

106TH CONGRESS  
1ST SESSION

# S. 733

To enact the Passaic River Basin Flood Management Program.

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IN THE SENATE OF THE UNITED STATES

MARCH 25, 1999

Mr. TORRICELLI (for himself, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To enact the Passaic River Basin Flood Management Program.

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. PURPOSE.**

4       The purpose of this Act is to establish the preferred  
5       alternative for flood control in the Passaic River basin,  
6       New Jersey, to be implemented in place of construction  
7       of the Passaic River Tunnel, while maintaining the integ-  
8       rity of previously authorized Passaic River basin restora-  
9       tion measures.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) HAZARD MITIGATION.—The term “hazard  
4 mitigation” means—

5 (A) floodproofing; and

6 (B) acquisition of wetland throughout the  
7 Passaic River basin for flood management pur-  
8 poses or retention and detention.

9 (2) OVERSIGHT COMMITTEE.—The term “Over-  
10 sight Committee” means the committee established  
11 by section 3(j).

12 (3) PREFERRED ALTERNATIVE.—The term  
13 “preferred alternative” means a qualified acquisition  
14 and hazard mitigation plan for the project.

15 (4) PROJECT.—The term “project” means the  
16 project for flood control, Passaic River Main Stem,  
17 New Jersey and New York, authorized by section  
18 101(a)(18) of the Water Resources Development Act  
19 of 1990 (104 Stat. 4607).

20 (5) QUALIFIED ACQUISITION.—The term  
21 “qualified acquisition” means a purchase by the Sec-  
22 retary, in cooperation with State, county, and local  
23 governments, of property that has sustained exces-  
24 sive damage caused by at least 2 floods, including  
25 the major flood in the Passaic River basin during  
26 1984 and any subsequent flood.

1           (6) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Army.

3 **SEC. 3. COMPONENTS OF PASSAIC RIVER BASIN FLOOD**  
4 **MANAGEMENT PROGRAM.**

5           (a) STRUCTURES IN THE FLOODWAY.—

6           (1) IN GENERAL.—The Secretary shall acquire,  
7           demolish, and remove structures in the floodway of  
8           the Central Passaic River basin where excessive  
9           damage has occurred in at least 2 floods, including  
10          the flood of 1984 and any subsequent flood.

11          (2) COST SHARING.—The cost of carrying out  
12          paragraph (1) shall be paid in cooperation with  
13          State, county, and local governments at a ratio of 75  
14          percent Federal to 25 percent non-Federal.

15          (3) STABILIZATION.—The floodway land in the  
16          Central Passaic River basin shall be stabilized as  
17          part of the ecological restoration program under sec-  
18          tion 101(a)(18)(C) of the Water Resources Develop-  
19          ment Act of 1990 (104 Stat. 4609), and, where ap-  
20          propriate, wetlands shall be created.

21          (4) MANAGEMENT.—After the land is vacated,  
22          the land shall be held in perpetuity by the most ap-  
23          propriate Federal or State agency, as determined in  
24          consultation with the Oversight Committee, and  
25          shall be managed as open space.

1           (5) BLUE ACRES PROGRAM.—This subsection  
2 shall be carried out in conformance with the Blue  
3 Acres Program of the State of New Jersey.

4           (6) CREDIT.—Crediting of land acquisition for  
5 the non-Federal share of the cost of the project shall  
6 remain in effect in accordance with section  
7 101(a)(18)(C)(vii) of the Water Resources Develop-  
8 ment Act of 1990 (104 Stat. 4609).

9           (b) ADDITIONAL STRUCTURES IN THE 10-YEAR  
10 FLOODPLAIN.—

11           (1) IN GENERAL.—The Secretary shall acquire,  
12 demolish, and remove additional structures, or  
13 floodproof structures, to the 10-year floodplain in  
14 the floodway of the Central Passaic River basin in  
15 areas where excessive damage has occurred in at  
16 least 2 floods, including the flood of 1984 and any  
17 subsequent flood.

18           (2) COST SHARE.—

19           (A) ACQUISITION, DEMOLITION, AND RE-  
20 MOVAL.—Funding for an acquisition, demoli-  
21 tion, and removal under paragraph (1) shall be  
22 shared 75 percent Federal and 25 percent  
23 State.

24           (B) FLOODPROOFING.—Funding of  
25 floodproofing under paragraph (1) shall be

1 shared 75 percent Federal, 15 percent property  
2 owner, and 10 percent State.

3 (3) CRITERIA.—Criteria for acquisition and  
4 floodproofing shall be developed by the Oversight  
5 Committee.

6 (c) STRUCTURES IN THE PASSAIC RIVER BASIN.—

7 (1) TO THE 50-YEAR FLOODPLAIN.—

8 (A) IN GENERAL.—The Secretary shall  
9 floodproof structures in the floodplain of the  
10 Central Passaic River basin to the 50-year  
11 floodplain in areas of high risk.

12 (B) COST SHARE.—Funding of  
13 floodproofing under subparagraph (A) shall be  
14 shared 55 percent Federal, 20 percent State,  
15 and 25 percent property owner.

16 (2) REMAINDER.—In the remainder of the  
17 floodplain to the 100-year protective flood elevation,  
18 the Secretary, in cooperation with the State of New  
19 Jersey, shall provide information on techniques to  
20 deal with flood management.

21 (d) WETLANDS.—

22 (1) IN GENERAL.—The Secretary shall  
23 acquire—

24 (A) wetlands in the floodways throughout  
25 the Great Piece Meadows of the Central Passaic

1 River basin to supplement the wetlands acqui-  
2 sition (approximately 5,369 acres) authorized  
3 under section 101(a)(18)(C)(vi) of the Water  
4 Resources Development Act of 1990 (104 Stat.  
5 4609); and

6 (B) upland transition areas with signifi-  
7 cant wildlife or other natural values.

8 (2) MANAGEMENT.—The Secretary shall trans-  
9 fer the wetlands and transition areas to the United  
10 States Fish and Wildlife Service, or an appropriate  
11 State agency, which shall manage the wetlands and  
12 transition areas in accordance with proper wetlands  
13 management principles so as to ensure the ecological  
14 integrity of the wetlands and transition areas as  
15 wildlife habitat and important components of the  
16 hydrological cycle of the Passaic River basin.

17 (e) STRATEGIC LAND.—

18 (1) IN GENERAL.—The Secretary shall acquire  
19 strategic land in the State of New Jersey and the  
20 State of New York to prevent flooding.

21 (2) EMPHASIS.—In carrying out paragraph (1),  
22 the Secretary shall emphasize land acquisition in the  
23 Highlands Province.

24 (3) COOPERATION.—The Secretary shall carry  
25 out this subsection in cooperation with the Palisades

1 Interstate Park Commission, the State of New Jer-  
2 sey, the State of New York, and other Federal agen-  
3 cies (including the Forest Service, the United States  
4 Fish and Wildlife Service, and the National Park  
5 Service).

6 (f) MOLLY ANN'S BROOK.—The Secretary shall ac-  
7 quire land to prevent flooding from increasing in—

8 (1) the High Mountain area in Wayne, New  
9 Jersey; and

10 (2) the urban area of the Molly Ann's Brook  
11 project in North Haledon, New Jersey.

12 (g) PASSAIC RIVER RESTORATION PROJECT.—

13 (1) IN GENERAL.—The Secretary shall complete  
14 the Passaic River Restoration Project from Little  
15 Falls to Newark Bay, New Jersey.

16 (2) RIPARIAN LAND AND PARKLAND DEVELOP-  
17 MENT.—In cooperation with the Passaic River Res-  
18 toration Steering Committee, the Secretary shall un-  
19 dertake acquisition of riparian land and parkland  
20 development and redevelopment in the Passaic River  
21 basin.

22 (3) URBAN SPACE.—The Secretary shall ac-  
23 quire parcels of urban space, such as Hilltop in  
24 Essex County, New Jersey.

1 (h) STREAMBANK RESTORATION.—The Secretary  
2 shall complete the streambank restoration element of the  
3 project for flood control, Passaic River Main Stem, New  
4 Jersey and New York, authorized by section  
5 101(a)(18)(B) of the Water Resources Development Act  
6 of 1990 (104 Stat. 4608), known as the “Joseph G. Min-  
7 ish Passaic River Waterfront Park and Historic Area,  
8 New Jersey”.

9 (i) REMEDIAL ACTIONS.—The Administrator of the  
10 Environmental Protection Agency shall assist the Passaic  
11 Valley Sewerage Commissioners in the implementation of  
12 remedial actions for the combined sewer overflows in the  
13 lower Passaic River Basin from the Great Falls to Newark  
14 Bay.

15 (j) OVERSIGHT COMMITTEE.—

16 (1) ESTABLISHMENT.—There is established a  
17 committee to be known as the “Oversight Com-  
18 mittee” for the implementation of the preferred al-  
19 ternative.

20 (2) MEMBERSHIP.—The Oversight Committee  
21 shall be composed of 14 members, appointed as fol-  
22 lows:

23 (A) CORPS OF ENGINEERS.—The Sec-  
24 retary of the Army shall appoint 1 member to  
25 represent the Corps of Engineers.



1 (B) APPOINTMENTS BY THE GOVERNOR OF  
2 NEW JERSEY.—The Governor of New Jersey  
3 shall appoint 12 members, as follows:

4 (i) 2 representatives of the New Jer-  
5 sey legislature who are members of dif-  
6 ferent political parties.

7 (ii) 1 representative of the State of  
8 New Jersey.

9 (iii) 2 representatives of county gov-  
10 ernment.

11 (iv) 2 representatives of local govern-  
12 ment.

13 (v) 1 representative of the Palisades  
14 Interstate Park Commission.

15 (vi) 1 representative of the North Jer-  
16 sey District Water Supply Commission.

17 (vii) 1 representative of each of—

18 (I) the Association of New Jersey  
19 Environmental Commissions;

20 (II) the Passaic River Coalition;

21 and

22 (III) the Sierra Club.

23 (C) APPOINTMENT BY THE GOVERNOR OF  
24 NEW YORK.—The Governor of New York shall

1           appoint a representative of the State of New  
2           York.

3           (3) DUTIES.—

4                 (A) IN GENERAL.—The Oversight Com-  
5           mittee shall—

6                         (i) supervise, review, and make rec-  
7                         ommendations on all elements of the pre-  
8                         ferred alternative; and

9                         (ii) provide guidance on appropria-  
10                        tions for the efficient implementation of  
11                        the project.

12                 (B) PRIMARY CONSIDERATIONS.—The  
13           Oversight Committee shall primarily consider  
14           flood management projects that are non-  
15           structural and that maintain and restore the ec-  
16           ological integrity of the river systems.

17           (4) MEETINGS.—The Oversight Committee  
18           shall hold meetings regularly.

19           (5) TERMINATION.—The Oversight Committee  
20           shall terminate on the date on which the preferred  
21           alternative project is completed.

22           (6) REPORTING.—The Oversight Committee  
23           shall annually submit to the Governor of the State  
24           of New Jersey, the Governor of the State of New  
25           York, and Congress a report describing the achieve-

1       ments of the project and any impediments to com-  
2       pletion of the project.

3           (7) ASSISTANCE.—The Secretary, in coopera-  
4       tion with the State of New Jersey, shall—

5           (A) cooperate with the Oversight Com-  
6       mittee;

7           (B) provide administrative and technical  
8       assistance to the Oversight Committee; and

9           (C) respond to all requests and rec-  
10       ommendations made by the Oversight Com-  
11       mittee in a cooperative manner so as to expe-  
12       dite and complete the preferred alternative.

13       (k) PREFERRED ALTERNATIVE.—Congress—

14           (1) finds that the preferred alternative is the  
15       most appropriate solution to flooding in the Passaic  
16       River basin; and

17           (2) directs that the preferred alternative shall  
18       be implemented immediately.

19   **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

20       (a) FLOODWAY.—

21           (1) IN GENERAL.—There is authorized to be  
22       appropriated \$45,000,000 to begin the Federal por-  
23       tion of the buyout of floodway structures authorized  
24       by section 301(b)(10) of the Water Resources Devel-  
25       opment Act of 1996 (110 Stat. 3710).

1           (2) COST SHARE.—The \$15,000,000 made  
2 available by the State of New Jersey for the Blue  
3 Acres portion of the Green Acres Bond Act of 1995,  
4 approved by the voters of the State of New Jersey,  
5 shall constitute the 25 percent non-Federal cost  
6 share.

7           (b) ACQUISITION OF FRESHWATER WETLANDS;  
8 FLOODPROOFING.—There are authorized to be  
9 appropriated—

10           (1) \$3,000,000 for the acquisition of freshwater  
11 wetlands in the floodplains within the Passaic River  
12 basin; and

13           (2) \$10,000,000 for the floodproofing of struc-  
14 tures in the floodplains within the Passaic River  
15 basin.

16           (c) ACQUISITION OF LAND IN THE HIGHLAND PROV-  
17 INCE.—

18           (1) TOTAL AUTHORIZATION.—There are au-  
19 thorized to be appropriated—

20           (A) \$400,000,000 for the acquisition of  
21 land in the Highlands Province to reduce flood-  
22 ing in the Passaic River basin in New Jersey;  
23 and

1 (B) \$75,000,000 for the acquisition of land  
2 in the Highlands Province to reduce flooding in  
3 the Passaic River basin in New York.

4 (2) ANNUAL AUTHORIZATION.—Of the amounts  
5 authorized by paragraph (1)—

6 (A) there is authorized to be appropriated  
7 \$40,000,000 for each fiscal year for acquisition  
8 of land in the State of New Jersey; and

9 (B) there is authorized to be appropriated  
10 \$25,000,000 for each fiscal year for acquisition  
11 of land in the State of New York.

12 (d) PARKLAND.—There is authorized to be appro-  
13 priated \$300,000,000 for the acquisition of land and the  
14 development and redevelopment of parkland along the  
15 Passaic River from Little Falls to Newark Bay, Kearny,  
16 of which \$30,000,000 shall be made available for each fis-  
17 cal year for the State of New Jersey.

18 (e) JOSEPH G. MINISH PASSAIC RIVER WATER-  
19 FRONT PARK AND HISTORIC AREA.—

20 (1) IN GENERAL.—There is authorized to be  
21 appropriated \$75,000,000 for the completion of the  
22 Joseph G. Minish Passaic River Waterfront Park  
23 and Historic Area, New Jersey.

1           (2) COST SHARE.—The Federal share of the  
2 cost of the project described in paragraph (1) shall  
3 be 100 percent.

4 (f) PREFERRED ALTERNATIVE.—

5           (1) IN GENERAL.—There are authorized to be  
6 appropriated—

7                   (A) \$1,100,000 for each fiscal year for the  
8 implementation of the preferred alternative and  
9 administration of the Oversight Committee; and

10                   (B) \$5,000,000 for the acquisition of land  
11 at High Mountain.

12           (2) PROJECT BUDGET.—

13                   (A) IN GENERAL.—For the combined  
14 sewer project in the lower Passaic River basin,  
15 a project budget shall be established of  
16 \$85,000,000, of which \$65,000,000 shall be the  
17 Federal share.

18                   (B) AUTHORIZATION OF APPROPRIA-  
19 TIONS.—There are authorized to be appro-  
20 priated, for the purpose of making a grant to  
21 the Passaic Valley Sewerage Commission—

22                           (i) for fiscal year 2000, \$22,000,000;

23                           (ii) for fiscal year 2001, \$22,000,000;

24                           and

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(iii) for fiscal year 2002, \$21,000,000.

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