

An Act

To provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers 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 1988".

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## SEC. 2. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

## SEC. 3. PROJECT AUTHORIZATIONS.

(a) Authorization of Construction.--Except as otherwise provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:

(1) Lower mission creek, santa barbara, california.--The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of \$10,420,000, with an estimated first Federal cost of \$5,909,000, and an estimated first non-Federal cost of \$4,511,000.

(2) Ft. pierce harbor, florida. --The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers, dated December 14, 1987, at a total cost of \$6,742,000, with an estimated first Federal cost of \$4,319,000, and an estimated first non-Federal cost of \$2,423,000.

(3) Nassau county, florida. --The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of \$5,753,000, with an estimated first Federal cost of \$4,619,000, and an estimated first non-Federal cost of \$1,134,000.

(4) Port sutton channel, florida. --The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of \$2,670,000, with an estimated first Federal cost of \$1,155,000, and an estimated first non-Federal cost of \$1,515,000; except that construction of such project may not be initiated until the Secretary determines that such project serves more than one

beneficiary.

(5) Chicagoland underflow plan, illinois. --The project for flood control, Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of \$419,000,000, with an estimated first Federal cost of \$314,250,000, and an estimated first non-Federal cost of \$104,750,000.

(6) Lower ohio river, illinois and kentucky. --The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of \$775,000,000, with a first Federal cost of \$775,000,000, and with the costs of construction of the project to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(7) Hazard, kentucky. --The project for flood control, Hazard, Kentucky: Report of the Chief of Engineers, dated October 30, 1986, at a total cost of \$7,450,000, with an estimated first Federal cost of \$5,590,000 and an estimated first non-Federal cost of \$1,860,000.

(8) Mississippi and louisiana estuarine areas, mississippi and louisiana. --The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of \$59,300,000.

(9) Wolf and jordan rivers, mississippi. --The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated June 10, 1987, at a total cost of \$2,290,000, with an estimated first Federal cost of \$1,620,000 and an estimated first non-Federal cost of \$670,000.

(10) Truckee meadows, nevada. --The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of \$78,400,000, with an estimated first Federal cost of \$39,200,000 and an estimated first non-Federal cost of \$39,200,000; except that the Secretary is authorized to carry out fish and wildlife enhancement as a purpose of such project, including fish and wildlife enhancement measures described in the District Engineer's Report, dated July 1985, at an additional total cost of \$4,140,000.

(11) West Columbus, Ohio. --The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of \$31,562,000, with an estimated first Federal cost of \$23,671,000, and an estimated first non-Federal cost of \$7,891,000.

(12) Delaware River, Pennsylvania and Delaware. --The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of \$17,200,000, with an estimated first Federal cost of \$9,100,000 and an estimated first non-Federal cost of \$8,100,000.

(13) Cypress Creek, Texas. --The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated October 12, 1987, at a total project cost of \$114,200,000, with an estimated first Federal cost of \$84,900,000 and an estimated first non-Federal cost of \$29,300,000.

(14) Falfurrias, Texas. --The project for flood control, Falfurrias, Texas: Report of the Chief of Engineers, dated March 15, 1988, at a total cost of \$31,800,000, with an estimated first Federal cost of \$15,900,000, and an estimated first non-Federal cost of \$15,900,000.

(15) Guadalupe River, Texas. --The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of \$23,900,000, with an estimated first Federal cost of \$15,100,000, and an estimated first non-Federal cost of \$8,800,000.

(16) McGrath Creek, Wichita Falls, Texas. --The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of \$9,100,000, with an estimated first Federal cost of \$6,800,000 and an estimated first non-Federal cost of \$2,300,000.

(b) Maximum Cost of Projects.--Section 902 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended--

(1) by striking out "in this Act, or an amendment made by this Act, for a project" and inserting in lieu thereof "with respect to a project for water resources development and conservation and related purposes authorized to be carried out by

the Secretary in this Act or in a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988, or in an amendment made by this Act or any later law with respect to such a project";

(2) in paragraph (1) by inserting ", in any later law," after "in this Act" and by inserting "or any later law" after "by this Act";

(3) in paragraph (2)(A) by inserting "or any later law" after "of this Act"; and

(4) in paragraph (2)(B) by inserting "or any later law" after "by this Act".

#### SEC. 4. PROJECT MODIFICATIONS.

(a) Beaver Lake, Arkansas.--

(1) Amendments.--Section 843 of the Water Resources Development Act of 1986 (100 Stat. 4176-4177) is amended--

(A) by inserting "and the Chief of the Soil Conservation Service" after "the Environmental Protection Agency"; and

(B) by inserting "including best management practices," before "at a total cost".

(2) Continuation of planning and design.--Using funds made available for the Beaver Lake project, Arkansas, pursuant to the Energy and Water Development Appropriations Act, 1989, the Secretary is directed to continue overall planning and design for such project, including the development of implementation plans for individual parcels of land within the drainage basin which contribute to water quality degradation and impairment of water supply uses at Beaver Lake.

(b) West Memphis and Vicinity, Arkansas. --The project for flood control, West Memphis and vicinity, Arkansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) is modified to provide that non-Federal cooperation for such project may be provided by levee districts, drainage districts, or any unit of a State, county, or local government.

(c) King Harbor, Redondo Beach, California. --Section 809 of the

Water Resources Development Act of 1986 (100 Stat. 4168) is amended by striking out the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act."

(d) Los Angeles and Long Beach Harbors, San Pedro Bay, California.--The navigation project for Los Angeles and Long Beach Harbors, San Pedro Bay, California, authorized by section 201 of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, if non-Federal interests carry out any work associated with such project which is later recommended by the Chief of Engineers and approved by the Secretary, the Secretary may credit such non-Federal interests an amount equal to the Federal share of the cost of such work, without interest. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under the preceding sentence by non-Federal interests and which the Secretary determines is compatible with such project. The feasibility report for such project shall include consideration and evaluation of the following proposed project features: Long Beach Main Channel, Channel to Los Angeles Pier 300, Channels to Los Angeles Pier 400, Long Beach Pier "K" Channel, and Los Angeles Crude Transshipment Terminal Channel.

(e) Los Angeles River, California.--The Secretary is directed to perform maintenance dredging of the existing Federal project at the mouth of the Los Angeles River, California, to the authorized depth of 20 feet for the purpose of maintaining the flood control basin and navigation safety.

(f) Sunset Harbor, California.--The demonstration project at Sunset Harbor, California, authorized by section 1119(b) of the Water Resources Development Act of 1986 (100 Stat. 4238), is modified to include wetland restoration as a purpose of such demonstration project. All costs allocated to such wetland restoration shall be paid by non-Federal interests in accordance with section 916 of such Act.

(g) Indiana Shoreline Erosion, Indiana.--The undesignated paragraph of section 501(a) of the Water Resources Development Act of 1986 under the heading "indiana shoreline, indiana" (100 Stat. 4135) is amended by striking out "with an estimated first Federal cost of \$15,000,000 and an estimated first non-Federal cost of \$5,000,000." and inserting in lieu thereof "with the Federal share of the cost of this project to be determined in accordance with title I of this

Act.".

(h) Stumpy Lake, Louisiana.--The project for mitigation of fish and wildlife losses Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142), is modified to authorize the Secretary to obtain, on a priority basis, up to 300 acres in the area of Stumpy Lake as part of such project. Such modification shall not increase the total authorization for land acquisition for such project.

(i) Annapolis Harbor, Maryland.--The project for navigation, Annapolis Harbor, Maryland, is modified to authorize and direct the Secretary to realign by nonstructural, nondredging measures the channel in such project, as determined necessary by the Secretary, for the purpose of promoting more efficient mooring operations in Annapolis Harbor.

(j) Deal Island, Maryland.--The Secretary may pay the remaining cost for the navigation project for Deal Island, Maryland (Lower Thorofare), authorized under section 107 of the River and Harbor Act of 1960, estimated at \$277,000, plus any interest due the construction contractor.

(k) Redwood River, Marshall, Minnesota.--The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of \$6,900,000, with an estimated first Federal cost of \$5,000,000 and an estimated first non-Federal cost of \$1,900,000.

(l) Root River Basin, Minnesota. --The undesignated paragraph of section 401(a) of the Water Resources Development Act of 1986 under the heading "root river basin, minnesota" (100 Stat. 4117) is amended by adding at the end thereof the following new sentence: "Nothing in this paragraph precludes the Secretary from carrying out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).".

(m) Roseau River, Minnesota.--The project for flood control, Roseau River, Minnesota, authorized by the Flood Control Act of 1965, is modified to authorize and direct the Secretary to construct as authorized, or to construct under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the 6-mile flood control levee in the

vicinity of Duxby, Minnesota, beginning at a point approximately 2 miles upstream, substantially in accordance with the recommendations of the Chief of Engineers contained in House Document Numbered 282, 89th Congress, at an estimated total cost of \$360,000, and with an estimated first Federal cost of \$270,000 and an estimated first non-Federal cost of \$90,000. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under such section 205 and which the Secretary determines is compatible with such project.

(n) Gulfport Harbor, Mississippi. --

(1) In general. --The project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094-4095) is modified to authorize the Secretary to dispose, in accordance with all provisions of Federal law, of dredged material--

(A) from construction, operation, and maintenance of such project in open waters of the Gulf of Mexico;

(B) from construction of such project by thin layer disposal in the Mississippi Sound under the demonstration program carried out under paragraph (2);

(C) from operation and maintenance of such project by disposal in the Mississippi Sound under a plan developed by the Secretary and approved by the Administrator of the Environmental Protection Agency if the Secretary, after consultation with the study team established under paragraph (3), determines that the report submitted under paragraph (2)(H) indicates that there will be no unacceptable adverse environmental impacts from such disposal; and

(D) from construction, operation, and maintenance of such project as fill in connection with a pier extension project for such Harbor carried out under a permit issued before, on, or after the date of the enactment of this Act under section 404 of the Federal Water Pollution Control Act.

(2) Demonstration program. --

(A) Purposes. --During construction of the Gulfport Harbor navigation project, the Secretary shall carry out a demonstration program for the purpose of evaluating the costs

and benefits of thin layer disposal in the Mississippi Sound of dredged material from construction of harbor improvements, including any operation and maintenance materials that may be removed during construction, and for determining whether or not there are unacceptable adverse effects from such disposal--

(i) on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(ii) on marine life (including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes), changes in marine ecosystem diversity, productivity, and stability, and species and community population changes;

(iii) on esthetic, recreation, and economic values; and

(iv) on alternative uses of oceans, such as mineral exploitation and scientific study.

In addition, the Secretary shall determine through such program the persistence and permanence of any such adverse effects and methods of mitigating any such adverse effects.

(B) Planning.--Within 4 months after the date of the enactment of the Act, the Secretary, in consultation with the study team established under paragraph (3), shall develop a plan for carrying out the demonstration program under this paragraph. Such plan shall, at a minimum, establish predisposal monitoring requirements, thin layer disposal locations, the amounts of dredged material necessary for carrying out such demonstration program, the duration of thin layer disposal under such demonstration program, the compatibility of the receiving habitat with thin layer dredged material disposal, requirements for minimizing demonstration program impacts, the depth of thin layer disposal, and the scope of the post disposal monitoring.

(C) Limitations on materials from project.--The Secretary in carrying out the demonstration program under this paragraph shall use suitable material removed during construction of the

Gulfport Harbor navigation project. The amount of material used shall be of sufficient quantity to determine the effects of thin layer disposal in near shore areas of (i) dredged materials from construction of harbor improvements, and (ii) any materials from operation and maintenance of harbor improvements dredged during the period of such construction; except that the total amount of material to be used shall be limited to the lesser of 3,000,000 cubic yards of dredged material or the amount determined under the plan developed under subparagraph (B).

(D) Consultation requirement.--In conducting the demonstration program under this paragraph, the Secretary shall consult the study team established under paragraph (3).

(E) Post disposal monitoring.--The demonstration program under this paragraph shall include monitoring of the near shore areas at which dredged material is disposed of under such program during the period determined under the plan developed under subparagraph (B).

(F) Applicability of federal law.--The demonstration program under this paragraph shall be carried out in accordance with all applicable provisions of Federal law, including section 404(c) of the Federal Water Pollution Control Act.

(G) Cost sharing.--The demonstration program carried out under this paragraph shall be subject to cost sharing under title I of the Water Resources Development Act of 1986. All costs of such program, other than dredging and disposal of dredged material costs, shall not be included for purposes of calculating the economic costs and benefits of the navigation project for Gulfport Harbor, Mississippi.

(H) Report to congress and epa.--Within 1 year after the date of completion of the demonstration program under this paragraph, the Secretary, after consultation with the study team established under paragraph (3), shall transmit to Congress and to the Administrator of the Environmental Protection Agency a report on the results of such demonstration program together with recommendations concerning thin layer disposal in near shore areas of dredged material from construction, operation, and maintenance of future

navigation projects.

(I) Approval or disapproval of recommendations.--Not later than 30 days after the date of receipt of the report and recommendations under subparagraph (H), the Administrator of the Environmental Protection Agency shall approve or disapprove the recommendations and shall notify Congress and the Secretary of such approval or disapproval. If the Administrator disapproves the recommendations, not later than 30 days after the date of such disapproval, the Administrator shall notify Congress and the Secretary of the reasons for such disapproval together with recommendations for modifications which could be made to the recommendations to take into account such reasons. If the Administrator fails to approve or disapprove the recommendations transmitted under subparagraph (H) within the 30-day period, the recommendations shall be deemed to be approved.

(3) Study team.--The Secretary shall establish a study team to assist the Secretary in planning, carrying out, monitoring, and reporting on the demonstration program and the results of such program under this subsection. Such team shall be appointed by the Secretary and shall consist of representatives of the Corps of Engineers, the Environmental Protection Agency, interested Federal and State resource agencies, and the local sponsor of the demonstration program. Members of the study team who are not officers or employees of the United States shall serve without compensation. Members of the study team who are officers or employees of the United States shall receive no additional pay by reason of their service on the study team.

(4) Thin layer disposal defined.--For purposes of this subsection, the term "thin layer disposal" means the deliberate placement of a 6- to 12-inch layer of dredged material in a specific bottom area. In no case shall such layer exceed a maximum of 12 inches of thickness.

(o) Brush Creek and Tributaries, Missouri and Kansas. --The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to provide to the non-Federal interests providing local cooperation for such project services (including the provision of services by contract) in the design and construction of upstream and downstream non-Federal extensions to such project--

(1) if the non-Federal interests provide, in advance of obligation of Federal funds for such design and construction, amounts sufficient to cover all costs of such services;

(2) if, prior to construction of such extensions, the non-Federal interests obtain all necessary Federal and State permits; and

(3) if the non-Federal interests agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions.

Construction costs, operation, and maintenance of such extensions shall be a non-Federal responsibility and shall not be considered part of the Brush Creek flood control project for any purpose.

(p) Libby Dam, Montana.--The project for Libby Dam, Lake Koocanusa Reservoir, Montana, is modified (1) to authorize the Secretary, in consultation with the Secretary of Agriculture, to undertake measures to alleviate low water impact on existing facilities at such project, including provision of low water access to Lake Koocanusa, Montana, and provision of additional planned public recreation sites along the reservoir, and (2) to direct the Secretary to protect Indian archaeological sites which are exposed during the course of operations of such project, at an estimated total cost of \$750,000. The Secretary shall coordinate with the Kootenai Tribes in monitoring exposed archaeological sites to prevent pillaging, in preserving artifacts onsite, and in facilitating curation at the tribal curation center in Pablo Montana when onsite preservation is not warranted.

(q) Sea Bright to Monmouth Beach, New Jersey. --Section 854 of the Water Resources Development Act of 1986 (100 Stat. 4179-4180) is amended to read as follows:

"SEC. 854. SANDY HOOK TO BARNEGAT INLET, NEW JERSEY.

"(a) Subject to section 903(a) of this Act, the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, authorized by the River and Harbor Act of 1958, is modified to provide that the first Federal construction increment of the Ocean Township to Sandy Hook reach of such project shall consist of a berm of approximately 100 feet at Sea Bright and Monmouth Beach extending to and including a

feeder beach in the vicinity of Long Beach substantially in accordance with the plan recommended in the draft General Design Memorandum entitled 'Atlantic Coast of New Jersey, Sandy Hook to Barnegat Inlet, Beach Erosion Control Project, Section 1--Sea Bright to Ocean Township, New Jersey', dated May 1988, at a total initial cost for such increment of \$91,000,000 and an annual cost of \$1,200,000 for periodic beach nourishment over the life of such increment.

"(b) The non-Federal share of the costs of construction and maintenance of the increment referred to in subsection (a) shall be--

"(1) for the first \$40,000,000 in costs, the amounts expended by non-Federal interests for reconstruction of the seawall at Sea Bright and Monmouth Beach, New Jersey; and

"(2) for costs in excess of \$40,000,000, a non-Federal share which is in accordance with title I of this Act.

"(c) Before initiation of construction of any increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, non-Federal interests shall agree to provide public access to the beach for which such increment of the project is authorized in accordance with all requirements of State law and regulations."

(r) Wyoming Valley, Pennsylvania. --The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 1424), is modified to authorize the Secretary to study the feasibility of constructing an inflatable dam on the Susquehanna River in the vicinity of Wilkes Barre, Pennsylvania.

(s) Blair and Sitcum Waterways, Washington. --The undesignated paragraph of section 202(a) of the Water Resources Development Act of 1986 under the heading "blair and sitcum waterways, tacoma harbor, washington" (100 Stat. 4096) is amended by striking out "\$38,200,000" and all that follows through "\$12,000,000;" and inserting in lieu thereof "\$51,000,000;".

(t) Wynoochee Lake, Washington. --

(1) In general. --To demonstrate the feasibility of non-Federal operation, maintenance, repair, and rehabilitation of a Federal multi-purpose water resources project, the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section

203 of the Flood Control Act of 1962 (76 Stat. 1193), is modified to authorize the Secretary to permit the city of Aberdeen, Washington, to operate, maintain, repair, and rehabilitate the project (hereinafter in this subsection referred to as "OMR&R") after September 30, 1988.

(2) Limitations on omr&r.--OMR&R by the city of Aberdeen shall be--

(A) subject to such terms and conditions as the Secretary shall establish by regulation to ensure that OMR&R is consistent with the project's authorized purposes, including fish and wildlife mitigation; and

(B) consistent with the long-term value and viability of the project's physical facilities.

In issuing such regulations, the Secretary shall evaluate the effect of such regulations on the project costs payable by the city.

(3) Conditions.--OMR&R by the city of Aberdeen under this subsection shall be subject to the following conditions:

(A) Title to real and personal property of the project shall remain in the United States, and the city shall not impair such title.

(B) The city shall hold and save the United States free from any damages which result from OMR&R by the city, except for damages due to the fault or negligence of the United States or its contractors.

(C) Upon due cause as determined by the Secretary and after notice to the city, the Secretary may resume OMR&R and the city shall be responsible to pay the percentage of the OMR&R costs of the project incurred thereafter and related to water supply storage as described in the original project contract.

(D) The Secretary shall modify the project contract to forgive future OMR&R payment obligations of the city to the extent that the city is performing project OMR&R in accordance with this subsection and the regulations issued under this subsection.

(E) The Secretary shall transfer to the city responsibility for OMR&R of the project in a safe and cost-effective manner.

(4) Report to congress.--Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the implementation of this subsection.

#### SEC. 5. COMMENTS ON CERTAIN CHANGES IN OPERATIONS OF RESERVOIRS.

Before the Secretary may make changes in the operation of any reservoir which will result in or require a reallocation of storage space in such reservoir or will significantly affect any project purpose, the Secretary shall provide an opportunity for public review and comment.

#### SEC. 6. OPERATION OF CERTAIN PROJECTS TO ENHANCE RECREATION.

(a) Enhancement of Recreation.--The Secretary shall ensure, to the extent compatible with other project purposes, that each water resources project referred to in this subsection is operated in such manner as will protect and enhance recreation associated with such project. The Secretary is authorized to manage project lands at each such project in such manner as will improve opportunities for recreation at the project. Such activities shall be included as authorized project purposes of each project. Nothing in this subsection shall be construed to affect the authority or discretion of the Secretary with respect to carrying out other authorized project purposes or to comply with other requirements or obligations of the Secretary which are legally binding as of the date of the enactment of this Act. The provisions of this subsection shall apply to the following projects:

- (1) Beechfork Lake, West Virginia.
- (2) Bluestone Lake, West Virginia.
- (3) East Lynn Lake, West Virginia.
- (4) Francis E. Walter Dam, Pennsylvania.

(5) Jennings Randolph Lake (Bloomington Dam), Maryland and West Virginia.

(6) R.D. Bailey Lake, West Virginia.

(7) Savage River Dam, Maryland.

(8) Youghiogheny River Lake, Pennsylvania and Maryland.

(9) Summersville Lake, West Virginia.

(10) Sutton Lake, West Virginia.

(11) Stonewall Jackson Lake, West Virginia.

(b) Recreation Defined.--As used in this section, in addition to recreation on lands associated with the project, the term "recreation" includes (but shall not be limited to) downstream whitewater recreation which is dependent on project operations, recreational fishing, and boating on water at the project.

## SEC. 7. COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) In General.--For the purpose of improving the state of engineering and construction in the United States and consistent with the mission of the Army Corps of Engineers, the Secretary is authorized to utilize Army Corps of Engineers laboratories and research centers to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local government, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the several States of the United States or the District of Columbia.

(b) Administrative Provisions. --In carrying out this section, the Secretary may consider the recommendations of a non-Federal entity in identifying appropriate research or development projects and may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in such agreement, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this section. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(c) Applicability of Other Laws.--The research, development, or utilization of any technology pursuant to an agreement under subsection (b), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714).

(d) Authorization of Appropriations.--To carry out the purposes of this section, there is authorized to be appropriated to the Secretary of the Army civil works funds \$3,000,000 for fiscal year 1989, \$4,000,000 for fiscal year 1990, \$5,000,000 for fiscal year 1991, and \$6,000,000 for each fiscal year thereafter.

(e) Additional Funding. --Notwithstanding the third proviso under the heading "General Investigations" of title I of the Energy and Water Development Appropriations Act, 1989 (102 Stat. 857), an additional \$3,000,000 of the funds appropriated under such heading shall be available to the Secretary for obligation to carry out the purposes of this section in fiscal year 1989.

#### SEC. 8. INNOVATIVE TECHNOLOGY.

(a) Use.--The Secretary shall, whenever feasible, seek to promote long- and short-term cost savings, increased efficiency, reliability, and safety, and improved environmental results through the use of innovative technology in all phases of water resources development projects and programs under the Secretary's jurisdiction. To further this goal, Congress encourages the Secretary to--

(1) use procurement and contracting procedures that encourage innovative project design, construction, rehabilitation, repair, and operation and maintenance technologies;

(2) frequently review technical and design criteria to remove or modify unnecessary impediments to innovation;

(3) increase timely exchange of technical information with universities, private companies, government agencies, and individuals;

(4) foster design competition; and

(5) encourage greater participation by non-Federal project sponsors in the development and implementation of projects.

(b) Reports.--Within 2 years after the date of the enactment of this Act, and thereafter at the Secretary's discretion, the Secretary shall provide Congress with a report on the results of, and recommendations to increase, the development and use of innovative technology in water resources development projects under the Secretary's jurisdiction. Such report shall also contain information regarding innovative technologies which the Secretary has considered and rejected for use in water resources development projects under the Secretary's jurisdiction.

(c) Innovative Technology Defined.--For the purpose of this section, the term "innovative technology" means designs, materials, or methods which the Secretary determines are previously undemonstrated or are too new to be considered standard practice.

#### SEC. 9. TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) In General.--The Secretary is authorized to undertake a demonstration program for a 2-year period, which shall begin within 6 months after the date of the enactment of this Act, to provide technical assistance, on a nonexclusive basis, to any United States firm which is competing for, or has been awarded, a contract for the planning, design, or construction of a project outside the United States, if the United States firm provides, in advance of fiscal obligation by the United States, funds to cover all costs of such assistance. In determining whether to provide such assistance, the Secretary shall consider the effects on the Department of the Army civil works mission, personnel, and facilities. Prior to the Secretary providing such assistance, a United States firm must--

(1) certify to the Secretary that such assistance is not otherwise reasonably and expeditiously available; and

(2) agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of the project.

(b) Federal Employees' Inventions.--As to an invention made or conceived by a Federal employee while providing assistance pursuant to this section, if the Secretary decides not to retain all rights in such invention, the Secretary may--

(1) grant or agree to grant in advance, to a United States firm, a patent license or assignment, or an option thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up

license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States and such other rights as the Secretary deems appropriate; or

(2) waive, subject to reservation by the United States of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States, in advance, in whole, or in part, any right which the United States may have to such invention.

(c) Protection of Confidential Information.--Information of a confidential nature, such as proprietary or classified information, provided to a United States firm pursuant to this section shall be protected. Such information may be released by a United States firm only after written approval by the Secretary.

(d) Report.--Within 6 months after the end of the demonstration program authorized by this section, the Secretary shall submit to Congress a report on the results of such demonstration program.

(e) Definitions.--For purposes of this section--

(1) United states firm.--The term "United States firm" means a corporation, partnership, limited partnership, or sole proprietorship that is incorporated or established under the laws of any of the United States with its principal place of business in the United States.

(2) United states.--The term "United States", when used in a geographical sense, means the several States of the United States and the District of Columbia.

#### SEC. 10. PERIODIC STATEMENTS.

Upon receipt of a request from a non-Federal sponsor of a water resources development project under construction by the Secretary, the Secretary shall provide such sponsor with periodic statements of project expenditures. Such statements shall include an estimate of all Federal and non-Federal funds expended by the Secretary, including overhead expenditures, the purpose for expenditures, and a schedule of anticipated expenditures during the remaining period of construction. Statements shall be provided to the sponsor at intervals of no greater than 6 months.

SEC. 11. SIMULATION MODEL OF SOUTH CENTRAL FLORIDA  
HYDROLOGIC ECOSYSTEM.

(a) In General.--The Secretary, in cooperation with affected Federal, State, and local agencies and other interested persons, may develop and operate a simulation model of the central and southern Florida hydrologic ecosystem for use in predicting the effects--

(1) of modifications to the flood control project for central and southern Florida, authorized by the Flood Control Act of 1948,

(2) of changes in the operation of such project, and

(3) of other human activities conducted in the vicinity of such ecosystem which individually or in the aggregate will significantly affect the ecology of such ecosystem,

on the flow, characteristics, quality, and quantity of surface and ground water in such ecosystem and on plants and wildlife within such ecosystem. Such model shall be capable of producing information which is applicable for use in evaluating the impact of issuance of proposed permits under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbors Appropriation Act of 1899, and under section 404 of the Federal Water Pollution Control Act.

(b) Availability to State and Local Agencies.--The Secretary shall allow Federal, State, and local agencies to use, on a reimbursable basis, the simulation model developed under this section.

(c) Cost Sharing.--The Federal share of the cost of developing and operating the simulation model under this section shall be 75 percent.

SEC. 12. SECTION 215 REIMBURSEMENT LIMITATION PER  
PROJECT.

Section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a(a)) is amended by inserting after "\$3,000,000" the following: "or 1 percent of the total project cost, whichever is greater; except that the amount of actual Federal reimbursement, including reductions in contributions, for such project may not exceed \$5,000,000 in any fiscal year."

SEC. 13. ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS FOR  
CONSTRUCTION  
OF HARBORS.

(a) Relocation Costs.--Section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) Additional 10 percent payment over 30 years. --The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph."

(b) Retroactive Effective Date.--The amendment made by subsection (a) shall take effect on November 17, 1986.

SEC. 14. COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND  
INSURANCE PROGRAMS.

Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12) is amended by inserting "or any project for hurricane or storm damage reduction" after "local flood protection".

SEC. 15. FEDERAL REPAYMENT DISTRICT.

Section 916(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2291) is amended by striking out "include the power to collect" and all that follows through the period at the end of the last sentence and inserting in lieu thereof "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b)."

SEC. 16. ABANDONED AND WRECKED VESSELS.

Section 1115 of the Water Resources Development Act of 1986 (100 Stat. 4235) is amended by striking out the last period and inserting

in lieu thereof the following: " Provided, That, in furtherance of the work authorized by paragraph (3) hereof, and conditioned on successful removal of the A. Regina, the Secretary of the Army is hereby authorized to transfer upon such conditions as he shall deem fit the title to a Delong Pier Jack-Up Barge Type A, serial number BPA6814, directly to any entity, including any private corporation to be used to assist in the removal of the wreck of the said A. Regina. Procedures otherwise governing the disposal of government property, shall not apply to the above authorized transfer of title. The foregoing actions shall be at no cost to the United States, and shall constitute full compliance by the Secretary of the Army with the requirement of paragraph (3) hereof."

#### SEC. 17. FLOOD WARNING AND RESPONSE SYSTEM.

(a) Project.--The Secretary, in cooperation with other Federal agencies and the Susquehanna River Basin Commission, is authorized to design and implement a comprehensive flood warning and response system to serve communities and flood prone areas along Juniata River and tributaries in the State of Pennsylvania consistent with the cost sharing policies of the Water Resources Development Act of 1986.

(b) Authorization of Appropriation.--There is authorized to be appropriated to carry out this section \$2,000,000 for fiscal years beginning after September 30, 1988.

#### SEC. 18. SMALL BOAT HARBOR, BUFFALO HARBOR, NEW YORK.

The Secretary may undertake such emergency repairs as the Secretary determines necessary to preserve the existing dike at the Small Boat Harbor, Buffalo Harbor, New York, at a total cost of \$2,000,000, except that the Federal share may not exceed \$1,000,000.

#### SEC. 19. LAKEPORT LAKE, CALIFORNIA.

(a) Project Reauthorization.--Subject to section 1001(a) of the Water Resources Development Act of 1986, the project for flood control, Lakeport Lake, California, as authorized by the Flood Control Act of 1965 on the day before the date of the enactment of the Water Resources Development Act of 1986, is authorized.

(b) Repeal of Deauthorization.--Section 1003 of the Water Resources Development Act of 1986 (100 Stat. 4222-4223) is repealed.

## SEC. 20. SACRAMENTO, CALIFORNIA.

The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the feasibility study on Northern California Streams, American River Watershed, as expeditiously as practicable and an estimate of the resources required to meet such schedule.

## SEC. 21. MISSISSIPPI RIVER HEADWATERS RESERVOIRS.

(a) General Rule.--Notwithstanding any other provision of law, the Secretary is directed to maintain water levels in the Mississippi River headwaters reservoirs within the following operating limits: Winnibigoshish 1296.94 feet--1303.14 feet; Leech 1293.20 feet--1297.94 feet; Pokegama 1270.42 feet--1276.42 feet; Sandy 1214.31 feet--1218.31 feet; Pine 1227.32 feet--1234.82 feet; and Gull 1192.75 feet--1194.75 feet. Such water levels shall be measured using the National Geodetic Vertical Datum.

(b) Exception.--The Secretary may operate the headwaters reservoirs below the minimum or above the maximum water levels established in subsection (a) in accordance with a contingency plan which the Secretary develops after consulting with the Governor of Minnesota and affected landowners and commercial and recreational users. The Secretary shall transmit such plan to Congress within 6 months after the date of the enactment of this Act. The Secretary shall report to Congress at least 14 days prior to operating any such headwaters reservoir below the minimum or above the maximum water level limits specified in subsection (a).

## SEC. 22. HEARDING ISLAND INLET, DULUTH HARBOR, MINNESOTA.

The Secretary is authorized to dredge the Hearing Island Inlet, Duluth Harbor, Minnesota, for the purpose of increasing water circulation and reducing stagnant water conditions, at a total cost of \$500,000.

## SEC. 23. LOUISIANA WATER SUPPLY.

The Secretary is directed to review periodically the water supply problems related to drought which may be experienced at the Bayou Lafourche water supply reservoir in Louisiana and to respond as appropriate under the authority granted by section 5 of the Act entitled "An Act authorizing the construction of certain public works

on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (55 Stat. 650; 33 U.S.C. 701n).

## SEC. 24. CONTAINED SPOIL DISPOSAL FACILITIES IN THE GREAT LAKES AND THEIR CONNECTING CHANNELS.

(a) Period for Depositing Dredged Materials.--Section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended by adding at the end thereof the following new subsection:

"(j) Period for Depositing Dredged Materials.--The Secretary of the Army, acting through the Chief of Engineers, is authorized to continue to deposit dredged materials into a contained spoil disposal facility constructed under this section until the Secretary determines that such facility is no longer needed for such purpose or that such facility is completely full."

(b) Study and Monitoring Program.--Such section is further amended by adding at the end thereof the following new subsection:

"(k) Study and Monitoring Program.--

"(1) Study.--The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the materials disposed of in contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are present in such facilities and for the purpose of determining the concentration levels of each of such pollutants in such facilities.

"(2) Report.--Not later than 1 year after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

"(3) Inspection and monitoring program.--The Secretary shall conduct a program to inspect and monitor contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are leaking from such facilities.

"(4) Toxic pollutant defined.--For purposes of this subsection, the term 'toxic pollutant' means those toxic pollutants referred to in sections 301(b)(2)(C) and 301(b)(2)(D) of the Federal Water Pollution Control Act and such other

pollutants as the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines are appropriate based on their effects on human health and the environment."

SEC. 25. SOUTH PIER TO CHARLEVOIX HARBOR, CHARLEVOIX, MICHIGAN.

The Secretary shall take such action as may be necessary to restore recreational uses established prior to May 1, 1988, or provide comparable recreational uses at the South Pier to Charlevoix Harbor project, Charlevoix, Michigan, in order to mitigate any adverse impact on recreational uses resulting from reconstruction of the South Pier. Costs incurred by the Secretary to carry out this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 26. COYOTE AND BERRYESSA CREEKS, CALIFORNIA.

The Secretary is directed to include in the feasibility report for the project for flood control, Coyote and Berryessa Creeks, California: Report of the Board of Engineers for Rivers and Harbors, dated May 11, 1988, recommendations for reimbursement of local interests for work undertaken after the date of the enactment of this Act which is integral to the Federal project as recommended in the feasibility study. Such reimbursement shall not exceed \$3,000,000 and shall be made at such time as the federally funded work is carried out.

SEC. 27. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA.

(a) Authority To Convey.--Subject to the provisions of this subsection, the Secretary may convey to the city of South El Monte, California, approximately 7.778 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood Control Basin, south of the Pomona Freeway (Highway 60) and east of Santa Anita Avenue, in the city of South El Monte, California.

(b) Consideration. --In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the

consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary. Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury.

(c) Conditions. --The Secretary may make the conveyance described in subsection (a) only if--

(1) the city of South El Monte, California, grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood control activities with respect to such real property;

(2) such city agrees to use suitable property located directly adjacent to the Whittier Narrows Park, which will be acquired by such city through an exchange for such real property, for parking in connection with recreational activities in the Whittier Narrows Recreational Area, as the Secretary considers appropriate; and

(3) the Secretary determines that the Secretary does not need fee simple title to such real property for operation of the project.

(d) Additional Terms. --The Secretary may impose such additional terms and conditions on the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) Legal Description of Real Property. --The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the city of South El Monte, California.

## SEC. 28. LAND CONVEYANCE, OTTAWA, ILLINOIS.

(a) In General.--Subject to the provisions of this section, the Secretary shall convey to the city of Ottawa, Illinois, by quitclaim deed any right, title, and interest of the United States to approximately 5.3 acres of land located at the junction of the Fox and Illinois Rivers in such city.

(b) Terms and Conditions. --The conveyance by the United States under this section shall be subject to the condition that the city of

Ottawa, Illinois, its successors and assigns, agrees to hold the United States harmless from all claims arising from or through the operations of the lands conveyed by the United States. The Secretary may impose such additional terms and conditions on the conveyance as the Secretary considers appropriate to protect the interests of the United States; except that the Secretary may not impose any term or condition which restricts the use of the lands conveyed by the United States under this section.

(c) Legal Description of Real Property. --The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the city of Ottawa, Illinois.

#### SEC. 29. LAND TRANSFER IN WHITMAN COUNTY, WASHINGTON.

(a) Exchange of Land.--The Secretary shall exchange approximately 171 acres of land acquired by the United States for the Lower Granite Lock and Dam project, Washington, authorized as part of the navigation project for the Snake River, Oregon, Washington, and Idaho by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21), for a tract of land owned by the Port of Whitman County, Washington, which the Secretary determines is suitable for wildlife mitigation purposes. Such exchange shall be made with regard to the values of the lands being exchanged.

(b) Terms and Conditions. --The land of the United States exchanged under subsection (a) shall be subject to a reversionary interest in the United States if such land is used for any purpose other than port or industrial purposes. Such exchange shall also be subject to such other terms, conditions, reservations, and restrictions as the Secretary determines necessary for the development, maintenance, and operation of the Lower Granite Lock and Dam project referred to in subsection (a) and to protect the interests of the United States.

(c) Legal Descriptions and Surveys. --The exact acreages and legal descriptions of the lands exchanged under subsection (a) shall be determined by such surveys as the Secretary determines are necessary. The cost of such surveys shall be paid by the Port of Whitman County, Washington.

#### SEC. 30. LESAGE/GREENBOTTOM SWAMP, WEST VIRGINIA.

(a) Limitation on Land Conveyance.--The Secretary shall not convey title to all or any part of the Lesage/Greenbottom Swamp to the State of West Virginia.

(b) Lesage/Greenbottom Swamp Defined.--For purposes of this section, the term "Lesage/Greenbottom Swamp" means the land located in Cabell and Mason Counties, West Virginia, acquired or to be acquired by the United States for fish and wildlife mitigation purposes in connection with the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

(c) Limitation on Statutory Construction.--Nothing in this section shall be construed as affecting the authority of the Secretary to carry out the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

#### SEC. 31. PORTUGUESE AND BUCANA RIVERS, PUERTO RICO.

The Secretary is authorized to pay tuition expenses of suitable, English-taught primary and secondary education in Puerto Rico for the child or children of any Federal employee when such expenses are incurred after the date of the enactment of this Act and while the employee is temporarily residing and employed in Puerto Rico for the construction of the Portuguese and Bucana Rivers, Puerto Rico, project.

#### SEC. 32. ALTERNATIVES TO MUD DUMP FOR DISPOSAL OF DREDGED MATERIAL.

Section 211 of the Water Resources Development Act of 1986 (100 Stat. 4106; 33 U.S.C. 2239) is amended by redesignating subsections (d), (e), (f), and (g), and any references thereto, as subsections (e), (f), (g), and (h), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Designation Plan.--Not later than 120 days after the date of the enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the

funding requirements associated with these actions, and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).".

**SEC. 33. MISSOURI RIVER BETWEEN FORT PECK DAM, MONTANA,  
AND GAVINS POINT DAM, SOUTH DAKOTA AND NEBRASKA.**

Section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 891), is amended by adding at the end thereof the following new subsection:

"(f) The Secretary of the Army is directed to undertake such measures, including maintenance and rehabilitation of existing structures, which the Secretary determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and a point 58 miles downstream of Gavins Point Dam, South Dakota, and Nebraska. The cost of such measures may not exceed \$3,000,000 per fiscal year. Notwithstanding any other provision of law, the costs of these measures, including the costs of necessary real estate interests and structural features, shall be apportioned among project proposes as a joint-use operation and maintenance expense. In lieu of structural measures, the Secretary may acquire interests in affected areas, as the Secretary deems appropriate, from willing sellers."

**SEC. 34. NEW YORK HARBOR DRIFT REMOVAL PROJECT.**

Section 91 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended by striking out "\$30,500,000" and inserting in lieu thereof "\$6,000,000 annually".

**SEC. 35. PLACEMENT OF DREDGED BEACH QUALITY SAND ON  
BEACHES.**

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by adding at the end thereof the following new sentence: "In carrying out this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for placing such sand on the beaches of such State and shall, to the maximum extent practicable, accommodate such schedule."

SEC. 36. RESTORATION, VENTURA TO PIERPONT BEACH,  
CALIFORNIA.

The Secretary shall make such emergency repairs as are required to restore groin number 1 of the Ventura to Pierpont Beach erosion control project to its original configuration as authorized pursuant to House Document 87-458, except that the Federal cost shall not exceed \$300,000.

SEC. 37. WILLIAM G. STONE LOCK TOLLS.

Section 1150(b) of the Water Resources Development Act of 1986 (100 Stat. 4255) is amended by striking out "Yolo County, California" and inserting in lieu thereof the following: "the city of West Sacramento, California".

SEC. 38. DECLARATION OF NONNAVIGABILITY FOR PORTIONS  
OF THE DELAWARE RIVER.

(a) Area To Be Declared Non-Navigable; Public Interest.--Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects in Philadelphia, Pennsylvania, to be undertaken within the boundaries described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of the Delaware River, bounded and described as follows, are declared to be non-navigable waters of the United States:

(1) Liberty Landing.

DESCRIPTION OF PIER 53 SOUTH

All that certain lot or piece of ground together with the improvements thereon erected, situate in the 1st ward of the city of Philadelphia and described according to a plan of property by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974:

Beginning at an interior point formed by the intersection of the following two courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 781.002 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east); (2) south 75 degrees 20 minutes 21 seconds east, the distance of 231.805 feet eastwardly from the

easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning, north 0 degree 49 minutes 15 seconds west, the distance of 160.856 feet to a point; thence extending north 79 degrees 53 minutes 04 seconds east, the distance of 24.808 feet to a point; thence extending north 10 degrees 03 minutes west, the distance of 15.0 feet to a point; thence extending south 79 degrees 53 minutes 04 seconds west, the distance of 22.723 feet to a point; thence extending north 4 degrees 56 minutes 56 seconds west, the distance of 99.228 feet to a point; thence extending south 80 degrees 53 minutes 04 seconds west, the distance of 7.0 feet to a point on an arc; thence extending along an arc curving to the right having a radius of 698.835 feet, a central angle of 11 degrees 29 minutes 44 seconds, an arc distance of 140.211 feet to a point of tangency; thence extending north 0 degree 44 minutes 16 seconds west, the distance of 57.302 feet to a point on the former centre line of former Washington Avenue (100 feet wide); thence extending along the said centre line of former Washington Avenue and crossing the bed of a 30-foot-wide private driveway and the bulkhead line, (approved by the Secretary of War, September 10, 1940); south 75 degrees 13 minutes 21 seconds east, the distance of 940.350 feet to a point on the pierhead line (approved by the Secretary of War, September 10, 1940); thence extending along the said pierhead line, south 1 degree 32 minutes 57 seconds east, the distance of 422.516 feet to a point; thence extending north 75 degrees 13 minutes 21 seconds west, recrossing the said Bulkhead line; the distance of 690.031 feet to a point; thence extending north 6 degrees 35 minutes 30 seconds west, the distance of 58.388 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 19.120 feet to a point; thence extending south 10 degrees 6 minutes east, the distance of 4.10 feet to a point; thence extending south 79 degrees 54 minutes west, and crossing the bed of the aforementioned 30-foot-wide private driveway, the distance of 196.802 feet to the First mentioned point and place of beginning.

Containing in total area 374,026.6 square feet--8.58647 acres description of 30-foot-wide private driveway within the property of Pier 53 south.

All that certain lot or piece of ground described as a 30-foot-wide private driveway as shown on a plan of property, situate in the 1st ward of the city of Philadelphia, by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974.

Beginning at an interior point formed by the intersection of the

following 2 courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 802.293 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east), (2) south 75 degrees 20 minutes 21 seconds east, the distance of 277.764 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning north 10 degrees 3 minutes west, the distance of 173.758 feet to a point; thence extending north 14 degrees 52 minutes 4 seconds east, the distance of 180.551 feet to a point; thence extending north 17 degrees 35 minutes 1 second west, the distance of 101.949 feet to a point on the centre line of former Washington Avenue (100 feet wide); thence extending along said former centre line of Washington Avenue, south 75 degrees 13 minutes 21 seconds east, the distance of 35.516 feet to a point; thence extending south 17 degrees 35 minutes 1 second east, the distance of 91.669 feet to a point; thence extending south 14 degrees 52 minutes 4 seconds west, the distance of 182.653 feet to a point; thence extending south 10 degrees 3 minutes east, the distance of 167.104 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 30.000 feet to the first mentioned point and place of beginning. Area of 30-foot-wide private driveway is 13,465.2 square feet--0.30912 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "A".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,100 feet  $7 \frac{3}{8}$  inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 975 feet 1 inch to an angle point; thence continuing along the said easterly side of Delaware Avenue north 14 degrees 35 minutes 09 seconds east, the distance of 50 feet 0 inch to a point on the center line of former Washington Avenue (100 feet wide), stricken from the city plan; thence extending south 75 degrees 14 minutes 21 seconds east along the center line of the said former Washington Avenue, the distance of 151 feet  $4 \frac{7}{8}$  inches to a point on the westerly side of a 30-foot-wide driveway easement; thence extending south 17 degrees 35 minutes 01 second east along the said driveway easement, the distance

of 102 feet 0 inch to an angle point; thence continuing along the said driveway easement south 14 degrees 52 minutes 04 seconds west, the distance of 180 feet 6 5/8 inches to an angle point; thence still continuing along the said driveway easement south 10 degrees 03 minutes 00 seconds east, the distance of 131 feet 7 1/8 inches to a point; thence extending south 14 degrees 39 minutes 39 seconds west along a line, the distance of 638 feet 11 inches to a point; thence extending north 75 degrees 14 minutes 21 seconds west, along a line, the distance of 260 feet 1 1/2 inches to a point on the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 246,456 square feet or 5.6579 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "B".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,038 feet 1 7/8 inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 62 feet 5 1/2 inches to a point; thence extending south 75 degrees 14 minutes 21 seconds east along a line, the distance of 260 feet 1 1/2 inches to a point; thence extending north 14 degrees 39 minutes 39 seconds east along a line, the distance of 638 feet 11 inches to a point on the westerly side of a 30 feet wide driveway easement; thence extending south 10 degrees 03 minutes 00 seconds east along the said driveway easement, the distance of 42 feet 2 inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east crossing the said driveway easement, the distance of 146 feet 2 1/2 inches to a point; thence extending north 10 degrees 06 minutes 00 seconds west, the distance of 4 feet 1 1/4 inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east, the distance of 19 feet 1 1/2 inches to a point; thence extending south 6 degrees 35 minutes 30 seconds east, the distance of 58 feet 4 5/8 inches to a point; thence extending south 75 degrees 13 minutes 21 seconds east, crossing the bulkhead line approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891, the distance of 690 feet 1 5/8 inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; August 9, 1909, and

January 20, 1891; thence extending along the said pierhead line south 1 degree 32 minutes 57 seconds east, the distance of 386 feet 4 1/8 inches to a point; thence continuing along the said pierhead line, south 8 degrees 55 minutes 55.5 seconds east, the distance of 491 feet 11 1/4 inches to a point on the northerly side of Reed Street (50 feet wide) stricken from city plan and vacated and reserved as a right-of-way for drainage, water main and gas purposes; thence extending along same, north 75 degrees 13 minutes 21 seconds west, recrossing the said bulkhead line and 30-foot-wide driveway easement the distance of 632 feet 1 1/2 inches to a point on the westerly side of said driveway easement; thence extending north 12 degrees 24 minutes 31 seconds west, along said driveway easement, the distance of 136 feet 0 1/4 inch to a point; thence extending north 14 degrees 50 minutes 59 seconds east, partly along a 25-foot-wide driveway easement, the distance of 21 feet 0 1/8 inch to a point; thence extending north 75 degrees 13 minutes 21 seconds west, the distance of 492 feet 11 3/4 inches to a point; thence extending south 14 degrees 46 minutes 39 seconds west, the distance of 51 feet 3 1/8 inches to a point; thence extending north 64 degrees 29 minutes 30 seconds west, the distance of 259 feet 9 5/8 inches to the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 785,683 square feet or 18.0368 acres.

(2) Marina Towers and World Trade Center--Pier 25 North.

All that certain lot or piece of ground situate in the 5th ward, city of Philadelphia, Commonwealth of Pennsylvania, described in accordance with a Plan of Property made for Old City Harbor Associates Developers, by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District dated March 26, 1981 as follows: to wit:

Beginning at a point on the easterly line of Delaware Avenue (150 feet wide) located 27 degrees 52 minutes 00 seconds west, the distance of 119 feet 8 7/8 inches from a point of intersection of the easterly line of the said Delaware Avenue with the southerly line of Willow Street (50 feet wide) produced; thence extending along the easterly line of the said Delaware Avenue, the two following courses and distances: (1) north 27 degrees 52 minutes 00 seconds east, the distance of 162 feet 8 1/8 inches to an angle point; (2) north 15 degrees 16 minutes 00 seconds east, the distance of 95 feet 5 3/8 inches to a point; thence extending south 73 degrees 55 minutes 50 seconds east, the distance of 18 feet 5 7/8 inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War

September 10, 1940; thence further extending south 73 degrees 55 minutes 50 seconds east, the distance of 515 feet 9 3/8 inches to a point on the pierhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence extending the following two courses and distances along the said pierhead line of the Delaware River (approved by the Secretary of War September 10, 1940): (1) south 29 degrees 05 minutes 21 seconds west, the distance of 133 feet 8 7/8 inches to an angle point; (2) south 19 degrees 41 minutes 36 seconds west, the distance of 117 feet 2 1/2 inches to a point; thence extending north 74 degrees 44 minutes 00 seconds west, the distance of 504 feet 10 inches to a point on the said bulkhead line of the Delaware River (approved by the Secretary of War September 10, 1940); thence further extending north 74 degrees 44 minutes 00 seconds west, the distance of 23 feet 10 5/8 inches to the first mentioned point and place beginning.

Being parcels number 1 (known as pier 25 north), number 2 and number 3 and containing in total area 130,281.6 square feet.

(3) Marine Trade Center--Pier 24 North.

Description of a property located on the easterly side of Delaware Avenue. Northwardly from the south house line of Callowhill Street produced (pier numbered 24 north).

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made November 16, 1985 by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District, and revised March 22, 1988 by him.

Beginning at a point of intersection of the easterly side of Delaware Avenue (150 feet wide) and the south house line of Callowhill Street (formerly 50 feet wide) produced; thence extending north 27 degrees 52 minutes 00 seconds east along the said side of Delaware Avenue, the distance of 340 feet 3 inches to a point; thence extending south 74 degrees 44 minutes 00 seconds east the distance of 23 feet 10 5/8 inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 74 degrees 44 minutes 00 seconds east the distance of 528 feet 8 5/8 inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 19 degrees 41 minutes 36 seconds west along the said pierhead line the distance of 289 feet 9 1/2 inches to a point on the said south house line of Callowhill Street produced; thence extending north

78 degrees 58 minutes 50 seconds west along the south house line of said Callowhill Street produced the distance of 522 feet 8 3/4 inches to a point on the said bulkhead line; thence continuing along the said south house line of Callowhill Street produced north 78 degrees 58 minutes 50 seconds west the distance of 59 feet 5 1/4 inches to the first mentioned point and place of beginning.

Containing in area 171,171 square feet (3.9295 acres).

(4) National Sugar Company "Sugar House".

Description and Recital--block 6 north 6 lot 17--all that certain land.

Situate in the 5th ward of the city of Philadelphia, Pennsylvania and more particularly described as follows:

Beginning at a point on the southeasterly side of Penn Street (60 feet wide) which point is measured south 43 degrees 30 minutes west along the said southeasterly side of Penn Street the distance of 282 feet 6 inches from a point formed by an intersection of the said southeasterly side of Penn Street and the southwesterly side of Laurel Street (50 feet wide); thence extending from said point of beginning south 46 degrees 30 minutes east the distance of 738 feet 8 1/2 inches to a point on the Delaware River pierhead line established January 5, 1894, approved by Secretary of War September 10, 1940; thence extending south 48 degrees 13 minutes 7 seconds west along the Delaware River pierhead line the distance of 188 feet 3 1/8 inches to a point; thence extending north 46 degrees 30 minutes west partly passing within the bed of a 10-foot-wide alley by deed (which extends northwestwardly to the said southeasterly side of Penn Street) the distance of 723 feet 2 5/8 inches to a point on the said southeasterly side of Penn Street; thence extending north 43 degrees 30 minutes east along the said southeasterly side of Penn Street and crossing the bed of the said 10-foot-wide alley by deed the distance of 187 feet 7 1/2 inches to a point, being the first mentioned point and place of beginning.

Containing 3.148 acres, more or less, as surveyed on June 29, 1981, by Lawrence J. Cleary, Surveyor and Regulator of the 3rd District.

Together with 1,736 linear feet of track thereupon erected, made or being and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in

anywise appertaining. Being known as pier 40 north.

Being the same premises which Ralph Heller, an individual by deed dated November 4, 1981, and recorded in Philadelphia County, in deed book EFP 345 page 531 conveyed unto pier 40 north associates, a Penna. Limited partnership, its successors and assigns, as partnership property for the uses and purposes of said partnership.

#### DESCRIPTION OF PIERS 41, 42, AND 43 NORTH

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Topographic Survey and Plan of Property made May 23, 1988, by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at the point formed by the intersection of the easterly side of Penn Street (60 feet wide), and the southerly side of former Laurel Street (50 feet wide), stricken and reserved for drainage; thence extending south 46 degrees 30 minutes 00 seconds east, along the said southerly side of former said Laurel Street, the distance of 190 feet 9 inches to a point on the bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 46 degree 30 minutes 00 seconds east the distance of 571 feet 3 1/4 inches to a point on the pierhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 48 degrees 13 minutes 07 seconds west along the said pierhead line the distance of 283 feet 5 1/2 inches to a point; thence extending north 46 degrees 30 minutes 00 seconds west leaving said pierhead line the distance of 546 feet 11 5/8 inches to a point on the aforementioned bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending north 46 degrees 30 minutes 00 seconds west the distance of 191 feet 8 7/8 inches to a point on the easterly side of said Penn Street; thence extending north 43 degrees 30 minutes 00 seconds east along the easterly side of said Penn Street the distance of 282 feet 6 inches to the first mentioned point and place of beginning.

#### DESCRIPTION OF PIERS 44 TO 50 NORTH, INCLUSIVE

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made March 7, 1985 by Lawrence J. Cleary,

Surveyor and Regulator of the Third Survey District:

Beginning at a point of intersection formed by the northeasterly side of Shackamaxon Street (60 feet wide) and the southeasterly side of Penn Street (50 feet wide); thence extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (reserved for drainage purposes), the distance of 170 feet 8 5/8 inches to a point on the bulkhead line of the Delaware River (established January 5, 1894--approved by the Secretary of War, September 10, 1940); thence further extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (subject to a right-of-way for sewer maintenance as provided in ordinance), the distance of 623 feet 6 3/8 inches to a point on the pierhead line of the Delaware River (established January 5, 1894--approved by the Secretary of War, September 10, 1940); thence extending south 54 degrees 04 minutes 10 seconds west along the said pierhead line (being also the southeasterly head of the said former Shackamaxon Street), the distance of 61 feet 8 3/8 inches to an angle point; thence extending south 48 degrees 11 minutes 38 seconds west along the said pierhead line the distance of 385 feet 11 1/2 inches to a point on the northeasterly side of Laurel Street (50 feet wide) produced; thence extending north 46 degrees 29 minutes 00 seconds west along the northeasterly side of the said Laurel Street produced, the distance of 575 feet 6 7/8 inches to a point on the said bulkhead line; thence further extending north 46 degrees 29 minutes 00 seconds west along the northeasterly side of the said Laurel Street, the distance of 190 feet 7 inches to a point on the southeasterly side of Penn Street (60 feet wide); thence extending north 43 degrees 30 minutes 00 seconds east along the southeasterly side of the aforesaid Penn Street, the distance of 543 feet 0 3/4 inch to an angle point; thence extending north 63 degrees 51 minutes 33 seconds east along the southeasterly side of said Penn Street (50 feet wide), the distance of 240 feet 9 inches to the first mentioned point and place of beginning.

(5) Rivercenter.

Beginning at the point of intersection of the northeasterly side of Dyott Street (100 feet wide) with the bulkhead line established by the Secretary of War, September 10, 1940; thence from said point of beginning leaving the side of Dyott Street and extending along the bulkhead line the following five (5) courses and distances--

(1) north 64 degrees 18 minutes 09 seconds east 829 feet 10 inches to a point;

(2) south 48 degrees 30 minutes 57 seconds east 53 feet 5 5/8 inches to a point;

(3) north 64 degrees 40 minutes 52 seconds east 936 feet 8 5/8 inches to a point;

(4) north 32 degrees 24 minutes 26 seconds west 149 feet 2 1/4 inches to a point;

(5) north 64 degrees 04 minutes 09 seconds east crossing a 60 foot drainage right-of-way 296 feet 3 3/4 inches to a point on the southwesterly side of pier #20;

thence extending along said southwesterly side of pier #20 15 feet distant and parallel with the aforementioned drainage right-of-way south 25 degrees 02 minutes 08 seconds east 586 feet 6 3/8 inches to a point on the pierhead line established by the Secretary of War, September 10, 1940; thence extending along the pierhead line south 64 degrees 16 minutes 52 seconds west 2,021 feet 10 inches to a point on the northeasterly side of Dyott Street; thence extending along said northeasterly side of Dyott Street north 30 degrees 02 minutes 52 seconds west 494 feet 9 3/8 inches to the point and place of beginning.

The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

(b) Limits on Applicability; Regulatory Requirements.--The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) Expiration Date.--If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the

requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

**SEC. 39. DECLARATION OF NONNAVIGABILITY FOR PORTIONS  
OF CONEY ISLAND CREEK AND GRAVESEND BAY, NEW YORK.**

(a) Area To Be Declared Non-Navigable; Public Interest.--Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Coney Island Creek and Gravesend Bay, New York, described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of such Creek and Bay, bounded and described as follows, are declared to be non-navigable waters of the United States:

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost United States Pierhead Line of Coney Island Creek.

Running thence south 12 degrees 41 minutes 03 seconds E and along the westerly line of Cropsey Avenue, 98.72 feet to the northerly channel line as shown on Corps of Engineers Map Numbered F. 150 and on Survey by Rogers and Giollorenzo Numbered 13959 dated October 31, 1986.

Running thence in a westerly direction and along the said northerly channel line the following bearings and distances:

South 48 degrees 59 minutes 27 seconds west, 118.77 feet; south 37 degrees 07 minutes 01 seconds west, 232.00 feet; south 23 degrees 17 minutes 10 seconds west, 430.03 feet; south 31 degrees 25 minutes 46 seconds west, 210.95 feet; south 79 degrees 22 minutes 49 seconds west, 244.18 feet; north 55 degrees 00 minutes 29 seconds west, 183.10 feet; north 41 degrees 47 minutes 04 seconds west, 315.16 feet;

North 41 degrees 17 minutes 43 seconds west, 492.47 feet to the said Pierhead Line; thence north 73 degrees 58 minutes 40 seconds west and along said pierhead line, 2,665.25 feet to the intersection of the United States bulkhead line;

Thence north 0 degree 19 minutes 35 seconds west and along the United States Bulkhead line 1,138.50 feet to the intersection of the westerly prolongation of the center line of 26th Avenue,

Thence north 58 degrees 25 minutes 06 seconds east and along the center line of said 26th Avenue, 2,320.85 feet to the westerly line of Cropsey Avenue, then southeasterly and along the southerly line of Cropsey Avenue the following bearings and distances:

South 31 degrees 34 minutes 54 seconds east, 4,124.59 feet;  
and

South 12 degrees 41 minutes 03 seconds east, 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn. The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

(b) Limits on Applicability; Regulatory Requirements.--The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) Expiration Date.--If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

SEC. 40. EXTENSION OF MODIFIED WATER DELIVERY SCHEDULES,  
EVERGLADES NATIONAL PARK.

The first sentence of section 1302 of the Supplemental Appropriations Act, 1984 (97 Stat. 1292-1293) is amended by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1992".

SEC. 41. PERIOD OF ENVIRONMENTAL DEMONSTRATION PROGRAM.

(a) Extension of Period.--Section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note) is amended by striking out "two-year period" and inserting in lieu thereof "5-year period".

(b) Reports.--Section 1135(d) of such Act is amended by striking out "two years" and inserting in lieu thereof "5 years".

SEC. 42. FEDERAL HYDROELECTRIC POWER MODERNIZATION STUDY.

(a) Study.--The Secretary shall conduct a study of the need to modernize and upgrade the federally owned and operated hydroelectric power system.

(b) Report.--Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations.

SEC. 43. WATER QUALITY EFFECTS OF HYDROELECTRIC FACILITIES.

(a) Study.--The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall undertake a study of the water quality effects of hydroelectric facilities owned and operated by the Corps of Engineers. Such study shall be transmitted to Congress within 2 years of the date of the enactment of this Act and shall consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to such study results.

(b) Limitations.--Nothing in this section shall convey to any agency of the Federal Government any new authority with respect to the

allocation or release of water from Federal reservoirs. Further, nothing in this section is designed or intended to affect any present or future legal actions or proceedings.

#### SEC. 44. GAO REVIEW OF CIVIL WORKS PROGRAM.

The Comptroller General of the United States General Accounting Office is authorized and directed to conduct a review of the Civil Works Program of the United States Army Corps of Engineers. This management and administration review shall be transmitted to Congress, together with any recommendations which the Comptroller General may make.

#### SEC. 45. DES PLAINES RIVER WETLANDS DEMONSTRATION PROJECT AUTHORIZATION.

(a) Restoration of Wetlands.--The Secretary is authorized to carry out a project to construct, and engage in other activities, necessary for the restoration of wetlands, of sufficient scale, for research and demonstration purposes adjacent to the Des Plaines River in Wadsworth, Illinois. The non-Federal interest shall agree--

(1) to provide, without cost to the United States, all lands, easements, and rights-of-ways necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) after the completion of the research work, to operate and maintain the restored wetlands in accordance with good management practices.

The value of the non-Federal lands, easements, rights-of-way, and relocations provided by the non-Federal interests, shall be credited toward the non-Federal share of project construction costs. The non-Federal share of project construction costs shall be 25 percent.

(b) Authorization of Appropriation.--There are authorized to be appropriated to the Secretary \$2,200,000 for the period of fiscal years 1990 through 1994 to carry out this section.

(c) Purposes.--The project authorized by this section shall--

(1) define the wetland functions expected to be restored and maintained giving due consideration to site specific climatic, topographic, hydrologic, and edaphic conditions;

(2) conduct research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(3) establish and report design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report these wetland functions;

(4) create or restore sustainable wetlands which will serve as examples of the benefits and aesthetics of wetland landscapes; and

(5) secure the long -term commitment from a State or local agency for the maintenance of the wetlands following the research work.

(d) Report.--The Secretary shall report to Congress on the degree of progress achieved in carrying out the project under this section.

#### SEC. 46. KISSIMMEE RIVER, FLORIDA.

The Secretary is directed to proceed with work on the Kissimmee River demonstration project, Florida, pursuant to section 1135 of the Water Resources Development Act of 1986.

#### SEC. 47. WATER RESOURCES STUDIES.

(a) Internal Drainage System, Frog Pond Agricultural Area, Florida.--The Secretary shall conduct a study for the purpose of determining the need for an internal drainage system in the Frog Pond agricultural area of south Dade County, Florida. Within 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a reconnaissance report on the need for such system.

(b) Bartlett, Illinois.--Before issuing a permit under section 404 of the Federal Water Pollution Control Act for a proposed municipal landfill in the vicinity of Bartlett, Illinois, the

Secretary shall consider the impact of such landfill on the Newark Valley Aquifer and on the ability of water from such Aquifer to dilute for purposes of drinking water supply naturally occurring radium in groundwater. Before issuing such permit, the Secretary shall consult with the Administrator of the Environmental Protection Agency with respect to the impact of such landfill on the Newark Valley Aquifer. Such consultation shall occur within 45 days after the date of the issuance, when and if made, of the Illinois water quality certification of such landfill pursuant to section 401 of such Act and shall include the Administrator's analysis of the permit record of the Illinois Environmental Protection Agency with respect to the water quality impacts of such landfill. Within 90 days of receiving a completed application for a permit under section 404 of such Act, including such Illinois water quality certification, the Secretary shall report to Congress on the impact of such landfill on the Newark Valley Aquifer. The provisions of this subsection shall not constitute an affirmative requirement for the Secretary to expand upon the existing permit record as prepared by the Illinois Environmental Protection Agency.

(c) Bluestone Lake, West Virginia. --

(1) In general. --The Secretary, in cooperation with the Secretary of the Interior, is authorized and directed to conduct a study and prepare a report on modifying the operation of the Bluestone Lake project, West Virginia, in order to facilitate the protection and enhancement of biological resources and recreational use of waters downstream from the project. Specific consideration shall be given in the study to all feasible means of improving flows from such project during periods when flows from the lake are less than 3,000 cubic feet per second, except that the study shall not consider project operation adjustments which entail major construction modifications at the project.

(2) Notice and comments. --The Secretary shall publish notice of the proposed study under this subsection in the Federal Register within 3 months after the date of the enactment of this Act and shall consider any written comments regarding the scope of the study which are submitted during the 60 -day period after publication of such notice.

(3) Final report. --Not later than 18 months after the date of the enactment of this Act, the final report on the results of the study under this subsection shall be transmitted to Congress.

(d) Great Lakes and Saint Lawrence Seaway. --

(1) Study of financing navigational improvements. --The Secretary, in cooperation with other Federal agencies and private persons, is authorized and directed to contract with an independent party to conduct a study of cost recovery options and alternative methods of financing navigational improvements on the Great Lakes connecting channels and Saint Lawrence Seaway, including modernization of the Eisenhower and Snell Locks of the Saint Lawrence Seaway.

(2) Report. --Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study carried out under this subsection together with recommendations.

(3) Cost sharing. --The non-Federal share of the cost of the study under this subsection shall be 50 percent; except that not more than 1/2 of such non-Federal share may be made by the provision of services, materials, supplies, or other in-kind services necessary to carry out the study.

#### SEC. 48. DIVISION LABORATORY.

The Secretary is authorized to construct a new division laboratory at an estimated cost of \$2,400,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is authorized to acquire for such purpose.

#### SEC. 49. WATER RESOURCES MANAGEMENT PLANNING SERVICE FOR THE HUDSON RIVER BASIN.

The Secretary is directed to establish a water resources management and planning service for the Hudson River Basin in New York and New Jersey. There is authorized to be appropriated \$400,000 annually for the purpose of providing the two States a full range of services for the development and implementation of State and local water resource initiatives.

#### SEC. 50. TECHNICAL RESOURCE SERVICE, RED RIVER BASIN, MINNESOTA AND NORTH DAKOTA.

The Secretary is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There

is authorized to be appropriated \$500,000 annually for the purpose of providing to such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960 and section 22 of the Water Resources Development Act of 1974.

#### SEC. 51. CORRECTION OF DESCRIPTIONS.

(a) Hudson River, New York.--That portion of Public Law 100-202 designated as the Energy and Water Development Appropriation Act, 1988 is amended by striking out the undesignated paragraph beginning "The following portion of the Hudson River" and ending "the States of New York and New Jersey." (101 Stat. 1329-109) and inserting in lieu thereof the following:

"The following portion of the Hudson River in the Borough of Manhattan, New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project; that portion of the Hudson River and land thereunder more particularly bounded and described as follows: Beginning at a point in the United States Pierhead Line approved by the Secretary of War on July 31, 1941, such point having a coordinate of north 4,677.56 feet and west 11,407.92 feet and running: (1) northerly along such Pierhead Line on a bearing of north 21 degrees 01 minutes 53 seconds west for a distance of 700 feet to a point; thence (2) westerly at right angles to such Pierhead Line on a bearing of south 68 degrees 58 minutes 07 seconds west for a distance of 200 feet to a point; thence (3) southerly and parallel with such Pierhead Line on a bearing of south 21 degrees 01 minutes 53 seconds east for a distance of 700 feet to a point; thence (4) easterly at right angles to such Pierhead Line on a bearing of north 68 degrees 58 minutes 07 seconds east for a distance of 200 feet to the point of beginning. Bearings and coordinates are in the system used on the Borough Survey, Borough President's Office, Manhattan. This declaration shall apply to all or any part of such described area used or needed for New York harbor passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by compact between the States of New York and New Jersey."

(b) Mianus River, Connecticut.--Section 1006(b) of the Water Resources Development Act of 1986 (100 Stat. 4223) is amended--

(1) in paragraph (2) by striking out "coordinates N14296.251" and inserting in lieu thereof "coordinate: N14296.451"; and

(2) in paragraph (3)--

(A) by striking out "64 seconds West" and inserting in lieu thereof "54 seconds West"; and

(B) by striking out "coordinate: N13970.8" and inserting in lieu thereof "coordinate: N13970.81".

## SEC. 52. PROJECT DEAUTHORIZATIONS.

(a) Extension of Limitation on Period of Authorization.--

(1) Projects in this act. --The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall apply to the projects authorized for construction by this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the enactment of this Act.

(2) Projects thereafter. --The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall also apply to projects authorized for construction subsequent to this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the authorization of such projects.

(b) Specified Projects. --The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date of enactment or is under construction on such date of enactment:

(1) Rockland lake, texas. --The Rockland Lake water resources project, Texas, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public work on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 18).

(2) White river navigation to batesville, arkansas. --The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139).

(3) Chicago river turning basin, Chicago harbor, Illinois.--The inner basin of Chicago Harbor, Illinois, known as the Chicago River Turning Basin, authorized by the first section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871", approved July 11, 1870 (16 Stat. 226).

(c) Algoma, Wisconsin, Outer Harbor.--

(1) Deauthorization.--Except as provided in paragraph (2), the outer harbor basin feature of the navigation project for Algoma, Wisconsin, authorized by the Act entitled "An Act making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (34 Stat. 1101), is not authorized after the date of the enactment of this Act.

(2) Retention of maintenance responsibilities for breakwaters and channel.--The Secretary shall retain all responsibilities of the Secretary existing on the date of the enactment of this Act for maintenance of the breakwaters and channel of the harbor at Algoma, Wisconsin.

(d) Continuation of Project Authorizations.--Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1))--

(1) the navigation project for Monterey Harbor (Monterey Bay), California, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 483),

(2) the navigation project for the North Branch of the Chicago River, Illinois, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 636),

(3) the element of the Missouri River Basin Project authorized by section 228 of the River and Harbor Act of 1970, and

(4) the navigation project for the James River, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76

Stat. 1174),

shall remain authorized after December 31, 1989. Such projects and elements shall not be authorized for construction after the last day of the 5-year period beginning on the date of the enactment of this Act unless during such period funds have been obligated for construction, including planning and designing, of such projects and elements.

(e) Notice.--The Secretary shall publish in the Federal Register notice as to any project which would no longer have been authorized pursuant to the provisions of section 1001 of the Water Resources Development Act of 1986 or subsection (a) of this section but remains authorized due to enactment of law by Congress.

#### SEC. 53. NAMINGS.

(a) Ventura Harbor.--

(1) Designation.--The harbor commonly known as Ventura Marina, located in Ventura County, California, and adopted and authorized by section 101 of Public Law 90-483, shall hereafter be known and designated as "Ventura Harbor".

(2) Legal references.--A reference in any law, map, regulation, document, record, or other paper of the United States to such Harbor shall be deemed to be a reference to "Ventura Harbor".

(b) Elvis Stahr Harbor, Port of Hickman.--

(1) Designation.--The harbor located on the Mississippi River at Hickman, Kentucky, known as the Port of Hickman, shall hereafter be known and designated as the "Elvis Stahr Harbor, Port of Hickman".

(2) Legal reference.--A reference in any law, map, regulation, document, record, or other paper of the United States to such harbor shall hereafter be deemed to be a reference to the "Elvis Stahr Harbor, Port of Hickman".

(c) Ed Jones Boat Ramp.--

(1) Designation.--The boat ramp to be constructed on the Mississippi River in Lauderdale County, Tennessee, shall be known

and designated as the "Ed Jones Boat Ramp".

(2) Legal reference.--A reference in any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Ed Jones Boat Ramp".

#### SEC. 54. DECLARATION OF NONNAVIGABILITY OF BODIES OF WATER IN RIDGEFIELD, NEW JERSEY.

The three bodies of water located at block 4004, lots 1 and 2, and block 4003, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which have their mouths at the Hackensack River at 40 degrees 49 minutes 58 seconds north latitude and 74 degrees 01 minute 46 seconds west longitude, 40 degrees 49 minutes 46 seconds north latitude and 74 degrees 01 minute 55 seconds west longitude, and 40 degrees 49 minutes 35 seconds north latitude and 74 degrees 02 minutes 04 seconds west longitude, respectively, and the body of water located at block 4006, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which has its mouth at the Hackensack River at 40 degrees 49 minutes 15 seconds north latitude and 74 degrees 01 minute 52 seconds west longitude, are declared to be nonnavigable waterways of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) and section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), commonly known as the River and Harbors Appropriation Act of 1899.

Approved November 17, 1988.

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#### LEGISLATIVE HISTORY – S. 2100 (H.R. 5247)

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HOUSE REPORTS: No. 100-1098 (Committee of Conference).

SENATE REPORTS: No. 100-313 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Apr. 26, considered and passed Senate.

Sept. 30, considered and passed House, amended, in lieu of H.R. 5247.

Oct. 20, Senate agreed to conference report.

Oct. 21, House agreed to conference report.