

April 10, 2000

Honorable J. Dennis Hastert  
Speaker  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed is a draft bill entitled the "Water Resources Development Act of 2000." The proposals included in the bill constitute the Department of the Army's Civil Works Legislative Program for the Second Session of the 106th Congress. Accompanying the bill is draft report language.

Our Nation's waters and waterways have served as a strategic transportation network for economic and social development, and the Army's Civil Works program has made significant contributions to this development and our Nation's prosperity. These waters are also invaluable to our fish and wildlife resources and for water-based recreation. The programs and policies that are reflected in the Army Civil Works proposal for the Water Resources Development Act of 2000 will continue the tradition of contributing to our economic growth and security, and the restoration and protection of our Nation's environment.

Under this Administration, there has been intense interest in finding sustainable ways to preserve and grow our Nation's economy while protecting and restoring our unique water and related land resources for the benefit of future generations. I believe the Army's Civil Works program has a significant role to play in meeting these objectives. However, there is no question that our natural resources have been affected, often in unintended ways, by our economic growth and urban and rural development and by Federal, State and local infrastructure projects. Pursuant to the Water Resources Development Act of 1986 the Army Civil Works program began to change in response to new water resources challenges facing this Nation. More recently, the Corps has been working collaboratively with new stakeholders, making great strides in improving relationships with American Indians and Alaskan Natives, and finding ways to be more responsive to the needs and concerns of disadvantaged and minority communities.

It is within this context that I submit to you the Department of the Army's legislative proposal for the Water Resources Development Act of 2000. The themes of this bill are: 1) improved program operations and cost-sharing partnerships; 2) more effectively meeting the needs of tribal and low-income communities; and 3) restoration of an unprecedented natural resource, America's Everglades. These themes reflect my strong belief that the Army Civil Works program continues to be relevant to improving our Nation's economic prosperity and environmental health.

A critical part of the proposed legislation is the authorization of modifications to the Central and Southern Florida Flood Control Project in accordance with the recommendations set forth in the Comprehensive Everglades Restoration Plan submitted to Congress on July 1, 1999. Excessive drainage of wetlands and changes in the natural variability of water flows that have detrimentally altered the Everglades ecosystem on a regional scale will be addressed. Authorization of our bill will allow the Corps, and its partners, to implement the Comprehensive Everglades Restoration Plan and "get the water right" by addressing quantity, quality, timing, and distribution problems in the ecosystem. Implementation of these features will vastly increase the amount of water available for the benefit of the natural system and enhance urban and agricultural water supply, while maintaining flood protection. The result will be the restoration of more natural water flows, including sheet flow, improved water quality and more natural hydro-periods in the south Florida ecosystem. The Nation will benefit, along with a myriad of fish and wildlife species, including a number of the 68 Federally listed species. Overall, the proposed authorization will allow us to capture approximately 1.2 million acre-feet of "new water" - and set-aside, as a matter of Federal law, sufficient quantities of water to restore, preserve and protect the ecosystem.

We have included a provision to modify Section 729 of the Water Resources Development Act of 1986, to broaden and strengthen the Corps' ability to address the water resources needs of river basins and regions of the United States. Traditionally, the Corps focuses on developing solutions to local and specific needs after problems have occurred. This modification would enable the Corps, on a cost-shared basis, to assess water resources problems and needs at a broader level in cooperation with other Federal, Tribal, State and local agencies.

Under our Water Resources Development Act of 2000 proposal, the Corps also would be better able to provide high quality service to communities that may lack the resources, technical expertise, or information to take advantage of Federal programs and activities. With this philosophy in mind, I am proposing several initiatives that will enhance the Corps ability to reach out to Tribal, as well as, low-income, disadvantaged, and minority communities, in positive ways.

The proposed Tribal Partnership Program would enhance our ability to work with Federally recognized Tribal governments, including Alaskan Natives, in the planning of projects for flood damage reduction, environmental restoration and protection, and cultural and natural resource management. The legislation acknowledges the unique relationship with Tribal governments, and authorizes the Secretary to consider traditional cultural knowledge and values when formulating and recommending projects to Congress for authorization, and unique Tribal capabilities during project development.

Additionally, I am proposing that the ability to pay provisions of section 103(m) of the Water Resources Development Act of 1986 be further amended so that it would apply to the construction of environmental protection and restoration projects, and for feasibility studies associated with flood damage reduction and environmental restoration projects. I am also proposing that the Secretary be authorized to consider additional criteria when developing the ability to pay provisions.

For several years, the Corps has been assisting, predominantly on a reimbursable basis, in the Nation's efforts to restore abandoned, idled, or under-used industrial and commercial facilities (i.e., Brownfields) where expansion or redevelopment is complicated by environmental contamination. I propose that the Corps be authorized to establish and carry out a program to provide assistance to non-Federal interests in the clean-up and restoration of Brownfields where such clean-up and restoration will directly contribute to the quality, conservation, and sustainable use of waterways and watersheds. The Corps could use this authority to help clean-up waterways, in combination with existing environmental restoration and protection authorities, to enhance significantly this Administration's and State efforts to revitalize Brownfield areas and improve the quality of life for many Americans. The provision requires consultation with the Environmental Protection Agency and other appropriate

agencies to ensure that Army Civil Works activities are integrated fully with the activities of others.

One lesson we have learned from our work in the Florida Everglades is how critically important it is to be able to look at an entire ecosystem or watershed, and evaluate comprehensively a broader array of water and related land resources problems and opportunities. The CALFED Bay Delta Program, initiated in 1995, represents an unprecedented collaboration among Federal and California State agencies and leading urban, agricultural and environmental interests to address and resolve environmental and water management problems associated with the Bay-Delta system in central California. The Bay-Delta system provides drinking water for 22 million Californians, supplies irrigation water for more than 4 million acres of the world's most productive farmland. It is the largest wetland habitat and estuary in the West, is home to one of the nation's most productive salmon fisheries, and is a critical part of the Pacific flyway for migrating birds. The CALFED mission is to develop a long-term comprehensive plan that will support ecological health and improve water management for beneficial uses of the Bay-Delta system. I am proposing the Secretary be authorized to participate in all CALFED planning and management activities, consistent with Public Law 102-575. The Secretary would also be authorized to accept and expend funds from other Federal and non-Federal sources to implement ecosystem restoration projects identified as high priority in the CALFED Ecosystem Restoration Program. Such authority will produce independent, immediate, and substantial restoration, preservation, and environmental protection benefits.

Puget Sound and adjacent waters encompass more than 15,000 square miles in northwest Washington, including all waters in the Puget Sound drainage basin. Significant amounts of wetland, estuary, and river and stream habitats have been degraded or destroyed as a result of Federal, State, and local actions, including Federal navigation projects, agricultural and forest activities, and urbanization. Improving the health of this resource area is critical to Tribes, the State, and the Nation at large because of its abundant fisheries, and habitats used by migrating waterfowl. Thus, I am proposing legislation that will authorize the development of a comprehensive plan for restoring, preserving and protecting the Puget Sound ecosystem.

In my Fiscal Year 2001 budget request for the Army Civil Works program, I announced a new initiative to modernize facilities at key recreation areas currently operated and maintained by the Corps. The Corps manages 537 Federal lakes (4,340 recreation areas) and administers approximately 11.7 million acres of land and water in 43 States. These projects, which are viewed by many citizens as natural treasures, host 377 million visitors annually. In support of the recreation modernization initiative I have developed two legislative provisions. First, I am asking for the authority to implement a program to reduce vandalism and destruction of property at water resources projects under the jurisdiction of the Army. Second, I am asking that the Army be given the statutory authority to participate, and help fund, the state-of-the-art National Recreation Reservation Service (NRRS) developed by the U.S. Forest Service. The NRRS has been very successful in providing the public with a one-stop-shop reservation service for recreation opportunities. More than 600,000 Internet reservations were made during the 1999 recreation season.

I have included a provision that would authorize the Army to administratively transfer lands to Indian Tribes, from whom they were taken, that the Army Corps of Engineers acquired under the Pick-Sloan Missouri River Basin Program. This provision acknowledges that project purposes and needs and management objectives have changed, and that as long as the land transfers do not interfere with the Corps ability to accomplish authorized project purposes, this authority will help the Corps support the Administration's effort to build Tribal capacity, promote self sufficiency, and redress historical inequities. The authority requires the implementation of a consultation and coordination process and dialogue to identify lands to be transferred, address issues, and obtain the views of Tribal governments and Nations, States, local governments, and interested parties.

There are many projects that have not been constructed in a timely fashion, many which will never be constructed, all of which are contributing to the growing backlog of Civil Works projects. To remedy this situation, I propose that we modify our current criteria for deauthorizing projects. The proposal identifies a reasonable time period after which a project should be under construction. If this does not occur, we believe that the project should be "taken off the books" by deauthorization.

Since the last Water Resources Development Act, the Corps of Engineers has not submitted to me any new projects for authorization. However, I would like you to know that the Corps is very close to completing its report on the New York and New Jersey Harbor Project. Once the Chief of Engineers has completed his report and submitted it to me for review, the Administration will be able to consider the project for authorization. I expect to be able to submit my recommendation on this important project to the Congress in time for Congress

to consider the project for authorization in this Water Resources Development Act. In addition, as other reports are submitted to me, we will review them and forward them to the Congress with the Administration's recommendation.

Last year, the Administration transmitted to Congress its Harbor Services Fund and User Fee proposal to establish a new mechanism for financing development, operation and maintenance of the Nation's ports and harbors. The new Fund and user fee would replace the Harbor Maintenance Trust Fund, and the Harbor Maintenance Tax, a portion of which was found unconstitutional and has been the subject to questions raised by U.S. trading partners regarding claims that it violates the General Agreement on Tariffs and Trade. This fee would collect about the same total amount of revenue as would have been collected under the Harbor Maintenance Tax prior to the Supreme Court's decision. Enactment of the proposed new fund and user fee would provide a stable, long-term source of financing to enable commercial harbor and channel work to proceed on optimal schedules. I urge prompt congressional action on this important proposal.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal for consideration by the Congress. Its enactment would be in accord with the program of the President. We look forward to working with the Congress on this important legislative proposal. Should you or your staff have any questions, please do not hesitate to contact me or Mr. Michael Davis, Deputy Assistant Secretary for Policy and Legislation at (703) 695-1370.

Sincerely,

Joseph W. Westphal  
Assistant Secretary of the Army  
(Civil Works)

Enclosures