projects or activities in excess of \$2,000,000 or 50 percent, whichever is less, unless prior approval is received from the House and Senate Committees on Appropriations;
- (6) reduces existing programs, projects or activities in excess of \$2,000,000 or 50 percent, whichever is less, unless prior approval is received from the House and Senate Committees on Appropriations; or
- (7) creates, reorganizes, or restructures a branch, division, office, bureau, board, commission, agency, administration, or department different from the budget justifications submitted to the Committees on Appropriations or the table accompanying the Statement of Managers accompanying this Act, whichever is more detailed, unless prior approval is received from the House and Senate Committees on Appropriations.

(b) Subsection (a)(1) shall not apply to any project or activity authorized under section 205 of the Flood Control Act of 1948; section 14 of the Flood Control Act of 1946; section 208 of the Flood Control Act of 1954; section 107 of the River and Harbor Act of 1960; section 103 of the River and Harbor Act of 1962; section 111 of the River and Harbor Act of 1968; section 1135 of the Water Resources Development Act of 1986; section 206 of the Water Resources Development Act of 1996; sections 204 and 207 of the Water Resources Development Act of 1992 or section 933 of the Water Resources Development Act of 1986.

(c) Not later than 60 days after the date of enactment of this Act, the Corps of Engineers shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided*, That the report shall include—

(1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) a delineation in the table for each appropriation both by object class and program, project and activity as detailed in the budget appendix for the respective appropriations; and

Deadline.
Reports.

(3) an identification of items of special congressional interest: *Provided further*, That the amount appropriated for salaries and expenses of the Corps of Engineers shall be reduced by \$100,000 per day for each day after the required date that the report has not been submitted to the Congress.

(d) None of the funds received as a non-Federal share for project costs by any agency funded in title I of this Act shall be available for reprogramming.

SEC. 102. Beginning in fiscal year 2006 and thereafter, agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the River and Harbor Act of 1915, Public Law 64-291; section 11 of the River and Harbor Act of 1925, Public Law 68-585; the Civil Functions Appropriations Act, 1936, Public Law 75-208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90-483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended, Public Law 99-662; section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102-580; section 211 of the Water Resources Development Act of 1996, Public Law 104-303; and any other specific project authority, shall be limited to total credits and reimbursements for all applicable projects not to exceed \$100,000,000 in each fiscal year.

33 USC 2221.

SEC. 103. In order to protect and preserve the integrity of the water supply against further degradation, none of the funds made available under this Act and any other Act hereafter may be used by the Army Corps of Engineers to support activities related to any proposed new landfill in the Muskingum Watershed if such landfill—

(1) has not received a permit to construct from the State agency with responsibility for solid waste management in the watershed;

(2) has not received waste for disposal during 2005; and

(3) is not contiguous or adjacent to a portion of a landfill that has received waste for disposal in 2005 and each landfill is owned by the same person or entity.

SEC. 104. None of the funds appropriated in this or any other Act shall be used to demonstrate or implement any plans divesting or transferring any Civil Works missions, functions, or responsibilities of the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 105. ST. GEORGES BRIDGE, DELAWARE.—None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

SEC. 106. Notwithstanding any other provision of law, the requirements regarding the use of continuing contracts under the authority of section 206 of the Water Resources Development Act of 1999 (33 U.S.C. 2331) shall apply only to projects funded under the Operation and Maintenance account and the Operation and Maintenance subaccount of the Flood Control, Mississippi River and Tributaries account.

Applicability.
Mississippi.

H 15-90

Deadline.
Reports.

SEC. 107. Within 75 days of the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

SEC. 108. None of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that commits an amount for a project in excess of the amount appropriated for such project pursuant to this Act: *Provided*, That the amounts appropriated in this Act may be modified pursuant to the authorities provided in section 101 of this Act or through the application of unobligated balances for such project.

Deadline.
Reports.

SEC. 109. Within 90 days of the date of enactment of this Act, the Assistant Secretary of the Army (Civil Works) shall transmit to Congress his report on any water resources matter on which the Chief of Engineers has reported.

SEC. 110. Section 123 of Public Law 108-137 (117 Stat. 1837) is amended by striking "in accordance with the Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Feasibility Report" and all that follows and inserting the following language in lieu thereof: "in accordance with the Baltimore Metropolitan Water Resources Gwynns Falls Watershed Study—Draft Feasibility Report and Integrated Environmental Assessment prepared by the Corps of Engineers and the City of Baltimore, Maryland, dated April 2004. The non-Federal sponsor shall receive credit toward its share of project costs for work carried out by the non-Federal sponsor prior to execution of a project cooperation agreement, if the Secretary determines that the work is integral to the project. The non-Federal sponsor may also receive credit for any work performed by the non-Federal sponsor pursuant to a project cooperation agreement. The non-Federal sponsor shall be reimbursed for any work performed by the non-Federal sponsor that is in excess of the non-Federal share of project costs."

SEC. 111. None of the funds in this Act may be expended by the Secretary of the Army to construct the Port Jersey element of the New York and New Jersey Harbor or to reimburse the local sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element.

SEC. 112. MARMET LOCK, KANAWHA RIVER, WEST VIRGINIA. Section 101(a)(31) of the Water Resources Development Act of 1996 (110 Stat. 3666), is amended by striking "\$229,581,000" and inserting "\$358,000,000".

SEC. 113. Truckee Meadows Flood Control Project, Nevada.—The non-Federal funds expended for purchase of lands, easements and rights-of-way, implementation of project monitoring and assessment, and construction and implementation of recreation, ecosystem restoration, and water quality improvement features, including the provision of 6700 acre-feet of water rights no later than the effective date of the Truckee River Operating Agreement for re-vegetation, reestablishment and maintenance of riverine and riparian habitat of the Lower Truckee River and Pyramid Lake, whether expended prior to or after the signing of the Project Cooperation Agreement (PCA), shall be fully credited to the non-Federal sponsor's share of costs for the project: *Provided*, That for the purposes of benefit-cost ratio calculations in the General Reevaluation Report (GRR),

the Truckee Meadows Nevada Flood Control Project shall be defined as a single unit and non-separable.

SEC. 114. WATER REALLOCATION, LAKE CUMBERLAND, KENTUCKY. (a) IN GENERAL.—Subject to subsection (b), none of the funds made available by this Act may be used to carry out any water reallocation project or component under the Wolf Creek Project, Lake Cumberland, Kentucky, authorized under the Act of June 28, 1938 (52 Stat. 1215, chapter 795) and the Act of July 24, 1946 (60 Stat. 636, chapter 595).

(b) EXISTING REALLOCATIONS.—Subsection (a) shall not apply to any water reallocation for Lake Cumberland, Kentucky, that is carried out subject to an agreement or payment schedule in effect on the date of enactment of this Act.

SEC. 115. Section 529(b)(3) of Public Law 106-541 is amended by striking “\$10,000,000” and inserting “\$20,000,000” in lieu thereof. 114 Stat. 2658.

SEC. 116. YAZOO BASIN, BIG SUNFLOWER RIVER, MISSISSIPPI.—The Yazoo Basin, Big Sunflower River, Mississippi, project authorized by the Flood Control Act of 1944, as amended and modified, is further modified to include the design and construction at full Federal expense of such measures as determined by the Chief of Engineers to be advisable for the control and reduction of sedimentation, erosion and headcutting in watersheds of the Yazoo Basin: Yazoo Headwater and Big Sunflower.

SEC. 117. LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE, MISSISSIPPI.—The Water Resources Development Act of 1992 (106 Stat. 4811) is amended by—

(1) in section 103(c)(2) by striking “property currently held by the Resolution Trust Corporation in the vicinity of the Mississippi River Bridge” and inserting “riverfront property”; and

(2) in section 103(c)(7)—

(A) by striking “There is” and inserting the following: “(A) IN GENERAL.—There is”; and

(B) by striking “\$2,000,000” and all that follows and inserting the following: “\$15,000,000 to plan, design, and construct generally in accordance with the conceptual plan to be prepared by the Corps of Engineers.

“(B) FUNDING.—The planning, design, and construction of the Lower Mississippi River Museum and Riverfront Interpretive Site shall be carried out using funds appropriated as part of the Mississippi River Levees feature of the Mississippi River and Tributaries Project, authorized by the Act of May 15, 1928 (45 Stat. 534, chapter 569).”.

SEC. 118. Section 593(h) of Public Law 106-541 is amended by striking “\$25,000,000” and inserting “\$50,000,000” in lieu thereof. 113 Stat. 380.

SEC. 119. The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Chief of Engineers to carry out the project at a total cost of \$222,000,000.

SEC. 120. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106-53) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public

Law 106-554; 114 Stat. 2763A-220), is further amended by adding at the end the following:

“(72) ALPINE, CALIFORNIA.—\$10,000,000 is authorized for a water transmission main, Alpine, CA.”.

SEC. 121. (a) The Secretary of the Army may carry out and fund projects to comply with the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by subsection (b) and may award grants and enter into contracts, cooperative agreements, or interagency agreements with participants in the Endangered Species Act Collaborative Program Workgroup referenced in section 209(a) of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1850) in order to carry out such projects. Any project undertaken under this subsection shall require a non-Federal cost share of 25 percent, which may be provided through in-kind services or direct cash contributions and which shall be credited on a programmatic basis instead of on a project-by-project basis, with reconciliation of total project costs and total non-Federal cost share calculated on a three year incremental basis. Non-Federal cost share that exceeds that which is required in any calculated three year increment shall be credited to subsequent three year increments.

(b) Section 205(b) of Public Law 108-447 (118 Stat. 2949) is amended by adding “and any amendments thereto” after the word “2003”.

SEC. 122. BLUESTONE, WEST VIRGINIA. Section 547 of the Water Resources Development Act of 2000 (114 Stat. 2676) is amended—

(1) in subsection (b)(1)(A) by striking “4 years” and inserting “5 years”;

(2) in subsection (b)(1)(B)(iii) by striking “if all” and all that follows through “facility” and inserting “assurance project”;

(3) in subsection (b)(1)(C) by striking “and construction” and inserting “, construction, and operation and maintenance”;

(4) by adding at the end of subsection (b) the following:

“(3) OPERATION AND OWNERSHIP.—The Tri-Cities Power Authority shall be the owner and operator of the hydropower facilities referred to in subsection (a).”;

(5) in subsection (c)(1)—

(A) by striking “No” and inserting “Unless otherwise provided, no”;

(B) by inserting “planning,” before “design”; and

(C) by striking “prior to” and all that follows through “subsection (d)”;

(6) in subsection (c)(2) by striking “design” and inserting “planning, design”;

(7) in subsection (d)—

(A) by striking paragraphs (1) and (2) and inserting the following:

“(1) APPROVAL.—The Secretary shall review the design and construction activities for all features of the hydroelectric project that pertain to and affect stability of the dam and control the release of water from Bluestone Dam to ensure that the quality of construction of those features meets all standards established for similar facilities constructed by the Secretary.”;

(B) by redesignating paragraph (3) as paragraph (2);

(C) by striking the period at the end of paragraph (2) (as so redesignated) and inserting “, except that hydroelectric power is no longer a project purpose of the facility so long as Tri-Cities Power Authority continues to exercise its responsibilities as the builder, owner, and operator of the hydropower facilities at Bluestone Dam. Water flow releases and flood control from the hydropower facilities shall be determined and directed by the Corps of Engineers.”; and

(D) by adding at the end the following:

“(3) COORDINATION.—Construction of the hydroelectric generating facilities shall be coordinated with the dam safety assurance project currently in the design and construction phases.”;

(8) in subsection (e) by striking “in accordance” and all that follows through “58 Stat. 890”;

(9) in subsection (f)—

(A) by striking “facility of the interconnected systems of reservoirs operated by the Secretary” each place it appears and inserting “facilities under construction under such agreements”; and

(B) by striking “design” and inserting “planning, design”;

(10) in subsection (f)(2)—

(A) by “Secretary” each place it appears and inserting “Tri-Cities Power Authority”; and

(B) by striking “facilities referred to in subsection (a)” and inserting “such facilities”;

(11) by striking paragraph (1) of subsection (g) and inserting the following:

“(1) to arrange for the transmission of power to the market or to construct such transmission facilities as necessary to market the power produced at the facilities referred to in subsection (a) with funds contributed by the Tri-Cities Power Authority; and”;

(12) in subsection (g)(2) by striking “such facilities” and all that follows through “the Secretary” and inserting “the generating facility”; and

(13) by adding at the end the following:

“(i) TRI-CITIES POWER AUTHORITY DEFINED.—In this section, the ‘Tri-Cities Power Authority’ refers to the entity established by the City of Hinton, West Virginia, the City of White Sulphur Springs, West Virginia, and the City of Philippi, West Virginia, pursuant to a document entitled ‘Second Amended and Restated Intergovernmental Agreement’ approved by the Attorney General of West Virginia on February 14, 2002.”.

SEC. 123. (a) IN GENERAL.—

(1) After the date of enactment of this Act, the Secretary of the Army shall carry out the project for wastewater infrastructure, DeSoto County, Mississippi, authorized by section 219(f)(30) of Public Law 102-580, as amended, in accordance with the provisions of this subsection.

Mississippi.

(2) The non-Federal interest shall be primarily responsible for carrying out work on the project referred to in paragraph (1) that is not covered by the Project Cooperation Agreement executed on May 13, 2002 or any amendments thereto, including work associated with the design, construction,

management, and administration of the project. The non-Federal interest may carry out work on the project subject to obtaining any permits required pursuant to Federal and State laws and subject to general supervision and administrative oversight by the Secretary of the Army.

(3) The Federal share of project costs incurred by the non-Federal interest in carrying out work on the project as provided for in paragraph (2) shall equal 75 percent of the total cost of the work and shall be in the form of grants or reimbursements, except that the total amount of Federal funds available for the project, including that portion of the project carried out as provided for in paragraph (2), may not exceed \$55,000,000.

(b) TECHNICAL AMENDMENT.—Section 6006 of the Emergency Supplemental Appropriations Act, 2005 (119 Stat. 282) is amended by striking “between May 13, 2002, and September 30, 2005” and inserting “after May 13, 2002” in lieu thereof.

SEC. 124. The project for flood control, Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), Nevada, authorized by section 101(13) of Public Law 102-580 and modified by Public Law 108-7 (H.J. Res. 2) Consolidated Appropriations Resolution, 2003, section 107 is further modified to provide that the costs incurred for design and construction of the project channel crossings in the reach of the channels from Shelbourne Avenue proceeding north along the alignment of Durango Drive and continuing east along the Southern Beltway to Martin Avenue shall be added to the authorized cost of the project and such costs shall be cost shared and shall not be considered part of the non-Federal sponsor’s responsibility to provide lands, easements, and rights-of-way, and to perform relocations for the project.

SEC. 125. RESTORATION OF THE LAKE MICHIGAN WATERFRONT AND RELATED AREAS, LAKE AND PORTER COUNTIES, INDIANA.—The Secretary of the Army, acting through the Chief of Engineers is authorized and directed to carry out a continuing program for the restoration of the Lake Michigan Waterfront and Related Areas, Lake and Porter Counties, Indiana.

(1) DEFINITIONS.—

(A) Related areas are defined as adjacent or close sites that have an impact or influence on the waterfront areas or aquatic habitat.

(B) Restore is defined as—

(i) activities that improve a site’s ecosystem function, structure, and dynamic processes to a less degraded and more natural condition, and/or

(ii) the management of contaminants that allow the site to be safely used for ecological and/or economic purposes.

(2) JUSTIFICATION.—Projects can be justified by ecosystem benefits, clean-up of contaminated sites, public health, safety, economic benefits or any combination of these. Sites restored for economic purposes can be redeveloped by others. Restoration sites may include compatible recreation facilities that do not diminish the restoration purpose and do not increase the Federal cost share by more than 10 percent.

(3) COST SHARING.—The construction of projects are cost shared at 65 percent Federal and 35 percent non-Federal except when there is a demonstration of innovative technology. The

cost share is then 85 percent Federal and 15 percent non-Federal.

(4) CREDIT.—

(A) The Secretary shall credit the non-Federal interest for the value of any lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas required for carrying out a project. When the cost of the provision of all lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas exceeds the non-Federal share, as identified in paragraph (3), the non-Federal interest may waive any right under Federal cost-sharing policy to receive cash reimbursement for any such value in excess of the non-Federal share as identified in paragraph (3).

(B) The non-Federal interest may provide up to 100 percent of the non-Federal share required under paragraph (3) in the form of services, materials, supplies, or other in-kind contributions including monies paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or jurisdictional consent decree but may not include any monies paid pursuant to, or the value of any in-kind service performed under, a unilateral administrative order or court order.

(C) The total of non-Federal credit for services, materials, supplies, or other in-kind contributions when combined with lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas shall not exceed the non-Federal share identified in paragraph (3).

(5) OPERATION, MAINTENANCE, REPAIR, REPLACEMENT AND REHABILITATION.—Operation, maintenance, repair, replacement and rehabilitation is 100 percent non-Federal cost.

(6) HOLD HARMLESS.—Non-Federal interests hold and save harmless the United States free from claims or damages due to implementation of the project except for negligence of the government.

(7) AUTHORIZED APPROPRIATIONS.—There is authorized to be appropriated to carry out this program \$20,000,000 for each fiscal year.

SEC. 126. CHESAPEAKE BAY OYSTER RESTORATION, MARYLAND AND VIRGINIA.—The second sentence of section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b)) is amended by striking “\$20,000,000” and inserting “\$30,000,000”.

SEC. 127. The project for flood control, Little Calumet River, Indiana, authorized by section 401(a) of Public Law 99-662 (100 Stat. 4115) is modified to authorize the Secretary of the Army to complete the project in accordance with the post authorization change report dated August 2000 at a total cost of \$198,000,000 with an estimated Federal cost of \$148,500,000 and an estimated non-Federal cost of \$49,500,000.

SEC. 128. AMERICAN RIVER WATERSHED, CALIFORNIA (FOLSOM DAM AND PERMANENT BRIDGE).—(a) COORDINATION OF FLOOD DAMAGE REDUCTION AND DAM SAFETY.—The Secretary of the Army and the Secretary of the Interior are directed to collaborate on authorized activities to maximize flood damage reduction improvements and address dam safety needs at Folsom Dam and Reservoir, California. The Secretaries shall expedite technical reviews for flood damage reduction and dam safety improvements. In developing

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improvements under this section, the Secretaries shall consider reasonable modifications to existing authorized activities, including a potential auxiliary spillway. In conducting such activities, the Secretaries are authorized to expend funds for coordinated technical reviews and joint planning, and preliminary design activities.

(b) SECRETARY'S ROLE.—Section 134 of Public Law 108-137 (117 Stat. 1842) is modified to read as follows:

“SEC. 134. BRIDGE AUTHORIZATION.

“There is authorized to be appropriated to the Secretary of the Army \$30,000,000 for the construction of the permanent bridge described in section 128(a), above the \$36,000,000 provided for in the recommended plan for bridge construction. The \$30,000,000 shall not be subject to cost sharing requirements with non-Federal interests.”

(c) CONFORMING CHANGE.—Section 128(a) of Public Law 108-137 (117 Stat. 1838) is modified by deleting “above the \$36,000,000 provided for in the recommended plan for bridge construction,” and inserting in lieu thereof the following: “above the sum of the \$36,000,000 provided for in the recommended plan for bridge construction and the amount authorized to be appropriated by section 134, as amended.”

(d) MAXIMUM COST OF PROJECT.—The costs cited in subsections (b) and (c) shall be adjusted to allow for increases pursuant to section 902 of Public Law 99-662 (100 Stat. 4183). For purposes of making adjustments pursuant to this subsection, the date of authorization of the bridge project shall be December 1, 2003.

(e) EXPEDITED CONSTRUCTION.—The Secretary, in coordination with the Secretary of the Interior and affected non-Federal officials (including the City of Folsom, California), shall expedite construction of a new bridge and associated roadway authorized in Public Law 108-137. The Secretary, to the extent practicable, may construct such work in a manner that is compatible with the design and construction of authorized projects for flood damage reduction and dam safety. The Secretary and the Secretary of the Interior shall expedite actions under their respective jurisdictions to facilitate timely completion of construction.

(f) REPORT TO CONGRESS.—The Secretary of the Army, in consultation with the Secretary of the Interior and non-Federal interests, shall report to Congress within ninety days of the date of enactment of this Act, and at four-month intervals thereafter, on the status and schedule of planning, design and construction activity.

SEC. 129. JACKSONVILLE HARBOR, FLORIDA.—(a) The project for navigation, Jacksonville Harbor, Florida, authorized by section 101(a)(17) of the Water Resources Development Act of 1999 (113 Stat. 276), is modified to authorize the Secretary to extend the navigation features in accordance with the Report of the Chief of Engineers, dated July 22, 2003, at a total cost of \$14,658,000, with an estimated Federal cost of \$9,636,000 and an estimated non-Federal cost of \$5,022,000.

(b) The non-Federal share of the costs of the General Reevaluation Reports on the Jacksonville Harbor which were begun prior to August 2004, shall be consistent with the non-Federal costs in implementing the overall construction project.

Effective date.

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SEC. 130. Section 594(g) of the Water Resources Development Act of 1999 (113 Stat. 383) is amended by striking “\$60,000,000” and inserting “\$240,000,000”.

SEC. 131. ONONDAGA LAKE, NEW YORK.—Section 573 of the Water Resources Development Act of 1999 (113 Stat. 372) is amended—

(1) in subsection (f) by striking “\$10,000,000” and inserting “\$30,000,000”;

(2) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(3) by inserting after subsection (e) the following:

“(f) NONPROFIT ENTITIES.—Notwithstanding section 221(b) 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.”

SEC. 132. WHITE RIVER BASIN, ARKANSAS.—(a) MINIMUM FLOWS.—

(1) IN GENERAL.—The Secretary is authorized and directed to implement alternatives BS-3 and NF-7, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004.

(2) COST SHARING AND ALLOCATION.—Reallocation of storage and planning, design and construction of White River Minimum Flows project facilities shall be considered fish and wildlife enhancement that provides national benefits and shall be a Federal expense in accordance with section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)). The non-Federal interests shall provide relocations or modifications to public and private lakeside facilities at Bull Shoals Lake and Norfolk Lake to allow reasonable continued use of the facilities with the storage reallocation as determined by the Secretary in consultation with the non-Federal interests. Operations and maintenance costs of the White River Minimum Flows project facilities shall be 100 percent Federal. All Federal costs for the White River Minimum Flows project shall be considered non-reimbursable.

(3) IMPACTS ON NON-FEDERAL PROJECT.—The Administrator of Southwestern Power Administration, in consultation with the project licensee and the relevant state public utility commissions, shall determine any impacts on electric energy and capacity generated at Federal Energy Regulatory Commission Project No. 2221 caused by the storage reallocation at Bull Shoals Lake, based on data and recommendations provided by the relevant state public utility commissions. The licensee of Project No. 2221 shall be fully compensated by the Corps of Engineers for those impacts on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project. Such costs shall be included in the costs of implementing the White River Minimum Flows project and allocated in accordance with subsection (a)(2) above.

(4) OFFSET.—In carrying out this subsection, losses to the Federal hydropower purpose of the Bull Shoals and Norfolk Projects shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Such reduction shall be

determined by the Administrator of the Southwestern Power Administration on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

(b) **FISH HATCHERY.**—In constructing, operating, and maintaining the fish hatchery at Beaver Lake, Arkansas, authorized by section 105 of the Water Resources Development Act of 1976 (90 Stat. 2921), losses to the Federal hydropower purpose of the Beaver Lake Project shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Such reduction shall be determined by the Administrator of the Southwestern Power Administration based on the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time operation of the hatchery begins.

(c) **REPEAL.**—Section 374 of the Water Resources Development Act of 1999 (113 Stat. 321) and section 304 of the Water Resources Development Act of 2000 (Public Law 106-541) are repealed.

114 Stat. 2601.

SEC. 133. CALCASIEU SHIP CHANNEL, LOUISIANA. (a) **IN GENERAL.**—At such time as Pujo Heirs and Westland Corporation convey all right, title, and interest in and to the real property described in paragraph (b)(1) to the United States, the Secretary shall convey all right, title, and interest of the United States in and to the real property described in paragraph (b)(2) to Pujo Heirs and Westland Corporation.

(b) **LAND DESCRIPTION.**—The parcels of land referred to in paragraph (a) are the following:

(1) **NON-FEDERAL INTEREST IN LAND.**—An easement for placement of dredged materials over a contiguous equivalent area to the real property described in subparagraph (2). The parcels on which such an easement may be exchanged is all of the area within the diked or confined boundaries of the Corps of Engineers Dredge Material Placement Area M comprising Tract 128E, Tract 129E, Tract 131E, Tract 41A, Tract 42, Tract 132E, Tract 130E, Tract 134E, Tract 133E-3, Tract 140E, or some combination thereof.

(2) **FEDERAL INTEREST IN LAND.**—An easement for placement of dredged materials over an area in Cameron Parish, Louisiana, known as portions of Government Tract Numbers 139E-2 and 48 (both tracts on the west shore of the Calcasieu Ship Channel), and other tracts known as Corps of Engineers Dredge Material Placement Area O.

(c) **CONDITIONS.**—The exchange of real property under paragraph (1) shall be subject to the following conditions:

(1) **DEEDS.**—

(A) **NON-FEDERAL LAND.**—The conveyance of the real property described in paragraph (b)(1) to the Secretary shall be by a warranty deed acceptable to the Secretary.

(B) **FEDERAL LAND.**—The conveyance of the real property described in paragraph (b)(2) to Pujo Heirs and Westland Corporation shall be by a quitclaim deed.

(2) **TIME LIMIT FOR EXCHANGE.**—The land exchange under paragraph (a) shall be completed not later than six months after the date of enactment of this Act.

(3) **INCREMENTAL COSTS.**—As determined by the Secretary, incremental costs to the Lake Charles Harbor and Terminal District associated with the preparation of the area and the

placement of dredge material in the new disposal easement area, paragraph (b)(1), including, site preparation costs, associated testing, permitting, mitigation and diking costs associated with such new disposal easement over the costs that would have been incurred in the placement of dredge material in the old disposal easement area, paragraph (b)(2) (comprising all of Corps of Engineers Dredge Material Placement Area O) up to the disposal capacity equivalent of the property described in paragraph (b)(2), shall be made available by the Owners. Owners shall make appropriated guarantees, as agreed to by the Secretary, that funds will be available as needed to cover such incremental costs. The Lake Charles Harbor and Terminal District, as local sponsor for the Calcasieu Ship Channel Project, shall not be assessed or caused to incur any costs arising out of, associated with or as a consequence of the land exchange authorized under paragraph (a).

(d) VALUE OF PROPERTIES.—If the appraised fair market value, as determined by the Secretary, of the real property conveyed to Pujo Heirs and Westland Corporation by the Secretary under paragraph (a) exceeds the appraised fair market value, as determined by the Secretary, of the real property conveyed to the United States by Pujo Heirs and Westland Corporation under paragraph (a), Pujo Heirs and Westland Corporation shall make a payment to the United States equal to the excess in cash or a cash equivalent that is satisfactory to the Secretary.

SEC. 134. PROJECT MODIFICATION.—(a) IN GENERAL.—The project for flood damage reduction, environmental restoration, recreation, Johnson Creek, Arlington, Texas, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280–281) is modified—

(1) to deauthorize the ecosystem restoration portion of the project that consists of approximately 90 acres of land located between Randol Mill and the Union Pacific East/West line; and

(2) to authorize the Secretary of the Army to design and construct an ecosystem restoration project on lands identified in subsection (c) that will provide the same or greater level of national ecosystem restoration benefits as the portion of the project described in paragraph (1).

(b) CREDIT TOWARD FEDERAL SHARE.—The Secretary of the Army shall credit toward the Federal share of the cost of the modified project the costs incurred by the Secretary to carry out the project as originally authorized under section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280). The non-Federal interest shall not be responsible for reimbursing the Secretary for any amount credited under this subsection.

(c) COMPARABLE PROPERTY.—Not later than 6 months after the date of enactment of this Act, the City of Arlington, Texas, shall identify lands, acceptable to the Secretary of the Army, amounting to not less than 90 acres within the City, where an ecosystem restoration project may be constructed to provide the same or greater level of National ecosystem restoration benefits as the land described in subsection (a)(1).

Deadline.
Texas.

SEC. 135. Funds made available in Public Law 105-62 and Public Law 105-245 for Hudson River, Athens, New York, shall be available for projects in the Catskill/Delaware watersheds in Delaware and Greene Counties, New York, under the authority

of the New York City Watershed Environmental Assistance Program.

SEC. 136. None of the funds contained in title I of this Act shall be available to permanently reassign or to temporarily reassign in excess of 180 days personnel from the Charleston, South Carolina district office: *Provided*, That this limitation shall not apply to voluntary change of station.

SEC. 137. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to design and construct until hereafter completed, the recreation and access features designated as Phase II of the Louisville Waterfront Park, Kentucky, as described in the Louisville Waterfront Park, Phases II and III, Detailed Project Report, by the Louisville District of the Corps of Engineers dated May 2002. The project shall be cost shared 50 percent Federal and 50 percent non-Federal. The cost of project work undertaken by the non-Federal interests, including but not limited to prior planning, design, and construction, shall be credited toward the non-Federal share of project design and construction costs.

SEC. 138. AKUTAN, ALASKA.—(a) IN GENERAL.—The Secretary of the Army is authorized to carry out the project for navigation, Akutan, Alaska, substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers dated December 20, 2004, at a total cost of \$19,700,000.

(b) TREATMENT OF CERTAIN DREDGING.—The headlands dredging for the mooring basin shall be considered a general navigation feature for purposes of estimating the non-Federal share of the cost of the project.

SEC. 139. (a) IN GENERAL.—The project for the beneficial use of dredged material at Poplar Island, Maryland, authorized by section 537 of the Water Resources Development Act of 1996 (110 Stat. 3776) shall be known as and designated as the “Paul S. Sarbanes Ecosystem Restoration Project at Poplar Island”.

(b) REFERENCE.—Any reference in a law, map, regulation, document, paper or other record of the United States (including reference by the Corps of Engineers) to the project referred to in subsection (a) shall be deemed to be a reference to the “Paul S. Sarbanes Ecosystem Restoration Project at Poplar Island”.

(c) EFFECTIVE DATE.—The project designation in this section shall become effective on January 4, 2007.

Designation.
Maryland.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$32,614,000, to remain available until expended, of which \$946,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,736,000, to remain available until expended.

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