

The Keys to Understanding Corps Reform Proposals: What are Current Practices and Procedures, What has been “Fixed” So Far, and What Do the Proposals Mean to Stakeholders?

Background leading to provisions in current legislation:

1) Q: “Corps Reform” – We’ve all heard it. What is it, why is it needed and why hasn’t anybody done anything about it?

A: In 2000, many realized that the planning component of the U.S. Army Corps of Engineers was “coasting” and lacked a systematic review mechanism to identify weaknesses and strengths. Although their economic models were considered some of the best in the world, the Corps was not keeping up with “cutting edge” academic model design theories, particularly in the area of elasticity. The feasibility planning process needed “reforming” in how the Corps of Engineers conducted their studies so as to make it more workable, streamlined, and accountable and responsive to citizens.

A multi-pronged approach ensued. The Corps instituted a rapid-response protocol (continuing to this day) which encompassed the following elements: 1) The establishment of Planning Centers of Expertise and Planning Communities of Practice to act as resources and reference points of contact; 2) Contracting with the National Academies of Science (NAS) for recommendations on improvements to the planning processes; 3) Contracting with NAS for review of specific “problematic” feasibility studies; 4) Contracting with Oak Ridge National Laboratories and the Tennessee Valley Authority to peer review and design new economic models; 5) The establishment of a Planning Models Improvement Task Force whose report, approved by the Director of Civil Works in November 2003, established new roles and responsibilities for Corps headquarters and the Planning Centers of Expertise in overseeing planning models by setting up processes to “review, improve and validate analytical tools and models;” 6) The establishment of a NETS (Navigation Economic Technology) program to design “cutting edge” spatial equilibrium models as well as provide empirical data; 7) The establishment of a comprehensive educational program for current and future planning leaders from around the country; 8) Channeling all feedback and advances into a new “Planner’s Toolbox” with new engineering circulars; 9) New directives on information quality that include guidance on reviews and implementation of an independent peer review process based upon (although more stringent than) OMB regulations implementing the Information Quality Assurance Act; and 10) Requiring Corps planners to collaborate more fully with others and to consider other needs during formulation of a Corps project.

At the same time, Congress addressed the problem. The House of Representatives passed a version of “Corps reform” (within the Water Resources Development Act of 2005) designed to make the Corps more accountable in their modeling and planning expertise. It also included provisions on when and how feasibility studies are reviewed. The Senate Committee on Environment and Public Works passed a similar version, updated to reflect new realities in ongoing efforts by the Corps of Engineers over the past five years to address the criticisms and inputs they have received.

2) Q: Why is it that the Corps is receiving all this attention? Isn’t it because they are a rogue agency?

A: Economic water resources projects are the ONLY infrastructure projects in the nation that must have benefit-cost ratios that, as per the Principles and Guidelines, are grounded in economic theories. No other infrastructure projects in America are required to meet such a test, nor are environmental restoration projects subject to such scrutiny. Therefore, other federal agencies do not have the wealth of data, nor decision-making processes, available for second-guessing.

The Corps actually has more federal oversight, based upon the size of their budget, than any other federal agency. Keep in mind that, as an agency, the Corps has relatively little discretion in its activities. Corps projects are individually authorized – and only after completion of a Congressionally-directed study and exhausting reviews – and each are reviewed annually as part of the budget and appropriations process. This level of scrutiny is unprecedented elsewhere among Federal agencies.

3) Q: Didn’t the Corps “cook the books” on the Upper Mississippi Locks Study?

A: No, the Corps did not “cook the books” according to the National Academies of Science. At the crux of this very complicated situation is that in the middle of an ongoing feasibility study a Corps economist was attempting to design a partial spatial equilibrium economic model that would capture values for elasticity. The model had not been independently peer reviewed and less formal reviews revealed flaws. A multitude of efforts by a variety of sources tried to find solutions that would “fix” the model. Because of those efforts, the economist “whistle-blower” claimed he was directed to manipulate data to justify a pre-selected conclusion. When the

National Academies of Science finally reviewed the feasibility study, in two reports, they called the economist's partial spatial equilibrium model "elegant in theory", but unusable, and in the second report, forcefully advised the Corps to dispense with the model entirely because it was completely unworkable. In any case, the "cooking the books" charge is old news; a compelling argument can be made that in the years which have passed since that time, changes in methods have addressed the questionable elements in this thoroughly examined case.

4) Q: But didn't the Office of the Inspector General of the Army also say that the Corps "cooked the books"?

A: The Inspector General's office acted before receiving the NAS reports that said the model was unworkable. In hindsight, Corps officers were correct in directing the whistle-blower to rework his assumptions and to have his untested model peer-reviewed. Efforts are ongoing to have the Inspector General's office review their decision and restore the good names of the officers whose careers were destroyed in the process.

Simple fairness requires that we bear in mind that it was the Corps of Engineers that engaged the services of the National Academies of Science to review the feasibility study process, address the model efficacy issue, and give recommendations on future directions.

Report on the Nation's Flood Risks

5) Q: In the wake of Hurricanes Katrina and Rita, don't we need to know about the condition of our flood control structures?

A. Absolutely. Right now there are at least five major urban areas that have a level of flood protection less than that of pre-Katrina New Orleans, and there are countless smaller communities at risk, so the state of our infrastructure is an extremely serious issue. The question is not whether there needs to be an assessment of the state of our flood control structures and attendant risks, but whether the coordinating body in charge of such an assessment should be a revitalized Water Resources Council, perhaps an Advisory Committee, or the Corps of Engineers. There is already a proposal in the President's FY 2007 budget that the Corps of Engineers undertake an inventory of the more than 9000 miles of levees under federal jurisdiction as well as all of the levees that are not under federal jurisdiction--a multi-year task.

While many levees are under "federal jurisdiction," in most cases that means that even though they were built by the Corps of Engineers, they are actually owned, operated and maintained by local, regional or state entities. Once construction is finished, local sponsors generally assume ownership and the attendant responsibility for maintenance.

Project Prioritization

6) Q. Money is tight. Doesn't it make sense to have the Water Resources Council, with input from the National Academies of Science, prioritize what projects should be funded?

A. The Civil Works program of the U.S. Army Corps of Engineers is subject to an exhaustive process of budget prioritization, not the least of which is because, as the only infrastructure projects in the nation required to have cost-benefit ratios grounded in economic theory and extensive ongoing economic analyses, data exists from which to evaluate incremental changes in benefits as a function of increased or decreased spending.

From their inception, each "economic" water resources infrastructure project goes through multiple "winnowing" processes. Based on a recent sample of data taken over several years, only 16% of proposed project studies generally pass the positive "national benefit"-cost ratio threshold which, when combined with other engineering and scientific analyses, makes them eligible for a favorable Chief's report.

The second winnowing is a cost-sharing requirement. Both studies and construction require percentages of local monies that match amounts from the Federal government, as well as other contributions such as lands, easements and rights of way. (In the case of inland waterway construction projects, matching funds come from the Inland Waterways Trust Fund.) Unless exempted by Congress, if a local cost-sharing agreement is not finalized, a project is not eligible for Federal funds to go forward.

Next is the actual budget apportionment process. It begins roughly 18 months before a President's budget is delivered to Congress and starts at the district level of the Corps of Engineers. Performance-based budgeting requires a highly detailed matrix that starts with a zero-base sum for each project. Projects are sorted by benefits and costs or remaining benefits and costs, and rated in a variety of categories such as costs per ton-mile and trip ton-mile calculations (for navigation O&M projects), project completion dates and risk factors for the environment, safety and operations. Each of the "economic" Corps projects is then subject to a "diminishing returns" analysis that defines specific measurable performance benefits that may be gained through a number of levels of incremental funding. In addition, if a project has unique elements or circumstances (such as judicial judgments or a unique transportation route vital to economic/national security), it is flagged. Note is also taken of

loss of federal revenue from multiple missions that may be dependent upon one use (such as jeopardy to hydropower or water supply due to pending drops in the level of water for navigation.) Those recommendations are then sent to a Corps Division office that merges all district inputs into a "Division" recommendation – again, comparing apples to oranges in ranking projects from their areas. Divisions then send their recommendations up to Corps headquarters in Washington. They are reviewed, merged and "cross-walked" (transportation missions are compared to flood control are compared to hydropower, etc.) so as to rank all of the projects in the nation on a "benefit" scale.

The final step in the Corps process is a "racking and stacking" of projects by mission so as to conform to OMB provided "ceiling" funding levels for the next fiscal year.

OF NOTE: There are three areas in which the prioritization process of the Corps and OMB has shortcomings:

- 1) Construction projects are ranked by their remaining benefit/remaining cost ratio (RBRCR). Over the past two years, those with less than a 3 to 1 positive RBRCR have been left out of the President's budget due to a scarcity of funds. Unfortunately, this type of formula is generally biased against flood control projects because those projects tend to provide benefits over the life of construction, causing lower RBRCR figures. To "fix" this problem for FY2007, the Corps has added a new "metric" to capture those flood control projects below a 3.0 RBRCR that have a high risk to human life and safety as measured by velocity and depth of flows during a flood event as well as lead warning times.
- 2) While environmental restoration projects are now being ranked by cost per acre, there is no metric currently being used to actually calculate "national benefits" to the nation, or one that would enable an objective incremental funding analysis.
- 3) Corps analyses do not encompass global market dynamics. Current decision making processes assume that business/recreation development would stay in the United States rather than transfer to foreign countries. For example, if a channel is not maintained at an authorized depth, the Corps model assumes that a company response would be to build or expand into another part of the U.S. rather than overseas. Therefore, those benefits are not counted.

Once the Corps process is completed, the prioritization process moves into the realm of decision-making tinged with political policy considerations:

Next up is the Office of Management and Budget. They have their own criteria and priorities for funding, but use the Corps database as a guide. For FY2007, within the construction account, a small number of projects (90 out of approximately 655) were accorded "priority status" which allows for some level of funding. Of those, the highest priority Administration projects (dam safety as well as 9 other construction projects) were allowed full funding. The next tier of projects receives a smaller percentage of their funding needs and the other OMB priority projects receive less than half the amount needed. The remaining construction projects (approximately 545 projects) were either subject to immediate termination or special review if under a current continuing contract. Recent "trend" analyses of funding paradigms strongly suggest that OMB policy is skewed in favor of environmental restoration projects to the detriment of "economic" projects.

After the President's budget is delivered to Congress, the authorizing committees deliver their "Views and Estimates" which includes their justification for a specific level of funding based upon their own evaluation of project funding level needs.

Appropriations Committees also have funding matrices designed to track yearly funding commitments and changes in circumstances for specific projects. There is an extensive process whereby Corps districts are required to submit "justification" sheets for each project. In addition, Appropriations Committees gauge political support for projects, balancing as much as possible the priorities of members with the actual needs of a project and the attendant implications.

In its previous incarnation, the Water Resources Council was tasked with "prioritizing" projects. It was unable to do so and the entire exercise led to a wholesale stoppage of projects. This was a major factor in the decision to no longer fund the Council.

7) Q: S. 2288 calls for comprehensive, regional port planning. Isn't that a good idea?

A. Unlike the model employed in many foreign countries, landside port development in the United States relies on private-public (state and local) partnerships. The competition in national and international dynamic markets is what drives planning for port infrastructure development and the existence of hinterland markets and shippers. This market-driven approach is very efficient as ports generally develop infrastructure to accommodate specific lines of cargo (containers, bulk, etc.) rather than go into a disastrous head-to-head competition. In practice, the so-called "race to the bottom" doesn't exist.

In developing strategic plans based upon market developments and advances in ship design, etc., some ports foresee the need for channel deepening. In those instances, the Federal government often becomes a partner, but Federal investment is limited to a relatively small percentage of the cost of port deepening (around 20-30% when all local sponsor contributions and related costs are tallied). The local share in deepening projects normally is around 70%, making the public port authority the major investor in the projects. In the final tally, Federal funds in port deepening are “seed money” and are dwarfed by the total amount of private and/or public (state and local) dollars invested in associated berthing areas and related landside infrastructure.

The cost of maintaining port channels is no longer a Federal responsibility as 100% of the price tag is paid from the Harbor Maintenance Trust Fund, derived through an ad valorem tax paid by shippers. While “private”, those funds are allotted within the Corps funding bill, and as such, are subject to a prioritization process (already detailed in this paper), which has led to record surpluses in the Trust Fund.

It must be noted that as larger ports are expanding and/or increasing through-put to address increased freight demands (an expected doubling within the next 15 years), varying commodities are migrating to mid-size and smaller ports – reflecting the variety of market factors now in play, including congestion, ship design advances and intermodal transportation dynamics.

Modernizing the Feasibility Planning Process

8) Q: The “Principles and Guidelines” (P&G) give direction to the Corps of Engineers on how to structure their planning reports. They’ve been around for 23 years. Shouldn’t they be updated with the help of a reconstituted Water Resources Council and the National Academy of Sciences so that those planning processes can be improved?

A: At the request of the Corps, the NAS has already had input on the Corps planning processes, so there is no need to legislate another report. The NAS has released three reports --in 1999, 2003 and 2004. Since then the Corps has been revising its planning circulars and regulations to reflect that input. The most recent update is as of May 31, 2005, and has since been amended in the wake of Hurricanes Katrina and Rita to emphasize including a quantification of the risks to human life as well as residual risk from flood and storm protection efforts. The P&G were developed to establish National Economic Development guidelines and procedures which are very general and very broad, offering a wide variety of benefits and costs that can be used in calculations. The details that actually govern how to conduct benefit-cost analyses are in the Corps planning circulars and regulations, which are updated regularly.

As an example of the broadness of the current Principles and Guidelines, the May 31 circular is profound in its expansion of the benefits and effects that can be counted from the four P&G accounts of National Economic Development (NED); Environmental Quality (EQ); Regional Economic Development (RED); and Other Social Effects (OSE), such as navigation recreation benefits, congestion effects, and air quality. Because of that expansion, the Corps is better able to seek exceptions from recommending only the NED plan for other plans that have net beneficial effects. The next update to the planning circular is scheduled for September 2007.

Even though the Engineering Circular guidance has been expanded, there are still areas of “weakness” – some of which are due to a lack of available benefit “measurement tools” or because of current law. For example, environmental restoration projects are assumed by law to have a positive net national benefit, and thus are not subject to a quantitative measurement of the value of a wetland or an analysis to gain insight into what aspects of restoration are more economically advantageous than others. “Globalization” is another area in which the Corps has been slow to react. Corps methodology assumes that businesses/recreation will move from one location to another within the U.S. in response to varying conditions, and thus counting those benefits within a project is a “wash.” Both of these “weaknesses” can be corrected through directives in Engineering Circulars as well as advances in design of methodology through which benefits and costs are measured, as they are currently within the scope of the Principles and Guidelines.

Independent Review

9) Q: The Corps’ collaborative planning circular suggests that it will take around three years to go through project planning phases, even when there are no complications. Won’t the independent review measure in the S. 2288 and similar Corps reform proposals speed up the process?

A: No. Instead of “streamlining” or shortening the timeline required in a planning process, these provisions establish an independent review process separate and apart, not complementary, to the review guidance already established and based upon regulations flowing from the Information Quality Act from December 2004. More layers of bureaucracy will add 180-240 days, or over 9 months to the process. This does

not take into account any actions subsequent to the reviews outlined in S. 2288 or the responses required for what is referred to as “each earlier evaluation” by a panel.

10) Q: Should all projects be reviewed?

A: In compliance with the provisions of the Information Quality Act, the Corps requires reviews all of its project feasibility studies, and they have already established their review panels. Both current versions of WRDA enumerate specific instances in which further, more extensive review is needed. Common sense says not all projects need expensive NAS or similar reviews, so flexibility, with safeguards, is what is needed. S. 2288 and other proposals contain a low cost-threshold trigger for an automatic independent review (\$25 million). In addition, there is also a provision that may create legal standing for any party that writes of a concern to challenge a decision to independently review or not independently review a project in a court of law.

11) Q: Some projects are controversial and need independent reviews. Shouldn't they have a review?

A: Yes, projects needing independent review should have independent review. However, the provisions in S.2288 and other like proposals provide for an independent review at the end of the draft feasibility report stage rather than during the study process. Especially for those projects that need an independent review, input should be given during the study process to ensure a reliable and cost-effective work product. Delaying independent review until after a draft report has been completed could result in a re-visitation of the entire study process---a needless waste of funds as well as a setback to project timetables.

In addition, S. 2288 specifically states that independent reviewers provide an additional report within 30-90 days after the issuance of the FINAL feasibility report, final general reevaluation report, or final environmental impact statement. This in no way contributes to the quality of work product of the Corps planning process and, as it appears after the final decision of the Chief of Engineers, abrogates the responsibility of the Chief .

12) Q: According to S. 2288, independent review panels are to assess the adequacy of the “economic, scientific and environmental models” used for each study. Since the economic models of the Corps have come under fire, isn't this needed?

A: In response to public concerns about their models, and in response to recommendations by the National Academies of Science, the Corps took several steps: 1) They contracted with Oak Ridge National Laboratories and the Tennessee Valley Authority to review models; 2) The Director of Civil Works approved the recommendations of the Planning Models Improvement Task Force in November 2003. That report established new roles and responsibilities for Corps headquarters and the Planning Centers of Expertise in overseeing planning models by establishing processes to “review, improve and validate analytical tools and models;” and 3) The Corps established a NETS (Navigation Economic Technologies) program. The latter consists of a team of academicians from around the country as well as Corps economic experts who further the efficacy of models as well as expand the Corps planning “tool box.” Any new studies and models, including current models being updated, are peer reviewed and/or independently reviewed and vetted (members of the National Academies team have served as reviewers).

When a model is placed in the Corps planning “tool box,” it has already been peer-reviewed and approved for use. Rather than re-subjecting these same models to multiple independent peer reviews (and thus wasting time and money), the goal of a study independent review panel should be to ascertain whether the correct model(s) was used for that specific project study.

There is an interesting subtext to the criticism of current Corps models. That is, no knowledgeable individual or group has suggested that there are better economic forecasting models in existence that could be used. Rather, technical understanding has progressed to the point where subject matter experts (including NAS) realize the shortcomings of existing models, and are requesting the development of “cutting edge” models that “push the envelope” of design. While the mission of the Corps NETS R&D program is to develop those better decision making tools, there is ongoing debate about whether current projects should be delayed in anticipation of “future” tools.

13) Q: Should the Office of the Inspector General of the Army have oversight for independent reviews?

A: The duties of the Inspector General of the Army are not under the jurisdiction of the Environment and Public Works Committee or the House Transportation and Infrastructure Committee, and thus those provisions in S. 2288 should be referred to and approved by the Armed Services Committee. Short of that approval, the IG of the Army should not have oversight on the management of independent reviews. In addition, that office is not staffed to perform this function, nor have they indicated any willingness to absorb this responsibility. As written, the transfer of this function usurps both the responsibilities of the Assistant Secretary of the Army for Civil Works and the Chief of Engineers.

Mitigation Requirements

14) Q: If a project affects the environment, shouldn't that damage be mitigated?

A: Yes, the Corps is required, by law, to mitigate for changes to the "status quo." As part of the Corps mitigation planning process for all projects, first and foremost, the Corps attempts to minimize impacts and try to avoid the need for compensatory mitigation. (Oddly, because of the way the law is written, the Corps would also be required to mitigate for having less traffic in some rare instances.) If compensatory mitigation is required, in accordance with WRDA 1986 and in the spirit of that law, Corps project managers seek to build compensatory mitigation project features first or at least in keeping with the overall pace of the project. S. 2288 contains provisions that essentially restate the provisions already contained in WRDA 1986, and are thus unnecessary.

15) Q: Several "corps reform" proposed mitigation provisions have referenced November 17, 1986 and state that after that date all projects, "project alternatives in final records of decision, environmental impact statements or environmental assessments" must have a specific mitigation plan as well as a determination that the project will have negligible adverse impact on "aquatic and terrestrial resources and fish and wildlife." What does this mean?

A: All projects after 1986 are subject to a mitigation planning process, so the specific mitigation plan requirement is already fulfilled and thus not needed.

Unfortunately, the provisions in S. 2288 also state that after November 17, 1986, the date on which WRDA 1986 took effect, the Secretary is not to submit to Congress any proposal for the authorization of a water resources project, and shall not choose a project alternative, without following new 2006 guidelines. Obviously, since we are 20 years after that date, there is a legal question as to the disposition of projects for which the Secretary has already submitted authorization proposals, as well as the status of ongoing and finished projects--- a matter that may well have to be addressed in the court system.

16) Q: Bottomland hardwood forests are a natural resource. If they are affected, shouldn't the mitigation acreage also be bottomland hardwood forest?

A. Bottomland hardwood forests are an extremely valuable and treasured type of wetland, and the Corps endeavors to ensure that in as many instances as possible bottomland hardwood forests are the preferable wetland alternative. Unfortunately, in S. 2288, there is a provision that bottomland hardwood forests and other habitat types should be *mitigated in kind*. This means that if the wetland was low-value scrub, it would be replaced with scrub, rather than a more valuable bottomland hardwood forest or native plants that are integral to the reestablishment of the natural hydrology as would normally be the case, if possible.

17) Q: S. 2288 says that mitigation should comply fully with the mitigation standards and policies established by each State in which a project is located. Shouldn't the Corps have to follow each state's standards?

A. A Federal standard was established so that there would be consistency and fairness in carrying out policies. In the overwhelming majority of instances, Federal standards are typically much higher than state standards. In those extremely few cases where state standards differ on the high side, the Corps attempts to coordinate and comply with state standards whenever possible. And, in many instances, the stakeholder partners are state and local agencies. Consistency around the country is needed to avoid situations in which developers "tip the scales" towards development in areas of less strict standards (with attendant lower cost-sharing requirements.)

The Corps strictly adheres to the goal of no overall net loss of the Nation's remaining wetlands, and the long-term goal of increasing the quality and quantity of the Nation's wetlands resource base. As part of that, the Corps is a partner and contributor to the National Wetlands Mitigation Plan and in partnership with the Environmental Protection Agency has issued a regulatory guidance letter to improve wetlands protection through compensatory mitigation.

18) Q: If you are going to have a mitigation plan, doesn't it make sense to have a "detailed description" of the chosen mitigation sites before you go forward with the project?

A: Corps plans include a description of the types and amounts of lands needed, but without the level of specificity required in S. 2288. Lands, easements and rights-of-way must be acquired before a project commences, but prior notification during the feasibility study process of the specifically needed lands leads to land speculation with attendant cost escalations before the acquisition process begins.

19) Q: Since the Fish and Wildlife Service and National Marine Fisheries are well-versed in matters environmental, shouldn't they be consulted in the preparation of standards for what should constitute a successful ecological mitigation for a project?

A: One of the little known facts about the Corps workforce is that they employ more biologists and environmental specialists than the Fish and Wildlife Service (as well as more park rangers than the National Park Service.) They are quite capable of balancing the needs of the environment with the public good, as they are known throughout the world for their cutting-edge research and work in mitigation science. And, to ensure the most advanced science is used, the Corps regularly consults with the three other Federal agencies also recognized for wetlands expertise: the National Wetlands Research Center (U.S. Geological Survey), the Plant Materials Centers of the National Resources Conservation Service (USDA), and the Center for Forested Wetlands Research (U.S. Forest Service). The Corps also routinely consults with the Fish and Wildlife Service under the terms of the Fish and Wildlife Coordination Act and the National Marine Fisheries Service as required by law.

20) Q: Shouldn't all projects have mitigation tracking to ensure that mitigation is being done?

A. Ensuring the full and timely completion of compensatory mitigation components is crucial, and is a responsibility that the Corps, as well as local cost-sharing sponsors who often assume O&M management, take seriously. Unfortunately, as written, the tracking provision in S. 2288 retroactively applies to mitigation components that have occurred since December 31, 1969 --- an unreasonable, preposterously expensive, and unwieldy requirement. In addition, the tracking policy in S. 2288 lacks recognition of the avoidance and minimization activities that are part of the mitigation planning process.

Project Administration

21) Q: What exactly is a "Chief's Report" for a project?

A. When a Chief of Engineers signs a "Chief's Report" or recommendation that a project is worthy of investment, he does so in fulfillment of his role as the "Nation's Engineer". That means that he is *personally* putting his professional credibility and integrity on the line in saying that he has reviewed and is recommending a project based upon the most current engineering and scientific standards available and the merits of a situation. A Chief's Report is NOT a political document, and political reasoning doesn't enter into the decision-making process.

A recent review of a number of studies completed over several years showed that out of 100 project studies, around 16 merited a positive recommendation in a Chief's Report, allowing them to go forward through the authorization and appropriations process.

22) Q: Since the boss of the Army Corps of Engineers is a politically-appointed Assistant Secretary of the Army, shouldn't that office have the right to approve or change a Chief's Report recommendation of a project?

A: One needs to make a distinction between an engineering and scientifically based recommendation and a political recommendation. The office of the Chief of Engineers was established to offer an unbiased recommendation on water resources investments, based upon engineering and scientific data, regardless of political complexities – what is called "technical independence." Allowing a political office the right to compromise the integrity of a scientific and engineering report or delay its release for political expedience or influence, would call into question the validity of a recommendation and deprive the nation's decision makers of information relevant to their decisions.

The Chief's Report is sent to the Secretary of the Army (via his Assistant Secretary), and a courtesy notification is sent to Congress. The Secretary of the Army is supposed to forward the Chief's Report on to the Congress along with a letter that outlines an Administration's political recommendation vis a vis that project.

Regardless of political viewpoints (Administration, OMB and Congress), a Chief's Report is designed to stand alone as an unbiased scientific and engineering non-political recommendation upon which to make decisions.

Current language in S. 2288 threatens the technical independence of the Chief of Engineers.

23) Q: Aren't Chief's Reports supposed to be approved by the Office of Management and Budget?

A. Chief's Reports are not "approved" per se. They are the professional and technical views of the nation's "expert" and are supposed to be accompanied by statements that relay the current policy viewpoint of the Administration on whether a project should go forward. When the 1986 WRDA was enacted, scores of completed Chief of Engineers reports were lodged in the Office of Management and Budget, lacking Administration

statements. Congress and non-federal stakeholders were frustrated in their efforts to meet urgent and vital water resources needs. Thus, Congress decided to use the Chief's Report as a basis to authorize projects rather than waiting for the documents that would relay the views of the Secretary and/or OMB.

24) Q: What can be done to speed up the process of receiving Administration "political" statements that are supposed to accompany a Chief's Report?

A. Congress has passed provisions seeking to require the submission of Administration views from the Secretary of the Army within 90 days of the completion of a Chief's report. Those directives have been consistently ignored. Currently there are 27 Chief's Reports awaiting Administration statements at OMB and another 15 at the Office of the Assistant Secretary of the Army for Civil Works.

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