

106TH CONGRESS  
2D SESSION

# H. R. 4411

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2000

Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. BOEHLERT, and Mr. BORSKI)  
(all by request) introduced the following bill; which was referred to the  
Committee on Transportation and Infrastructure

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## A BILL

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Water Resources Development Act of 2000”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.  
 Sec. 3. Comprehensive Everglades Restoration Plan.  
 Sec. 4. Watershed and river basin assessments.  
 Sec. 5. Brownfields Revitalization Program.  
 Sec. 6. Tribal Partnership Program.  
 Sec. 7. Ability to pay.  
 Sec. 8. Property Protection Program.  
 Sec. 9. National Recreation Reservation Service.  
 Sec. 10. Operation and maintenance of hydroelectric facilities.  
 Sec. 11. Interagency and international support.  
 Sec. 12. Reburial and transfer authority.  
 Sec. 13. Amendment to Rivers and Harbors Act.  
 Sec. 14. Structural flood control cost-sharing.  
 Sec. 15. CALFED Bay Delta Program assistance.  
 Sec. 16. Project de-authorizations.  
 Sec. 17. Floodplain management requirements.  
 Sec. 18. Study of transfer of project lands.  
 Sec. 19. Puget Sound and adjacent waters restoration.

**1 SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-  
 3 retary of the Army.

4 **SEC. 3. COMPREHENSIVE EVERGLADES RESTORATION**  
 5 **PLAN.**

6 (a) DEFINITIONS.—In this section, the following defi-  
 7 nitions apply:

8 (1) CENTRAL AND SOUTHERN FLORIDA  
 9 PROJECT.—The term “Central and Southern Florida  
 10 Project” means the project for Central and Southern  
 11 Florida authorized under the heading “CENTRAL  
 12 AND SOUTHERN FLORIDA” in section 203 of  
 13 the Flood Control Act of 1948 (62 Stat. 1176), any  
 14 modification to the project authorized by law, or  
 15 modified by the Comprehensive Everglades Restora-  
 16 tion Plan.

1           (2) SOUTH FLORIDA ECOSYSTEM.—The term  
2           “South Florida ecosystem” means the area con-  
3           sisting of the lands and waters within the boundary,  
4           existing on July 1, 1999, of the South Florida  
5           Water Management District, including the Ever-  
6           glades ecosystem, the Florida Keys, Biscayne Bay,  
7           Florida Bay, and other contiguous near-shore coast-  
8           al waters of South Florida.

9           (3) COMPREHENSIVE EVERGLADES RESTORA-  
10          TION PLAN.—The term “Comprehensive Everglades  
11          Restoration Plan” means the plan contained in the  
12          “Final Feasibility Report and Programmatic Envi-  
13          ronmental Impact Statement”, April 1999, as trans-  
14          mitted to the Congress by the July 1, 1999, letter  
15          of the Assistant Secretary of the Army for Civil  
16          Works pursuant to section 528 of the Water Re-  
17          sources Development Act of 1996 (110 Stat 3767).

18          (4) NATURAL SYSTEM.—The term “natural sys-  
19          tem” means all federally or State-managed lands  
20          and waters within the South Florida ecosystem, in-  
21          cluding the water conservation areas, Everglades  
22          National Park, Big Cypress National Preserve, and  
23          other federally or State-designated conservation  
24          lands, and other lands that create or contribute to  
25          habitat supporting native flora and fauna.

1 (b) FINDINGS.—The Congress finds that:

2 (1) The Everglades is an American treasure. In  
3 its natural state, the South Florida ecosystem was  
4 connected by the flow of fresh water from the Kis-  
5 simmee River to Lake Okeechobee—south through  
6 vast freshwater marshes known as the Everglades—  
7 to Florida Bay, and on to the coral reefs of the  
8 Florida Keys. The South Florida ecosystem covers  
9 approximately 18,000 square miles and once in-  
10 cluded a unique and biologically productive region,  
11 supporting vast colonies of wading birds, a mixture  
12 of temperate and tropical plant and animal species,  
13 and teeming coastal fisheries and North America's  
14 only barrier coral reef. The South Florida ecosystem  
15 is endangered as a result of adverse changes in the  
16 quantity, distribution, and timing of flows and deg-  
17 radation of water quality. The Everglades alone has  
18 been reduced in size by approximately 50 percent.  
19 Restoration of this nationally and internationally  
20 recognized ecosystem, including America's Ever-  
21 glades is in the Nation's interest.

22 (2) The Central and Southern Florida Project  
23 plays an important role in the economy of south  
24 Florida by providing flood protection and water sup-  
25 ply to agriculture and the residents of south Florida

1 and providing water to the water conservation areas,  
2 Everglades National Park and other natural areas  
3 for the purpose of preserving fish and wildlife re-  
4 sources. The population of the region is expected to  
5 continue to grow, further straining the ability of the  
6 existing Central and Southern Florida Project to  
7 meet the needs of the natural system and the people  
8 of south Florida.

9 (3) Modifications to the Central and Southern  
10 Florida Project are needed to restore, preserve, and  
11 protect the South Florida ecosystem, including the  
12 Everglades, while continuing to provide for the water  
13 related needs of the region, including flood protec-  
14 tion and other objectives served by the Project.

15 (4) The Comprehensive Everglades Restoration  
16 Plan is scientifically and economically sound plan  
17 that modifies the Central and Southern Florida  
18 Project to restore, preserve and protect the South  
19 Florida ecosystem. By storing most of the water cur-  
20 rently discharged to the Atlantic Ocean and Gulf of  
21 Mexico, ensuring the quality of water discharged  
22 into the South Florida ecosystem from project fea-  
23 tures, and removing internal levees and canals in the  
24 Everglades, the Comprehensive Everglades Restora-  
25 tion Plan provides the roadmap for the recovery of

1 a healthy, sustainable ecosystem as well as providing  
2 for the other water-related needs of the region, in-  
3 cluding flood protection, the enhancement of water  
4 supplies, and other objectives served by the Central  
5 and Southern Florida Project.

6 (5) The comprehensive, system-wide nature of  
7 the Comprehensive Everglades Restoration Plan and  
8 the linkage of the elements of the plan to each other  
9 must be preserved not only during the over 25-year  
10 period that will be necessary for its implementation,  
11 but for as long as the project remains authorized.  
12 Implementation must proceed in a programmatic  
13 manner using the principles of adaptive assessment  
14 as outlined in the Comprehensive Everglades Res-  
15 toration Plan.

16 (6) The Comprehensive Everglades Restoration  
17 Plan contains a number of components that will ben-  
18 efit Everglades National Park, Biscayne National  
19 Park, Florida Keys National Marine Sanctuary, Big  
20 Cypress National Preserve, Ten Thousand Islands  
21 National Wildlife Refuge, and Loxahatchee National  
22 Wildlife Refuge by significantly improving the quan-  
23 tity, quality, timing, and distribution of water deliv-  
24 ered to these Federal areas. Improved water deliv-

1       eries will also provide benefits to federally-listed  
2       threatened and endangered species.

3           (7) The Congress, the Federal Government, and  
4       the State of Florida have, in prior legislation, recog-  
5       nized the need to restore, preserve, and protect the  
6       South Florida ecosystem. These on-going efforts are  
7       important to the success of the Comprehensive Ever-  
8       glades Restoration Plan. Since the creation of the  
9       South Florida Ecosystem Restoration Task Force in  
10      1993, the Federal Government has been working in  
11      partnership with tribal, State, and local govern-  
12      ments, the private sector, and individual citizens to  
13      accomplish restoration of the South Florida eco-  
14      system. It is important for the long-term restoration  
15      of this ecosystem that these efforts, including the  
16      South Florida Ecosystem Restoration Task Force,  
17      be continued and strengthened. The State with its  
18      financial responsibilities for project implementation  
19      and capabilities in the planning, design, construc-  
20      tion, and operation of the Comprehensive Everglades  
21      Restoration Plan, must be a full partner with the  
22      Federal Government.

23      (c) COMPREHENSIVE EVERGLADES RESTORATION  
24      PLANS.—

1           (1) IN GENERAL.—Congress hereby approves  
2           the Comprehensive Everglades Restoration Plan to  
3           modify the Central and Southern Florida Project to  
4           restore, preserve, and protect the South Florida eco-  
5           system. These changes are necessary in order to en-  
6           sure that the Central and Southern Florida Project  
7           as amended provides for the improvement and pro-  
8           tection of water quality in, and the reduction of the  
9           loss of fresh water from, the South Florida eco-  
10          system, as well as providing for the water related  
11          needs of the region, including flood protection, the  
12          enhancement of water supplies, and other objectives  
13          served by the Central and Southern Florida Project.

14           (2) SPECIFIC AUTHORIZATIONS.—

15           (A) IN GENERAL—Those projects included  
16           in the Comprehensive Everglades Restoration  
17           Plan and specified in paragraphs (B) and (C)  
18           are authorized to be carried out by the Sec-  
19           retary substantially in accordance with the  
20           plans, and subject to the conditions described in  
21           the Central and Southern Florida Project: Com-  
22           prehensive Review Study Report of the Chief of  
23           Engineers dated June 22, 1999.

24           (B) PILOT PROJECTS.—The following pilot  
25           projects are authorized for implementation,



1 after review and approval by the Secretary, at  
2 a total cost of \$69,000,000, with an estimated  
3 Federal cost of \$34,500,000 and an estimated  
4 non-Federal cost of \$34,500,000:

5 (i) Caloosahatchee River (C-43)  
6 Basin ASR (\$6,000,000);

7 (ii) Lake Belt In-Ground Reservoir  
8 Technology (\$23,000,000);

9 (iii) L-31N Seepage Management  
10 (\$10,000,000); and,

11 (iv) Wastewater Reuse Technology  
12 (\$30,000,000).

13 (C) OTHER PROJECTS.—The following  
14 projects are authorized at a total cost of  
15 \$1,100,918,000, with an estimated Federal cost  
16 of \$550,459,000 and an estimated non-Federal  
17 cost of \$550,459,000. Prior to implementation  
18 of projects (1) through (10), the Secretary shall  
19 review and approve a Project Implementation  
20 Report prepared in accordance with subsection  
21 (g).

22 (i) C-44 Basin Storage Reservoir  
23 (\$112,562,000);

- 1 (ii) Everglades Agricultural Area
- 2 Storage Reservoirs—Phase I
- 3 (\$233,408,000);
- 4 (iii) Site 1 Impoundment
- 5 (\$38,535,000);
- 6 (iv) Water Conservation Areas 3A/3B
- 7 Levee Seepage Management
- 8 (\$100,335,000);
- 9 (v) C-11 Impoundment and
- 10 Stormwater Treatment Area
- 11 (\$124,837,000);
- 12 (vi) C-9 Impoundment and
- 13 Stormwater Treatment Area
- 14 (\$89,146,000);
- 15 (vii) Taylor Creek/Nubbin Slough
- 16 Storage and Treatment Area
- 17 (\$104,027,000);
- 18 (viii) Raise and Bridge East Portion
- 19 of Tamiami Trail and Fill Miami Canal
- 20 within Water Conservation Area 3
- 21 (\$26,946,000);
- 22 (ix) North New River Improvements
- 23 (\$77,087,000);
- 24 (x) C-111 Spreader Canal
- 25 (\$94,035,000); and

1 (xi) Adaptive Assessment and Moni-  
2 toring Program (10 years) (\$100,000,000).

3 (d) ADDITIONAL PROGRAM AUTHORITY.—In order to  
4 expedite implementation of the Comprehensive Everglades  
5 Restoration Plan, the Secretary is authorized to imple-  
6 ment modifications to the Central and Southern Florida  
7 Project that are consistent with the Comprehensive Ever-  
8 glades Restoration Plan and that will produce independent  
9 and substantial restoration, preservation, or protection  
10 benefits to the South Florida ecosystem; provided that the  
11 total Federal cost of each project accomplished under this  
12 authority shall not exceed \$35,000,000; and provided fur-  
13 ther that the total Federal cost of all the projects accom-  
14 plished under this authority shall not exceed  
15 \$250,000,000. Prior to implementation of any project au-  
16 thorized under this subsection, the Secretary shall review  
17 and approve a Project Implementation Report prepared in  
18 accordance with subsection (g).

19 (e) AUTHORIZATION OF FUTURE PROJECT FEA-  
20 TURES.—Except for those projects authorized in sub-  
21 sections (c) and (d), all future projects included in the  
22 Comprehensive Everglades Restoration Plan shall require  
23 a specific authorization of Congress. Prior to authoriza-  
24 tion, the Secretary shall transmit such projects to Con-  
25 gress along with a Project Implementation Report pre-

1   pared in accordance with subsection (g). Further, such  
2   projects, if authorized, shall be implemented pursuant to  
3   subsection (i) of this section.

4       (f) COST SHARING.—

5           (1) IN GENERAL.—The non-Federal share of  
6       the cost of implementing projects authorized under  
7       subsections (c), (d), and (e) shall be 50 percent. The  
8       non-Federal sponsor shall be responsible for all  
9       lands, easements, rights-of-way, and relocations and  
10      shall be afforded credit toward the non-Federal  
11      share in accordance with paragraph (3)(A). The  
12      non-Federal sponsor may accept Federal funding for  
13      the purchase of the necessary lands, easements,  
14      rights-of-way or relocations, provided that such as-  
15      sistance is credited toward the Federal share of the  
16      cost of the project.

17          (2) OPERATION AND MAINTENANCE.—Notwith-  
18      standing section 528(e)(3) of the Water Resources  
19      Development Act of 1996, the non-Federal sponsor  
20      shall be responsible for 60 percent of the operation,  
21      maintenance, repair, replacement, and rehabilitation  
22      cost of activities authorized under this section.

23          (3) CREDIT AND REIMBURSEMENT.—

24            (A) LANDS.—Regardless of the date of ac-  
25      quisition, the value of lands or interests in land

1           acquired by non-Federal interests for any activ-  
2           ity required in this section shall be included in  
3           the total cost of the activity and credited  
4           against the non-Federal share of the cost of the  
5           activity. Such value shall be determined by the  
6           Secretary.

7           (B) WORK.—The Secretary may provide  
8           credit, including in-kind credit, to or reimburse  
9           the non-Federal project sponsor for the reason-  
10          able cost of any work performed in connection  
11          with a study or activity necessary for the imple-  
12          mentation of the Comprehensive Everglades  
13          Restoration Plan if the Secretary determines  
14          that the work is necessary and the credit or re-  
15          imbursement is granted for work completed  
16          during the period of design or implementation  
17          pursuant to an agreement between the Sec-  
18          retary and the non-Federal sponsor that pre-  
19          scribes the terms and conditions of the credit  
20          or reimbursement.

21          (C) AUDITS.—Credit or reimbursement for  
22          land or work granted under this subsection  
23          shall be subject to audit by the Secretary.

24          (g) EVALUATION OF PROJECT FEATURES.—

1           (1) IN GENERAL.—Prior to implementation of  
2     project features authorized in subsection  
3     (c)(2)(C)(1) through (c)(2)(C)(10) and subsection  
4     (d), the Secretary, in cooperation with the non-Fed-  
5     eral sponsor, shall, after notice and opportunity for  
6     public comment, complete Project Implementation  
7     Reports to address the project(s) cost effectiveness,  
8     engineering feasibility, and potential environmental  
9     impacts, including National Environmental Policy  
10    Act compliance. The Secretary shall coordinate with  
11    appropriate Federal, tribal, state and local govern-  
12    ments during the development of such reports and  
13    shall identify any additional water that will be made  
14    available for the natural system, existing legal users,  
15    and other water related needs of the region. Fur-  
16    ther, such reports shall ensure that each project fea-  
17    ture is consistent with the programmatic regulations  
18    issued pursuant to subsection (i).

19           (2) PROJECT JUSTIFICATION.—Notwith-  
20    standing section 209 of the Flood Control Act of  
21    1970 (42 U.S.C. 1962–2) or any other provision of  
22    law regarding economic justification, in carrying out  
23    activities authorized in accordance with subsections  
24    (c), (d), and (e), the Secretary may determine that  
25    activities are justified by the environmental benefits

1 derived by the South Florida ecosystem in general  
2 and the Everglades and Florida Bay in particular,  
3 and shall not need further economic justification if  
4 the Secretary determines that the activities are cost  
5 effective.

6 (h) SOCIALLY AND ECONOMICALLY DISADVANTAGED  
7 INDIVIDUALS.—

8 (1) IN GENERAL.—Socially and economically  
9 disadvantaged individuals and communities make up  
10 a large portion of the South Florida ecosystem and  
11 have legitimate interests in the implementation of  
12 the Comprehensive Everglades Restoration Plan.  
13 Further, such groups have not, in some cases, been  
14 given the opportunity to understand and participate  
15 fully in the development of water resources projects.  
16 As provided in this subsection, the Secretary shall  
17 ensure that impacts on socially and economically dis-  
18 advantaged individuals are considered during the im-  
19 plementation of the Comprehensive Everglades Res-  
20 toration Plan and that such individuals have oppor-  
21 tunities to review and comment on its implementa-  
22 tion.

23 (2) DEFINITIONS.—In this subsection, the fol-  
24 lowing definitions apply:

1 (A) SMALL BUSINESS CONCERN.—The  
2 term “small business concern” has the meaning  
3 such term has under section 3 of the Small  
4 Business Act (15 U.S.C. 632).

5 (B) SOCIALLY AND ECONOMICALLY DIS-  
6 ADVANTAGED INDIVIDUALS.—The term “so-  
7 cially and economically disadvantaged individ-  
8 uals” has the meaning such term has under  
9 section 8(d) of the Small Business Act (15  
10 U.S.C. 637(d)) and relevant subcontracting reg-  
11 ulations promulgated pursuant thereto.

12 (3) PROGRAM FOR SOCIALLY AND ECONOMI-  
13 CALLY DISADVANTAGED INDIVIDUALS.—The Sec-  
14 retary shall establish a program to ensure that so-  
15 cially and economically disadvantaged individuals  
16 within the South Florida ecosystem are informed of  
17 the Comprehensive Everglades Restoration Plan,  
18 given the opportunity to review and comment on  
19 each project feature, provided opportunities to par-  
20 ticipate as a small business concern contractor, and  
21 given opportunities for employment or internships in  
22 emerging industry sectors.

23 (4) CONTRACTS TO BUSINESSES OWNED BY SO-  
24 Cially AND ECONOMICALLY DISADVANTAGED INDI-  
25 VIDUALS.—The Secretary shall establish a goal that



1 not less than 10 percent of the amounts made avail-  
2 able for construction of projects authorized pursuant  
3 to subsections (c), (d), and (e), shall be expended  
4 with small business concerns owned and controlled  
5 by socially and economically disadvantaged individ-  
6 uals within the South Florida ecosystem.

7 (i) ASSURING PROJECT BENEFITS.—

8 (1) IN GENERAL.—The primary and over-  
9 arching purpose of the Comprehensive Everglades  
10 Restoration Plan is to restore, preserve and protect  
11 the natural system within the South Florida eco-  
12 system. The Comprehensive Everglades Restoration  
13 Plan shall be implemented to ensure the protection  
14 of water quality in, the reduction of the loss of fresh  
15 water from, and the improvement of the environ-  
16 ment of the South Florida ecosystem, while pro-  
17 viding for other water-related needs of the region,  
18 including water supply and flood protection. The  
19 Central and Southern Florida Project, as amended  
20 by the Comprehensive Everglades Restoration Plan,  
21 shall be implemented in a manner that ensures that  
22 the benefits to the natural system and the human  
23 environment, including the proper quantity, quality,  
24 timing and distribution of water, are achieved and  
25 maintained for as long as the Central and Southern

1 Florida Project remains authorized. When imple-  
2 mented fully, the approximately 68 features of the  
3 Comprehensive Everglades Restoration Plan will re-  
4 sult in modifications to the existing Central and  
5 Southern Florida Project works that shall provide  
6 the water necessary to restore, preserve and protect  
7 the natural system while providing for other water  
8 related needs of the region. The Secretary shall en-  
9 sure that both the natural system and the human  
10 environment receive the benefits intended when such  
11 modifications to the Central and Southern Florida  
12 project are made pursuant to the Comprehensive Ev-  
13 erglades Restoration Plan and previous Acts of Con-  
14 gress.

15 (2) DEDICATION AND MANAGEMENT OF  
16 WATER.—

17 (A) IN GENERAL.—Consistent with sub-  
18 section (i)(2)(B), the Secretary shall dedicate  
19 and manage the water made available from the  
20 Central and Southern Florida Project features  
21 authorized, constructed, and operated in accord-  
22 ance with previous Acts of Congress and this  
23 Act authorizing the implementation of features  
24 of the Comprehensive Everglades Restoration  
25 Plan, for the temporal and spatial needs of the

1 natural system. The needs of the natural sys-  
2 tem and the human environment shall be de-  
3 fined in terms of quality, quantity, timing and  
4 distribution of water. In developing the regula-  
5 tions that provide for the dedication and man-  
6 agement of water for the natural system in ac-  
7 cordance with this subsection, the Secretary  
8 shall incorporate rainfall driven operational cri-  
9 teria and annual fluctuations in rainfall.

10 (B) PROGRAMMATIC REGULATIONS.—The  
11 Secretary shall, after notice and opportunity for  
12 public comment and with the concurrence of the  
13 Secretary of the Interior, and in consultation  
14 with the Secretary of Commerce, the Adminis-  
15 trator of the Environmental Protection Agency  
16 and the Governor of the State of Florida, issue  
17 programmatic regulations identifying the  
18 amount of water to be dedicated and managed  
19 for the natural system from the Central and  
20 Southern Florida Project features authorized,  
21 constructed, and operated in accordance with  
22 previous acts of Congress and this Act through  
23 the implementation of the Comprehensive Ever-  
24 glades Restoration Plan features. Such regula-  
25 tions shall be completed within two years of the

1 date of enactment of this Act. These regula-  
2 tions shall ensure that the natural system and  
3 the human environment receive the benefits in-  
4 tended, including benefits for the restoration,  
5 preservation, and protection of the natural sys-  
6 tem, as the Comprehensive Everglades Restora-  
7 tion Plan is implemented and incorporated into  
8 the Central and Southern Florida Project for as  
9 long as the project remains authorized. Nothing  
10 in this Act shall prevent the State of Florida  
11 from reserving water for environmental uses  
12 under the 1972 Florida Water Resources Act to  
13 the extent consistent with this section.

14 (C) PROJECT SPECIFIC REGULATIONS.—

15 The Secretary, after notice and opportunity for  
16 public comment, and in consultation with the  
17 Secretary of the Interior, Secretary of Com-  
18 merce, the Administrator of the Environmental  
19 Protection Agency, other Federal agencies, and  
20 the State of Florida shall develop project fea-  
21 ture specific regulations to ensure that the ben-  
22 efits anticipated from each feature of the Com-  
23 prehensive Everglades Restoration Plan are  
24 achieved and maintained as long as the project  
25 remains authorized. Each such regulation shall

1 be consistent with the programmatic regulations  
2 issued pursuant to subsection (i)(2)(B), be  
3 based on the best available science, and ensure  
4 that the quantity, quality, timing, and distribu-  
5 tion of water for the natural system and the  
6 human environment anticipated in the Com-  
7 prehensive Plan for each project feature is  
8 achieved and maintained.

9 (3) EXISTING WATER USES.—The Secretary shall  
10 ensure that the implementation of the Comprehen-  
11 sive Everglades Restoration Plan, including physical  
12 or operational modifications to the Central and  
13 Southern Florida Project, does not cause substantial  
14 adverse impacts on existing legal water uses, includ-  
15 ing annual water deliveries to Everglades National  
16 Park, water for the preservation of fish and wildlife  
17 in the natural system, and other legal uses as of the  
18 date of enactment of this Act. The Secretary shall  
19 not eliminate existing legal sources of water supply,  
20 including those for agricultural water supply, water  
21 for Everglades National Park and the preservation  
22 of fish and wildlife, until new sources of water sup-  
23 ply of comparable quantity and quality are available  
24 to replace the water to be lost from existing sources.

1 Existing authorized levels of flood protection will be  
2 maintained.

3 (j) REPORT TO CONGRESS.—Beginning on October 1,  
4 2005, and periodically thereafter until October 1, 2036,  
5 the Secretary and the Secretary of the Department of the  
6 Interior, in consultation with the Environmental Protec-  
7 tion Agency, the Department of Commerce and the State  
8 of Florida, shall jointly submit to Congress a report on  
9 the implementation of the Comprehensive Everglades Res-  
10 toration Plan. Such reports shall be completed no less  
11 than every five years. Such reports shall include a descrip-  
12 tion of planning, design, and construction work completed,  
13 the amount of funds expended during the period covered  
14 by the report, and the work anticipated over the next five-  
15 year period. In addition, each report shall include the de-  
16 termination of each Secretary, and the Administrator of  
17 the Environmental Protection Agency, concerning the ben-  
18 efits to the natural system and the human environment  
19 achieved as of the date of the report and whether the com-  
20 pleted features of the Comprehensive Everglades Restora-  
21 tion Plan are being operated in a manner that is con-  
22 sistent with the programmatic regulations established  
23 under subsection (i)(2)(B).

1 **SEC. 4. WATERSHED AND RIVER BASIN ASSESSMENTS.**

2 Section 729 of Public Law 99–662 (100 Stat. 4164)

3 is amended by—

4 (1) striking “STUDY OF WATER RE-  
5 SOURCES NEEDS OF RIVER BASINS AND  
6 REGIONS.” and all that follows, and

7 (2) inserting in lieu thereof:

8 **“WATERSHED AND RIVER BASIN ASSESSMENTS.**

9 “(a) IN GENERAL.—The Secretary is authorized to  
10 assess the water resources needs of river basins and water-  
11 sheds of the United States. Such assessments shall be un-  
12 dertaken in cooperation and coordination with the Depart-  
13 ments of the Interior, Agriculture and Commerce, the En-  
14 vironmental Protection Agency, and other appropriate  
15 agencies, and may include an evaluation of ecosystem pro-  
16 tection and restoration, flood damage reduction, naviga-  
17 tion and port needs, watershed protection, water supply,  
18 and drought preparedness.

19 “(b) CONSULTATION.—The Secretary shall consult  
20 with Federal, tribal, State, interstate, and local govern-  
21 mental entities in carrying out the assessments authorized  
22 by this section. In conducting such assessments, the Sec-  
23 retary may accept contributions of services, materials,  
24 supplies and cash from Federal, tribal, State, interstate,  
25 and local governmental entities where the Secretary deter-

1 mines that such contributions will facilitate completion of  
2 the assessments.

3 “(c) COST SHARING REQUIREMENTS.—The non-Fed-  
4 eral share of the cost of an assessment conducted under  
5 this section shall be 25 percent of the cost of such assess-  
6 ment. The non-Federal sponsor may provide the non-Fed-  
7 eral cost-sharing requirement through the provision cash  
8 or services, materials, supplies, or other in-kind services.  
9 In no event shall such credit exceed the non-Federal re-  
10 quirement share of costs for the assessment.

11 “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
12 is authorized to be appropriated to carry out this section  
13 \$15,000,000.”.

14 **SEC. 5. BROWNFIELDS REVITALIZATION PROGRAM.**

15 (a) GENERAL.—The Secretary shall, in consultation  
16 with the Environmental Protection Agency and other ap-  
17 propriate agencies, carry out a program to provide assist-  
18 ance to non-Federal interests in the remediation and res-  
19 toration of abandoned or idled industrial and commercial  
20 sites where such assistance will improve the quality, con-  
21 servation, and sustainable use of the Nation’s streams, riv-  
22 ers, lakes, wetlands, and floodplains. Assistance may be  
23 in the form of site characterizations, planning, design, and  
24 construction projects. To the maximum extent practicable,  
25 projects implemented by the Secretary under this section



1 will be done in cooperation and coordination with other  
2 Federal, tribal, State, and local efforts to maximize re-  
3 sources available for the remediation, restoration, and re-  
4 development of brownfield sites.

5 (b) JUSTIFICATION FOR ASSISTANCE.—

6 Notwithstanding any economic justification provision or  
7 requirement of section 209 of the Flood Control Act of  
8 1970 (42 U.S.C. 1962–2) or economic justification provi-  
9 sion of any other law, the Secretary may determine that  
10 the assistance projects authorized by subsection (a)—

11 (1) is justified by the public health and safety,  
12 and environmental benefits; and

13 (2) shall not need further economic justification  
14 if the Secretary determines that the assistance is  
15 cost effective.

16 (c) COST SHARING.—

17 (1) IN GENERAL.—Prior to implementing any  
18 assistance project under this section, the Secretary  
19 shall enter into a binding agreement with the non-  
20 Federal interest, which shall require the non-Federal  
21 interest to: (a) pay 50 percent of the total costs of  
22 the assistance project; (b) acquire and place in pub-  
23 lic ownership for so long as is necessary to imple-  
24 ment and complete the assistance project any lands,  
25 easements, right-of-way, and relocations necessary

1 for implementation and completion of the assistance  
2 project; (c) pay 100 percent of any operation, main-  
3 tenance, repair, replacement, and rehabilitation costs  
4 associated with the assistance project; and (d) hold  
5 and save harmless the United States free from  
6 claims or damages due to implementation of the as-  
7 sistance project, except for the negligence of the  
8 Government or its contractors.

9 (2) CREDIT.—The non-Federal interest shall  
10 receive credit for the value of any lands, easements,  
11 rights-of-way, and relocations provided for imple-  
12 mentation and completion of such assistance project.  
13 The Secretary also may afford credit to a non-Fed-  
14 eral interest for services, studies, supplies, and other  
15 in-kind consideration where the Secretary deter-  
16 mines that such services, studies, supplies, and other  
17 in-kind consideration will facilitate completion of the  
18 assistance project. In no event shall such credit ex-  
19 ceed the 50 percent non-Federal cost-sharing re-  
20 quirement.

21 (d) APPLICABILITY OF OTHER FEDERAL AND STATE  
22 LAWS.—Nothing in this section shall be construed as  
23 waiving, limiting, or otherwise affecting the applicability  
24 of any provision of Federal or State law.

1 (e) PROJECT COST LIMITATION.—Not more than  
2 \$5,000,000 in Army Civil Works Appropriations funds  
3 may be allotted under this section at any single site.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
5 authorized to be appropriated to carry out this section  
6 \$25,000,000 for each fiscal year from 2002 through 2005.

7 (g) PROGRAM EVALUATION.—Not later than Decem-  
8 ber 31, 2005, the Secretary shall submit to the Committee  
9 on Transportation and Infrastructure of the House of  
10 Representatives and the Committee on Environment and  
11 Public Works of the Senate a report that discusses the  
12 program's performance objectives and evaluates its effec-  
13 tiveness in achieving them, along with any recommenda-  
14 tions concerning continuation of the program.

15 **SEC. 6. TRIBAL PARTNERSHIP PROGRAM.**

16 (a) IN GENERAL.—The Secretary is authorized, in  
17 cooperation with federally recognized Indian tribes and  
18 other Federal agencies, to study and determine the feasi-  
19 bility of implementing water resources development  
20 projects that will substantially benefit Indian tribes, and  
21 are located primarily within Indian country, as defined in  
22 18 U.S.C. 1151, or in proximity to Alaska Native villages.  
23 Studies conducted under this authority may address, but  
24 are not limited to, projects for flood damage reduction,

1 environmental restoration and protection, and preserva-  
2 tion of cultural and natural resources.

3 (b) CONSULTATION AND COORDINATION.—The Sec-  
4 retary shall consult with the Secretary of the Interior on  
5 studies conducted under this section in recognition of the  
6 unique role of the Secretary of the Interior regarding trust  
7 responsibilities with Indian tribes, and in recognition of  
8 mutual trust responsibilities. The Secretary shall integrate  
9 Army Civil Works activities with activities of the Depart-  
10 ment of the Interior to avoid conflicts, duplications of ef-  
11 fort, or unanticipated adverse effects to Indian tribes, and  
12 shall consider existing authorities and programs of the De-  
13 partment of the Interior and other Federal agencies in any  
14 recommendations regarding implementation of project  
15 studied under this section.

16 (c) ABILITY TO PAY.—Any cost-sharing agreement  
17 for a study under this section shall be subject to the ability  
18 of a non-Federal interest to pay. The ability of any non-  
19 Federal interest to pay shall be determined by the Sec-  
20 retary in accordance with procedures established by the  
21 Secretary.

22 (d) CREDITS.—For such studies conducted under this  
23 section, the Secretary may afford credit to the tribe for  
24 services, studies, supplies, and other in-kind consideration  
25 where the Secretary determines that such services, studies,

1 supplies, and other in-kind consideration will facilitate  
2 completion of the project. In no event shall such credit  
3 exceed the tribe's required share of costs for the study.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
5 authorized to be appropriated to carry out subsection (a)  
6 of this section \$5,000,000 for each fiscal year, for fiscal  
7 years 2002 through 2006. Not more than \$1,000,000 in  
8 Army Civil Works appropriations may be allotted under  
9 this section for any one tribe.

10 (f) DEFINITION.—For the purposes of this section  
11 the term “Indian tribe” means any tribe, band, nation,  
12 or other organized group or community of Indians, includ-  
13 ing any Alaska Native village (as defined in, or established  
14 pursuant to, the Alaska Native Claims Settlement Act (43  
15 U.S.C.A. § 1601 et seq.) which is recognized as eligible  
16 for the special programs and services provided by the  
17 United States to Indians because of their status as Indi-  
18 ans.

19 **SEC. 7. ABILITY TO PAY.**

20 Section 103(m) of Public Law 99–662 (33 U.S.C.  
21 2213(m), as amended) is amended by:

22 (1) deleting subsection (1) in its entirety and  
23 inserting in lieu thereof the following language:

24 “(1) IN GENERAL.—Any cost-sharing agree-  
25 ment under this section for a feasibility study or for

1 construction of an environmental protection and res-  
2 toration or flood control project, or for construction  
3 of an agricultural water supply project, shall be sub-  
4 ject to the ability of a non-Federal interest to pay.”;

5 (2) deleting subsection (2) in its entirety and  
6 inserting in lieu thereof the following language:

7 “(2) CRITERIA AND PROCEDURES.—The ability  
8 of a non-Federal interest to pay shall be determined  
9 by the Secretary in accordance with criteria and pro-  
10 cedures in effect on the day before the date of the  
11 enactment of the Water Resources Development Act  
12 of 2000; except that such criteria and procedures  
13 shall be revised, and new criteria and procedures be  
14 developed, within 18 months after such date of en-  
15 actment to reflect the requirements of paragraph (3)  
16 of section 202(b) of the Water Resources Develop-  
17 ment Act of 1996 (110 STAT. 3674).”;

18 (3) adding the word “and” at the end of sub-  
19 section (3)(A)(ii);

20 (4) deleting subsection (3)(B) in its entirety;  
21 and

22 (5) deleting subsection (3)(C) in its entirety  
23 and inserting in lieu thereof the following language:

24 “(B) may consider additional criteria relat-  
25 ing to the non-Federal interest’s financial abil-

1           ity to carry out its cost-sharing responsibilities,  
2           or relating to additional assistance that may be  
3           available from other Federal or State sources.”.

4 **SEC. 8. PROPERTY PROTECTION PROGRAM.**

5       (a) IN GENERAL.—The Secretary is authorized to im-  
6 plement a program to reduce vandalism and destruction  
7 of property at water resources development projects under  
8 the jurisdiction of the Department of the Army. In car-  
9 rying out the program the Secretary may provide rewards  
10 to individuals who provide information or evidence leading  
11 to the arrest and prosecution of individuals causing dam-  
12 age to Federal property, including the payment of cash  
13 rewards.

14       (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
15 authorized to be appropriated \$500,000 annually to carry  
16 out this section.

17 **SEC. 9. NATIONAL RECREATION RESERVATION SERVICE.**

18       Notwithstanding section 611 of the Omnibus Consoli-  
19 dated and Emergency Supplemental Appropriations Act,  
20 1999 Public Law 105–277), the Secretary may participate  
21 in the National Recreation Reservation Service on an  
22 interagency basis and fund the Department of the Army’s  
23 share of those activities required for implementing, oper-  
24 ating, and maintaining the Service.

1 **SEC. 10. OPERATION AND MAINTENANCE OF HYDRO-**  
2 **ELECTRIC FACILITIES.**

3 Section 314 of Public Law 101–640 (33 U.S.C. 2321)  
4 is amended by inserting the following language imme-  
5 diately after the phrase “commercial activities”: “Where  
6 such activities require specialized training related to hy-  
7 droelectric power generation. These activities would be  
8 subject to the labor standards provisions in the Service  
9 Contract Act, 41, U.S.C. 351, and to the extent applicable,  
10 the Davis-Bacon Act, 40 U.S.C., Sections 276(a)–7.”.

11 **SEC. 11. INTERAGENCY AND INTERNATIONAL SUPPORT.**

12 Section 234 of Public Law 104–303 (33 U.S.C. 2323a)  
13 is amended—

14 (1) in subsection (d) by deleting “1,000,000”  
15 and inserting “\$2,000,000”.

16 **SEC. 12. REBURIAL AND TRANSFER AUTHORITY.**

17 (a) IN GENERAL.—

18 (1) REBURIAL.—The Secretary is authorized, in  
19 consultation with the appropriate Indian tribes, to  
20 identify and set aside areas at civil works projects  
21 managed by the Secretary that may be used to  
22 reinter Native American remains that have been dis-  
23 covered on project lands, and which have been right-  
24 fully claimed by a lineal descendant or Indian tribe  
25 in accordance with applicable Federal law. The Sec-  
26 retary, in consultation and in consent with the lineal



1 descendant or the respective Indian tribe, is author-  
2 ized to recover and rebury the remains at such sites  
3 at full Federal expense.

4 (2) TRANSFER AUTHORITY.—Notwithstanding  
5 any provision of law, the Secretary is authorized to  
6 transfer to the Indian tribe the land identified by  
7 the Secretary in subsection (1) for use as a ceme-  
8 tery. The Secretary shall retain any necessary  
9 rights-of-way, easements, or other property interests  
10 that the Secretary of the Army determines is nec-  
11 essary to carry out the authorized project purpose.

12 (b) DEFINITION.—For the purposes of this section  
13 the term “Indian tribe” means any tribe, band, nation,  
14 or other organized group or community of Indians, includ-  
15 ing any Alaska Native village (as defined in, or established  
16 pursuant to, the Alaska Native Claims Settlement Act (43  
17 U.S.C.A. § 1601 et seq.)) which is recognized as eligible  
18 for the special programs and services provided by the  
19 United States to Indians because of their status as Indi-  
20 ans.

21 **SEC. 13. AMENDMENT TO RIVERS AND HARBORS ACT.**

22 Section 33 U.S.C. 401 is amended by adding the fol-  
23 lowing language at the end of the last sentence: “The ap-  
24 proval required by this section of the location and plans,  
25 or any modification of plans, for any dam or dike, applies

1 only to any dam or dike that would completely span a wa-  
2 terway currently used to transport interstate or foreign  
3 commerce, in a manner that actual, existing interstate or  
4 foreign commerce could be adversely affected. Any other  
5 dam or dike proposed to be built in any other navigable  
6 water of the United States shall be regulated as a struc-  
7 ture under 33 U.S.C. 403, and shall not require approval  
8 under this section.”.

9 **SEC. 14. STRUCTURAL FLOOD CONTROL COST-SHARING.**

10 (a) Section 103(a) of the Water Resources Develop-  
11 ment Act of 1986 (100 Stat. 4084–4085) is amended by—

12 (1) striking “35” whenever it appears in para-  
13 graph (2) and inserting “50” in lieu thereof;

14 (2) deleting the word “MINIMUM” in para-  
15 graph (2);

16 (3) adding the following language to paragraph  
17 (2) immediately after the last sentence in that para-  
18 graph: “The non-Federal share under paragraph (1)  
19 shall not exceed 50 percent of the cost of the project  
20 assigned to flood control. The preceding sentence  
21 does not modify the requirement of paragraph  
22 (1)(A) of this subsection.”; and

23 (4) deleting paragraph (3) and (4) in their en-  
24 tirety.”.

1 (b) APPLICABILITY.—The amendment made by this  
2 section shall apply to any project or separable element  
3 thereof with respect to which the Secretary and the non-  
4 Federal interest have not entered into a project coopera-  
5 tion agreement on or before the date of enactment of this  
6 Act.

7 **SEC. 15. CALFED BAY-DELTA PROGRAM ASSISTANCE.**

8 (a) IN GENERAL.—The Secretary is authorized to  
9 participate with the appropriate Federal and State agen-  
10 cies in the planning and management activities associated  
11 with the CALFED Bay Delta Program, and shall, to the  
12 maximum extent practicable and in accordance with all  
13 applicable laws, integrate the activities of the Army Corps  
14 of Engineers in the San Joaquin and Sacramento River  
15 basins with the long-term goals of the CALFED Bay  
16 Delta Program.

17 (b) COOPERATIVE ACTIVITIES.—In participating in  
18 the CALFED Bay Delta Program as provided for in sub-  
19 section (a) of this section, the Secretary is authorized to  
20 accept and expend funds from other Federal agencies and  
21 from non-Federal public, private and non-profit entities  
22 to carry out ecosystem restoration projects and activities  
23 associated with the CALFED Bay Delta Program and  
24 may enter into contracts, cooperative research and devel-  
25 opment agreements, and cooperative agreements with

1 Federal and non-Federal private, public, and non-profit  
 2 entities in carrying out these projects and activities.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
 4 authorized to be appropriated to the Department of the  
 5 Army to carry out activities under this section \$5,000,000  
 6 for fiscal years from 2002 through 2005.

7 (d) DEFINITION.—For purposes of this section, the  
 8 area covered by the CALFED Bay Delta Program is de-  
 9 fined as the San Francisco Bay, Sacramento-San Joaquin  
 10 Delta Estuary and its watershed (Bay-Delta Estuary) as  
 11 identified in the Framework Agreement Between the Gov-  
 12 ernor’s Water Policy Council of the State of California and  
 13 the Federal Ecosystem Directorate (Club Fed).

14 **SEC. 16. PROJECT DE-AUTHORIZATIONS.**

15 Section 33 U.S.C. 579a is deleted in its entirety and  
 16 the following language inserted in lieu thereof:

17 **“PROJECT DE-AUTHORIZATIONS.**

18 (a) PROJECTS NEVER UNDER CONSTRUCTION.—

19 (1) The Secretary shall transmit annually to  
 20 Congress a list of projects and separable elements of  
 21 projects that have been authorized for construction,  
 22 but for which no appropriations have been obligated  
 23 for construction of the project or separable element  
 24 during the four consecutive fiscal years preceding  
 25 the transmittal of such list.

1           (2) Any water resources project authorized for  
2           construction, and any separable element of such a  
3           project, shall be de-authorized after the last day of  
4           the 7-year period beginning on the date of the  
5           project or separable element's most recent authoriza-  
6           tion or reauthorization unless funds have been obli-  
7           gated for construction of the project or separable  
8           element.

9           (b) PROJECTS WHERE CONSTRUCTION HAS BEEN  
10          SUSPENDED.—

11           (1) The Secretary shall transmit annually to  
12           Congress a list of projects and separable elements of  
13           projects that have been authorized for construction,  
14           and for which funds have been obligated in the past  
15           for construction of the project or separable element,  
16           but for which no appropriations have been obligated  
17           for construction of the project or separable element  
18           during the two consecutive fiscal years preceding the  
19           transmittal of such list.

20           (2) Any water resources project, and any sepa-  
21           rable element of such a project, for which funds have  
22           been obligated in the past for construction of the  
23           project or separable element, shall be de-authorized  
24           if appropriations specifically identified for construc-  
25           tion of the project or separable element (either in

1 Statute or in the accompanying legislative report  
2 language) have not been obligated for construction  
3 of the project or separable element during any five  
4 subsequent consecutive fiscal years.

5 (c) CONGRESSIONAL NOTIFICATIONS.—Upon submis-  
6 sion of the lists under subsections (a) and (b), the Sec-  
7 retary shall notify each Senator in whose State, and each  
8 Member of the House of Representatives in whose district,  
9 the affected project or separable element would be located.

10 (d) FINAL DE-AUTHORIZATION LIST.—The Sec-  
11 retary shall publish annually in the Federal Register a list  
12 of all projects or separable elements de-authorized under  
13 subsections (a) and (b).

14 (e) DEFINITIONS.—For purposes of this section, for  
15 non-structural flood control projects, the phrase “con-  
16 struction of the project or separable element” means the  
17 acquisition of lands, easements and rights-of-way pri-  
18 marily to relocate structures, or the performance of phys-  
19 ical work under a construction contract for other non-  
20 structural measures. For environmental protection and  
21 restoration projects, it means the acquisition of lands,  
22 easements and right-of-way primarily to facilitate the res-  
23 toration of wetlands or similar habitats, or the perform-  
24 ance of physical work under a construction contract to  
25 modify existing project facilities or to construct new envi-

1 ronment project and restoration measures. For all other  
 2 water resources projects, it means the performance of  
 3 physical work under a construction contract. In no case  
 4 shall the term “physical work under a construction con-  
 5 tract”, as used in this subsection, include activities related  
 6 to project planning, engineering and design, relocation, or  
 7 the acquisition of lands, easements, and rights-of-way.

8 (f) EFFECTIVE DATE OF PROVISIONS.—Subsections  
 9 (a)(2) and (b)(2) shall become effective three years after  
 10 the date of enactment of this Act.

11 **SEC. 17. FLOODPLAIN MANAGEMENT REQUIREMENTS.**

12 (a) Section 402 of the Water Resources Development  
 13 Act of 1986 (100 Stat. 4133) is amended by—

14 (1) in subsection (c)(1) by deleting “Within 6  
 15 months after the date of the enactment of this sub-  
 16 section, the” and inserting “The”;

17 (2) by inserting “that non-Federal interests  
 18 shall adopt and enforce” after the word “policies” in  
 19 the second sentence in subsection (c)(1); and

20 (3) by inserting at the end of subsection (c)(1)”  
 21 Such guidelines shall also require non-Federal inter-  
 22 ests to take measures to preserve the level of flood  
 23 protection provided by the project for which sub-  
 24 section (a) applies.”.

1 (b) APPLICABILITY.—The amendment made by this  
2 section shall apply to any project or separable element  
3 thereof with respect to which the Secretary and the non-  
4 Federal interest have not entered a project cooperation  
5 agreement on or before the date of enactment of this Act.

6 **SEC. 18. STUDY OF TRANSFER OF PROJECT LANDS.**

7 (a) IN GENERAL.—The Secretary is authorized to  
8 conduct a feasibility study, in cooperation with the Sec-  
9 retary of the Interior, the States of South Dakota, North  
10 Dakota, and Nebraska, and other affected interests, and  
11 with the affected Indian tribes, for the transfer to the Sec-  
12 retary of the Interior of the land described in subsection  
13 (b) to be held in trust for the benefit of the respective  
14 Indian tribes.

15 (b) LANDS TO BE STUDIED.—The land authorized  
16 to be studied for transfer is land that—

17 (1) was acquired by the Secretary for the imple-  
18 mentation of the Pick-Sloan Missouri River Basin  
19 program; and

20 (2) is located within the external boundaries of  
21 the reservations of the Three Affiliated Tribes of the  
22 Fort Berthold Reservation, North Dakota, the  
23 Standing Rock Sioux Tribe of North Dakota and  
24 South Dakota, the Crow Creek Sioux Tribe of the  
25 Crow Creek Reservation, South Dakota, the



1       Yankton Sioux Tribe of South Dakota, and the  
2       Flandreau Santee Sioux Tribe of South Dakota.

3       (c) DEFINITION.—For the purposes of this section,  
4 the term “Indian tribe” means any tribe, band, nation,  
5 or other organized group or community of Indians, includ-  
6 ing any Alaska Native village (as defined in, or established  
7 pursuant to, the Alaska Native Claims Settlement Act (43  
8 U.S.C. 1601 et seq.)) which is recognized as eligible for  
9 the special programs and services provided by the United  
10 States to Indians because of their status as Indians.

11 **SEC. 19. PUGET SOUND AND ADJACENT WATERS RESTORA-**  
12 **TION.**

13       (a) IN GENERAL.—The Secretary is authorized to  
14 participate in Critical Restoration Projects in the area of  
15 the Puget Sound and its adjacent waters, including the  
16 watersheds that drain directly into Pudget Sound, Admi-  
17 ralty Inlet, Hood Canal, Rosario Strait, and the eastern  
18 portion of the Strait of Juan de Fuca.

19       (b) DEFINITION.—“Critical Restoration Projects”  
20 are those projects that will produce, consistent with exist-  
21 ing Federal programs, projects and activities, immediate  
22 and substantial restoration, preservation and ecosystem  
23 protection benefits.

24       (c) PROJECT SELECTION.—The Secretary, with the  
25 concurrence of the Secretaries of the Interior and Com-

1 merce, and in consultation with other appropriate Federal,  
2 tribal, State, and local agencies, may identify critical res-  
3 toration projects and may implement those projects after  
4 entering into an agreement with an appropriate non-Fed-  
5 eral interest in accordance with the requirements of sec-  
6 tion 221 of the Flood Control Act of 1970, as amended  
7 (42 U.S.C. 1962d–5b) and this section.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
9 authorized to be appropriated to the Department of the  
10 Army to pay the Federal share of the cost of carrying out  
11 projects under this section \$10,000,000.

12 (e) PROJECT COST LIMITATION.—Not more than  
13 \$2,500,000 in Army Civil Works appropriations Federal  
14 funds may be allocated to carrying out any one project  
15 under this section.

16 (f) COST SHARING.—

17 (1) IN GENERAL.—Prior to implementing any  
18 project under this section, the Secretary shall enter  
19 into a binding agreement with the non-Federal inter-  
20 est, which shall require the non-Federal interest to:

21 (a) pay 35 percent of the total costs of the project;

22 (b) acquire any lands, easements, rights-of-way, relo-  
23 cations, and dredged material disposal areas nec-  
24 essary for implementation of the project; (c) pay 100  
25 percent of the operation, maintenance, repair, re-

1 placement, and rehabilitation costs associated with  
2 the project; and (d) hold and save harmless the  
3 United States free from claims or damages due to  
4 implementation of the assistance project, except for  
5 the negligence of the Government or its contractors.

6 (2) CREDIT.—The non-Federal interest shall  
7 receive credit for the value of any lands, easements,  
8 rights-of-way, relocations, and dredged material dis-  
9 posal areas provided for implementation and comple-  
10 tion of such assistance project. The non-Federal in-  
11 terest may provide up to 50 percent of the non-Fed-  
12 eral cost-sharing requirement through the provision  
13 of services, materials, supplies, or other in-kind serv-  
14 ices.

○